The Utah State Bulletin (Bulletin) is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the Bulletin under authority of Section 63G-3-402.

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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Utah state bulletin. Semimonthly.

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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 December 31, 2021, 12:00 a.m., and January 14, 2022, 11:59 p.m. are included in this, the February 01, 2022, 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 Rules being repealed are completely struck out.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 March 03, 2022. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific PROPOSED RULE. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through June 01, 2022, 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: Amendment

Utah Admin. Code Ref (R no.): R27-5 Filing ID 54313

Agency Information
1. Department: Government Operations
Agency: Fleet Operations
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W FL 3
City, state and zip: Taylorsville, UT 84128-2128
Mailing address: PO Box 141117
City, state and zip: Salt Lake City, UT 84114-1117
Contact person(s):
Name: Cory Weeks
Phone: 801-957-7261
Email: coryweeks@utah.gov

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

General Information
2. Rule or section catchline:
R27-5. Fleet Tracking

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Division of Fleet Operations needed to complete a five-year review of its administrative rules. There were amendments proposed after the review process was completed. This amendment also addresses drafting and formatting elements as outlined by the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment makes technical changes to make the administrative rule comply with the current version of the Rulewriting Manual for Utah.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule will have an inestimable impact on state budgets, due to the fact this rule requires agencies to input data into the fleet tracking system

B) Local governments:
This rule does not impact local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)
This rule does not impact small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule does not impact 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 does not impact other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with this rule.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
Because this rule does not affect businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director

6. A) 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.)

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R27-5. Items Tracked in the Fleet Information System.

(1) All state vehicles shall be tracked in [DFO's] the division's fleet information system. [R27-5-2]

(2) Each vehicle in the fleet information system must be assigned a category according to definitions established [makes a definitional distinction] in Section R27-1-2. [between] A vehicle may be assigned one of the following categories of state vehicles:

(a) "Light- duty Vehicle" [as defined in R27-1-2];
(b) "Medium-duty Vehicle"; (c) "Heavy- duty Vehicle" [as defined in R27-1-2]; and (d) "Non-road Vehicle" [as defined in R27-1-2].

(3) [Miscellaneous Equipment as defined in R27-1-2, may] shall be tracked in [DFO's] the division's fleet information system.

(4) Each agency shall be responsible for entering and maintaining accurate data about each motor state vehicle that it owns, operates, or otherwise controls into [DFO's] the division's fleet information system.

(5) The division shall provide each agency with program access, software updates, licensing fee requirements, system reports, local area network coordination, user manuals, help desk access, and user training necessary to maintain and operate the division's fleet information system.

(6) The costs associated with tracking state vehicles shall be a component of the MIS rate.

KEY: state fleet information system
Date of Last Change: 2022/04/08

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R27-6
Filing ID: 54314

Agency Information

1. Department: Government Operations
Agency: Fleet Operations
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W 3rd Floor
City, state and zip: Taylorsville, UT 84128-2128
Mailing address: PO Box 141117
City, state and zip: Salt Lake City, UT 84114-1117

NOTICES OF PROPOSED RULES
NOTICES OF PROPOSED RULES

General Information

2. Rule or section catchline:
R27-6. Fuel Dispensing Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Division of Fleet Operations needed to complete a five-year review of its administrative rules. There were amendments proposed after the review process was completed. This amendment also addresses drafting and formatting elements as outlined by the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment makes technical changes to make this administrative rule comply with the current version of the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
Because the costs are covered by revenue retained by the internal service fund, this rule does not have an impact to state budgets.

B) Local governments:
Because the costs are covered by revenue retained by the internal service fund, this rule does not have an impact to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
This rule does not impact small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule does not impact 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 does not impact other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with this rule.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
Because this rule does not affect businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director

6. A) 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.)

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(1) The State [Fuel] Network consists of:

(a) all fuel sites owned, leased, or under the control of the [Department of Government Operations (DFO)];

(b) all state agencies including institutions of higher education;

(c) all counties, municipalities, school districts, and special districts that subscribe to the services provided by DFO; and

(d) privately owned fuel sites that participate in the State of Utah Fuel Card program.

R27-6-4. Authority to Issue a State of Utah Fuel Card.

(1) Except when delegated pursuant to the provisions of R27-6-5, the Department of Government Operations (DFO) shall assign Personal Identification Numbers (PIN) exclusively with the division.

(2) Fuel cards associated with [state] vehicles shall be documented in the fleet information system. Only one fuel card shall be issued to each vehicle. Use of the fuel card and PIN is restricted to fueling the vehicles to which the fuel card was assigned.

R27-6-5. Cost Recovery.

(1) DFO shall establish, for each fiscal year, fuel rates designed to recover the costs associated with the purchase of fuels, site maintenance, and other costs associated with running the state fuel dispensing network.

R27-6-6. Authority to Issue a State of Utah Fuel Card.

(2) Fuel cards associated with [state] vehicles shall be documented in the Information Technology Services (ITS) Helpdesk software.

(3) Requests for fuel cards and/or PINs shall be documented in the Information Technology Services (ITS) Helpdesk software.

(4) Standard State Fuel Network Vehicle and Employee PIN worksheets provided by the division shall be used when requesting fuel cards and PINs.

(5) DFO shall distribute to each agency a monthly report showing all active fuel cards issued to the respective agencies.

(6) Agencies shall review the monthly reports and notify the State Fuel Technicians in charge of fuel cards of any discrepancies discovered.

(7) State Fuel Technicians shall investigate the discrepancy and make the necessary changes to the fuel card program and the fleet information system.

R27-6-6-1. Authority and Purpose.

(1) This rule is established pursuant to Subsection 63A-9-401(5)(a)(i) and 63A-9-401(5)(c)(i) which require the Department of Government Operations (DFO) to make rules establishing requirements for fuel dispensing services program.

R27-6-6-2. Participation.

(1) Pursuant to Subsection 63A-9-401(5)(a)(i), each state agency and each institution of higher education shall subscribe to the fuel dispensing services provided by the division.

(2) Pursuant to Subsection 63A-9-401(5)(a)(ii), state agencies may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by DFO.

(3) Counties, municipalities, school districts, special districts and federal agencies may subscribe to fuel dispensing services provided by DFO.
NOTICES OF PROPOSED RULES

[27-6-6. Delegation of Authority to Issue Fuel Cards and Assign PINs.](
(1) The director of the Division of Fleet Operations, with the approval of the Executive Director of the Department of Government Operations, may delegate the authority to issue fuel cards and assign PINs to other state agencies and institutions by contract or other means authorized by law, if,
(a) the state agency or institution has requested the authority; and
(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities.
(2) The delegation shall contain the following:
(a) a precise definition of each function to be delegated;
(b) a clear description of the standards to be met in performing each function delegated, including but not limited to,
(i) a provision that the vehicles for which the fuel cards are being issued, and to which the PINs are being assigned, are or will be capital only lease vehicles; and
(ii) a provision that the vehicle for which the fuel card is being issued, and to which the PIN is being assigned, is allocated or assigned to the agency issuing both the fuel card and the PIN; and
(iii) a provision that the vehicles for which the fuel cards are being issued, and to which the PINs are being assigned, are in DFO's fleet information system.
(c) a provision for periodic administrative audits by either DFO or the Department of Government Operations; and
(d) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.
(3) An agency given the authority to issue fuel cards and assign PINs shall not issue fuel cards for vehicles not in DFO's fleet information system.
(4) An agreement to delegate functions to a state agency or institution may be terminated by DFO if the results of administrative audits conducted by either DFO or the Department of Government Operations reveal a lack of compliance with the terms of the agreement by the state agency or institution.
(5) In the event that a fuel card, issued by an agency other than DFO is either lost or stolen, the operator shall immediately report the loss or theft of the fuel card to the issuing agency.

[27-6-7. Authorized Use of a State of Utah Fuel Card.](
(1) The following procedures shall be followed when purchasing fuel from either a state[-]run or a participating commercial [public] fueling site:
(a) Verify that the vendor is a participant in the State Fuel Network Program; and
(b) Follow the fueling site's procedures [that apply to the particular site] and enter the correct information when prompted [in order to purchase fuel.
(2) Except as provided in [paragraph 2 of this section] Subsection 27-6-5(3), the fuel card shall only be used to purchase:
(a) [E] fuel; and
(b) [E] fluids, car washes, and minor miscellaneous items for [state] vehicles whose value, taken together, shall not exceed the monthly monetary limits determined by [DFO] the division.

[27-6-8. Reimbursements.](
(1) Reimbursements for the use of the [operator] authorized driver's personal funds [in order to purchase fuel and other services shall be granted][at the discretion of the agency paying for the fuel.
(a) when the operator has verified that the vendor is a participant in the State Fuel Network Program and at the time when fuel was being purchased, there was a problem with either the PIN or card reader that could not be repaired prior to purchase; or
(b) when the operator purchases from a vendor that is not a participant in the State Fuel Network and there is no participating vendor in the immediate vicinity of the non-participating vendor.
(c) at the discretion of the fuel network manager when circumstances indicate that the use of personal funds was necessary.

[27-6-9. Meter Rejects.
(1) Drivers of state vehicles are required to enter the correct mileage, excluding tenths of miles, when using the fuel card assigned to the vehicle.
(2) If the driver makes an error in the mileage update, the driver or the agency's contact shall provide the [designated DFO division personnel] with a correct mileage update.
(3) If the driver or the agency fails to respond or make arrangements for an extension of the time period in which to investigate a blatant error. If the blatant error is deemed to have been the result of equipment failure, DFO will not impose the OTC. Repeated or blatant reports of vehicle mileage may result in a charge to the agency in accordance with the applicable rate schedule established in the annual State Agency Fees and Internal Service Fund Rate Authorization and Appropriations bill.
(4) Agency contacts shall, within [two] three business days of the request, respond to a [DFO] division request to investigate a meter reject. If the agency fails to respond or make arrangements for an extension of the time period in which to investigate the meter reject, [DFO] the division may impose a charge upon the agency in accordance with the applicable rate schedule established in the annual State Agency Fees and Internal Service Fund Rate Authorization and Appropriations bill, upon the agency.

[27-6-10. Bulk Fuel Purchases.]
(1) For [all] fuel sites for which [DFO] the division purchases fuel:
(a) [DFO] the division purchases fuel exclusively with [DFO] the division; and
(b) [Any] fuel that is stored at, or contained in, fuel sites for which [DFO] the division purchases fuel shall be the division's property of the State of Utah, DFO.}

(1) All fuel sites in the state fuel network for which DFO purchases fuel shall be managed by the DFO. The division shall manage fuel sites in the State Fuel Network for which the division purchases fuel. All fuel sites for which DFO does not purchase fuel shall be managed by the agency, subscribing county, municipality, school district, or special district that has ownership, possession, or control of the site.

(2) Except for privately owned, leased, or controlled fuel sites, maintenance at all other fuel sites in the State Fuel Network shall be performed by the authorized agents.

(3) Only the division’s authorized agents shall be authorized to disconnect power to or communication from any fueling equipment, including tanks and monitoring equipment.

(4) Agency personnel, subscribing counties, municipalities, school districts and special districts at fuel sites shall report any fuel site maintenance concerns to the [DFO division].


(1) DFO shall be responsible for coordinating the installation of state owned underground storage tanks and the upgrading, retrofitting, repair or removal of existing underground storage tanks located on or about property, easements or rights of way owned, leased or otherwise controlled by agencies. DFO shall provide [DFO the division, its employees and/or authorized agents] 24-hour access to fuel sites for any maintenance or service needs.

(2) The division shall contain the following:
   a. a precise definition of each function to be delegated;
   b. a clear description of the standards to be met in performing each function delegated; and
   c. a provision for periodic administrative audits by either DFO or the Department of Government Operations; and
   d. a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(3) An agreement to delegate functions to a state agency or institution may be terminated by DFO if the results of administrative audits conducted by either DFO or the Department of Government Operations reveal a lack of compliance with the terms of the agreement by the state agency or institution.

KEY: fuel dispensing
Date of Last Change: 2022 January 10, 2005
Notice of Continuation: October 22, 2021
Authorizing, and Implemented or Interpreted Law: 63A-9-401(1)(c)(vi); 63A-9-401(1)(e)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R27-7
Filing ID 54315

Agency Information

1. Department: Government Operations
   Agency: Fleet Operations
   Building: Taylorsville State Office Building
   Street address: 4315 S 2700 W FL 3
   City, state and zip: Taylorsville, UT 84128-2128
   Mailing address: PO Box 141117
   City, state and zip: Salt Lake City, UT 84114-1117
   Contact person(s):
   Name: Cory Weeks
   Phone: 801-957-7261
   Email: coryweeks@utah.gov

R27-6-[H]9. Damage to fuel equipment that results from abuse or neglect of an operator or a vehicle driver. The division shall be the responsibility of the agency employing the operator or authorized driver at the time of the incident.


(1) The director of the Division of Fleet Operations, with the approval of the Executive Director of the Department of Government Operations, may delegate the authority to manage and maintain fuel storage tanks holding fuel that is not for use in motor vehicles, to other agencies or institutions, by contract or other means authorized by law, if:
   a. the state agency or institution has requested the authority; and
   b. in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities.

(2) The delegation shall contain the following:
   a. a precise definition of each function to be delegated;
   b. a clear description of the standards to be met in performing each function delegated; and
   c. a provision for periodic administrative audits by either DFO or the Department of Government Operations; and
   d. a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(3) An agreement to delegate functions to a state agency or institution may be terminated by DFO if the results of administrative audits conducted by either DFO or the Department of Government Operations reveal a lack of compliance with the terms of the agreement by the state agency or institution.

NOTICES OF PROPOSED RULES
General Information
2. Rule or section catchline:
R27-7. Safety and Loss Prevention of State Vehicles

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Division of Fleet Operations needed to complete a five-year review of its administrative rules. There were amendments proposed after the review process was completed. This amendment also addresses drafting and formatting elements as outlined by the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment makes technical changes to make the administrative rule comply with the current version of the Rulewriting Manual for Utah.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This rule will have an inestimable savings to state budgets by ensuring only qualified drivers use state vehicles.

B) Local governments:
This rule does not impact local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
This rule does not impact small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule does not impact 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 does not impact other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
No compliance costs are anticipated.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
Because this rule does not affect businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director

6. A) 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.)

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Fiscal Benefits

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Net Fiscal Benefits

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Government Operations, Jenney Rees, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Subsection 63A-9-401(1)(d)(iii)

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Cory Weeks, Director Date: 07/06/2022

R27-7-1. Authority and Purpose.

(1) This rule is established pursuant to Subsection 63A-9-401(1)(d)(iii) which requires the division to make rules establishing requirements for fleet safety and loss prevention programs.


(1)[In the event of] If an accident involving a state vehicle occurs, either the authorized driver of the vehicle or the employing agency shall notify the division, the Division of Risk Management, and the agency's management, within 24 hours[ of the occurrence of the accident].

(2) Authorized drivers shall also follow Subsection R27-3-14(2) regarding reporting [of] their own violations of motor vehicle laws.

R27-7-3. Driver Eligibility to Operate a State Vehicle.

(1) The authority to operate a state vehicle is subject to withdrawal, suspension or revocation.

(2) The authority to operate a state vehicle shall be automatically withdrawn, suspended or revoked [in the event that][If] an authorized driver's license is not in a valid status.

([3]) The authority to operate a state vehicle shall, at a minimum, be withdrawn, suspended or revoked for the period of denial, cancellation, disqualification, suspension or revocation of the authorized driver's license.

([4]) The authority to operate a state vehicle shall not be reinstated until [such time as the individual] the authorized driver provides proof that [his or her] their driver license has been reinstated or the division verifies the license has been reinstated.

([5]) The authority to operate a state vehicle may be suspended or revoked for up to three years by the Driver Safety Committee or the Driver Eligibility Board for any of the following reasons:

(a) [If the authorized driver, while acting within the scope of employment, has been involved in three or more preventable accidents during a three-year period;][ae]

(b) [If the authorized driver has had three or more moving violations while driving a state vehicle within a 12-month period;][ae]

(c) [If the authorized driver has been convicted of any of the following:][ae]

(i) [Alcohol-related driving violations;][i]

(ii) reckless, careless, or negligent driving, [including excessive speed violations][;]

(iii) driving violations that have resulted in injury or death;

(iv) felony-related driving violations;

(v) hit-and-run violations;

(vi) impaired driving;

(vii) using a handheld wireless communication device while operating a [moving motor] state vehicle in violation of Subsection 41-6A-1716(2); or

(viii) any other driving violation determined by the Driver Safety Committee or the Driver Eligibility Board as posing a significant risk to the safety or loss prevention of state vehicles[;]

(d) [An authorized driver uses a state vehicle in an unauthorized way or misuse; abuses or neglects a state vehicle as validated by the authorized driver’s agency; or[ ]]

(e) [As provided in Section 63A-9-501, an authorized driver commits or illegally operates a vehicle or][a]

(f) [An authorized driver violates any major threshold as defined by the division in this rule or by the employing agency’s policies by the employing agency][e]

([6]) [The withdrawal of authority to operate a state vehicle imposed by the Driver Safety Committee or the Driver Eligibility Board][The Driver Safety Committee or the Driver Eligibility Board may withdraw an authorized driver's authority to operate a state vehicle. The withdrawal of authority shall be in addition to agency-imposed disciplinary, corrective, or remedial action[;], except when the withdrawal of authority conflicts with an internal review and disciplinary process that is approved by the division and substantially meets the requirements outlined in rule.

([7]) [Pursuant to procedures outlined in Rule R27-2, an authorized driver declared ineligible to operate a state vehicle by the Driver Safety Committee may appeal that determination to the Driver Eligibility Board. An appeal to the Driver Eligibility Board must be made in writing within 30 days from the date the Driver Safety Committee issues its decision.

([8]) Effective Date

(a) Phase in—current state employees shall be subjected to R27-7-3(3) as of the effective date of the rules as published by the Division of Administrative Rules.

(b) State employees hired after the effective date of this administrative rule may be subject to a review of their driving record for three years prior to the hire date, and employment offers may be made conditional upon a favorable review.]

R27-7-4. Driver Safety Committee.

(1) Each agency utilizing a state vehicle shall establish and maintain a Driver Safety Committee or an internal review and disciplinary process that is approved by the division and
NOTICES OF PROPOSED RULES

substantially meets the requirements outlined in rule[ for the Driver Safety Committee].

(2) The purpose of the Driver Safety Committee is to increase the safety operation of the driver and reduce losses associated with the state vehicles. The Driver Safety Committee shall review any accident involving state vehicles that are in the possession or under the control of the agency. The Driver Safety Committee also reviews the eligibility of a driver to operate a state vehicle based on the provisions of Section R27-7-3.

(3) [After the Division of Risk Management has made an initial determination regarding the preventability of an accident, the agency Driver Safety Committee shall determine whether it agrees with the initial determination of preventability.] The Driver Safety Committee shall use standards published by the National Safety Council to determine if the accident was preventable.

(4) Each agency Driver Safety Committee shall meet monthly, except in cases when there are no items to review. The items to review are the preventability determination of any accidents and any major threshold violations committed in the previous month. The Driver Safety Committee shall report to the division its accident and major threshold determination and any actions taken.

(5) [If an agency Driver Safety Committee does not send the monthly Driver Safety Committee report as specified in R27-7-4(4), the initial preventability determination of any accidents will stand.] Any major threshold violations will receive the minimum driver eligibility suspension as outlined in Subsection R27-7-5(6). A driver may appeal this accident determination to the Driver Eligibility Board pursuant to Section R27-7-3(7).

(6) The Driver Eligibility Board may recommend disciplinary actions for the authorized driver to the agency when the Board is acting on behalf of the agency Driver Safety Committee.

(7) If an agency has fewer than five employees, the agency head may perform the duties of the Driver Safety Committee as outlined in rule. [In the event] If the agency head is the driver to be reviewed, the review may be done by the Driver Eligibility Board. Appeals from the affected agency head will be heard by the [executive director of the Department of Government Operations, department, or the executive director's designee and shall follow the appeal process outlined in rule.

R27-7-5. Driver Safety Committee Standards.

(1) The Driver Safety Committee shall have no less than three voting members. The members shall consist of, at a minimum, from a participating agency, a risk coordinator, a human resource representative, and a fleet manager. In the absence of the fleet manager the employee authorized driver's supervisor may fill the position.

(2) The Driver Safety Committee shall review:

(a) the initial accident preventability determination as outlined in Subsections R27-7-5(3) and (4);
(b) moving violations committed in the state vehicle;
(c) any moving violations outlined in Subsection R27-7-3(5)(c);
(d) the validity of citizen complaints; and
(e) any other major threshold violations.

(3) An accident shall be classified as preventable if any of the following factors are involved:

(a) [Driving too fast for current road conditions;]
(b) [Failure to observe clearance;
(c) [Failure to yield;
(d) [Failure to properly lock the vehicle;
(e) [Following too closely;
(f) [Improper care of the vehicle;
(g) [Improper backing;
(h) [Improper parking;
(i) [Improper turn or lane change;
(j) [Reckless driving as defined in Section 41-6a-528;]
(k) [Unsafe driving practices, including but not limited to:]

(i) the use of electronic equipment or cellular phone while driving;
(ii) smoking while driving;
(iii) engaging in personal grooming;
(iv) initiating a u-turn;

(y) driving with an animal loose in the vehicle.

(4) An accident shall be classified as non-preventable when:

(a) [The state vehicle is struck while properly parked;
(b) [The state vehicle is vandalized while parked at an authorized location;]
(c) [If the state vehicle is an emergency vehicle, and;
(d) [At the time of the accident, the authorized driver was in the line of duty and was operating the vehicle in accordance with their respective agency's applicable policies, guidelines or regulations; and]

(i) [Damage to the vehicle occurred during the chase or apprehension of people engaged in or potentially engaged in unlawful activities; or]

(ii) [Damage to the vehicle occurred in the course of responding to an emergency in order to save or protect the lives, property, health, welfare and safety of the public.

(5) Major threshold violations committed by an authorized driver shall be determined as follows:

(a) Preventable Accidents:

(i) [Preventable accidents may be considered major threshold violations if three preventable accidents as determined by the Driver Safety Committee or the Driver Eligibility Board, are committed within a three-year period; or]

(ii) [Any single preventable accident is committed as determined by the Driver Safety Committee or Driver Eligibility Board utilizing the aggravating factors outlined in Subsection R27-7-5(8)].

(b) Moving Violations:

(i) Moving violations may be considered major threshold violations if three moving violations are committed in a state vehicle within a 12-month period, not specifically outlined in Subsection R27-7-3(2)

(ii) Any moving violation is committed as outlined in Subsection R27-7-3(2).

(c) Validated Citizen Complaints: Validated citizen complaints may be considered a major threshold violation at the discretion of the Driver Safety Committee or Driver Eligibility Board utilizing the aggravating factors outlined in Subsection R27-7-5(8).

(d) Telematics Threshold Violations:

(i) Telematics threshold violations may be considered major threshold violations if three telematics threshold violations are committed within a 12-month period.

(ii) Any single telematics threshold violation is committed as determined by the Driver Safety Committee or Driver Eligibility Board utilizing the aggravating factors outlined in Subsection R27-7-5(8)].
Driver Safety Committee as to whether it is considered the major threshold violation:

(a) First major threshold violation shall receive a minimum [of two working day] driving suspension of two working days.

(b) The second major threshold violation committed within 12 months of the first major threshold violation shall receive a minimum [14 calendar day] driving suspension of 14 calendar days. If the second major threshold violation does not occur within a 12-month period of the first, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first or second major threshold violation. The Driver Safety Committee shall consider aggravating factors outlined in [rule should be considered] Section R27-7-5.

(c) Third major threshold violation committed within 12 months of the second major threshold violation shall receive a minimum [of 30 calendar day] driving suspension of 30 calendar days. If the third major threshold violation does not occur within a 12-month period of the second, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first, second, or third major threshold violation. The aggravating factors outlined in [rule Section R27-7-5] should be considered.

(d) Fourth major threshold violation committed within 12 months of the third major threshold violation shall receive a minimum [of 60 calendar day] driving suspension of 60 calendar days. If the fourth major threshold violation does not occur within a 12-month period of the third, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first, second, third, or fourth major threshold violation. The aggravating factors outlined in [rule Subsection R27-7-5(9)] should be considered.

(e) An agency may, at its discretion, impose penalties more strict than those outlined in this section.

(f) An agency may, with approval from the Division, impose lesser penalties than those outlined in this section.

(7) The members of the Driver Safety Committee shall act on the following matters:

(a) Classifying the preventability of an accident in accordance with the standards in rule and the facts surrounding the accident and as to whether the [single] accident should be classified as a major threshold violation. The aggravating factors outlined in Subsection R27-7-5(8)[9] should be considered,[ and]

(b) Any other item brought before the Driver Safety Committee that is allowed the discretion of the Driver Safety Committee and under its discretion, including imposing driving suspension longer than the minimums outlined in rule.

(c) The Driver Safety Committee may impose a driving suspension for a period less than what is in rule, but only after the recommended driving suspension period [of driving suspension has been reviewed by and approved by the Driver Eligibility Board prior to] before the suspension [taking] takes effect.

(d) The Driver Safety Committee shall recommend appropriate disciplinary action to the employing agency.

(8) Aggravating Factors to Consider

(a)(10) The following [first] aggravating factors are items [to be] the Driver Safety Committee shall consider[se] when reviewing the driver eligibility suspension to be imposed or whether a single [event outlined in Subsection R27-7-5] accident should be considered a major threshold violation:[c]

(b)(a) [the event] accident resulted in bodily harm[;]

(b)(b) [the event] accident caused a high likelihood of causing bodily harm[;]

(b)(c) [the event] accident had a high likelihood of causing damage[;]

(b)(d) [the event] accident damaged the reputation of the state or agency[;]

(b)(e) [the event] accident damaged the reputation of the state or agency[;]

(b)(f) [the event] accident had a high likelihood of damaging the reputation of the state or agency[;]

(b)(g) [the event] accident had a high likelihood of damaging the reputation of the state or agency[;]

(b)(h) [the event] accident caused damage[;]

(b)(i) [the event] accident caused damage[.]; and

(b)(j) [the frequency of the event] accidents under consideration.

(9)[10] State vehicle driving eligibility suspensions should begin within two weeks of the Driver Safety Committee meeting, unless a differing timeline is outlined in rule.

R27-7-6. Effects of Driver Safety Committee Accident Preventability Classification.

(1) [In the event that an accident is determined by the Driver Safety Committee to be] determines that an accident was preventable, the Driver Safety Committee shall require the following:

(a) [as a result of] after the first preventable accident, the authorized driver shall be required to attend a Division of Risk Management-approved driver safety program;

(b) [as a result of] after the second preventable accident, the authorized driver shall be required to attend, at their own expense, a state[-]certified or nationally recognized defensive driving course and;

(c) [as a result of] after the third preventable accident within a three-year period, the authorized driver shall receive a major threshold violation and be subject to the standards of the Driver Safety Committee.

R27-7-7. Driver Eligibility Board.

(1) The Driver Eligibility Board shall have at least four voting members. Members of the Board shall include a representative from the division, the Division of Risk Management, the Department of Human Resource Management and[.]

(a) A representative of the employee's [agency]. Each member of the Board shall be assigned by the Executive Director of the Department of Government Operations.

(2) The Driver Eligibility Board shall meet within 30[.]

(3) The employing agency supervisor and the state authorized driver being reviewed shall be notified of the Driver Eligibility Board's meeting place[.]

(iii) Agencies collecting telematics data must track violations reported through telematics and review in the driver's safety committee.

(6) Major threshold violations committed by an authorized driver will result, at a minimum, in the following state vehicle driving privilege suspensions:

(a) First major threshold violation shall receive a minimum [of two working day] driving suspension of two working days.

(b) The second major threshold violation committed within 12 months of the first major threshold violation shall receive a minimum [14 calendar day] driving suspension of 14 calendar days. If the second major threshold violation does not occur within a 12-month period of the first, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first or second major threshold violation. The Driver Safety Committee shall consider aggravating factors outlined in [rule should be considered] Section R27-7-5.

(c) Third major threshold violation committed within 12 months of the second major threshold violation shall receive a minimum [of 30 calendar day] driving suspension of 30 calendar days. If the third major threshold violation does not occur within a 12-month period of the second, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first, second, or third major threshold violation. The aggravating factors outlined in [rule Section R27-7-5] should be considered.

(d) Fourth major threshold violation committed within 12 months of the third major threshold violation shall receive a minimum [of 60 calendar day] driving suspension of 60 calendar days. If the fourth major threshold violation does not occur within a 12-month period of the third, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first, second, third, or fourth major threshold violation. The aggravating factors outlined in [rule Subsection R27-7-5(9)] should be considered.

(e) An agency may, at its discretion, impose penalties more strict than those outlined in this section.

(f) An agency may, with approval from the Division, impose lesser penalties than those outlined in this section.

(7) The members of the Driver Safety Committee shall act on the following matters:

(a) Classifying the preventability of an accident in accordance with the standards in rule and the facts surrounding the accident and as to whether the [single] accident should be classified as a major threshold violation. The aggravating factors outlined in Subsection R27-7-5(8)[9] should be considered[.], and

(b) Any other item brought before the Driver Safety Committee that is allowed the discretion of the Driver Safety Committee and under its discretion, including imposing driving suspension longer than the minimums outlined in rule.

(c) The Driver Safety Committee may impose a driving suspension for a period less than what is in rule, but only after the recommended driving suspension period [of driving suspension has been reviewed by and approved by the Driver Eligibility Board prior to] before the suspension [taking] takes effect.

(d) The Driver Safety Committee shall recommend appropriate disciplinary action to the employing agency.

(8) Aggravating Factors to Consider

(a)(10) The following [first] aggravating factors are items [to be] the Driver Safety Committee shall consider[se] when reviewing the driver eligibility suspension to be imposed or whether a single [event outlined in Subsection R27-7-5] accident should be considered a major threshold violation:[c]
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R27-8 Filing ID 54316

Agency Information

1. Department: Government Operations
Agency: Fleet Operations
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W FL 3
City, state and zip: Taylorsville, UT 84128-2128
Mailing address: PO Box 141117
City, state and zip: Salt Lake City, UT 84114-1117
Contact person(s):
Name: Cory Weeks Phone: 801-957-7261 Email: coryweeks@utah.gov

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

General Information

2. Rule or section catchline:
R27-8. State Vehicle Maintenance Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Division of Fleet Operations needed to complete a five-year review of its administrative rules. There were amendments proposed after the review process was completed. This amendment also addresses drafting and formatting elements as outlined by the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment makes technical changes to make the administrative rule comply with the current version of the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This rule will have an impact on state budgets. Preventative maintenance is covered in a rate established by the internal service fund. There is also an inestimable savings on expensive repairs due to requiring preventative maintenance. No changes in this proposed amendment update effect the cost of preventative maintenance to the state. Budget impacts listed in Box 6A below reflect the costs of preventative maintenance.

B) Local governments:
This rule does not impact local governments.

C) Small businesses (*small business* means a business employing 1-49 persons):
This rule does not impact small businesses.

D) Non-small businesses (*non-small business* means a business employing 50 or more persons):
This rule does not impact 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 does not impact other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Compliance costs are covered in a rate paid to the internal service fund.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
Since this rule does not impact businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Cost</td>
</tr>
<tr>
<td>State Government</td>
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<tr>
<td>Local Governments</td>
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<tr>
<td>Small Businesses</td>
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<tr>
<td>Non-Small Businesses</td>
</tr>
<tr>
<td>Other Persons</td>
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</tbody>
</table>
NOTICES OF PROPOSED RULES

R27-8-1. Authority and Purpose.
(1) This rule is established pursuant to Subsections 63A-9-401(1)(d)(i) and (iv), which require the Department of Government Operations, Division of Fleet Operations (DFO) to establish rules governing maintenance operations and PM programs for state vehicles and other preventive maintenance programs.
(2) Unless specifically exempted in writing by DFO, agencies shall comply with the preventive maintenance and repair provisions of this rule.

(1) Preventive maintenance (PM) shall be performed in accordance with the schedule set forth in the Preventive Maintenance Program Coupon Book that accompanies each full-service lease vehicle. The Preventive Maintenance Program Coupon Book is located in the glove compartment of each full-service lease vehicle.
(2) The authorized driver or agency shall take the state vehicle to a vendor that participates in the vendor division's service network. If an authorized driver needs to locate a service facility, the vendor division will direct the authorized driver to the nearest service facility that participates in the vendor division's service network.
(3) Agencies leasing state vehicles are responsible for complying with annual safety and emission inspections required by state law.
(a) Inspection compliance certificates shall be forwarded to the DFO division's offices for vehicle registration.
(4) When taking a state vehicle in for PM, the authorized driver(s) shall present the Preventive Maintenance Coupon Book to the vendor.

R27-8-4. Repairs.
(1) If a state vehicle is in need of repair, either the authorized driver or the service facility shall contact the vendor division before having any services performed. A toll-free telephone number is listed on the front cover of the Driver Operating Manual and the Program Information Booklet located in the glove compartment.
(a) The authorized driver of the vehicle for the service facility shall provide the vehicle number VIN and the odometer reading to the vendor division.
(b) In the event that a driver needs to locate a service facility, the vendor division will direct the driver to the nearest service facility that participates in the vendor division's service network.
(c) In the event that the vehicle is already in a service facility, the authorized driver shall direct the service facility to contact the vendor division. Authorization to perform the required repairs shall be given by the vendor division.
(d) When taking a state-owned vehicle in for repair, the authorized driver shall identify the vehicle as belonging to DFO, the division, and not to the division agency or department to which the vehicles are leased.

(1) Agencies with capital lease vehicles may, at their own expense, maintain and operate maintenance and repair facilities to care for leased vehicles.
(2) All maintenance and repair shop personnel working on capital lease vehicles shall be trained in the use of DFO's...
division's fleet information system, specifically for the system's work-order ticket module of the system.

3. All maintenance and repairs performed on capital-leased vehicles shall be entered into the fleet information system work-order module within 24 hours of the next business day, following the completion of the work.

4. All maintenance and repairs performed or done on full-service leased vehicles shall require prior approval from the vendor division for preventive maintenance and repair services. The agency maintenance and repair facility shall bill the vendor division for services rendered.

5. Agency maintenance and repair facilities shall comply with all state and federal laws, rules and regulations governing vehicle maintenance and repair facilities.

**KEY:** vehicle maintenance, repair, vendor approval

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.)</th>
<th>R27-10</th>
<th>Filing ID 54317</th>
</tr>
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</table>

**Agency Information**

1. **Department:** Government Operations
2. **Agency:** Fleet Operations
3. **Building:** Taylorsville State Office Building
4. **Street address:** 4315 S 2700 W FL 3
5. **City, state and zip:** Taylorsville, UT 84128-2128
6. **Mailing address:** PO Box 141117
7. **City, state and zip:** Salt Lake City, UT 84114-1117
8. **Contact person(s):**
   - Name: Cory Weeks
   - Phone: 801-957-7261
   - Email: coryweeks@utah.gov

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

**General Information**

2. **Rule or section catchline:**
   - R27-10. Identification Mark for State Motor Vehicles

3. **Purpose of the new rule or reason for the change:**
   (Why is the agency submitting this filing?)

The Division of Fleet Operations needed to complete a five-year review of its administrative rules. There were amendments proposed after the review process was completed. This amendment also addresses drafting and formatting elements as outlined by the Rulewriting Manual for Utah.

4. **Summary of the new rule or change:**
   (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)

This amendment makes technical changes to make the administrative rule comply with the current version of the Rulewriting Manual for Utah.

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

   **A) State budget:**

   This rule does not impact state budgets. Use of the identification marks is required in statute. This rule simply puts parameters around the use of the identification marks.

   **B) Local governments:**

   This rule does not impact local governments.

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

   This rule does not impact small businesses.

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

   This rule does not impact 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 does not impact other persons

   **F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?)

   No anticipated compliance costs.

   **G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

   Because this rule does not affect businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director

6. **A) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be
NOTICES OF PROPOSED RULES


R27-10. Identification Markings for State Motor Vehicles.

R27-10-1. Authority and Purpose.
(1) Pursuant to Section 63A-9-601(5), the Department of Government Operations division is responsible for ensuring that state owned vehicles for all departments, universities and colleges agencies are marked as required by Section 41-1a-407. If "EX" license plates are required, then the identification mark is also required, as described herein, for these agencies.

(2) This rule is authorized by Subsection 63A-9-601(1)(c) and requires the Department of Government Operations to enact rules relating to the size and design of the identification mark.

R27-10-2. Identification Markings.
(1) The standard identification mark shall be a likeness of the Great Seal of the State of Utah.
(a) Light-, Medium- and Heavy-duty trucks, service vehicles, and off-road equipment shall be clearly marked, on each front door, with an eight-inch State Seal. At the option of the entity operating the State vehicle or equipment, the identification mark may include a banner not more than four inches high which may bear the entity's agency's logo and the name of the department or division. All identification markings must be approved by the Division of Fleet Operations division before use.

(b) Non-law enforcement passenger vehicles shall be marked with a translucent identification sticker, four inches in diameter on the furthest rearward window in the lower-most rearward corner, on each side of the vehicle.

(2) An identification mark shall be placed on both sides of the motor vehicle. The required portion of the identification mark (State Seal) shall be placed on in a visible location on each side of the vehicle.

(3) The requirement for the display of the identification mark is not intended to preclude other markings used to identify special purpose vehicles.

(4) Vehicles used for law enforcement purposes may, at the discretion of the operating agency, display a likeness of the Great Seal of Utah in the center of a gold star for identification purposes. Other emergency response vehicles are not precluded from displaying additional appropriate markings. At the option of the agency, the State Seal may be placed on the front door above any molding and, where practicable, below the window. The optional banner

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 63A-9-601(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. See Section 63G-3-302 and Rule R15-1 for more information.)

Agency Authorization Information
Agency head or designee, and title: Cory Weeks, Director
Date: 01/06/2022

Regulatory Impact Table

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</table>

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

| 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** |

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Cory Weeks, Director
Date: 01/06/2022


R27-10. Identification Markings for State Motor Vehicles.

R27-10-1. Authority and Purpose.
(1) Pursuant to Section 63A-9-601(5), the Department of Government Operations division is responsible for ensuring that state owned vehicles for all departments, universities and colleges agencies are marked as required by Section 41-1a-407. If "EX" license plates are required, then the identification mark is also required, as described herein, for these agencies.

(2) This rule is authorized by Subsection 63A-9-601(1)(c) and requires the Department of Government Operations to enact rules relating to the size and design of the identification mark.

R27-10-2. Identification Markings.
(1) The standard identification mark shall be a likeness of the Great Seal of the State of Utah.

(a) Light-, Medium- and Heavy-duty trucks, service vehicles, and off-road equipment shall be clearly marked, on each front door, with an eight-inch State Seal. At the option of the entity operating the State vehicle or equipment, the identification mark may include a banner not more than four inches high which may bear the entity's agency's logo and the name of the department or division. All identification markings must be approved by the Division of Fleet Operations division before use.

(b) Non-law enforcement passenger vehicles shall be marked with a translucent identification sticker, four inches in diameter on the furthest rearward window in the lower-most rearward corner, on each side of the vehicle.

(2) An identification mark shall be placed on both sides of the motor vehicle. The required portion of the identification mark (State Seal) shall be placed on in a visible location on each side of the vehicle.

(3) The requirement for the display of the identification mark is not intended to preclude other markings used to identify special purpose vehicles.

(4) Vehicles used for law enforcement purposes may, at the discretion of the operating agency, display a likeness of the Great Seal of Utah in the center of a gold star for identification purposes. Other emergency response vehicles are not precluded from displaying additional appropriate markings. At the option of the agency, the State Seal may be placed on the front door above any molding and, where practicable, below the window. The optional banner
portion of the identification mark shall be placed immediately below the State Seal.

(4) [It is the intent of these rules that these identification markings clearly identify the vehicles or equipment as being the property of the state.]

Additional markings should be applied [discriminately] with discretion so as not to detract from that intent.

R27-10-3. License Plates.

(1) Every vehicle owned, [and-operated, or leased for the exclusive use of the state shall have placed on it] [bear a]

registration [license plate displaying the letters "EX[;]"]

(2) Plates issued to Utah Highway Patrol vehicles may bear the capital letters "UHP[;]" a beehive logo, and the call number of the vehicle for which the plate is issued. In lieu of the identification mark [herein]-described in this rule, the Utah Highway Patrol may use a substitute identification mark of its own specification.


(1) Neither the "EX" license plates nor the standard identification markings need be displayed on state-[owned motor]

vehicles if:

(a) the state vehicle is in the direct service of the Governor, Lieutenant Governor, Attorney General, State Auditor, or State Treasurer of Utah;

(b) the state vehicle is used in official investigative work where secrecy is essential;

(c) the state vehicle is provided to an official as part of a compensation package allowing unlimited personal use of that vehicle; or

(d) the personal security of the state vehicle's occupants [of the vehicle] would be jeopardized if the identification mark were in place.

(2) State vehicles which meet the criteria described in Subsection R27-10-4(1) may be excused from these rules to display the identification mark and "EX" license plates. Any [E]exceptions shall be requested in writing from the Executive Director of the Department of Government Operations. [and] Granted exceptions shall continue [in force only]-so long as the use of the state vehicle continues.

(3) Exceptions shall expire when state vehicles are replaced. New exceptions shall be requested when new state vehicles are placed in use.

(4) No state vehicle required to display "EX" license plates shall be exempt from displaying the standard identification mark.

(5) An agency marker that does not meet the specifications of Section R27-10-3 must be approved by the division.

R27-10-5. Effective Date.

(1) All motor vehicles obtained or leased for use after the effective date of these rules shall display the prescribed identification mark.

(2) All passenger motor vehicles owned, leased for use or operated by the state, except as herein excepted, shall display an identification mark as required by these rules no later than two years following the effective date of this rule. Special purpose vehicles currently displaying markings other than as prescribed herein may retain such markings until the vehicle bearing them is disposed of.

KEY: motor vehicles
Date of Last Change: 2022[April 20, 2009]
2) the new Section R164-1-2, Incorporation by Reference, is added and includes all federal provisions that are referenced in this rule and the duplicative language of incorporation is deleted from the new Section R164-1-3;

3) the new Section R164-1-3, also clarifies that these definitions supplement the definitions in Section 61-1-13, Subsections R164-1-3(2)(e)(i) and (ii) change a reference to the newly renumbered Subsection R164-1-3(8) regarding exempt transactions, in Subsection R164-1-3(3) changes plural words to singular and changes verb tenses; and

4) the old Subsection R164-1-3(C), Fraudulent Acts, is now Section R164-1-4, and corrects grammatical issues.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
No additional costs or savings because the amendments merely clarify this rule or make nonsubstantive changes to facilitate compliance and enforcement and make changes consistent with the Rulewriting Manual in accordance with Executive Order No. 2021-12.

B) Local governments:
No additional costs or savings because the amendments merely clarify the rule or make nonsubstantive changes to facilitate compliance and enforcement and make changes consistent with OAR's current Rulewriting Manual in accordance with Executive Order No. 2021-12.

C) Small businesses ("small business" means a business employing 1-49 persons):
No additional costs or savings because the amendments merely clarify the rule or make nonsubstantive changes to facilitate compliance and enforcement and make changes consistent with OAR's current Rulewriting Manual in accordance with Executive Order No. 2021-12.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
No additional costs or savings because the amendments merely clarify the rule or make nonsubstantive changes to facilitate compliance and enforcement and make changes consistent with OAR's current Rulewriting Manual in accordance with Executive Order No. 2021-12.

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 additional costs or savings because the amendments merely clarify the rule or make nonsubstantive changes to facilitate compliance and enforcement and make changes consistent with OAR's current Rulewriting Manual in accordance with Executive Order No. 2021-12.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
No additional costs or savings because the amendments merely clarify the rule or make nonsubstantive changes to facilitate compliance and enforcement and make changes consistent with OAR's current Rulewriting Manual in accordance with Executive Order No. 2021-12.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
I have reviewed the proposed filing for the above-referenced rule and considered the fiscal impact that the rule may have on businesses. There is no foreseeable impact on small businesses since these amendments are made to make the rule comport to the Rulewriting Manual. There are no substantial changes to this rule beyond clarification to language. These amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale described for small businesses. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact. Margaret Busse, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
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<tr>
<td>State Government</td>
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<tr>
<td>Non-Small Businesses</td>
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<tr>
<td>Other Persons</td>
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<td>Total Fiscal Cost</td>
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<td>Small Businesses</td>
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### Non-Small Businesses

<table>
<thead>
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<tr>
<td>Net Fiscal Benefits</td>
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</table>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this fiscal analysis.

### Agency Authorization Information

| Agency head or designee, and title: | Margaret Busse, Executive Director | Date: 12/15/2021 |

### R164. Commerce, Securities.

#### R164-1. Fraudulent Practices.


#### R164-1-1. Authority and Purpose.

- **(A) Authority and purpose.**
  1. The division enacts this rule under authority granted by Subsection 61-1-1(3) and Section 61-1-24.
  2. This rule identifies practices by broker-dealers, broker-dealer agents, or issuer-agents which are generally associated with schemes to manipulate the securities markets.
  3. A broker-dealer, broker-dealer agent, or issuer-agent who engages in one or more of the practices listed in Section R164-1-4 will be deemed to have engaged in an "act, practice or course of business which operates or would operate as a fraud" as used in Subsection 61-1-1(3).
  4. This rule is not intended to be all-inclusive. Thus, acts or practices not listed may also be deemed fraudulent.
  5. This rule does not preclude application of the anti-fraud provisions of Subsection 61-1-1(3) against anyone for practices similar in nature to the practices listed in Section R164-1-4.

#### R164-1-2. Incorporation by Reference.

The following rules of the Securities Exchange Commission ("SEC") are adopted and incorporated by reference and available from the SEC:

- **(1) Rule 11Aa3-1,** regarding the dissemination of transaction reports and last sale data with respect to transactions in reported securities, 17 CFR 240.11Aa3-1 (2005);
- **(2) Rule 2-02,** regarding accountant's reports, 17 CFR 210.2-02 (2020); and
- **(3) Rule 12g3-2(b),** regarding exemptions for American depositary receipts and certain foreign securities, 17 CFR 240.12g3-2 (2020).

#### R164-1-3. Definitions.

**[48] Definitions used in the rule.** These definitions supplement the definitions set forth in Section 61-1-13:

1. "Customer" means potential, current, or past clients.
2. "Designated security" means any equity security other than a security listed, or approved for listing upon notice of issuance, on a national securities exchange and makes transaction reports available as required under SEC Rule 11Aa3-1, Dissemination of transaction reports and last sale data with respect to transactions in reported securities, 17 CFR 240.11Aa3-1 (1992).
NOTICES OF PROPOSED RULES

R164-1.4. Fraudulent Acts.

(1) If you engage in any of the following acts, you will be deemed to be violating the anti-fraud provisions of Section 61-1-1(3):

(a) failing to disclose to a customer the bid or ask quotations in a recognized inter-dealer quotation system,

(b) failing to advise a customer, both at the time of solicitation and on the trade confirmation documents,

(c) failing, to disclose, both at the time of solicitation and on the confirmation, the licensee’s firm’s short inventory position of more than 5%, or the licensee’s firm’s short inventory position of more than 5%.

(2) Providing, however, except that if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be five dollars or more, and an y component of the unit that is a warrant, option, right, or similar security must be five dollars or more, and the number of components of the unit other than warrants, options, rights, or similar securities must be five dollars or more, and an y component of the unit that is a warrant, option, right, or similar security must be five dollars or more, and an y component of the unit other than warrants, options, rights, or similar securities must be five dollars or more, and an y component of the unit other than warrants, options, rights, or similar securities must be five dollars or more.

(3) "Exempt transaction[s]" under subparagraph (C)(1)(b) of Section R164-1-4(8) means:

(a) a transaction[s] in which the price of the designated security is five dollars or more, exclusive of costs or charges, except that if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be five dollars or more, and any component of the unit that is a warrant, option, right, or similar securities, or a convertible security must have an exercise price or conversion price of five dollars or more;

(b) a transaction[s] that are not recommended by the licensee or the licensee’s agent;

(c) a transaction[s] by the licensee;

(d) where commissions, commission equivalents, and mark-ups from transactions in designated securities during each of the immediately preceding three months, and during twelve months, did not exceed five percent of the licensee’s total commissions, commission equivalents, and mark-ups from transactions in securities during those months;

(e) where you have the licensee has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the immediately preceding twelve months;

(f) that, upon prior written request or upon its own motion, the Division conditionally or unconditionally exempts as not encompassed within this definition.

(4) "Division" means the Division of Securities, Utah Department of Commerce. "Licensee" means a licensed broker-dealer, broker-dealer agent, or issuer-agent.

(5) "Market-maker" means a broker-dealer who, with respect to a particular security:

(a) regularly publishes bona fide, competitive bid and ask quotations in a recognized inter-dealer quotation system;

(b) regularly furnishes bona fide competitive bid and offer quotations to other broker-dealers upon request;

(c) is ready, willing and able to effect transactions in reasonable quantities at the broker-dealer’s quoted price with other broker-dealers on a regular basis.

(6) "NASDAQ" means National Association of Securities Dealers Automatic Quotation System.

(7) "You" means broker-dealers, broker-dealer agents, or issuer-agents as applicable.
NOTICES OF PROPOSED RULES

inventory position of more than 10%, of the issued and outstanding shares of that class of securities of the issuer, if:

[(1)(iii)(a)(i)] your firm is a market-maker at the time of the solicitation, and
[(1)(iii)(b)(ii)] the transaction is a principal transaction;

[(1)(iv)] conducting or participating in sales contests in a particular designated security;

[(1)(v)] failing to include with the confirmation, in a form satisfactory to the Division, a written explanation of the bid and ask price;

[(1)(vi)] failing or refusing to execute sell orders from a customer from whom you or your licensee or the licensee's firm solicited the purchase of the designated security in a principal transaction;

[(1)(vii)] soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market;

[(1)(viii)] engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same designated security; or

[(1)(ix)] effecting transactions in, or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance, including the use of boiler room tactics or use of fictitious or nominee accounts.

KEY: securities, securities regulation, fraud
Date of Last Change: 2022[1991]
Notice of Continuation: July 3, 2017
Authorizing, and Implemented or Interpreted Law: 61-1-1; 61-1-3; 61-1-24

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): Filing ID
R164-2  54312

Agency Information
1. Department: Commerce
Agency: Securities
Building: Heber M. Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84111-2316
Mailing address: PO Box 146760
City, state and zip: Salt Lake City, UT 84114-6760

Contact person(s):
Name: Phone: Email:
Charles Lyons 801-530-6600 clyons@utah.gov

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

General Information
2. Rule or section catchline:
R164-2. Investment Adviser – Unlawful Acts

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This filing is made in accordance with Executive Order No. 2012-12 to update and clarify the rule to facilitate compliance and enforcement, and to make changes consistent with the Utah Rulewriting Manual.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The entire Rule R164-2 has been renumbered and reorganized to be consistent with the Rulewriting Manual as follows:

1) old Subsection R164-2-1(A), Authority and Purpose, is now Section R164-2-1, removes the capitalization of “division” throughout this rule, and adds language concerning the purpose of custody requirements;
2) new Section R164-2-2 is now “Incorporation by Reference” and to avoid incorporating various federal provisions repeated throughout this rule, a separate incorporation by reference provision is created here with full citations to the relevant provisions;
3) old Subsection R164-2-1(B), Definitions, is now Section R164-2-3 which clarifies that these definitions supplement the definitions in Section 61-1-13; and makes grammatical changes;
4) old Subsection R164-2-1(C), Performance-based Contract Exemption, is now Section R164-2-4 and references the newly numbered internal provisions;
5) old Subsection R164-2-1(D), Clients Requirements, is now Section R164-2-5 makes grammatical changes; updates dollar amounts to be consistent with federal standards; and adds language concerning the calculation of a natural person's net worth;
6) old Subsection R164-2-1(E), Compensation Formula, is now Section R164-2-6, and makes grammatical changes;
7) old Subsection R164-2-1(F), Additional Disclosures Requirement, is now Section R164-2-7; and makes grammatical changes;
8) old Subsection R164-2-1(G), Arm's Length Agreement, is now Section R164-2-8; and makes grammatical changes; and
9) old Subsection R164-2-1(H), Unlawful Acts, is now Section R164-2-9; and makes grammatical changes; and
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

No additional costs or savings because the amendments merely clarify this rule or make minor changes to facilitate compliance and enforcement and make changes consistent with the Rulewriting Manual in accordance with Executive Order No. 2021-12.

B) Local governments:

No additional costs or savings because the amendments merely clarify this rule or make minor changes to facilitate compliance and enforcement and make changes consistent with the Rulewriting Manual in accordance with Executive Order No. 2021-12.

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

No additional costs or savings because the amendments merely clarify this rule or make minor changes to facilitate compliance and enforcement and make changes consistent with the Rulewriting Manual in accordance with Executive Order No. 2021-12.

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

No additional costs or savings because the amendments merely clarify this rule or make minor changes to facilitate compliance and enforcement and make changes consistent with the Rulewriting Manual in accordance with Executive Order No. 2021-12.

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 additional costs or savings because the amendments merely clarify this rule or make minor changes to facilitate compliance and enforcement and make changes consistent with the Rulewriting Manual in accordance with Executive Order No. 2021-12.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No additional costs or savings because the amendments merely clarify this rule or make minor changes to facilitate compliance and enforcement and make changes consistent with the Rulewriting Manual in accordance with Executive Order No. 2021-12.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

I have reviewed and approved of this rule amendment and affirms that there will be no foreseeable effect on small and non-small businesses in the State of Utah. Margaret Busse, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this fiscal analysis.
NOTICES OF PROPOSED RULES

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 61-1-2 Section 61-1-24

Incorporations by Reference Information

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

<table>
<thead>
<tr>
<th>Official Title of Materials Incorporated (from title page)</th>
<th>Date Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 USC Sections 80a-2 and 80a-3 of the Investment Company Act of 1940</td>
<td>January 24, 2020</td>
</tr>
</tbody>
</table>

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

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<thead>
<tr>
<th>Official Title of Materials Incorporated (from title page)</th>
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</thead>
<tbody>
<tr>
<td>15 USC Section 80b-2 of the Investment Advisers Act of 1940</td>
<td>January 24, 2020</td>
</tr>
</tbody>
</table>

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

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<thead>
<tr>
<th>Official Title of Materials Incorporated (from title page)</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Code of Federal Regulations, 17 CFR 275.206(4)-2</td>
<td>April 1, 2021</td>
</tr>
</tbody>
</table>

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. See Section 83G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:

03/03/2022

10. This rule change MAY become effective on:

03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Margaret Busse, Executive Director</td>
<td>12/15/2021</td>
</tr>
</tbody>
</table>

R164. Commerce, Securities.
R164-2-1. [Investment Adviser Performance-Based Compensation Contracts.

(A) Authority and purpose

(1) The Division enacts this rule under authority granted by Sections 61-1-2 and 61-1-24.

(2) This rule sets the requirements whereby an investment adviser may receive performance-based compensation for investment advisory services rendered and sets forth the requirements for investment advisers with custody of client funds or securities.

R164-2-2. Incorporation by Reference.

This rule references various sections of the Investment Company Act of 1940, the Investment Advisers Act of 1940, and the regulations adopted under those Acts, which are adopted and incorporated by reference. Copies of these Acts and regulations are available from the Division.


[These definitions supplement the definitions set forth in Section 61-1-13:

(1) "Affiliate" has the same definition as in Section 2(a)(9) of the Investment Company Act of 1940, which is adopted and incorporated by reference and available from the Division.

(2) "Division" means the Division of Securities, Utah Department of Commerce.

(3) "Company" means a corporation, partnership, association, joint stock company, trust, or any organized group of persons, whether incorporated or not; or any receiver, trustee in a case under Title 11 of the United States Code or similar official or any liquidating agent for any of the foregoing, in the person's capacity as such. "Company" shall not include:

(4a) a company required to be registered under the Investment Company Act of 1940, unless that company is not so registered;

(4b) a private investment company; or

(4c) an investment company registered under the Investment Company Act of 1940; or

(4d) a business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, which is adopted and incorporated by reference and available from the Division, unless each of the equity owner[s] of any such company, other than the investment adviser entering into the contract, is a natural person or company within the meaning of paragraph (2)(g) of this rule.

(2) "Custody" is defined as in Rule 206(4)-2(d) of the Investment Advisers Act of 1940.

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
NOTICES OF PROPOSED RULES


(1) Performance-based contract exemption

Notwithstanding Subsection 61-1-2(2), an investment adviser may enter into, extend or renew an investment advisory contract which provides for compensation to the investment adviser on the basis of a share of capital gains or capital appreciation of the funds, or any portion of the funds, of the client if the conditions in (a) through (d) of this rule, Sections R164-2-5 through R164-2-9 are met.

(a) The client entering into the contract must be:

(i) an individual or a company who, immediately before entering into the contract, has at least $5,000,000 under the management of the investment adviser;

(ii) a person who the investment adviser and its investment adviser representatives reasonably believe, immediately before entering into the contract, is a natural person or a company whose net worth at the time when the contract is entered into exceeds $5,000,000;

(iii) to calculate the net worth of a natural person:

(A) may include assets held jointly with that person's spouse may be included;

(B) the person's primary residence shall not be included as an asset;

(C) any debt secured by the primary residence up to the estimated fair market value of the residence shall not be deducted as a liability;

(D) but if the amount of the outstanding debt at the time of calculation exceeds the amount outstanding 60 days before the time of calculation, other than as a result of the acquisition of the primary residence, the amount of such excess shall be deducted as a liability; and

(iv) any debt secured by a person's primary residence in excess of the estimated market value of the residence shall be deducted as a liability:

(1) a qualified purchaser as defined in [Section 2(a)(51)(A) of the Investment Company Act of 1940 (at the time when the contract is entered into); or

(2) a natural person who immediately before entering into the contract is:

(a) an executive officer, director, trustee, general partner, or person serving in a similar capacity of the investment adviser; or

(b) an employee of the investment adviser other than an employee performing solely clerical, secretarial or administrative functions with regard to the investment adviser who, in connection with his or her employee's regular functions or duties, participated in the investment activities of such investment adviser, provided that such employee has been performing such functions and duties for or on behalf of the investment adviser, or has been performing substantially similar functions or duties for or on behalf of another company for at least 12 months.

(2) The compensation paid to the investment adviser with respect to the performance of any securities over a given period must be based on a formula with the following characteristics:

(a) In the case of securities for which market quotations are readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, 17 C.F.R. 270.2a-4(a)(1) (2020), which is adopted and incorporated by reference and available from the Division, the formula must include the realized capital losses and unrealized capital depreciation of the securities over the period;

(b) In the case of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940 the formula must include:

(i) the realized capital losses of securities over the period; and

(ii) if the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period;

(c) The formula must provide that any compensation paid to the investment adviser under this rule is based on the gains less the losses, computed in accordance with subparagraphs (a) and (b) of this subparagraph.

(d) Subsections R164-2-6(1) and R164-2-6(2), in the client's account for a period of not less than one year.


(1) Additional disclosure requirements

Before entering into the advisory contract and in addition to the requirements of SEC Form ADV - Uniform Application for Investment Adviser Registration, the investment adviser must disclose in writing to the client all material information concerning the proposed advisory arrangement, including the following:

(a) That the fee arrangement may create an incentive for the investment adviser to make investments that are riskier or more speculative than would be the case in the absence of a performance fee;

(b) Where relevant, that the investment adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;

(c) The periods which will be used to measure investment performance throughout the contract and their significance in the computation of the fee;

(d) The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the investment adviser believes that the index is appropriate; and
where the investment adviser's compensation is based in part on the unrealized appreciation of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, how the securities will be valued and the extent to which the valuation will be independently determined.

R164-2-8. Arm's Length Agreement.

(G) Arm's length agreement

1. (The) An investment adviser, and any investment adviser representative, who enters into the contract must reasonably believe[] immediately before entering into [the] a contract that the contract represents an arm's length arrangement between the parties and that the client, or [in the case of a] if the client [which] is a company as defined in [subparagraph (B)(2) of this rule,] Subsection R164-2-3(2) the person representing the company, understands the proposed method of compensation and its risks.

2. The representative of a company may be a partner, director, officer or an employee of the company or the trustee, where the company is a trust, or any other person designated by the company or trustee.


(I) Unlawful acts

(1) Any person entering into or performing an investment advisory contract under this rule is not relieved of any obligations under Subsection 61-1-2(1) or any other applicable provision of the Utah Uniform Securities Act or any rule or order thereunder.

R164-2-10. Custody Requirements for Investment Advisers.

(A) Authority and purpose

1. The Division enacts this rule under authority granted by Sections 61-1-2 and 61-1-24.

2. This rule sets forth the requirements for investment advisers with custody of client funds or securities.

(B) It is unlawful and [deemed to be] a fraudulent, deceptive, or manipulative act, practice or course of business for an investment adviser licensed or required to be licensed under Section 61-1-3 to have custody of client funds or securities unless the investment adviser complies with the requirements of Rule 206(4)-2 of the Investment Advisers Act of 1940 [(amended 2018)2020] (which is adopted and incorporated by reference).

(C) For purposes of this rule and any determination of whether an investment adviser has custody of client funds or securities, "custody" is defined as in Rule 206(4)-2(d)(2) of the Investment Advisers Act of 1940.

KEY: securities, securities regulation, investment advisers, custody requirements

Date of Last Change: 2022 [November 22, 2010]
Notice of Continuation: January 8, 2020
Authorizing, and Implemented or Interpreted Law: 61-1-2; 61-1-24

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R380-402 Filing ID 54326

Agency Information

1. Department: Health
2. Agency: Administration
Room no.: 427A
Building: Martha Hughes Cannon Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 14100
City, state and zip: Salt Lake City, UT 84114-1000
Contact person(s):
Name: Phone: Email:
Richard Oborn 385-232-4259 roborn@utah.gov

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

General Information

2. Rule or section catchline: R380-402. Medical Cannabis Cards

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Subsection 26-61a-201(11) requires that the Department of Health (Department) establish, by rule, a process to allow for an individual from another state to register with the Department to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting this state. There are also some errors in this rule that must be corrected.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This proposed rule establishes a process for an individual from another state to register with the Department to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting this state. Subsection R380-402-3(6) states that the Department shall send a renewal notice to each cardholder at least seven days prior to the expiration date shown on the cardholder's card. Setting the time frame as seven days was an error. This proposed rule corrects the error by removing seven days as the time frame and replacing it with the correct 30-day time frame.

Information on public hearings: 02/07/2022 at 10 AM

In-Person: Utah Department of Health, Martha Hughes Cannon Building, Room 125, 288 N 1460 W, Salt Lake City, UT

Ref: R380-54326
This proposed rule will not result in a fiscal impact to affected persons because it does not establish new requirements for these persons.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the changes do not affect existing business operations.

Nathan Checketts, Executive Director

6. A) 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>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
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<td>$144</td>
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<tr>
<td>Net Fiscal Benefits</td>
<td>$144</td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:

The Executive Director of the Utah Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.
Subsection 26-61a-201(11)  Subsection 26-1-5(1)

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

B) A public hearing (optional) will be held:

On: 02/07/2022
At: 10:00 AM
See details in Box 4 above.

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Nathan Checketts, Executive Director  Date: 12/31/2021

R380. Health, Administration.
R380-402. Medical Cannabis Cards.
R380-402-1. Medical Cannabis Cards - Authority and Purpose.

Pursuant to Subsections 26-1-5(1), 26-61a-201(8) and 26-61a-201(9), this rule establishes medical cannabis card application procedures, and renewal application procedures.


(1) The application procedures established in this section govern [all] applications for initial issuance of a medical cannabis card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Pursuant to Section 26-61a-201, upon [receipt] issuance of a medical cannabis card, the Department shall provide the cardholder information regarding the following:

(a) risks associated with medical cannabis treatment;
(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment, or cure for that condition; and
(c) other relevant warnings and safety information that the Department determines.

(3) The information described in Subsection (2) shall be electronically provided to each medical cannabis cardholder, and shall be accessible to the public on the Department's website.

(4) Each card applicant shall apply upon forms available from the Department.

(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(6) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.

(7) The Department shall provide a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(8) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.

(9) Each application shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.


(1) Renewal application procedures established in this section shall govern an application to renew a medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(6) The Department shall send a renewal notice to each cardholder, at least [2] days prior to before the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card, via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder [is required to] shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.

(9) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.
(2) Pursuant to Section 26-61a-201, upon issuing a medical cannabis card, the Department shall provide the cardholder information regarding the following:

(a) risks associated with medical cannabis treatment;
(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment, or cure for that condition; and
(c) other relevant warnings and safety information that the Department determines.

(3) The information described in Subsection (2) shall be electronically provided to each nonresident medical cannabis cardholder, and shall be accessible to the public on the Department's website.

(4) Each card applicant shall apply upon forms available from the Department.

(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(6) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.

(7) The Department shall provide a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(8) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.

(9) Each applicant shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.

(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.

KEY: medical cannabis card, medical cannabis, marijuana

Date of Last Change: 2022[June 10, 2020]

Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1); 26-61a-201(8); 26-61a-201(9)(10) and (11)


(1) Renewal application procedures established in this section shall govern an application to renew a nonresident medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(6) The Department shall send a renewal notice to each cardholder, at least five days before the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card, via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.

(9) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Ref (R no.): R380-413  Filing ID 54327

Agency Information

1. Department: Health

Agency: Administration

Room no.: 427A

Building: Martha Hughes Cannon Building

Street address: 288 N 1460 W

City, state and zip: Salt Lake City, UT 84116

Mailing address: PO Box 14100

City, state and zip: Salt Lake City, UT 84114-1000

Contact person(s):

Name: Richard Oborn

Phone: 385-232-4259

Email: roborn@utah.gov

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

General Information

2. Rule or section catchline:

R380-413. Administrative Penalties

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Subsection 26-61a-702(3) requires that the Department of Health (Department) establish a fine schedule for administrative penalties for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable administrative rules.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This proposed rule establishes a fine schedule for administrative penalties for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable administrative rules. It also establishes terms related to late payment penalties, aggravating and mitigating circumstances to be considered when determining the fine amount imposed, and cease and desist letters.

Information on public hearings: 02/07/2022 at 10 AM

In-Person: Utah Department of Health, Martha Hughes Cannon Building, Room 125, 288 N 1460 W, Salt Lake City, UT

Virtually: Meeting ID: meet.google.com/rsh-tgjd-tnj Phone Numbers: (US)+1 302-314-6830, PIN: 374 007 351#

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This proposed rule authorizes the Department to fine an entity or individual up to $5,000 per violation and it will have minimal impact on how much the Department collects in fine amounts from entities and individuals who violate the law. The Department estimates that it will collect $16,800 in fines from licensed medical cannabis pharmacies, medical cannabis pharmacy agents, and medical cannabis pharmacy courier agents during the rest of FY 2022. This is based on projecting 14 total fines issued at $1,200 for each penalty during FY 2022. In FY 2023, the Department projects that violating pharmacies and agents will be issued 45 fines of an average of $1,200 each, totaling $54,000 in total payments. In FY 2024, the Department projects pharmacies and agents will be issued 51 fines of an average of $1,200 each, totaling $61,200 in total payments.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

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

This proposed rule authorizes the Department to fine an entity or individual up to $5,000 per violation and it will have minimal impact on how much medical cannabis pharmacies that qualify as small businesses that violate the law are fined. The Department estimates that medical cannabis pharmacies all together will pay $16,800 in fines during the rest of FY 2022, $54,000 in fines during FY 2023, and $61,200 in fines during FY 2024. These totals were calculated using projections appearing in the state budget cost or savings section.

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

The Department projects that no medical cannabis pharmacy will have more than 50 employees between FY 2022 and FY 2024. Therefore, this proposed new rule will not result in a fiscal impact 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):

This proposed new rule will not result in a fiscal impact to persons other than small businesses, non-small businesses, or state or local government entities because this rule does not establish new requirements for these entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

This proposed rule authorizes the Department to fine an entity or individual up to $5,000 per violation and it will have minimal impact on affected medical cannabis pharmacies, medical cannabis pharmacy agents, and medical cannabis pharmacy courier agents that violate the law and are fined. The Department estimates that medical cannabis pharmacies or medical cannabis pharmacy agents or medical cannabis pharmacy courier agents all together will pay $16,800 in fines during the rest of FY 2022, $54,000 in fines during FY 2023, and $61,200 in fines during FY 2024. These totals were calculated using projections appearing in the state budget cost or savings section.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

Subsection 26-61a-702(3) requires that the Department to establish a fine schedule for administrative penalties for violations of the Medical Cannabis Act and applicable administrative rules. This proposed new rule establishes a fine schedule for administrative penalties for violations of the Act and rules and includes terms related to late payment penalties, aggravating and mitigating circumstances to be considered when determining the fine amount imposed, and cease and desist letters.

This proposed new rule will not affect non-small businesses because the Department projects that no medical cannabis pharmacy will have more than 50 employees between FY 2022 and FY 2024. As to small businesses, this proposed new rule authorizes the Department to fine an entity or individual up to $5,000 per violation and it will have minimal impact on how much
medical cannabis pharmacies that qualify as small businesses that violate the law are fined. The Department estimates that medical cannabis pharmacies all together will pay $16,800 in fines during the rest of FY 2022, $54,000 in fines during FY 2023, and $61,200 in fines during FY 2024. These totals were calculated using projections appearing in the state budget cost or savings section. Nathan Checketts, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Utah Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Subsection 26-61a-702(3)</th>
<th>Subsection 26-1-5(1)</th>
</tr>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022
B) A public hearing (optional) will be held:
  On: 02/07/2022  At: 10:00 A.M.  At: See details in Box 4 above.

Agency Authorization Information

| Agency head or designee, and title: | Nathan Checketts, Executive Director | Date: 12/29/2021 |

R380. Health, Administration.
R380-413. Administrative Penalties.
R380-413-1. Authority and Purpose.
Pursuant to Section 26-1-5 and Subsection 26-61a-702 (3), this rule establishes a fine schedule for administrative penalties for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules.

The definitions in Section 26-61a-102 and Subsection 26-61a-102 (2) apply in this rule.

R380-413-3. Entities and Individuals Subject to Fine Schedule.
This rule governs the fine schedule for which an administrative penalty is authorized pursuant to Section 26-61a-702.

R380-413-4. Fine Schedule.
(1) Pursuant to Section 26-61a-702 the following fine schedule shall apply:
   (a) for an initial violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380-400 et. seq., a fine of $500-$2,000 per violation; and
   (b) for a subsequent violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380-400 et. seq., a fine of up to $5,000 per violation.
(2) For each violation, the Department shall determine the fine amount within the ranges specified in Subsection (1).
Failure to comply with the cease and desist letter may constitute
them to cease and desist from the act that constitutes the violati
on. In addition to, or in lieu of imposing a fine, the Department
can issue a cease and desist letter to the entity or individual ordering
involves a minor; and
(iii) extraordinary cooperation in the violation
accepts
(i) no earlier violation history;
(ii) earlier violation history;
(iii) multiple violations during an investigation;
(iv) efforts to hide a violation;
(v) intentional nature of the violation;
(vi) the violation involved a minor; and
(vii) whether the violation resulted in injury to a patient.

R380-413-7. Additional Penalties.
Nothing in this rule prevents the Department from
suspending, revoking or refusing to renew a license or registration in addition to imposing a fine for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules.

In addition to, or in lieu of imposing a fine, the Department
may issue a cease and desist letter to the entity or individual ordering
them to cease and desist from the act that constitutes the violation.
Failure to comply with the cease and desist letter may constitute
grounds for additional penalties.

KEY: administrative penalties, medical cannabis, marijuana
Date of Last Change: 2022
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-
61a; 26-1-5(1); 26-61a-702(3)

NOTICE OF PROPOSED RULE
TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R381-40 Filing ID 54342

Agency Information
1. Department: Health
Agency: Child Care Center Licensing Committee
Building: Cannon Health Building

Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
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:
R381-40. Commercial Preschool Programs

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
There was a complete revision of this rule to comply with the state rulemaking manual requirements. There were also a variety of proposed amendments to this rule collected throughout the year the Child Care Center Licensing Committee and the Department of the Health (Department) decided to submit with the revision.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The proposed rule amendments include addition of definitions and clarifying language, deletion of unnecessary words and rules, simplification of the background check language and restrictions, and addition of required federal language.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The Department does not expect any costs or savings to the state budget caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

B) Local governments:
The Department does not expect any costs or savings to local governments caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

C) Small businesses ("small business" means a business employing 1-49 persons):
Although most centers are small businesses, the Department does not expect any costs or savings caused
by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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

The Department does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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 Department does not expect any costs or savings to other persons caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the proposed changes do not add additional requirements or change the current process. Nathan Checketts, Executive Director

6. A) 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.)

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Fiscal Benefits

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee: Nate Checketts, Executive Director Date: 12/29/2021
R381. Health, Child Care Center Licensing Committee.
R381-40. Commercial Preschool Programs.

(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 uses to determine if a covered individual is or is not eligible to be involved with child care.

(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, the provider is allowed to care for 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 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 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 any part of Rule R381-40 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) "Department" means the Utah Department of Health.

(17) "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.

(18) "Director" means an individual who meets the director qualifications under Section R381-40-7, and who assumes the child care program's day-to-day responsibilities under Rule R381-40.

(19) "Early Childhood Education" means a program of study that prepares an individual for the teaching of children in their early years, normally from birth up to the age of eight years old.

(20) "Eligible" means that were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.

(21) "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.

(22) "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.

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

(29) "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;

(30) "License" means a license issued by the department to provide child care services.

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

(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.

(3[3][3]) "Over-the-Counter Medication" means medication that can be bought without a written prescription, including herbal remedies, vitamins, and mineral supplements.

(3[3][4]) "Parent" means the parent or legal guardian of a child in care.

(3[4][5]) "Person" means an individual or a business entity.

(3[5][6]) "Physical Abuse" means causing nonaccidental physical harm to a child.

(3[6][7]) "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.

(3[7][8]) "Preschooler" means a child age two through four years old.

(3[8][39]) "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.

(3[9][40]) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

(4[0][1]) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(4[1][32]) "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.

(4[2][33]) "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.

(4[3][4]) "Room" is defined by the department as follows:
(a) 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:
(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise the department shall consider this to be two rooms; or
(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.
(b) If two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:
(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise the department shall consider this to be two rooms; or
(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.
(c) If in outdoor areas separated by interior fences, areas are considered:
(i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;
(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;
(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or
(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(4[4][5]) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(4[5][6]) "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.

(4[6][7]) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

(4[7][8]) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(4[8][9]) "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.

(4[9][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 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.

(5[0][1]) "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.

(5[1][2]) "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.

(5[2][3]) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(5[3][4]) "Working Days" means the days of the week the department is open for business.
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R381-40-3. License Required.

(1) A person shall have a preschool program license 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 qualifying children between the ages of two and four years old, and five years old if the child is not attending school;
   (d) for each individual child for less than four hours/day;
   (e) on an ongoing basis for more than two days a week and for four or more weeks in a year;
   (f) for direct or indirect compensation; and
   (g) pay any required fees, which are nonrefundable.

(2) A person who is not required to be licensed may voluntarily receive a license, 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.

R381-40-4. 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 business license or a written statement from the local business authority that a business license is not required;
   (c) submit a copy of a current local business license or a written statement from the city that a business license is not required;
   (d) have a copy of the educational credentials of the individual who will be the director as required in Section R381-40-7, ready for review by the department;
   (e) complete CCL background checks for covered individuals as required in Section R381-40-8;
   (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 or a renewal license is issued.

(3) If the local fire authority states in writing that an applicant for a new or a renewal license 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 or a renewal license serves food and the local health department states in writing 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) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;
   (d) chemicals are stored away from food and food service items;
   (e) food is properly stored, kept to the proper temperature, and in good condition; and
   (f) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

(5) Each applicant for a new license 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 new or renewal 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 the department found a violation to any rule under Rule R381-40 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 any of the following changes occur:
   (a) a change of the child care facility's location; or
   (b) a change that transfers 50% 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 each applicable rule under Rule R381-40 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 under Rule R381-40 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 Rule R381-40 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.
R381-40-5. Rule Violations, Penalties, and Appeals.
(1) The department may place a program's child care license on a conditional status for the following causes:
(a) chronic, ongoing noncompliance with the requirements under Rule R381-40;
(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 the rules under Rule R381-40.
(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 the requirements under Rule R381-40;
(f) fails to submit or make available to the department any written documentation needed to verify compliance with the requirements under Rule R381-40;
(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 of the requirements under Rule R381-40 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 request a hearing to appeal any department decision within 15 working days of being informed in writing of the decision.
R381-40-6. Administration and Children's Records.
(1) The provider shall:
(a) be at least 21 years old;
(b) pass a background check before becoming involved with child care; and
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(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 names of all individuals who shall legally represent them and who shall comply with the requirements under Subsection R381-40-6(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 the requirements under Rule R381-40 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;
(m) any other special health instructions for the caregiver; and
(n) certification that required immunizations are current.

(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.

R381-40.7. Personnel and Training Requirements.

(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained as stated under Rule R381-40 to:
(a) meet the needs of the children; and
(b) comply with each requirement.

(2) The provider shall ensure that the preschool program has a qualified director as required under Section R381-40-7.

(3) The provider shall ensure that the director:
(a) is at least 21 years old;
(b) passes a background check before becoming involved with child care;
(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 requirements under Rule R381-40; 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 hire a part-time employee.

(4) The provider shall ensure that new directors have one of the following educational credentials:
(a) any bachelor’s or higher education degree;
(b) 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;
(c) at least 12 college credit hours of child development courses;
(d) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a current Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, a current National Administrator Credential (NAC), or other equivalent credential as approved by the department;
(e) at least a Level 9 from the Utah Early Childhood Career Ladder system; or
(f) 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; or
(g) proof of at least five years of early education teaching experience.

(5) The provider shall ensure that the director is on duty at the facility for at least half of the time every week the program is open.

(6) The provider shall ensure that there is a director designate with authority to act on behalf of the director in the director's absence.

(7) The provider shall ensure that the director designate:
(a) is at least 21 years old;
(b) passes a background check before becoming involved with child care;
(c) receives at least 2-1/2 hours of preservice training before beginning job duties;
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(d) knows and follows any applicable laws and requirements under Rule R381-40-7; 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; and
(f) has current first aid and cardio pulmonary resuscitation (CPR).

8. The provider shall ensure that the director or the director designee is present at the facility when the program is open for care.

9. The provider shall ensure that caregivers:
   (a) are at least 16 years old;
   (b) are considered eligible by a CCL background check before becoming involved with child care;
   (c) receive at least 2-1/2 hours of preservice training before caring for children;
   (d) know and follow any applicable laws and requirements under Rule R381-40-
   (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 employee[staff such as drivers, cooks, and clerks:
   (a) are considered eligible by a CCL background check before becoming involved with child care;
   (b) receive at least 2-1/2 hours of preservice training before beginning job duties;
   (c) know and follow any applicable laws and requirements under Rule R381-40; 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) are considered eligible by a CCL background check before becoming involved with child care;
   (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) and guests 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 are considered eligible by 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 are considered eligible by 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 preservice training includes at least the following topics:
   (a) job description and duties;
   (b) current department rule Sections R381-40-7 through R381-40-22;
   (c) disaster preparedness, response, and recovery;
   (d) pediatric first aid and 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.

18. 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.

19. The provider shall ensure that annual child care training includes at least the following topics:
   (a) current department rule Sections R381-40-7 through R381-40-22;
   (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.
Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal R381-40-8. Background Checks.

Before a new covered individual who does not appear in a six-week record of the times worked each day.

(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] is eligible.

(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) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:

(a) resided outside of Utah since their last background check was completed;

(b) not been associated with an active, CCL approved child care facility within the past 180 days; or

(c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.

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.

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] consider a covered individual not eligible [from being involved with child care] for any of the following reasons [background findings]:

(a) LIS supported findings;

(b) the covered individual's name appears on the Utah or national sex offender registry;

(c) the covered individual refuses to consent to the criminal background check;

(d) the covered individual knowingly makes a false statement in connection with their background check;

(e) any felony convictions; or

(f) for any of the reasons listed under Subsection R381-40-8(8).

(8) The department may also [deny] consider a covered individual not eligible [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.

(a) child pornography;

(b) sexual enticing of a minor;

(c) voyeurism;

(d) a sexual exploitation act;

(e) pornographic material or performance;

(f) any crime against an individual;

(g) providing dangerous weapons or fire arms to a minor; or

(h) driving under the influence (DUI) while a child is present in the vehicle.

(9) The department shall [approve] consider a covered individual eligible if the only background finding is a conviction or plea
of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.

(10) If the provider is deemed not eligible by CCL [fails to pass a background check], the department may suspend or deny their license until the reason for the [denial] background check finding is resolved.

(11) If a covered individual is deemed not eligible by CCL [fails to pass a 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] background check finding 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 LIS [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 [D]department [of Health] may overturn a CCL [background check] decision if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.


(1) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.

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

(3) The department may determine the total capacity based on the number of rooms and the ages of children cared for in those rooms.

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

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

(b) not exceed the number of children in the caregiver-to-child ratio per room.

<table>
<thead>
<tr>
<th>TABLE 1</th>
<th>Caregiver-to-child Ratios</th>
</tr>
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<tbody>
<tr>
<td>Ages of Children</td>
<td># of Caregivers</td>
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<tr>
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<tr>
<td>3 years old</td>
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<td>4 years old</td>
<td>at least 1</td>
</tr>
<tr>
<td>5 years old</td>
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<table>
<thead>
<tr>
<th>TABLE 2</th>
<th>Two-to-Five-Year-Olds</th>
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</thead>
<tbody>
<tr>
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<tr>
<td></td>
<td>3, 4, and 5 years old</td>
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<tr>
<th>TABLE 3</th>
<th>Three-to-Five-Year-Olds</th>
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<tbody>
<tr>
<td># of Caregivers</td>
<td>Ages of Children</td>
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<tr>
<td>At least 1</td>
<td>3 years old</td>
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<td>4 years old</td>
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<tr>
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<td>5 years old</td>
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<td>Maximum Total of Children in the Room:</td>
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<tr>
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<td>At least 1</td>
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<tr>
<td></td>
<td>5 years old</td>
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<tr>
<td>Maximum Total of Children in the Room:</td>
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</table>

(5) As listed in Tables 2-4 for mixed-age groups of children, the provider shall:

(a) maintain at least the number of caregivers, and

(b) not exceed the number of children in the caregiver-to-child ratio per room.

(6) The provider may exclude the provider's or an employee's child age four years or older from the caregiver-to-child ratio when the parent of the child is working at the facility.
NOTICES OF PROPOSED RULES

(7) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 years old or older in the caregiver-to-child ratio.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
   (a) the caregiver is physically present in the room or area with the children;
   (b) caregivers know the number of children in their care at any time;
   (c) caregivers' attention is focused on the children and not on caregivers' personal interests;
   (d) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and
   (e) caregivers position themselves so each child in their assigned group is actively supervised.

(2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
   (a) they are left unsupervised for no more than two consecutive hours per group;
   (b) the director or the director designee is physically present and available as needed; and
   (c) they are not volunteers.

(3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.

(4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course, and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(5) 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.

(26) 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.

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

(48) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
   (a) the person giving verbal authorization; and
   (b) the person picking up the child.

(59) 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.

(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 department 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, near each telephone in the facility 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 at least quarterly and make sure drills include a complete exit of each child, staff, and volunteer[s] from the building.

(5) The provider shall conduct drills for disasters other than fires at least once every 6 months.

(6) The provider shall give parents a written report of every incident, accident, or injury involving their child.

(7) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.

(8) 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.

(9) 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.

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

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:
   (a) walls and flooring free of spills, dirt, and grime;
   (b) areas and equipment used for the storage, preparation, and service of food;
   (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; 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 ensure that fabric toys and items such as stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and washed weekly, and as needed.
(4) 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.
(5) The provider shall ensure that water play tables or tubs are cleaned and sanitized daily, if used by the children.
(6) The provider shall ensure that bathroom surfaces including toilets, sinks, faucets, and counters are cleaned and sanitized each day.
(7) The provider shall ensure that toilet paper is accessible to children and kept in a dispenser.
(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 at required times including:
   (a) upon arrival;
   (b) after using the toilet or helping a child use the toilet;
   (c) after contact with a body fluid;
   (d) after cleaning up or taking out garbage;
   (e) after diapering a child;
   (f) before administering medications to children;
   (g) when coming in from outdoors.
(10) The provider shall ensure that caregivers 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 at required times including:
   (a) upon arrival;
   (b) after using the toilet;
   (c) after contact with a body fluid;
   (d) before using a water play table or tub;
   (e) before eating a snack; 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 ensure that personal hygiene items, such as toothbrushes, combs, and hair accessories, are not be shared and are stored so they do not touch each other, 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 facility;
   (b) placed in a leakproof container that is labeled with the child's name; and
   (c) returned to the parent; or
   (d) thrown away with parental consent.
(16) The provider shall ensure that staff take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:
   (a) wear waterproof gloves;
   (b) clean the surface using a detergent solution;
   (c) rinse the surface with clean water;
   (d) sanitize the surface;
   (e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;
   (f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
   (g) wash their hands after cleaning up the body fluid.
(17) The provider shall ensure that a child who is ill with an infectious disease is not cared for at the facility except when the child shows signs of illness after arriving at the facility.
(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) When any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.
(20) If a staff member or child has an infectious disease or parasite, the provider shall post a notice at the facility that:
   (a) does not disclose any personal identifiable information;
   (b) is posted in a conspicuous place where it can be seen by 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.
R381-40-17. 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.

KEY:  child care facilities, child care, commercial preschool programs
Date of Last Change: 2022[March 22, 2021]
Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)

NOTICE OF PROPOSED RULE

<table>
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<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>Utah Admin. Code</td>
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<tr>
<td>Ref (R no.):</td>
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Agency Information

1. Department: Health

Agency: Child Care Center Licensing Committee
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Simon Bolivar
Phone: 801-803-4618
Email: 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
(Why is the agency submitting this filing?):
There was a complete revision of this rule to comply with the state rulewriting manual requirements. There were also a variety of proposed amendments to this rule collected throughout the year the Child Care Center Licensing Committee and the Department of Health (Department) decided to submit with the revision.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The proposed rule amendments include addition of definitions and clarifying language, deletion of unnecessary words and rules, simplification of the background check language and restrictions and addition of required federal language, and clarification language for ratios and group size.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The Department does not expect any costs or savings to the state budget caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

B) Local governments:
The Department does not expect any costs or savings to local governments caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

C) Small businesses ("small business" means a business employing 1-49 persons):
Although most centers are small businesses, the Department does not expect any costs or savings caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Department does not expect any costs or savings to non-small businesses caused by the proposed rule
amendments because they are mostly changes that will facilitate and clarify the current process.

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 Department does not expect any costs or savings to other persons caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the proposed changes do not add additional requirements or change the current process. Nate Checketts, Executive Director

6. A) 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>
<thead>
<tr>
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<tr>
<td>Small</td>
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<tr>
<td>Businesses</td>
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</tbody>
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Non-Small Businesses $0 $0 $0
Other Persons $0 $0 $0
Total Fiscal Benefits $0 $0 $0
Net Fiscal Benefits $0 $0 $0

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Subsection</th>
<th>26-39-203(1)(a)</th>
</tr>
</thead>
</table>

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Nate Checketts, Executive Director</th>
<th>Date: 12/29/2021</th>
</tr>
</thead>
</table>

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, Utah Child Care Licensing Act.
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.
NOTICES OF PROPOSED RULES


(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 used to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Background Check Denial" means 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, the provider is allowed to care for 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 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 2-1/2 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) "Eligible" means that no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.

(21) "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.

(22) "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.

(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 total number of children in a group per room or area.

(26) "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.

(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.

(29) "Inaccessible" means anyone who locks a fixed, regular, and adequate nighttime residence.

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

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

(32) "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.

(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.
NOTICES OF PROPOSED RULES

(3) [45] "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) "Older Toddler" means a child age 18 through 23 months old.

(3) [57] "Over-the-Counter Medication" means medication that can be bought without a written prescription including herbal remedies, vitamins, and mineral supplements.

(3) [68] "Parent" means the parent or legal guardian of a child in care.

(3) [29] "Person" means an individual or a business entity.

(3) [50] "Physical Abuse" means causing nonaccidental physical harm to a child.

(3) [84] "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.

(4) [42] "Preschooler" means a child age two through four years old.

(4) [43] "Protective Barrier" means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.

(4) [44] "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

(4) [45] "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(4) [46] "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;

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

(4) [51] "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.

(4) [52] "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 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.

(4) [53] "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(4) [54] "School-Age Child" means a child age five through 12 years old.

(5) [55] "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.

(5) [56] "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

(5) [57] "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(5) [58] "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 playground that sits on the ground or floor and has no attached equipment, such as does not have an attached slide, swing, or climber.

(5) [59] "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) a protrusion of more than two threads beyond the face of the nut;

(c) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

(d) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

(e) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

(f) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

(g) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

(h) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

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(x) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

(y) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

(z) any part of the equipment that could prevent accidental or deliberate movement through or access to something.

[51] "Toddler" means a child age 12 through 36 months old.

[52] "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background check.

[53] "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.
NOTICES OF PROPOSED RULES

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 written 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 written 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 written 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;
(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 in writing 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 in writing 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; and
(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[and] a rule violation that would have resulted in a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;
(g) a copy of a current fire inspection report[and];
(h) a copy of a current kitchen inspection report[and].

(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% 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, and Appeals.  
(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 request a hearing to 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 old;
   (b) be considered eligible by a CCL background check before becoming involved with child care; 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.

(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 requirements under Rule R381-60.
(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] is considered eligible by a CCL background check before becoming involved with child care;
(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]requirements under Rule R381-60; 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; and
(f) has current first aid and cardio pulmonary resuscitation (CPR).
(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
(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
(f) has current first aid and cardio pulmonary resuscitation (CPR).
(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]18 years old;
(b) [passes a] is considered eligible by a CCL background check before becoming involved with child care;
(c) receives at least 2-1/2 hours of preservice training before beginning job duties;
(d) knows and follows any applicable laws and [rules]requirements under Rule R381-60; 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; and
(f) has current first aid and cardio pulmonary resuscitation (CPR).
(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 of] 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) [passes a] are considered eligible by a CCL background check before becoming involved with child care;
(c) receive at least 2-1/2 hours of preservice training before caring for children;
(d) know and follow any applicable laws and [rules]requirements under Rule R381-60;
(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] staff such as drivers, cooks, and clerks:
(a) [passes a] are considered eligible by a CCL background check before becoming involved with child care;
(b) receive at least 2-1/2 hours of preservice training before beginning job duties;
(c) know and follow any applicable laws and [rules]requirements under Rule R381-60; 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) [passes a] are considered eligible by a CCL background check before becoming involved with child care; 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.
The provider shall ensure that annual child care training includes at least the following topics:

(19) 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 SIDS (sudden infant death syndrome) and use of safe sleeping practices; and
(j) recognizing the signs of homelessness and available assistance.

(20) 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.

(21) 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.

(22) 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 [has a current is eligible] 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;
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(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] is eligible.

(2) 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.

(3) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:

(a) resided outside of Utah since their last background check was completed;
(b) not been associated with an active, CCL approved child care facility within the past 180 days; or
(c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.

(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] consider a covered individual not eligible from being involved with child care for any of the following reasons:

(a) LIS supported findings;
(b) the covered individual's name appears on the Utah or national sex offender registry;
(c) the covered individual refuses to consent to the criminal background check;
(d) the covered individual knowingly makes a false statement in connection with their background check;
(e) any felony convictions; or

(8) The department may also [deny] consider a covered individual from being involved with child care not eligible 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) a parent knowing of a minor's possession of a firearm; or

(k) a covered individual's name appears on the Utah or national sex offender registry; or

(l) has a criminal conviction; or

(m) any crime against an individual;

(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] consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.

(10) If the provider is considered not eligible by CCL [fails to pass a background check], the department may suspend or deny their license until the reason for the [denial] background check finding is resolved.

(11) If a covered individual is considered not eligible by CCL [fails to pass a 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] background check finding 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 CCL background check [denial decision] if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.


(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.
The provider shall ensure that:

1. Adequate light intensity for the safety of the children and the type of activity being conducted.
2. Rooms and areas have windows that open and have screens.
3. Each room and indoor area is ventilated by mechanical ventilation, or by a working handwashing sink used exclusively for handwashing that is at least four feet high and that has no gap five by five inches or greater in or under.
4. Covered areas 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.

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 there is at least one working toilet and one working sink for each group of 25 children in the center who are two years old and older:
   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:
   a. It is safely accessible to children;
   b. It has at least 40 square feet of space for each child using the area at one time; and
   c. It 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] any group[s] 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.

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<tr>
<th>Caregiver-to-Child Ratios</th>
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<tr>
<td># of caregivers</td>
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<tr>
<th></th>
<th>6 in the facility</th>
<th>3 children younger than 2 years old</th>
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<tr>
<td>2</td>
<td>24 per group</td>
<td>No children younger than 2 years old</td>
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<tr>
<td>2</td>
<td>16 per group</td>
<td>4 Children younger than 2 years old</td>
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</table>

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;
   - (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.


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 staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
   - (a) they are left unsupervised for no more than two consecutive hours per group;
   - (b) the director or the director designee is physically present and available as needed; and
   - (c) they are not volunteers.

(3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care;

(4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(5) 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.

(6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:
   - (a) the napping room is adjacent to a non-napping room;
   - (b) 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.

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

(8) 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.

(9) 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.

(10) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
   - (a) the individual giving verbal authorization; and
   - (b) the individual picking up the child.

(11) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the department.


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 department[s] 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.


(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 coming in from outdoors;
    (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.
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(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 food.

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.
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.

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.

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.

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.

The provider shall keep a six-week record of medication permission and administration forms on-site for review by the department.

(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.

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.

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.

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 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.

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.

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.

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.

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.

NOTICES OF PROPOSED RULES

[TABLE 2]

<table>
<thead>
<tr>
<th>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</th>
<th>Fine Sand</th>
<th>Coarse Sand</th>
<th>Fine Gravel</th>
<th>Medium Gravel</th>
<th>Shredded Tires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Swing Pivot Point</td>
<td>Fine Sand</td>
<td>Coarse Sand</td>
<td>Fine Gravel</td>
<td>Medium Gravel</td>
<td>Shredded Tires</td>
</tr>
<tr>
<td>Up to 5' high</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>not allowed</td>
</tr>
<tr>
<td>Over 5' high to 6'</td>
<td>9&quot;</td>
<td>8&quot;</td>
<td>9&quot;</td>
<td>9&quot;</td>
<td>not allowed</td>
</tr>
<tr>
<td>Over 6' high to 7'</td>
<td>not allowed</td>
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<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
</tr>
<tr>
<td>Over 7' high to 10'</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
</tr>
<tr>
<td>Over 10' high to 12'</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
</tr>
<tr>
<td>Over 12' high</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
</tr>
</tbody>
</table>
NOTICES OF PROPOSED RULES

TABLE 2

<table>
<thead>
<tr>
<th>Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires and Rubber Products</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</td>
</tr>
<tr>
<td>Up to 6' high</td>
</tr>
<tr>
<td>Over 6' up to 9'</td>
</tr>
<tr>
<td>Over 9' up to 10'</td>
</tr>
<tr>
<td>Over 10' up to 12'</td>
</tr>
</tbody>
</table>

(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

<table>
<thead>
<tr>
<th>Depths of Protective Cushioning Required for Shredded Wood Products</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</td>
</tr>
<tr>
<td>Up to 6' high</td>
</tr>
<tr>
<td>Over 6' up to 9'</td>
</tr>
<tr>
<td>Over 9' up to 11'</td>
</tr>
<tr>
<td>Over 11'</td>
</tr>
</tbody>
</table>

(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.

R381-60-22. 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.


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] may 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] cannot 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] may 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 Last Change: 2022[September 1, 2020]

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE: Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
</tr>
<tr>
<td>Filing ID</td>
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</table>

NOTICES OF PROPOSED RULES

Agency Information

1. Department: Health

Agency: Child Care Center Licensing Committee

Building: Cannon Health

Street address: 288 N 1460 W

City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Simon Bolivar

Phone: 801-803-4618

Email: 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 (Why is the agency submitting this filing?):

There was a complete revision of this rule to comply with the state rulewriting manual requirements. There were also a variety of proposed amendments to this rule collected throughout the year the Child Care Center Licensing Committee and the Department of Health (Department) decided to submit with the revision.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The proposed rule amendments include addition of definitions and clarifying language, deletion of unnecessary words and rules, simplification of the background check language and restrictions and addition of required federal language, and renumbering as needed.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Department does not expect any costs or savings to the state budget caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

B) Local governments:

The Department does not expect any costs or savings to the local governments caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.
C) Small businesses ("small business" means a business employing 1–49 persons):

Although most centers are small businesses, we do not expect any costs or savings caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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

The Department does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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 Department does not expect any costs or savings to other persons caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the proposed changes do not add additional requirements or change the current process. Nate Checketts, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
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<td>Non-Small Businesses</td>
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<tr>
<td>Other Persons</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Nate Checketts, Executive Director Date: 12/29/2021
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, Utah Child Care Licensing Act.
(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 used to determine if a covered individual is or is not eligible to be involved with child care.
(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 the provider is allowed to care for 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;
(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.

NOTICES OF PROPOSED RULES

[Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act.]

(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) "Eligible" means that were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.

(16) "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.
(17) "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.
(18) "Facility" means a program or the premises approved by the Department and licensed by Child Care Licensing.
(19) "Group" means the children who are assigned to and supervised by one or more staff members.
(20) "Group Size" means the total number of children in a group per room or area.
NOTICES OF PROPOSED RULES

(34) "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.
(35) "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.
(36) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
(37) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.
(38) "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.
(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) "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 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, then 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.
(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) "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.
(44) "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.
(45) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.
(46) "Staff-to-Child Ratio" means the number of staff responsible for a specific number of children.
(47) "Stationary Play Equipment" means equipment such as a climber, slide, swing, merry-go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:
(a) a sandbox;
(b) a stationary circular tricycle;
(c) a sensory table; or
(d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.
(48) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:
(a) a protruding bolt end that extends more than 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.
(49) "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.
(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 direct or indirect compensation for their service.
(52) "Working Days" means the days of the week the department is open for business.

R381-70-4. License Application, Renewal, Changes, and Variances.

(1) Each applicant for a new care license shall:
(a) submit [a] CCL online application;
(b) submit a copy of a current local fire clearance or a written 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 written 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
written 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 in writing 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 in writing 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; and
(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] any 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.

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(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, and Appeals.
   (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 request a hearing to appeal any department decision within 15 working days of being informed in writing of the decision.

   (1) The provider shall:
      (a) be at least 21 years old;
      (b) [pass a] be considered eligible by a CCL background check before becoming involved with child care; 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 all 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;
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]requirements under Rule R381-70.

(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] is considered eligible by a CCL background check before becoming involved with child care;
(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]requirements under Rule R381-70; 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 24 years old;
(b) [passes a] is considered eligible by a CCL background check before becoming involved with child care;
(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; and
(f) has current first aid and cardio pulmonary resuscitation (CPR).

(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) [passes a] is considered eligible by a CCL background check before becoming involved with child care;
(c) receive at least 2-1/2 hours of preservice training before working with children;
(d) know and follow any applicable laws and [rules]requirements under Rule R381-70; and
(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.

(10) The provider shall ensure that any other [employees] staff such as drivers, cooks, and clerks:

(a) [passes a] is considered eligible by a CCL background check before becoming involved with child care;
(b) receive at least 2-1/2 hours of preservice training before beginning job duties; and
(c) know and follow any applicable laws and [rules]requirements under Rule R381-70; 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) [passes a] are considered eligible by a CCL background check before becoming involved with child care; 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.
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(R32) 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) and guests wear a guest nametag.
(R43) 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.
(R15) The provider shall ensure that household members who are:
   (a) 12 to 17 years old are considered eligible by 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 are considered eligible by a CCL background check that includes fingerprints.
(R64) 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.
(R125) The provider shall ensure that individuals from law enforcement, Child Protective Services, and any similar entities provide proper identification before having access to the facility or to a child at the facility.
(R164) 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 CPR; and
      (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.
(R2419) 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.
(R2422) 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.
(R2421) The provider shall ensure that CPR certification includes hands-on testing.
(R2520) 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 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 portal;
   (c) pay any required fees; and
   (d) receive written notice from CCL that the individual [passed the background check][is eligible].
(2) 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.

(3) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:
(a) resided outside of Utah since their last background check was completed;
(b) not been associated with an active, CCL approved child care facility within the past 180 days; or
(c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.

(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 [approve] consider a covered individual not eligible [from being involved with child care] for any of the following reasons [background findings]:
(a) LIS supported findings;
(b) the covered individual's name appears on the Utah or national sex offender registry;
(c) the covered individual refuses to consent to the criminal background check;
(d) the covered individual knowingly makes a false statement in connection with their background check;
(e) a felony conviction; or
(f) for any of the reasons listed under Subsection R381-100-8(8).

(8) The department may also [approve] consider a covered individual not eligible [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 or firearms 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] consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.

(10) If the provider is considered not eligible by CCL [fails to pass a background check], the department may suspend or deny their license until the reason for the [denial] background check finding is resolved.

(11) If a covered individual is considered not eligible by CCL [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] background check finding 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 LIS 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 CCL background check [denial] decision if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.


(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 as indoor space per child 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.
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(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 sinks 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 1,600 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] may 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.


(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;
   (b) know the number of children in their assigned group at any time;
   (c) focus attention on the children and not on the staff's personal interests;
   (d) are aware of the entire group of children even when interacting with a smaller group or an individual child; and
   (e) position themselves so each child in their assigned group is actively supervised.

(2) The provider shall ensure that staff and household members who are 16 or 17 years old have unsupervised contact with any child in care, including during offsite activities and transportation when:
   (a) they are left unsupervised for no more than two consecutive hours per group;
   (b) the director or the director designee is physically present and available as needed; and
(c) they are not volunteers.

(3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.

(4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.


(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 department[s] 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]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; and
   (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.


(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.
NOTICES OF PROPOSED RULES

(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.


(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
   (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
following information:

(b) ensures that the children are not served the food or drink they are allergic or sensitive to.

(4) The provider [shall may 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] 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.


(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 uses 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; and
(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
NOTICES OF PROPOSED RULES

(c) ensure that the depth of the material meets the guidelines in Table 1.

[TABLE 1

<table>
<thead>
<tr>
<th>Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires and Rubber Products</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Up to 5' high</td>
</tr>
<tr>
<td>Over 5' up to 6'</td>
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<tr>
<td>Over 6' up to 9'</td>
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<tr>
<td>Over 9' up to 10'</td>
</tr>
<tr>
<td>Over 10' up to 12'</td>
</tr>
</tbody>
</table>

(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 material is cushioning for playgrounds;

(b) ensure that there is adequate drainage under the material; and

(c) ensure the depth of the shredded wood meets the guidelines in Table 2.

[TABLE 2

<table>
<thead>
<tr>
<th>Depths of Protective Cushioning Required for Shredded Wood Products</th>
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</thead>
<tbody>
<tr>
<td>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Point</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Up to 6' high</td>
</tr>
<tr>
<td>Over 6' up to 7'</td>
</tr>
<tr>
<td>Over 7' up to 11'</td>
</tr>
<tr>
<td>Over 11'</td>
</tr>
</tbody>
</table>

(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.

(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.

KEY: child care facilities, child care, child care centers, out of school time child care programs

Date of Last Change: 2022[September 1, 2020]
Notice of Continuation: April 14, 2020
Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R381-100 54345
amendments because they are mostly changes that will facilitate and clarify the current process.

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

Although most centers are small businesses, the Department does not expect any costs or savings caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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

The Department does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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 Department does not expect any costs or savings to other persons caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the proposed changes do not add additional requirements or change the current process. Nate Checketts, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
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<tr>
<td>Local Governments</td>
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<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Small Businesses</td>
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<td>$0</td>
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</tbody>
</table>
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NOTICES OF PROPOSED RULES

<table>
<thead>
<tr>
<th>Agency Authorization Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency head or designee, and title:</strong></td>
</tr>
</tbody>
</table>

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, Utah Child Care Licensing Act.
   (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 uses to determine if a covered individual is or is not eligible to be involved with child care.
   (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) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
      (a) count in the caregiver-to-child ratio;
      (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
      (c) supervise children.
   (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.
   (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) "Eligible" means that were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.

(21) "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.

(22) "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.

(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 total number of children in a group per room or area.

(26) "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.

(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.

(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 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.

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

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

(32) "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.

(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) "Older Toddler" means a child age 18 through 24 months old.

(37) "Over-the-Counter Medication" means medication that can be bought 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) "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.

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

(43) "Protective Barrier" means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.

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

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

(46) "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.

(47) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(48) "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 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.
(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 and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.
(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.

4. [29] "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
5. (50) "School-Age Child" means a child age five through 12 years old.
6. (51) "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.
7. (52) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.
8. (53) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
9. (54) "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 slide, swing, or climber.
(b) 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 in writing 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; and
(d) a copy of a current business license;
(e) a copy of a current fire inspection report;
(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 a 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,[-] Penalties, and Appeals.

(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.
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(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 request a hearing to 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 background check before becoming involved with child care; 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;
are supervised, qualified, and trained to:

(1) The provider shall ensure that employees and volunteers are at least 21 years old;
(2) are at least 16 years old;
(3) are at least 18 years old;
(4) are at least 24 years old;
(5) are at least 16 years old; and
(6) are at least 21 years old;
(b) do not have unsupervised contact with any child in care, including during offsite activities and transportation; and
(c) know and follow any applicable laws and

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 requirements under Rule R381-100.
(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) are considered eligible by a CCL background check before becoming involved with child care;
(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|requirements under Rule R381-100; 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) is considered eligible by a CCL background check before becoming involved with child care;
(c) receives at least 2-1/2 hours of preservice training before beginning job duties;
(d) knows and follows any applicable laws and
[rules|requirements under Rule R381-100; 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) are considered eligible by a CCL background check before becoming involved with child care;
(c) receive at least 2-1/2 hours of preservice training before caring for children;
(d) know and follow any applicable laws and
[rules|requirements under Rule R381-100; and
(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.
(10) The provider shall ensure that any other employees/staff such as drivers, cooks, and clerks:
(a) are considered eligible by a CCL background check before becoming involved with child care;
(b) receive at least 2-1/2 hours of preservice training before beginning job duties;
(c) know and follow any applicable laws and
[rules|requirements under Rule R381-100; and
(d) 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.
(11) The provider shall ensure that volunteers:
(a) are considered eligible by a CCL background check before becoming involved with child care;
(b) are not have unsupervised contact with any child in care, including during offsite activities and transportation; and
(c) know and follow any applicable laws and
[rules|requirements under Rule R381-100; 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.
(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) are not have unsupervised contact with any child in care, including during offsite activities and transportation, if the volunteer is younger than 18 years old.
(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:
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(a) 12 to 17 years old [pass are considered eligible by 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 are considered eligible by a CCL background check that includes fingerprints.
(1)[64] 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.
(1)[5][1] 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.
(1)[8][6] 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 CPR[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.
(1)[9][7] 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.
(2)[18] 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 SIDS[sudden infant death syndrome (SIDS)] and use of safe sleeping practices; and
(j) recognizing the signs of homelessness and available assistance.
(2)[19] 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.
(2)[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.
(2)[30] 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.
(2)[41] The provider shall ensure that CPR certification includes hands-on testing.
(2)[52] 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]is eligible[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]is eligible.
(2)[2] 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.]
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(3) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:
   (a) resided outside of Utah since their last background check was completed;
   (b) not been associated with an active, CCL approved child care facility within the past 180 days; or
   (c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.

(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 consider a covered individual not eligible from being involved with child care for any of the following reasons:
   (a) LIS supported findings;
   (b) the covered individual's name appears on the Utah or national sex offender registry;
   (c) the covered individual refuses to consent to the criminal background check;
   (d) the covered individual knowingly makes a false statement in connection with their background check;
   (e) any felony convictions; or
   (f) any crime against an individual;
   (g) any crime against a minor,
   (h) sexual enticing of a minor;
   (i) any crime against an individual;
   (j) subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;
   (k) contributing to the delinquency of a minor;
   (l) any crime against an individual;
   (m) subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;
   (n) any crime against a minor;
   (o) providing dangerous weapons or firearms to a minor;
   (p) any crime against an individual;
   (q) any crime against a minor;
   (r) driving under the influence (DUI) while a child is present in the vehicle.

(9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.

(10) If the provider is considered not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.

(11) If a covered individual is considered not eligible by CCL, the department may not include the following areas when considering the background check:
   (a) hallways;
   (b) lobbies and entryways; or
   (c) kitchens;

(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 CCL background check decision if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.


(1) The provider shall ensure that there is at least 35 square feet of indoor space per child in care, including the provider's and employees' children.

(2) The department may include:[as indoor space per child]
   (a) floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:
   (b) by children;
   (c) for the care of children; or
   (d) 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 include:[as indoor space per child]
   (a) driving under the influence (DUI) while a child is present in the vehicle.

   (a) child pornography;
   (b) sexual enticing of a minor;
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(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 there is at least one working toilet and one working sink for each group of one to 25 children in the center who are two years old and older:

(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 1,600 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 maximum group sizes.

TABLE 1
Caregiver-to-Child Ratios and Group Sizes

<table>
<thead>
<tr>
<th>Age of Children</th>
<th># of Caregivers</th>
<th># of Children</th>
<th>Group Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ages of Children</td>
<td>Caregivers</td>
<td>Children</td>
<td>Maximum</td>
</tr>
<tr>
<td>Birth - 23 months</td>
<td>1</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>2 years old</td>
<td>1</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>3 years old</td>
<td>1</td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td>4 years old</td>
<td>1</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>School age</td>
<td>1</td>
<td>25</td>
<td>40</td>
</tr>
</tbody>
</table>

(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.

TABLE 1
Caregiver-to-Child Ratios and Group Sizes

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Caregiver-to-Child Ratio</th>
<th>Maximum Group Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-11 Months - Infant</td>
<td>1:4</td>
<td>8</td>
</tr>
<tr>
<td>12-17 Months -- Younger</td>
<td>1:4</td>
<td>8</td>
</tr>
<tr>
<td>Toddler</td>
<td>1:4</td>
<td>8</td>
</tr>
<tr>
<td>18-23 Months -- Older Toddler</td>
<td>1:5</td>
<td>10</td>
</tr>
<tr>
<td>2 Years - Twos</td>
<td>1:7</td>
<td>14</td>
</tr>
<tr>
<td>3 Years - Threes</td>
<td>1:12</td>
<td>24</td>
</tr>
</tbody>
</table>

80  UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
(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

<table>
<thead>
<tr>
<th>Caregivers Required</th>
<th>Age</th>
<th># Children Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>18 to 23 months</td>
<td>1-3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total children: up to 7</td>
</tr>
<tr>
<td>2</td>
<td>18 to 23 months</td>
<td>1-6</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total children: up to 14</td>
</tr>
<tr>
<td>2</td>
<td>18 to 23 months</td>
<td>1-6</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total children: up to 14</td>
</tr>
</tbody>
</table>

### TABLE 3

<table>
<thead>
<tr>
<th>Caregivers Required</th>
<th>Age</th>
<th># Children Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1-6</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>1-9</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>1-9</td>
</tr>
<tr>
<td></td>
<td>Total children: up to 11</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>1-13</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>1-20</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>1-20</td>
</tr>
<tr>
<td></td>
<td>Total children: up to 22</td>
<td></td>
</tr>
</tbody>
</table>

### TABLE 4

<table>
<thead>
<tr>
<th>Caregivers Required</th>
<th>Age</th>
<th># Children Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1-6</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>1-9</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>1-9</td>
</tr>
<tr>
<td></td>
<td>Total children: up to 11</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>1-13</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>1-20</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>1-20</td>
</tr>
<tr>
<td></td>
<td>Total children: up to 22</td>
<td></td>
</tr>
</tbody>
</table>

### TABLE 5

<table>
<thead>
<tr>
<th>Caregivers Required</th>
<th>Age</th>
<th># Children Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>1-6</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>1-11</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>1-11</td>
</tr>
<tr>
<td></td>
<td>Total children: up to 14</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>1-13</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>1-20</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>1-20</td>
</tr>
<tr>
<td></td>
<td>Total children: up to 22</td>
<td></td>
</tr>
</tbody>
</table>
(b) if older toddlers and two-year-old children are mixed, there is at least one caregiver for up to seven children and at least two caregivers for eight and up to 14 children in the group.

(c) Older toddlers and older children are only mixed, besides when only mixed with two-year-old children, when:
   (i) the group has eight or fewer children;
   (ii) there are no more than three older toddlers in the group; and
   (iii) there are at least two caregivers with the group if more than three younger toddlers are present and the group has more than five children.

(4) For mixed-age groups of children not including infants and toddlers, the provider shall ensure that:
   (a) the caregiver-to-child ratio is determined by the age of the oldest child present in the group minus one child of that age group; and
   (b) the maximum group size is determined by the age of the oldest child present in the group, minus two children of that same age group.

(5) During nap time, the provider shall ensure that the caregiver-to-child ratio is doubled only if:
   (a) 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. The provider shall ensure that the caregiver supervising the napping children can contact another on-site caregiver without leaving the children unattended.

(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; and
   (b) the caregiver-to-child ratio is maintained; and
   (c) the required square footage for each group of children is maintained.


(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 staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
(a) they are left unsupervised for no more than two consecutive hours per group;
(b) the director or the director designee is physically present and available as needed; and
(c) they are not volunteers.

(3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.

(4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(5) 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.

(6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:
(a) the napping room is adjacent to a non-napping room;
(b) 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.

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

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

(9) To maintain security and supervision of children, the provider shall ensure that:
(a) 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.

(10) In an emergency, the provider shall accept the parent’s verbal authorization to release a child if the provider can confirm the identity of:
(a) the individual giving verbal authorization; and
(b) the individual picking up the child.

(11) The provider shall ensure that a six-week record of each child’s daily attendance, including sign-in and sign-out records, is kept on-site for review by the department.

(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 department[s] 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.
NOTICES OF PROPOSED RULES

(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.

(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.

R381-100-16. 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 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] may 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] 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.

(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 from the outermost edge of the merry-go-round if the platform diameter measures 20 inches or more.  
(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 R381-100-19(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][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 [14][2].

**TABLE 14**

<table>
<thead>
<tr>
<th>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</th>
<th>Fine Sand</th>
<th>Coarse Sand</th>
<th>Fine Gravel</th>
<th>Medium Gravel</th>
<th>Shredded Tires and Rubber Products</th>
</tr>
</thead>
<tbody>
<tr>
<td>Play Surface, Climbing Bar, or Swing Pivot Point</td>
<td>Fine Sand</td>
<td>Coarse Sand</td>
<td>Fine Gravel</td>
<td>Medium Gravel</td>
<td>Shredded Tires and Rubber Products</td>
</tr>
<tr>
<td>Fine</td>
<td>Sand</td>
<td>Coarse Sand</td>
<td>Fine Gravel</td>
<td>Medium Gravel</td>
<td>Shredded Tires and Rubber Products</td>
</tr>
<tr>
<td>Up to 5' high</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>S</td>
</tr>
<tr>
<td>Over 5' up to 6'</td>
<td>6&quot;</td>
<td>9&quot;</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>S</td>
</tr>
<tr>
<td>Over 6' up to 9'</td>
<td>9&quot;</td>
<td>not allowed</td>
<td>9&quot;</td>
<td>6&quot;</td>
<td>S</td>
</tr>
<tr>
<td>Over 9' up to 10'</td>
<td>not allowed</td>
<td>not allowed</td>
<td>9&quot;</td>
<td>not allowed</td>
<td>6&quot;</td>
</tr>
<tr>
<td>Over 10' up to 12'</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>not allowed</td>
<td>6&quot;</td>
</tr>
</tbody>
</table>

(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 material meets the guidelines in Table [14][3].

**TABLE 15**

<table>
<thead>
<tr>
<th>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</th>
<th>Engineered Wood</th>
<th>Shredded Wood Product</th>
</tr>
</thead>
<tbody>
<tr>
<td>Play Surface, Climbing Bar, or Swing Pivot Point</td>
<td>Engineered Wood</td>
<td>Shredded Wood Product</td>
</tr>
<tr>
<td>Engineered Wood</td>
<td>Chips</td>
<td>Bark Mulch</td>
</tr>
<tr>
<td>Up to 6' high</td>
<td>6&quot;</td>
<td>6&quot;</td>
</tr>
<tr>
<td>Over 6' up to 7'</td>
<td>9&quot;</td>
<td>6&quot;</td>
</tr>
<tr>
<td>Over 7' up to 11'</td>
<td>9&quot;</td>
<td>not allowed</td>
</tr>
<tr>
<td>Over 11'</td>
<td>9&quot;</td>
<td>not allowed</td>
</tr>
</tbody>
</table>

NOTICES OF PROPOSED RULES
(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 playfields.

(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:

- 18 inches above the floor or ground and used by infants or toddlers has a protective barrier that is at least 24 inches high;
- 30 inches above the floor or ground and used by preschoolers has a protective barrier that is at least 29 inches high; and
- 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.

### TABLE 3

<table>
<thead>
<tr>
<th>Highest Designated Play Surface Climbing Bar, or Swing Pivot Point</th>
<th>Engineered Wood Fibers</th>
<th>Wood Chips</th>
<th>Double Shredded Bark Mulch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 6' high</td>
<td>6&quot;</td>
<td>6&quot;</td>
<td>6&quot;</td>
</tr>
<tr>
<td>Over 6' up to 7'</td>
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<td>9&quot;</td>
<td>9&quot;</td>
</tr>
<tr>
<td>Over 7' up to 11'</td>
<td>9&quot;</td>
<td>9&quot;</td>
<td>9&quot;</td>
</tr>
<tr>
<td>Over 11'</td>
<td>9&quot;</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
</tbody>
</table>

(26) The provider shall ensure that infants and toddlers in the same enclosed outdoor space with older children only when there are eight or fewer children in the group.

(27) 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.

(28) For their healthy development, the provider shall make sure toys available and accessible for each infant and toddler to engage in play.

(29) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(30) The provider may 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.

(31) 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.

(32) The provider shall lock objects made of styrofoam inaccessible to infants and toddlers.

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

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

- labeled with the child's name;
- labeled with the date and time of preparation or opening of the container, such as a jar of baby food;
- kept refrigerated if needed; and
- discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.

(35) 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.

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

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

(38) 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.

(39) 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.

(40) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(41) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

(42) The provider shall document each infant's eating and sleeping patterns each day infants are at the facility, and make sure the record:

- is completed within an hour of each feeding or nap; and
- includes the infant's name, the food and beverages eaten, and the times the infant slept.

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

- the infant or toddler's name;
- 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 Last Change: 2022[September 1, 2020]
Notice of Continuation: April 14, 2020
Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R430-8 Filing ID 54346

Agency Information
1. Department: Health
Agency: Family Health and Preparedness, Child Care Licensing
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Contact person(s):
Name: Simon Bolivar
Phone: 801-803-4618
Email: 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 (Why is the agency submitting this filing?):
There was a complete revision of this rule to comply with the state rulemaking manual requirements. There were also a variety of proposed amendments to this rule collected throughout the year the Child Care Licensing Committee and the Department of Health (Department) decided to submit with the revision.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The proposed rule amendments include addition of definitions and clarifying language, deletion of unnecessary words and rules, simplification of the background check language and restrictions, and addition of required federal language.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Department does not expect any costs or savings to the state budget caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

B) Local governments:
The Department does not expect any costs or savings to local governments caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

C) Small businesses ("small business" means a business employing 1-49 persons):
Although most child care facilities are small businesses, the Department does not expect any costs or savings caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Department does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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 Department does not expect any costs or savings to other persons caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the proposed changes do not add additional requirements or change the current process. Nate Checketts, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Local Governments</td>
<td>$0</td>
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<td>$0</td>
<td></td>
</tr>
<tr>
<td>Small Businesses</td>
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<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Non-Small Businesses</td>
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<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Other Persons</td>
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<td>$0</td>
<td>$0</td>
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</tr>
<tr>
<td><strong>Total Fiscal Cost</strong></td>
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<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fiscal Benefits</th>
<th></th>
<th></th>
<th></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>
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</tr>
<tr>
<td>Non-Small Businesses</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Other Persons</td>
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<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Fiscal Benefits</strong></td>
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<td><strong>$0</strong></td>
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</tr>
<tr>
<td><strong>Net Fiscal Benefits</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 26, Chapter 39

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Nate Checketts, Executive Director

Date: 11/30/2021

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, Utah Child Care Licensing Act.

(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 uses to determine if a covered individual is or is not eligible to be involved with child care.

(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.

(3) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:

   (a) count in the caregiver-to-child ratio;

   (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or

   (c) supervise children.

(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;
NOTICES OF PROPOSED RULES

(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) "Eligible" means that were no findings in a covered individual’s background check that could prohibit that covered individual from being involved with child care.
(9) "Eligible" means that were no findings in a covered individual’s background check that could prohibit that covered individual from being involved with child care.
(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.
(12) "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.
(13) "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 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.
(15) "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.
(16) "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;
(c) a child who is younger than four years old and is the child of the provider or a caregiver.
(17) "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.
(18) "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.
(19) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

R430-8-3. License or Certificate, Exception, and Background Check Not Required.
(1) The following types of care do not require a child care license, certificate, exemption, 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.

R430-8-5. 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. 9857-9858.
(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]is eligible [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]is eligible.

(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 individual:
   (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.

To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:
   (a) resided outside of Utah since their last background check was completed;
   (b) not been associated with an active, CCL approved child care facility within the past 180 days; or
   (c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.

(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]consider a covered individual not eligible [from being involved with child care] for any of the following reasons [background findings]:
   (a) LIS supported findings;
   (b) the covered individual's name appears on the Utah or national sex offender registry;
   (c) the covered individual refuses to consent to the criminal background check;
   (d) the covered individual knowingly makes a false statement in connection with their background check;
   (e) any felony convictions; or
   (f) any of the reasons listed under Subsection R430-8-5(10).

(10) The department may also [deny]consider a covered individual [from being involved with child care] not eligible 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) lowliness, including lowliness 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.

(a) child pornography;
   (b) sexual enticing of a minor;
   (c) voyeurism;
   (d) a sexual exploitation act;
   (e) pornographic material or performance;
   (f) any crime against an individual;
   (g) providing dangerous weapons or fire arms to a minor; or
   (h) driving under the influence (DUI) while a child is present in the vehicle.

(11) The department shall [approve]consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.

(12) If the provider is deemed not eligible by CCL [fails to pass a background check], the department may suspend or deny their license until the reason for the [denial]background check finding is resolved.

(13) If a covered individual is deemed not eligible by CCL [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]background check finding 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 LIS [ 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 [Den]department of Health may overturn a CCL background check [denial]decision if the
NOTES OF PROPOSED RULES

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 of the decision.

KEY: child care facilities, exemptions from Child Care Licensing

Date of Last Change: 2022 [September 1, 2020]
Notice of Continuation: April 17, 2019
Authorizing, and Implemented or Interpreted Law: 26-39

NOTICES OF PROPOSED RULE

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R430-50 Filing ID 54347

Agency Information
1. Department: Health
Agency: Family Health and Preparedness, Child Care Licensing
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Simon Bolivar
Phone: 801-803-4618
Email: 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 (Why is the agency submitting this filing?):
There was a complete revision of this rule to comply with the state rulemaking manual requirements. There were also a variety of proposed amendments to this rule collected throughout the year the Child Care Licensing Committee and the Department of Health (Department) decided to submit with the revision.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The proposed rule amendments include addition of definitions and clarifying language, deletion of unnecessary words and rules, simplification of the background check language and restrictions, and addition of required federal language.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The Department does not expect any costs or savings to the state budget caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

B) Local governments:
The Department does not expect any costs or savings to local governments caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

C) Small businesses ("small business" means a business employing 1-49 persons):
Although these facilities are small businesses, the Department does not expect any costs or savings caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Department does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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 Department does not expect any costs or savings to other persons caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the changes do not add additional requirements or change the current process. Nate Checketts, Executive Director

6. A) 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.)

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<th>Regulatory Impact Table</th>
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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 26, Chapter 39

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:
03/03/2022

10. This rule change MAY become effective on:
03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Nate Checketts, Executive Director | Date: | 11/30/2021 |

R430-50-1. Legal Authority and Purpose.
(1) This rule is enacted and enforced in accordance with [Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act].
(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.

(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 uses to determine if a covered individual is or is not eligible to be involved with child care.
(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) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
   a) count in the caregiver-to-child ratio;
   b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
   c) supervise children.
(8) "Capacity" means the maximum number of children for whom care can be provided.
(9) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.
NOTICES OF PROPOSED RULES

(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) "Eligible" means that were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.

(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 total 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) "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) "Over-the-Counter Medication" means medication that can be bought without a written prescription including herbal remedies, vitamins, and mineral supplements.

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

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

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

(39) "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.

(40) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(41) "Residential Child Care" means care that takes place in a child care provider's home.

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

(43) "School-Age Child" means a child age five through 12 years old.

(44) "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.

(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 written 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 written 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 written 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 in writing 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 in writing 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.
NOTICES OF PROPOSED RULES

(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.


(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 request a hearing to appeal any department decision within 15 working days of being informed in writing of the decision.


(1) The provider shall:
   (a) be at least 18 years old;
   (b) [pass a]be deemed eligible by a CCL background check before becoming involved with child care;
   (c) complete the new provider training offered by the department; and

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
(d) complete at least 10 hours of child care training each year, based on the facility’s [license] residential certificate 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;
   (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.


(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] requirements under Rule R430-50.

(4) The provider shall ensure that caregivers:
   (a) are at least 16 years old;
   (b) are deemed eligible by a CCL background check before becoming involved with child care;
   (c) receive at least 2-1/2 hours of preservice training before caring for children;
   (d) know and follow any applicable laws and [rules] requirements under Rule R430-50;
   (e) complete at least 10 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] staff such as drivers, cooks, and clerks:
   (a) are deemed eligible by a CCL background check before becoming involved with child care;
   (b) receive at least 2-1/2 hours of preservice training before beginning job duties;
   (c) know and follow any applicable laws and [rules] requirements under Rule R430-50; 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) are deemed eligible by a CCL background check before becoming involved with child care;
   (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 younger than 18 years old.]

(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.
NOTICES OF PROPOSED RULES

(143) The provider shall ensure that household members who are:

(a) 12 to 17 years old [pass are deemed eligible by 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 are deemed eligible by a CCL background check that includes fingerprints.

(149) 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.

(149) 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.

(151) 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.

(152) 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 SIDS and use of safe sleeping practices; and
(j) recognizing the signs of homelessness and available assistance.

(153) The provider shall ensure that at least half of the required annual training is interactive.

(154) [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.

(155) The provider shall ensure that CPR certification includes hands-on testing.

(156) The provider shall ensure that current pediatric first aid and CPR certification records for each covered individual required by this rule to have them are kept on-site for review by the department.


(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] is eligible [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 portal;
(c) pay any required fees; and
(d) receive written notice from CCL that the individual [passed the background check] is eligible.

(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) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:

(a) resided outside of Utah since their last background check was completed;
(b) not been associated with an active, CCL approved child care facility within the past 180 days; or
(c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.

(5) 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] consider a covered individual not eligible [from being involved with child care] for any of the following reasons [background findings]:
(a) LIS supported findings;
(b) the covered individual's name appears on the Utah or national sex offender registry;
(c) the covered individual refuses to consent to the criminal background check;
(d) the covered individual knowingly makes a false statement in connection with their background check;
(e) any felony convictions; or
(f) [for any of the reasons listed under Subsection R430-50-8(b)].
(8) The department may also [deny] consider a covered individual [from being involved with child care] not eligible 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) sexual solicitation;
(l) prostitution and related crimes;
(m) contributing to the delinquency of a minor;
(n) any crime against an individual;
(o) a sexual exploitation act;
(p) leaving a child unattended in a vehicle; and
(q) driving under the influence (DUI) while a child is present in the vehicle.
(a) child pornography;
(b) sexual enticing of a minor;
(c) voyeurism;
(d) a sexual exploitation act;
(e) pornographic material or performance;
(f) any crime against an individual;
(g) providing dangerous weapons or fire arms to a minor; or
(h) driving under the influence (DUI) while a child is present in the vehicle.
(9) The department shall [approve] consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.
(10) If the provider is deemed not eligible by CCL [fails to pass a CCL background check], the department may suspend or deny their [residential certificate] license until the reason for the [denial] background check finding is resolved.
(11) If a covered individual is deemed not eligible by CCL [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] background check finding is resolved.
(12) If a covered individual is denied a [residential certificate] 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 [residential certificate] license.
(15) The Executive Director of the [D]epartment of Health may overturn a CCL background check [denial] decision if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

(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 as indoor space per child if the furniture, fixture, or equipment is used:
(a) by children;
(b) for the care of children; or
(c) to store materials for children.
(3) The department may not include the following areas when measuring indoor space for children's use:
(a) bathrooms;
(b) closets;
(c) hallways;
(d) offices; 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.
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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.

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

The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each non-diapered child in care.

The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

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.

If there is a hot tub with water in it on the premises, the provider shall make the hot tub 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.

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, any other areas on the premises.

The provider shall ensure that there is at least one caregiver for up to eight children in care.

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.

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.

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.

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.

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.

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).

The provider shall ensure that the outdoor area is safely accessible to children.
(4) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(5) 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.

(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.

(2) 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.

(2) 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.

(1) The provider shall ensure that:
   (a) the individual giving verbal authorization; and
   (b) only parents or individuals with written authorization from the parent may sign-in and 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.

(2) 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.


(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) 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 facility 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.
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(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;
(d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

(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.

(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 may 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:
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.

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(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 is placed over:
   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.


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] may 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 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 swills 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] may 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 Last Change:** 2022[September 1, 2020]

**Notice of Continuation:** May 9, 2018

**Authorizing, and Implemented or Interpreted Law:** 26-39

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### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

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<thead>
<tr>
<th>Utah Admin. Code Ref (R no.)</th>
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<td>R430-90</td>
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**Agency Information**

1. **Department:** Health

2. **Agency:** Family Health and Preparedness, Child Care Licensing

3. **Building:** Cannon Health Building

4. **Street address:** 288 N 1460 W

5. **City, state and zip:** Salt Lake City, UT 84116

6. **Contact person(s):**

   - **Name:** Simon Bolivar
   - **Phone:** 801-803-4618
   - **Email:** 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**

   (Why is the agency submitting this filing?):

   There was a complete revision of this rule to comply with the state rulemaking manual requirements. There were also a variety of proposed amendments to this rule collected throughout the year the Child Care Licensing Committee and the Department of Health (Department) decided to submit with the revision.

4. **Summary of the new rule or change**

   (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

   The proposed rule amendments include addition of definitions and clarifying language, deletion of unnecessary words and rules, simplification of the background check language and restrictions and addition of required federal language, simplification of the mixed-age ratios, and clarification language for new ratios and group size.

### Fiscal Information

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**
A) State budget:
The Department does not expect any costs or savings to the state budget caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

B) Local governments:
The Department does not expect any costs or savings to local governments caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

C) Small businesses ("small business" means a business employing 1-49 persons):
Although most child care facilities are small businesses, the Department does not expect any costs or savings caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Department does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

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 Department does not expect any costs or savings to other persons caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because it does not add additional requirements or change the current process.
Nate Checketts, Executive Director

6. A) 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.)

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<thead>
<tr>
<th>Regulatory Impact Table</th>
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<tr>
<td>Fiscal Cost</td>
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<td>Net Fiscal Benefits</td>
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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Title 26, Chapter 39

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022
10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head, designee, and title: Nate Checketts, Executive Director Date: 11/30/2021

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, Utah Child Care Licensing Act.
(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.

(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 used to determine if a covered individual is or is not eligible to be involved with child care.
(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) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
   a) count in the caregiver-to-child ratio;
   b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
   c) supervise children.
(8) "Capacity" means the maximum number of children [see whom care can be provided] the provider is allowed to care for 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 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.
(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) "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) "Eligible" means that were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.
(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 total 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.
(2) "Infant" means a child who is younger than 12 months
old.
(3) "Infectious Disease" means an illness that is capable
of being spread from one individual to another.
(4) "Involved with Child Care" means to do any of the
following or 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.
(5) "License" means a license issued by the department
to provide child care services.
(6) "Licensee" means the legally responsible person or
business that holds a valid license from Child Care Licensing.
(7) "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.
(8) "Older Toddler" means a child age 18 through 23 months
old.
(9) "Over-the-Counter Medication" means medication
that can be bought without a written prescription including herbal
remedies, vitamins, and mineral supplements.
(10) "Parent" means the parent or legal guardian of a child
in care.
(11) "Physical Abuse" means causing nonaccidental
physical harm to a child.
(12) "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.
(13) "Preschooler" means a child age two through four
years old.
(14) "Provider" means the legally responsible person or
business that holds a valid license from Child Care Licensing.
(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) "Residential Child Care" means care that takes place
in a child care provider's home.
(18) "Sanitize" means to use a product or process to reduce
contaminants and bacteria to a safe level.
(19) "School-Age Child" means a child age five through
12 years old.
(20) "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.
(21) "Sexual Explicit Material" means any depiction of
actual or simulated sexually explicit conduct.
(22) "Sleeping Equipment" means a cot, mat, crib,
bassinet, porta-crib, playpen, or bed.
(23) "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] does not have an attached[ a] slide, swing,
or climber.
(24) "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.
(25) "Toddler" means a child age 12 through 23 months
old.
(26) "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.
(27) "Use Zone" means the area beneath and surrounding
a play structure or piece of equipment that is designated for unrestricted
movement around the equipment, and onto which a child falling from
or exiting the equipment could be expected to land.
(28) "Volunteer" means an individual who receives no
form of direct or indirect compensation for their service.
(29) "Working Days" means the days of the week the
department is open for business.
(30) "Younger Toddler" means a child age 12 through 17
months old.
NOTICES OF PROPOSED RULES

(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 in writing 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.

R430-905. Rule Violations, [and] Penalties, and Appeals.

(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
(b) 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 request a hearing to appeal any department decision within 15 working days of being informed in writing of the decision.


(1) The provider shall:
   (a) be at least 18 years old;
   (b) be deemed eligible by a CCL background check before becoming involved with child care;
   (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.
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(15) The provider shall ensure that each child’s information is kept confidential and not released without written parental permission except to the department.


(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] requirements under Rule R430-90.

(4) The provider shall ensure that caregivers:
   (a) are at least 16 years old;
   (b) [pass a] are deemed eligible by a CCL background check before becoming involved with child care;
   (c) receive at least 2-1/2 hours of preservice training before caring for children;
   (d) know and follow any applicable laws and [rules] requirements under Rule R430-90; and
   (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.[and]

(5) The provider shall ensure that any other [employees] staff such as drivers, cooks, and clerks:
   (a) [pass a] are deemed eligible by a CCL background check before becoming involved with child care;
   (b) receive at least 2-1/2 hours of preservice training before beginning job duties; and
   (c) know and follow any applicable laws and [rules] requirements under Rule R430-90.[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.[and]

(6) The provider shall ensure that volunteers;
   (a) [pass a] are deemed eligible by a CCL background check before becoming involved with child care.[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.[and]

(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] are deemed eligible by 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] are deemed eligible by 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 SIDS and the use of safe sleeping practices; and
   (j) recognizing the signs of homelessness and available assistance.
The provider shall ensure that at least half of the required annual training is interactive.

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
(e) total hours or minutes of training.

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.

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.

The provider shall ensure that CPR certification includes hands-on testing.

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 [is eligible]; 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; and
(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 [is eligible].

(3) The department may include a covered individual in the program, by name on the CCL provider portal and consider that 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) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:
(a) resided outside of Utah since their last background check was completed;
(b) not been associated with an active, CCL approved child care facility within the past 180 days; or
(c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.

(5) 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.

(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 consider a covered individual not eligible from being involved with child care for any of the following reasons:
(a) LIS supported findings;
(b) the covered individual's name appears on the Utah or national sex offender registry;
(c) the covered individual refuses to consent to the criminal background check;
(d) the covered individual knowingly makes a false statement in connection with their background check;
(e) any felony convictions; or
(f) any of the reasons listed under Subsection R430-90-8(8).

(8) The department may also consider a covered individual not eligible 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 may also consider a covered individual not eligible from being involved with child care if the covered individual has:
(a) child pornography;
(b) sexual enticing of a minor;
(c) voyeurism;
(d) a sexual exploitation act;
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(f) any crime against an individual;

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(g) providing dangerous weapons or fire arms to a minor; or

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(h) driving under the influence (DUI) while a child is present in the vehicle.

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(9) The department shall approve a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.

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(10) If the provider is deemed not eligible by CCL [fails to pass a background check], the department may suspend or deny their license until the reason for the [denial]background check finding is resolved.

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(11) If a covered individual is deemed not eligible by CCL [fails to pass a 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]background check finding is resolved.

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(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.

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(13) If a covered individual disagrees with a supported finding on the Department of Human Services LIS [Licensing Information System (LIS)], the covered individual may appeal the finding to the Department of Human Services.

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(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.

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(15) The Executive Director of the [Department of Health] may overturn a CCL background check [denial]decision if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

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(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.

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

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(a) by children;

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(b) for the care of children; or

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(c) to store materials for children.

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(3) The department may not include the following areas when measuring indoor space for children's use:

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(a) bathrooms;

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(b) closets;

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(c) hallways;

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(d) lobbies; and

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(e) entryways.

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(4) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.

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(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.

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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 five working days and follow required procedures for remediation of the lead hazard.

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(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.

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(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.

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

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(10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

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(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.

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(12) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

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(13) The provider shall ensure that there is an outdoor area that is safely accessible to children.

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(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.

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(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:

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(a) has a speed of 25 miles per hour or higher; or

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(b) has more than two lanes of traffic.

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(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:

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(a) barbed wire that is within 30 feet of the children's play area;

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(b) livestock on or within 50 yards of the property line;

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(c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;

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(d) a drop-off of more than five feet on or within 50 yards of the property line; and

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(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.

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(17) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

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(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.

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(19) If there is a swimming pool on the premises that is not emptied after each use, the provider shall:

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

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(b) maintain the pool in a safe manner; and

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(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.

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(20) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:
(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:
(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 may not exceed the group sizes found in Table 1 and Table 2.

<table>
<thead>
<tr>
<th>TABLE 1</th>
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<tbody>
<tr>
<td>MAXIMUM GROUP SIZE WITH 1 CAREGIVER</td>
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<tr>
<td># of Provider's and Caregivers' Own Children</td>
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<tr>
<td>Care, Including the Provider's and Caregivers' Own Children</td>
</tr>
<tr>
<td>Ages 4-12 Years Present During Child Care Hours</td>
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<td>0-4 Children</td>
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<th>TABLE 2</th>
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<tr>
<td>MAXIMUM GROUP SIZE WITH 2 CAREGIVERS</td>
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<tr>
<td># of Provider's and Caregivers' Own Children</td>
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<tr>
<td>Care, Including the Provider's and Caregivers' Own Children</td>
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<tr>
<td>Ages 4-12 Years Present During Child Care Hours</td>
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<td>0-8 Children</td>
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<td>23 Children</td>
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</table>

(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.

(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.
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(2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
(a) the provider or an eligible adult is physically present and available as needed; and
(b) they are not volunteers.
(3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.
(4) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.
(5) 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.

[2]6 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 an area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.

[2]7 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]8 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]9 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]10 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-in and 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.

[2]11 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.

[3]12 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.


(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 facility vehicles any time a child is in care.
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.

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

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.

(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 department[s] 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, 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 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.

(1) The provider shall offer a meal or snack to each child age two years 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.

(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.

(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;
(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 is placed over:
   (a) 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.

**R430-90-22. 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] may 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.

**R430-90-24. 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] may 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 unreprepared 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.
NOTICES OF PROPOSED RULES

(17) The provider [shall] may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

KEY: child care facilities, licensed family child care

Date of Last Change: 2022[September 1, 2020]
Notice of Continuation: May 9, 2018
Authorizing, and Implemented or Interpreted Law: 26-39

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This proposed rule change is not expected to have any fiscal impact on the state budget because the new requirements are already used.

B) Local governments:

This proposed rule change is not expected to have any fiscal impact on local governments because the new requirements are already used.

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

This proposed rule change is not expected to have any fiscal impact on small businesses because the amendment does not change any obligations of businesses.

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

This proposed rule change is not expected to have any fiscal impact on non-small businesses because the amendment does not change any obligations of 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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because the new requirements are already used.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because the new amendments are already used.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Checketts, Executive Director

6. A) 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.)
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Linda S. Wininger, Director | Date: | 01/12/2022 |

R436-1. Duties of the Department of Health.
R436-1-1. Purpose and Authority.

(1) The purpose of this rule is to provide the requirements for registration of vital events, forms for vital event business, and the appointment of additional offices.

(2) Authority for this rule is found in Section 26-2-3.


(1) Terms used in this rule are defined in Section 26-2-2.

(2) "Information for medical and health use only," means information included in the registration of the vital event that is not printed on the vital event certificate. All of the information in the lower portion of the birth certificate and the similar information on the fetal death certificate, and the date and sex of the birth, death or fetal death.

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

R436-1-2. Forms.

(1) All forms, certificates, records, electronic data files, and supporting documentation are used in the system of vital records and statistics are the property of the Utah Department of Health, hereinafter referred to as "Department" and are subject to its rules and regulations.

(2) Only forms furnished by the State Registrar of Vital Statistics, hereinafter referred to as "State Registrar," shall be used in the reporting of vital statistics, creating records, or issuing certificates, or in making copies thereof. These forms shall be used only for official purposes.

R436-1-3. Requirements for Registration of Vital Events, Preparation of Certificates, and Sharing of Information.

(1) The preferred method for registration of vital events is through the electronic registration systems. All certificates and records relating to vital statistics must be prepared on a typewriter or other word processing equipment with a black ribbon or

(2) Vital events not registered through the electronic registration systems must be completed on the forms provided by the State Registrar and printed or written legibly in black, unfading ink, and will include the following:

(a) [All] Each required signature[s] shall be entered in black, unfading ink. Unless otherwise directed by the State Registrar, no certificate shall be complete and acceptable for registration that:

(1) [does not have] The certifier's name will be typed or printed legibly under [his] [her] signature.

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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

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-2-3 | Section 26-2-4

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. See Section 63G-3-302 and Rule R15-1 for more information.

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTICES OF PROPOSED RULES

(b)(c) [does not supply a] All items of information called for will be included, or [satisfactorily accounted] there will be a satisfactory explanation for their omission.[s]

d) contains alterations or erasures that would be apparent on certified copies or would not be as permanent as the record itself,

e) is marked "copy" or "duplicate;"

(f) is a carbon copy;

g) is prepared on an improper form;

(h) contains inconsistent data;]

[i)]Death certification may not contain[s] an indefinite cause of death which denotes only symptoms of disease or conditions resulting from disease[s].

[j)] All certifications of vital events must be prepared in conformity with rules or instructions issued by the Department.

(5) Elements for the registration of a birth certificate are on Department Form 105, the Parent Worksheet for Birth Registration. Form 105 is maintained and accessible on the Department website. Form 105 includes elements that are required to be completed to obtain a birth certificate, as well as elements that are necessary for obtaining a child's Social Security Number and elements that are used in approved medical research projects. Form 105 indicates whether a particular element is required or optional as well as what the element is used for.

(6) The required elements on Form 105 are consistent with federal and state requirements and the Standard Birth Certificate Worksheet provided by the National Center for Health Statistics.

(7) Data elements provided to the Department on Form 105 may only be disclosed or accessed as provided for in Section 26-2-72.


(1) Full-time local health officers may be [designated authorized] by the Department to serve as the local registrar of vital statistics for the area they serve as health officer.

(2) [They] Local registrars shall will carry out their required duties under the direction and supervision of the State Registrar without payment of any additional fee.

(3) For areas of the state not served by a full-time local health officer, the Department, acting through the State Registrar, shall designate may appoint an individual to serve as local registrar.

(4) Local registrars may recommend deputy local registrars for appointment to perform the duties of the local registrar as assigned by them or in their absence.

(2)(5) The State Registrar shall will delegate such duties and responsibilities to the local registrars as is deemed necessary to ensure ensure the efficient operation of the system of vital statistics. These may include the following:

(a) The receipt and processing of birth, death, and spontaneous fetal death records. This includes the filing of vital event records from the person responsible for filing the record[; and checking it for accuracy and completeness[; making a local copy, and forwarding the original to the State Registrar at least once a week.], and

(b) the issuance of certified copies of birth, death, and fetal death certificates through the Online Link for Issuing Vital Events Records after receiving a completed application from an individual entitled to the certificate and the required fee after receiving written authorization from the State Registrar. Certified copies shall be issued only from the following documents:

(i) the original certificate;
General Information

2. Rule or section catchline:

R436-3. Amendment of Vital Records

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This filing is to bring this rule into compliance with the current rulewriting manual and to update this rule to better define the process.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The filing rewrites the amendment process making it clearer for the public.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This proposed rule change is not expected to have any fiscal impact on the state budget because there is no additional workload.

B) Local governments:

This proposed rule change is not expected to have any fiscal impact on local governments because the amendment does not change any obligations required of local governments.

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

This proposed rule change is not expected to have any fiscal impact on small businesses because the amendment does not change any obligations required of small businesses.

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

This proposed rule change is not expected to have any fiscal impact on non-small businesses because the amendment does not change any obligations required of 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):

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because this amendment clarifies the amendment process but does not add cost to it.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because it does not change the process and businesses are not involved in the process of amending vital certificates. Nate Checketts, Executive Director

6. A) 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.)

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R436-3-3. Amendments to Correct Errors or Omissions.
(1) Whenever facts are not correctly stated in any certificate of birth, death or fetal death already registered, the person asserting that the error exists may make an affidavit under oath on the form prescribed by the State Registrar stating the corrections necessary to make the record correct. Such corrections shall be supported by the affidavit of one other credible person having knowledge of the facts. Such certificate, as corrected, shall be filed with the state or local registrar.
(2) If the amendment relates to a certificate which has not been transmitted to the State Registrar, the local registrar shall review the amendment for adequacy for filing. If the local registrar finds reason to doubt the adequacy of the amendment it shall be referred to the State Registrar.
(3) If the amendment relates to a certificate which has been transmitted to the State Registrar, the amendment shall be transmitted to the State Registrar who shall review it for acceptance for registration. If the State Registrar has reason to doubt the adequacy of the amendment, one or more items of documentary evidence to support the alleged facts may be required. A Supplemental Name Report may be used to add a child’s name to its birth certificate when this information was not given at the time the certificate was registered. This form must be signed by both parents.
(4) An amendment shall be filed with and become part of the record to which it pertains. The original certificate shall be marked “Amended, 1 of 2,” or however many parts the amendment may require. Subsequent parts will be marked accordingly.
(5) When an amendment is accepted, the State Registrar shall transmit copies of the amendment to the local registrar in whose office a copy of the original record is on file.
R436-3-4. Amendment of Medical and Health Data.
(1) Whenever the originally furnished medical and health data of any record of death, fetal death, or live birth is modified by supplemental information the certifying physician or medical examiner having knowledge of this information, may certify, under penalty of perjury, the changes necessary to make the information correct. The cause of death information may also be amended by the physician who performs an autopsy on the deceased.
(2) This amendment shall be processed in the manner prescribed in Section R436-2 of these rules.
R436-3-5. Acknowledgement of Paternity by Natural Parents.
(1) If the mother was married at any time during the pregnancy, the name of the husband shall be entered on the certificate as the father of the child, unless:
(a) paternity has been determined otherwise by a district court of this state, or
(b) the mother and the mother’s husband execute joint or separate affidavits attesting that the husband is not the father of the child. The signature of the mother and of the husband shall be individually notarized on affidavit form(s). In such event, information about the father shall be omitted from the certificate, or
(c) the mother executes an affidavit attesting that the husband is not the father and that the putative father is the father, and the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. Affidavits may be joint or individual or a combination thereof, and each signature shall be

R436-3-1. Definitions.

R436-3-2. Correction of Minor Errors on Birth Certificates.

R436-3-5. Acknowledgement of Paternity by Natural Parents.
individuals. In such event, the putative father shall be shown as the father on the certificate.

(2) If the mother was not married at any time during the pregnancy, the name of the father shall not be entered on the certificate, without a declaration of paternity signed by the mother and the putative father.

(3) In any case in which paternity of a child is determined by a district court of this state, the name of the father and surname of the child shall be added to the certificate of birth in accordance with the findings and order of the court. If the court order does not specifically change the surname of the child, the child’s surname shall remain the name listed on the original birth certificate.

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

(5) The affidavit for the declaration of paternity referenced in this rule shall be on a form provided by the State Registrar. When completed prior to the registration of the birth certificate they will be filled with the original birth certificate. When completed after the birth certificate has been registered they should be transmitted to the State Registrar for filing.

R436-3(1). Purpose and Authority.

(1) This rule sets forth the process for correcting and amending vital records.

(2) Authority for this rule is found in Section 26-2-7.


(1) "Amendment to a vital record" means a change made to a legal information field or a change made a year or more after the event. Documentary evidence supporting the amendment may be required.

(2) "Correction to a vital record" means a change made to a non-legal information fields such as birth weight, residence, or a change to information that was entered incorrectly. Corrections must occur within one year of the event or prior to the issuance of a certificate. Documentary evidence supporting the correction may be required.

(3) "Delayed Certificate of Birth" means the certificate from a Delayed Birth Registration as defined in Section 26-2-8.

(4) "Department" means the Department of Health.

(5) "Legal Field" means those fields that appear on the printed birth certificate.

(6) "Non-legal field" means those fields that do not appear on the printed birth certificate.

R436-3. Role of the State Registrar.

(1) The State Registrar will determine if a change to a certificate item may be corrected or if an amendment is required.

(2) The State Registrar may initiate a correction to a record if the State Registrar becomes aware of incorrect information on a record. The State Registrar may contact any facility or individual responsible for the original submission of data to assist in the collection of evidence of the error and correct information.

(3) The State Registrar may require documentary evidence as outlined in Section R436-3.5 to substantiate any requested correction or amendment. When there is reason to doubt the validity or adequacy of the documentary evidence, the change may be rejected and the applicant advised of the reasons for this action.

(4) When a correction is made by the State Registrar, a notation recording the source of the corrected information, the date the change was made and the identity of the authorized individual making the change shall be made on the record in such a way as to not become a part of any certificate issued. The previous information shall be preserved in the electronic or paper record for tracking and audit purposes.

(5) When an Amendment is made, a notation showing the record was amended shall be printed on the face of the certificate of record. The exact changes made or specifics of the amendment may be printed on page two of the certificate and if there are two pages, the pages shall be numbered Page 1 of 2 and Page 2 of 2 to show that there is an additional page with amendments.

R436-3.4. Amend a Record.

(1) All amendments to vital records shall be requested by submitting a notarized affidavit asserting that the error exists signed by the person so asserting and one other credible person having knowledge of the facts. The affidavit will set forth:

(a) information to identify the record;

(b) the items to be amended;

(c) the incorrect information as it appears; and

(d) the correct information as it should appear.

R436-3.5. Documentary Evidence Required for Corrections or Amendments.

(1) With the exception of corrections initiated by the State Registrar as outlined in Section R436-3.2, or an amendment to the medical certification, one or more items of documentary evidence may be required that support the alleged facts.

(2) Each document presented must contain sufficient information to clearly show that they pertain to the registrant on the record for which the amendment or correction has been requested.

(3) The documents must clearly establish the facts pertaining to the amendment sought.

(4) Acceptable documents include:

(a) certified copy of a marriage record;

(b) insurance policy naming married couple;

(c) most recent joint tax return of a married couple;

(d) certified copy of a live birth record of the registrant’s child;

(e) Social Security records;

(f) passport or visas;

(g) military records;

(h) federal government census records;

(i) government agency records for benefit establishment such as social services, Medicaid, clinical services, or similar services;

(j) copies of official records prepared by state or federal agencies that have maintained case files on the individual applying;

(k) court orders clearly establishing the facts to be amended;

(l) medical records pertaining to the vital event;

(m) medical treatment records which may include official medical history, patient information sheet or immunization records that list birth information and show dates the patient was seen;

(n) original voter registration;

(o) tax records such as W-2; or

(p) other documents deemed to be valid and adequate by the State Registrar to support the requested change.

(5) Only one document of each type listed in Subsections (4)(a) through (p) above may be used in cases where more than one document is required to support the facts.

(6) Documents presented must be from independent sources.
NOTICES OF PROPOSED RULES

R436-3-6. Amend or Correct a Live Birth Record, Stillbirth or Fetal Death Record.

(1) Stillbirth and fetal death records may be amended or corrected after registration.
(2) Live birth records shall not be amended or corrected after death except that omission of a child's name may be amended after death within one year of birth.
(3) Application may be made by the following persons:
(a) the licensed facility, licensed provider, or health care provider responsible for submitting the report of live birth within one year of the date of the birth;
(b) the registrant, if 18 years of age or over, or person who has the status of emancipated minor;
(c) the parents, if the registrant is under 18;
(d) the legal guardian, or;
(e) the legal representative acting on behalf of the registrant.
(4) Until one year from the date of birth, the child's name may be changed or added upon receipt of an affidavit signed by both the parents named on the record or the legal guardian of the registrant.
(5) A court order is needed to change or amend the child's name after six years from the date of birth.
(6) A court order is required for a change to the sex or gender.
(7) A court order is required for any change to a Delayed Birth Certificate.
(8) Minor name spelling changes which do not change the pronunciation of the name may be made by affidavit. One proof from the acceptable documentary evidence listed in Section R436-3-4 is required.
(9) The date of birth may be corrected by the facility of birth or the midwife attending the birth.
(10) If the facility of birth or midwife cannot make the correction to the date of birth, the correction may be made providing the following conditions are met:
(a) two supporting documents are submitted demonstrating the registrant has consistently used the date from childhood. At least one of these documents must have been created within seven years of the alleged date of birth; and
(b) the corrected date of birth is before the date the birth record was registered.
(11) Amendments to parent information for children under age 18 require the following:
(a) the parent whose information is being changed must sign the amendment request form;
(b) if the parent is deceased, a death certificate will be required and another immediate family member of that parent may sign the amendment request form;
(c) if the parents are married and the amendment request is to add the father, a marriage certificate must be provided and both parents must sign the form; or
(d) if the parents are not married a voluntary declaration of paternity or court order establishing paternity must be submitted for the father to be added to the child's birth certificate.
(12) Amendments for registrants over age 18 require the following:
(a) the registrant, or legal guardian, must sign as one of the witnesses on the amendment request form; and
(b) the second witness must be an immediate family member to the registrant.
(13) If only one parent is listed, the second witness MUST be an immediate family member of the listed parent.
(14) For live birth records, the documents submitted must have been established before the registrants' 18th birthday or at least ten years prior to the date of the application for the amendment or correction. The State Registrar may make exceptions for other documents such as court orders, passports, or other evidence that clearly support the facts of live birth.

R436-3-7. Amend or Correct a Death Record.

(1) Amendments by funeral home directors may be made through the electronic death registration system for up to one year after the death.
(2) The following persons may apply to amend or correct personal information on a death record:
(a) the informant listed on the death record and an immediate family member of the decedent;
(b) two immediate family members; or,
(c) the funeral director or person acting as such who submitted the information for the death certificate.
(3) To amend or correct the marital status on a death record, the following persons may apply:
(a) the spouse with a marriage certificate and the informant listed on the death record;
(b) the spouse with a marriage certificate and a witness with personal knowledge of the marriage;
(c) two family members with the marriage certificate or acceptable evidence of marriage;
(d) a family member with evidence of divorce, dissolution, death, or annulment before the death of the decedent; or
(e) a common-law spouse with an order from a court of competent jurisdiction issued in a legal action indicating that the person was in a common-law marriage with the decedent at the time of the decedent's death.
(4) Other changes to marital status and recorded surviving spouse will be made only upon the finding of a court of competent jurisdiction in an order that determines the marital status of the decedent and identifies the surviving spouse.
(5) If there is conflict the State Registrar may elect to require a court order before a change is made to the marital status.
(6) In the case of conflicting requests with no clear documentary evidence, informants who are in concurrence with one other witness with personal knowledge of the facts will be considered in the following order of precedence:
(a) surviving spouse;
(b) child, if 18 years or older, otherwise the legal guardian of the child;
(c) parent;
(d) grandparent;
(e) sibling;
(f) uncle or aunt;
(g) nephew or niece; and
(h) cousin.
(7) The cause of death on a death record may only be amended upon receipt of a signed statement or approved electronic notification from the medical certifier or medical examiner who originally certified the cause of death. In the absence or inability of that physician, the following individuals may request the change:

(a) the authorized medical associate of the original certifier;
(b) the chief medical officer of the institution in which death occurred; or
(c) a medical examiner who assumes jurisdiction of the case provided such an individual has access to the medical history of the case.

(8) The date and time of death may be corrected by the funeral director.

### R436-3-8. Amendment of the Same Item More Than Once.

Once an item is amended through a signed affidavit, that item shall not be amended again except upon receipt of a court order.

**KEY:** vital statistics, amendments, fathers, mothers  
**Date of Last Change:** 2022[1994]  
**Notice of Continuation:** March 20, 2018  
**Authorizing, and Implemented or Interpreted Law:** 26-2-7; 78B-15-302

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**NOTICE OF PROPOSED RULE**

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<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
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<tr>
<td>Utah Admin. Code Ref (R no.):</td>
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**Agency Information**

1. **Department:** Health  
   **Agency:** Center for Health Data, Vital Records and Statistics  
   **Room no.:** 140  
   **Building:** Cannon Health Building  
   **Street address:** 288 N 1460 W  
   **City, state and zip:** Salt Lake City, UT 84116  
   **Mailing address:** PO Box 142012  
   **City, state and zip:** Salt Lake City, UT 84114-1012  
   **Contact person(s):**  
   **Name:** Linda S. Winder  
   **Phone:** 801-538-6262  
   **Email:** lindaw@utah.gov

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

**General Information**

2. **Rule or section catchline:**  
   **R436-5.** New Birth Certificates after Legitimation, Court Determination of Paternity, or Adoption

---

3. **Purpose of the new rule or reason for the change**  
   (Why is the agency submitting this filing?):  
   This filing is to bring this rule into compliance with the rulewriting manual and to modernize language, remove obsolete processes, and clarify requirements.

4. **Summary of the new rule or change**  
   (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):  
   The changes to this rule update the language including gender neutral terms, clarify acceptable court orders, and remove processes no longer needed.

---

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

   **A) State budget:**  
   This proposed rule change is not expected to have any fiscal impact on the state budget because there are no changes to the workload.

   **B) Local governments:**  
   This proposed rule change is not expected to have any fiscal impact on local governments because there are no changes to workload.

   **C) Small businesses** ("small business" means a business employing 1-49 persons):  
   This proposed rule change is not expected to have any fiscal impact on small businesses because the amendment doesn't change any obligations required of small businesses.

   **D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
   This proposed rule change is not expected to have any fiscal impact on non-small businesses because the amendment doesn't change any obligations required of 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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because the amendment doesn't change any obligations required of them.

   **F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons because it doesn’t change the obligations required of affected persons.

**G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):**

There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Checketts, Executive Director

6. **A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
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**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

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**Citation Information**

7. **Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 26-2-10

**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. See Section 63G-3-302 and Rule R15-1 for more information.)**

A) **Comments will be accepted until:** 03/03/2022

10. **This rule change MAY become effective on:** 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

| Agency head or designee, and title: | Linda S. Wininger, Director | Date: | 01/12/2022 |


R436-5. New Birth Certificates After Legitimation, Court Determination of Paternity, or Adoption.

R436-5-1. **[Authorization]Purpose and Authority.**

(1) This rule sets forth the process for preparing a new birth certificate after legitimation, court determination of paternity, and adoption.

(2) This rule is authorized by Section 26-2-10, and describes the procedures for preparing new birth certificates after legitimation, court determination of paternity or adoption.

R436-5-2. **Definition.**

[For the purpose of this rule]"Supplementary certificate of birth" as used in Section 26-2-10 [of the Utah statutes] means a new birth certificate prepared to replace the original registered birth certificate.

R436-5-3. **Legitimation.**

(1) The State Registrar shall prepare a new certificate of birth for a child born in this state if the natural parents submit a sworn acknowledgement of paternity, a certified copy of the marriage certificate and pay the required fee. However, if another [man ]person is shown as the [father ]parent of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or following adoption.
(2) The acknowledgment of paternity may also specify a name change for the child.

R436-5-4. Court Determination of Paternity.
(1) A person whose parentage has been determined by court order, or [his]their legal representative, may obtain a new birth certificate by presenting a certified copy of the court order to the State Registrar along with the required fee. The Registrar shall prepare the new birth certificate with the full name of the person as specified in the court order. If the court order does not specify the name to be placed on the birth certificate, the State Registrar shall prepare the new birth certificate with the name as listed on the original birth certificate.

(2) If the court order does not specify the name to be placed on the birth certificate and if the original birth certificate does not list the name of the person, the State Registrar shall prepare the new birth certificate without a name. A person whose parentage has been determined by court order and whose new birth certificate does not list [his]the child's name, or [his]their legal representative, may seek amendment of the new birth certificate [pursuant to the provisions of]Rule R436-3[-2].

R436-5-5. Adoption.
(1) Unless the court order of adoption or report of adoption specifies that a new birth certificate is not to be prepared, the State Registrar shall prepare a new birth certificate for a child born in this state upon receipt of a court order of adoption or a court report of adoption certified by the clerk of the court and payment of the required fee.

(2) Acceptable court orders are original court orders with the seal of the court or certified digital court orders. Photocopies of court orders are not acceptable.

(3) The full name of the child to be entered on the new birth certificate shall be as specified in the court order.

(4) A court order of adoption for foreign born persons may also serve as a court order for a delayed registration of birth [as provided in R436-6-1].

R436-5-6. Legal Representative.
[For purposes of Section 26-2-10, a ](1) A legal representative with authority to [make application]apply for registration of a new birth certificate is limited to any of the following:

(a) the custodial parent;
(b) both parents acting jointly;
(c) a person given authority for purposes of making application for registration of the new birth certificate by a court of competent jurisdiction and
(d) a person granted power of attorney for purposes of making application for registration of the new birth certificate by:
(i) the person who is the subject of the birth certificate, if of legal age;
(ii) the custodial parent, if a sworn attestation of custodianship is included with the power of attorney; or
(iii) both parents acting jointly.

(1) Upon preparation of a new certificate under this rule, the State Registrar shall place the original certificate and the evidence upon which the new certificate was based in a sealed file.

(2) The sealed file is not [be] subject to inspection, except:

(a) upon order of a court of competent jurisdiction;
(b) in compliance with Sections 78B-6-141 and 78B-6-144; or
(c) by the State Registrar [for the purpose of] to properly administering the vital statistics program. [. The State Registrar shall provide a copy of the new birth certificate to the local registrar who has a copy of the original on file. Upon receipt of the new certificate, the local registrar shall replace the copy with the new certificate and return the copy to the State Registrar for destruction or destroy the local copy and notify the State Registrar. The local registrar shall also delete or destroy index entries referring to the original certificate.]

KEY: birth, legitimation, court, adoption
Date of Last Change: 2022[May 1, 1996]
Notice of Continuation: March 22, 2021
Authorizing, and Implemented or Interpreted Law: 26-2-10
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The filing adds the Purpose and Authority to this rule and adds gender neutral language, creates a list from narrative for better readability, and adds cremated remains references.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This proposed rule change is not expected to have any fiscal impact on the state budget because there is no change in process.

B) Local governments:
This proposed rule change is not expected to have any fiscal impact on local governments because there is no change in process.

C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule change is not expected to have any fiscal impact on small businesses because there is no change in practice.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule change is not expected to have any fiscal impact on non-small businesses because there is no change in process.

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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because there is no change to actual process. This change is to wording that will clarify the process that is currently in place.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons because the wording change clarifies but does not change the process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Cheekets, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Cheekets, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-1-5

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agencies Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Linda S. Wininger, Director</th>
</tr>
</thead>
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<tr>
<td>Date:</td>
<td>01/10/2022</td>
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(1) This rule sets forth the requirements for the removal, transportation, and preservation of bodies of deceased persons. It also provides for the authorization for disinterment and reinterment of dead bodies.

(2) Authority for this rule is found in Sections 26-2-13 and 26-2-16.


Before removing a dead body or fetus from the place of death, the funeral director or person acting as such shall:

(1) Obtain permission from the next of kin or the custodian of the remains to remove the body or fetus from the place of death, and obtain assurance from the attending physician that death is from natural causes, and that the physician will assume responsibility for certifying to the cause of death or fetal death.

(2) Determine whether or not the medical examiner has been notified, if the death comes within his jurisdiction.

(3) If the medical examiner has not been notified or if that fact is unknown, make the notification and obtain authorization to remove the body.

(4) When the dead body or fetus is being removed from the hospital or other place of death by the next of kin or other person acting as the funeral director, the hospital or other custodian of the body shall not release the body until they are presented with a burial-transit permit issued by the appropriate local registrar or the State Registrar.

R436-8-21. Transportation of Dead Bodies.

(1) Any body shipped by common carrier must be embalmed by a licensed embalmer in a manner approved by the State Board of Embalming.

(2) The body must be placed in either:

- (a), a sound casket enclosed in a strong outside shipping case, or
- (b), a metal container specifically designed for this purpose.

(3) If the body cannot be embalmed or is in a state of decomposition, it may be shipped only after enclosure in an airtight metal casket encased in a strong outside shipping case, or in a sound casket encased in an airtight metal, or metal-lined shipping case.

(4) When a body is to be transported by common carrier, the burial-transit permit shall be attached to the shipping case.

(5) A body transported by means other than a common carrier must be encased in a container, such as a plastic bag, that ensures against seepage of fluid and the escape of odors. However, b

(6) Bodies transported by a licensed funeral director in a vehicle used for such purpose need not to be enclosed.

(7) If a dead body is to be transported by means other than a common carrier and for a purpose other than preparation or storage, the burial-transit permit shall be attached to the container in which the body is enclosed or in the possession of the person transporting the body.

R436-8-314. Preservation of Bodies.

No human body may be held in any place or be in transit more than 24 hours after death and pending final disposition, unless either maintained at a temperature of not more than 40 degrees Fahrenheit, or embalmed by a licensed embalmer in a manner approved by the State Board of Embalming, or by an embalmer licensed to practice in the state where the death occurred.


(1) An authorization for disinterment and reinterment of a dead body or cremated remains shall be issued by the local registrar of the district where the body or cremated remains are interred or by the State Registrar, upon receipt of a written application signed by the next of kin and the person who is in charge of the disinterment, or upon receipt of an order of a court of competent jurisdiction directing such disinterment.

(2) If the next of kin are in disagreement regarding the disinterment, the State Registrar may require a court order before issuing the disinterment permit.

(3) Upon the relocation of a cemetery, the State Registrar or local registrar may issue a single disinterment permit to allow for mass disinterment of the bodies and cremated remains located in the cemetery. Prior to the issuance of this permit, the registrar must receive written agreement that as far as possible, the remains of each body will be identified and the place of disinterment and reinterment will be specified and provided to the sexton of the cemetery where reinterment occurs.

(4) A dead body properly prepared by an embalmer or a dead body properly cremated by a licensed crematorium and deposited in a receiving vault shall not be considered a disinterment when removed from the vault for final disposition.

KEY: vital statistics, permits, funeral industries

Date of Last Change: 20221289

Notice of Continuation: March 20, 2018

Authorizing, and Implemented or Interpreted Law: 26-2-16; 26-2-17
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

| Utah Admin. Code Ref (R no.): | R436-9 | Filing ID 54325 |

Agency Information

1. Department: Health
Agency: Center for Health Data, Vital Records and Statistics
Room no.: 140
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 142012
City, state and zip: Salt Lake City, UT 84114-1012

Contact person(s):
Name: Linda S. Winger
Phone: 801-538-6262
Email: lindaw@utah.gov

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

General Information

2. Rule or section catchline:

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This filing is to bring this rule into compliance with the rulewriting manual and to update to reflect current processes

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The changes to this rule eliminate the procedures required to reconcile vital events manually and add the process for reconciling vital events through the electronic registration system. It also adds a requirement for midwives to submit a report of patients transported to medical facilities for additional treatment.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This proposed rule change is not expected to have any fiscal impact on the state budget because the process is already in place.

B) Local governments:
This proposed rule change is not expected to have any fiscal impact on local governments because the process is already in place.

C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule change is not expected to have any fiscal impact on small businesses because the process is already in place.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule change is not expected to have any fiscal impact on non-small businesses because the process is already in place.

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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because the process is already in place.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The compliance costs for affected persons are less than the previous requirements of this administrative rule because the Office of Vital Records and Statistics has eliminated the manual work that was previously required.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the process established by this rule change is already in place. Nate Checketts, Executive Director

6. A) 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.)
NOTICES OF PROPOSED RULES

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Linda S. Wininger, Director | Date: | 01/11/2022 |

R436-9-1. Purpose and Authority.
   (1) This rule sets forth the requirements for birthing facilities, and midwives to keep a list of births and reconcile it with a report from the electronic birth registration system.
   (2) Authority for this rule is found in Section 26-2-5

   (1) Hospitals and birthing centers shall prepare a monthly listing of all births that occurred in their facilities and a report generated from the electronic birth registration system. This listing shall include the date of birth, the parents’ names and the sex of the child and the name of the medical attendant. Midwives shall do the same for births they attended during the month.
   (2) Any discrepancies shall be rectified.
   (3) The report will be signed by the facility representative or midwife and sent to the State Registrar by the tenth day of the following month whether or not there are discrepancies.
   (4) The requirements in the section shall also apply to hospitals, birthing centers, and birth centers.
   (5) Midwives shall include in their monthly report, on a form provided by the State Registrar, a report of births where the mother, baby, or both were transported to a medical facility.

   (1) Hospitals and birthing centers shall prepare a monthly listing of all deaths and fetal deaths that occurred in their facilities. The listing shall include the date of death, the parents’ names, the sex of the child and the name of the medical attendant.
   (2) The above listings shall be prepared in triplicate on forms provided by the State Registrar, one to the local registrar of the area where the facility is located, and the third is to be kept by the agency which prepared it.

Regulatory Impact Table

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<th>Fiscal Cost</th>
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Fiscal Benefits

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
   Section 26-2-16  Section 26-2-18  Section 26-2-23

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTICES OF PROPOSED RULES

These reports are to be mailed by the tenth of the month following the month of occurrence.

KEY: vital statistics, health facilities, funeral industries
Date of Last Change: 2022[1889]
Notice of Continuation: March 21, 2018
Authorizing, and Implemented or Interpreted Law: 26-2-16; 26-2-18; 26-2-23

NOTICE OF PROPOSED RULE
TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R436-10  Filing ID 54321

Agency Information
1. Department: Health
Agency: Center for Health Data, Vital Records and Statistics
Room no.: 140
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84114
Mailing address: PO Box 142012
City, state and zip: Salt Lake City, UT 84114-1012
Contact person(s):
Name: Linda S. Wininger
Phone: 801-538-6262
Email: lindaw@utah.gov

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

General Information
2. Rule or section catchline:
R436-10. Birth and Death Certificates
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This filing is to bring this rule into compliance with the rulewriting manual and update the processes in the rule to reflect the change in practice due to the electronic registration systems.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing adds the Purpose and Authority of this rule and deletes all references to a manual process replacing it with the current electronic registration process.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This proposed rule change is not expected to have any fiscal impact on the state budget because it is current practice.
B) Local governments:
This proposed rule change is not expected to have any fiscal impact on local governments because it is current practice.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule change is not expected to have any fiscal impact on small businesses because this is a state government process and there is no obligation for small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule change is not expected to have any fiscal impact on non-small businesses because this is a state government process and there is no obligation 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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because this is a state government process and there is no obligation for other persons.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons because they are not involved in the registration of vital events.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Checketts, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be
Regulatory Impact Table

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-1-5 | Section 26-2-19

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 3/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Linda S. Wininger, Director</th>
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R436-10. [Birth and Death Registration]Certificates.
R436-10-1. Purpose and Authority.

(1) This rule sets forth the responsibility of Local Registrars to review and register deaths in their area.

(2) Authority for this rule is found in Section 26-2-19.

R436-10-1[2]. Registration [and Transmittal] of Certificates by Local Registrars [ to the State Registrar].

(1) Local registrars shall take appropriate action to be sure that [all births and] deaths that occur in their registration area are registered.[— Local registrars may only register vital statistics certificates for events which occur in their respective areas].

(2) In reviewing the certificates for [these events] death [prior to registration, the local registrar or designee shall check the certificates for completeness and accuracy of data entered into the electronic death registration system. Once reviewed, the local registrar will submit the record. [All-4] Appropriate items on the certificates [should] will be completed in accordance[ ] with the item by item written instructions issued by the State Registrar. To [ ] ensure accuracy, cross-checks between items will[ ] shall be made.

(3) The originators of certificates which are incomplete or inaccurate will[ ] shall be contacted and queried, [in order to] obtain the needed information.

(2) Registrars should check the certificates they receive against the monthly listings of hospitals, nursing homes, funeral directors, and sextons to verify that all vital statistics certificates are registered.

(3) [Certificates acceptable for registration should have the date received and the registrar’s signature entered in the appropriate places. Depository local registrars, at the discretion of the local registrar, may use a signature stamp of the local registrar’s signature. Stamped signatures should be initialed by the deputy applying the facsimile signature.] Certificates are registered through the Vital Records death registration system by the local registrar.

(4) After being signed and dated, certificates shall be assigned a local number. The local number is comprised of two elements: a numerical county indicator and a number for the event. Births and deaths (including fetal deaths) have their own numbering series. Each series begins anew at the start of each calendar year. However, certificates for events which occurred in a previous calendar year should be numbered in sequential order with the other events for the year in which they occurred.
NOTICES OF PROPOSED RULES

(5) The local registrar shall then make a copy of the certificate for the local files and send the original certificate to the State Registrar. The certificates should be filed according to event (i.e., births and deaths, including fetal deaths) and according to year of occurrence. These files are confidential. All vital statistics records shall be kept in a secure place available only to authorized personnel.

(6) Original certificates shall be transmitted to the State Registrar within ten days of their receipt by the local registrar.

KEY: vital statistics, local government, standards
Date of Last Change: 2022
Notice of Continuation: March 20, 2018
Authorizing, and Implemented or Interpreted Law: 26-2-19

This filing eliminates processes no longer needed and describes current processes for local registrars and local health departments for issuing certified copies of vital records.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This proposed rule change is not expected to have any fiscal impact on the state budget this is the current process being used.

B) Local governments:

This proposed rule change is not expected to have any fiscal impact on local governments because this is the current process being used.

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

This proposed rule change is not expected to have any fiscal impact on small businesses because they are not involved in the process of issuing certified copies of vital statistics records.

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

This proposed rule change is not expected to have any fiscal impact on non-small businesses because they are not involved in the process of issuing certified copies of vital statistics records.

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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because they are not involved in the process of issuing certified copies of vital statistics records.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because they are not involved in the process of issuing certified copies of vital statistics records.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Checketts, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 26-2-21

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Linda S. Wininger, Director, Office of Vital Records and Statistics
Date: 01/12/2022

R436-12-1. Purpose and Authority.
(1) This rule sets forth the requirements for local registrars to issue certified copies of vital records.
(2) Authority for this rule is found in Section 26-2-21.

In addition to compliance with pertinent state statutes, standards for vital statistics registration and certification in local health departments are as follows:
(1) The full-time health director shall designate a specific position to have the responsibility of Deputy Local Registrar of Births and Deaths.
(2) The Deputy Local Registrar shall have adequate staff to provide necessary services in county offices during all hours of the office.
(3) Adequate office space shall be provided to house the required staff and necessary files or books of certificates.
(4) All registered certificates or copies thereof shall be in files or in other appropriate facilities so as to maintain the physical and legal integrity and the confidentiality of the certificates.
(5) Arrangements shall be made for the receipt of death certificates and issuance of burial permits 365 days a year.
(6) The original birth and death certificates shall be transmitted to the State Registrar on a regular basis. This shall not exceed ten days from the date of receipt by the local registrar.
(7) Birth and death certificates may be accepted by assistant deputy local registrars in county offices and burial permits may be issued by them. However, hospitals will routinely submit their birth certificates to the Deputy Local Registrar at the headquarters office of the local health department. Original birth and...
NOTICES OF PROPOSED RULES

Agency Information

1. Department: Health
   Agency: Center for Health Data, Vital Records and Statistics
   Room no.: 140
   Building: Cannon Health Building
   Street address: 288 N 1460 W
   City, state and zip: Salt Lake City, UT 84114
   Mailing address: PO Box 142012
   City, state and zip: Salt Lake City, UT 84114-1012

Contact person(s):
Name: Linda S. Winger Phone: 801-538-6262 Email: lindaw@utah.gov

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

General Information

2. Rule or section catchline:

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This filing is to bring this rule into compliance with the rulewriting manual and to eliminate a procedure that is no longer used.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing adds the Purpose and Authority, adds online application provisions, and removes emergency telephone requests.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This proposed rule change is not expected to have any fiscal impact on the state budget because it does not change current practice.

B) Local governments:
This proposed rule change is not expected to have any fiscal impact on local governments because it does not change current practice.

C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule change is not expected to have any fiscal impact on small businesses because it does not change any responsibilities or obligation for small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule change is not expected to have any fiscal impact on non-small businesses because it does not change any responsibilities or obligation for non-small businesses.

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): Filing ID
R436-13 54336

KEY: vital statistics, local government, standards

Date of Last Change: 2022
Notice of Continuation: March 21, 2018
Authorizing, and Implemented or Interpreted Law: 26-2-21

NOTICES OF PROPOSED RULES

death certificates will be transmitted daily from each county office to the headquarters office and n]

(5) No copies will remain on file in the county office unless they have been authorized by the State Registrar[to issue certified copies of birth and death certificates].

[(8)(5) Before a local registrar shall be authorized to issue
certified copies of birth and death certificates as provided in Section
26-2-21, a written procedure shall be prepared and approved by the
State Registrar. In addition, the local registrar shall demonstrate the
availability of the following capabilities:

(a) An indexing procedure that provides for timely and
accurate certificate retrieval.
(b) Photographic reproducing equipment that will provide
a permanent copy of the certificate, using forms approved by the
State Registrar.

(a) Office equipment to provide for access to data
applications including:
(i) Online Link for Issuing Vital Events Records;
(ii) Secure Internet Link for Vital Event Records; and
(iii) printing and copying of certificates and permits;
(c) An accounting system that will provide for the
collection, deposit, and reporting of all fees received for vital
statistics transactions.
(d) Capability to amend or delete certificates from the local
files when so notified by the State Registrar.
(e)(b) [A]dequate staff and facilities so that the
confidentiality of the vital statistics certificates is maintained,
and certified copies are issued only to persons who meet the criteria
provided in Section 26-2-22[.]; and
(c) secure storage and protocols for the management of
security paper for printing vital events certificates.

(Why is the agency submitting this filing?):
This filing is to bring this rule into compliance with the rulewriting manual and to eliminate a procedure that is no longer used.

(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing adds the Purpose and Authority, adds online application provisions, and removes emergency telephone requests.

Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This proposed rule change is not expected to have any fiscal impact on the state budget because it does not change current practice.

B) Local governments:
This proposed rule change is not expected to have any fiscal impact on local governments because it does not change current practice.

C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule change is not expected to have any fiscal impact on small businesses because it does not change any responsibilities or obligation for small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule change is not expected to have any fiscal impact on non-small businesses because it does not change any responsibilities or obligation 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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it does not change any obligation or responsibilities for these persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons because there are no changes that affect compliance costs.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Checketts, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Local Governments</td>
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<tr>
<td>Small Businesses</td>
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<tr>
<td>Non-Small Businesses</td>
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<tr>
<td>Other Persons</td>
<td>$0</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>
<td>$0</td>
</tr>
</tbody>
</table>

Fiscal Benefits

<table>
<thead>
<tr>
<th>Fiscal Benefits</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Non-Small Businesses</td>
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| Other Persons | $0 | $0 | $0 |
| Total Fiscal Benefits | $0 | $0 | $0 |
| Net Fiscal Benefits | $0 | $0 | $0 |

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 26-2-3

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Linda S. Wininger, Director Date: 01/12/2022

R436-13-1. Purpose and Authority.  
(1) This rule sets forth who has a direct and tangible interest in a vital record.  
(2) Authority for this rule is found in Section 26-2-22.

To protect the integrity of vital records:
(1) The State Registrar and other custodians of vital records shall not permit inspection of, or disclose information contained in vital statistics records, or copy or issue a copy of all or part of any such record, unless the applicant has a direct and tangible interest in such record. In addition to the definition of direct,
tangible, and legitimate interest as defined in Section 26-2-22, those who may or may not have a direct and tangible interest are as follows:

(a) The registrant, a member of the immediate family, the guardian, or a designated legal representative shall be considered to have a direct and tangible interest. Others may demonstrate a direct and tangible interest when information is needed for determination or protection of a personal or property right.

(b) The natural parents of adopted children, when neither has custody, shall not be considered to have a direct and tangible interest.

(c) Commercial firms or agencies requesting listings of names and addresses shall not be considered to have a direct and tangible interest.

(2) The State Registrar [or the local custodian] may provide copies of certificates or disclose data from vital statistics records to federal, state, county, or municipal agencies of government requesting such data in the conduct of their official duties. Certificate copies or individual identifiable information may not be given by the receiving government agency to other agencies or individuals, or used for purposes not authorized at the time of the request.

(3) The State Registrar or local custodian shall not issue a certified copy of a record until an online or signed paper application has been received from the applicant. [In emergencies, telephone requests may be accepted with documentation as to the identity of the person making the telephone request. Whenever it is determined necessary to establish an applicant’s right to information from a vital record, the State Registrar or local custodian may also require identification of the applicant or a sworn statement.]

(4) When determining whether a genealogist under Subsection 26-2-22(3)(b)(1)(a) has demonstrated a direct, legitimate, and tangible interest in a record, the custodian of vital records may consider various relevant factors including the following:

(a) the genealogist shares a common ancestor with the subject of the vital record, the subject is deceased, and the subject has no living immediate family;

(b) the genealogist's stated interest in the vital record;

(c) inability to find information sought in the vital record from other sources; or

(d) the genealogist can provide a written contract for professional genealogical services on behalf of the subject or the subject's immediate family members.

(5) Nothing in this rule shall be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth and death certificates or the "Information for Statistical Purposes Only" section of the Certificate of Marriage or Certificate of Divorce, Dissolution of Marriage, or Annulment unless specifically authorized by the State Registrar for statistical or research purposes or if authorized by a court of competent jurisdiction.


In accordance with Subsection 26-1-30(30), the State Registrar may disclose information contained in vital records to health care providers, public health authorities, and health care insurers, including a qualified network as defined in Subsection 26-1-37(1), [for the purpose of coordinating among themselves to verify the identity of the individuals they serve. This authority includes the provision of] computerized matching methods to:

(1) distinguish living from deceased individuals who have received health care services; and

(2) disambiguate individual identities.

KEY: vital statistics, copying processes, standards
Date of Last Change: 2022[July 26, 2016]
Notice of Continuation: March 21, 2018
Authorizing, and Implemented or Interpreted Law: 26-2-22

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R436-17 Filing ID 54332

Agency Information

1. Department: Health

Agncy: Center for Health Data, Vital Records and Statistics

Room no.: 140

Building: Cannon Health Building

Street address: 288 N 1460 W

City, state and zip: Salt Lake City, UT 84114

Mailing address: PO Box 142012

City, state and zip: Salt Lake City, UT 84114-1012

Contact person(s):

Name: Linda S. Winger

Phone: 801-538-6262

Email: lindaw@utah.gov

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

General Information

2. Rule or section catchline:

R436-17. Review and Approval of Research Requests

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):

This filing is to bring this rule into compliance with the rulewriting manual and to remove language that is not needed.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This filing makes minor changes to the research approval process and removes a section on the Institutional Review Board (IRB) that is defined elsewhere and adds that reference.
**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This proposed rule change is not expected to have any fiscal impact on the state budget this is current practice.

B) Local governments:

This proposed rule change is not expected to have any fiscal impact on local governments because they are not involved in this process.

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

This proposed rule change is not expected to have any fiscal impact on small businesses because they are not involved in this process.

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

This proposed rule change is not expected to have any fiscal impact on non-small businesses because they are not involved in this process.

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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because they are not involved in this process.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because they are not involved in this process.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Checketts, Executive Director

6. A) 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.)

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<td>Fiscal Benefits $0 $0 $0</td>
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<td>Total Fiscal Benefits $0 $0 $0</td>
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<tr>
<td>Net Fiscal Benefits $0 $0 $0</td>
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</tbody>
</table>

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

**Citation Information**

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-2-3 | Section 26-2-22

**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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022
10. This rule may become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Linda S. Wininger, Director Date: 01/12/2022

R436-17. Review and Approval of Research Requests.
R436-17-1. Purpose and Authority.
(1) This rule sets forth procedures for the review and approval of research requests received by the Office of Vital Records and Health Statistics.
(2) Authority for this rule is found in Sections 26-2-3 and 26-2-22.

R436-17-2. Definitions.
(1) Terms used in this rule are defined in Section 26-2-2.
(2) "Department" means the Department of Health.
(3) [In addition to the definitions in Section 26-2-2, "Institutional Review Board" or "IRB" means a multi-disciplinary committee which reviews proposed research involving human subjects and is registered by the United States Department of Health and Human Services.

(1) If the research does not involve the use of any personal identifying information from the vital records, the State Registrar shall may provide the researcher with the requested statistical information upon receipt of the written request and payment of the associated costs.
(2) If the research involves the use of personal identifying information, the request must be in writing and must be signed by the researcher.
(a) The request must outline the research protocol to be used.
(b) If the research involves contact with a person listed in a vital record, a follow-back or follow-up study, the request must describe who is to be contacted, how, by whom, and what questions will be asked. If a survey is planned, a copy of the survey must be submitted.
(c) Approval by an Institutional Review Board must be included with the request.
(d) If the research involves linking data files, the variables requested to be used to determine the match must be identified and justified.
(e) The researcher and all persons who may have access to the identifying information in the vital records shall sign a Researcher's Confidentiality Agreement, which is available from the Office of Vital Records and Health Statistics.

R436-17-4. Approval by Institutional Review Board.
[[]] The State Registrar shall review all research requests upon receipt at which time and determines one of the following outcomes:
(i) The request is approved and the researcher is notified in writing of the approval and of the associated costs.
(ii) The request is given tentative approval and the researcher:
(A) is notified in writing of the approval and associated costs; and
(B) discusses and resolves technical concerns identified by the State Registrar.
(iii) The request is not approved and the researcher is:
(A) notified in writing of the reasons for the disapproval; 
(B) notified of the areas of concern with the request; 
(C) allowed to address the areas of concern and resubmit the request; 
(D) notified that the decision to deny may be appealed to the Executive Director of the Department of Health.

R436-17-5. Confidentiality Requirements.
Researchers shall abide by the terms of the data sharing agreement and the confidentiality requirements specified in the Researcher's Confidentiality Agreement. Failure to observe the confidentiality requirements shall result in the loss of the privilege to access vital records for research purposes and may also result in civil court action pursuant to Section 26-23-5.

KEY: vital statistics, research
Date of Last Change: 2022[1493]
Notice of Continuation: March 21, 2018
Authorizing, and Implemented or Interpreted Law: 26-2-3; 26-2-22
Agency Information

1. Department: Health
Agency: Center for Health Data, Vital Records and Statistics
Room no.: 140
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84114
Mailing address: PO Box 142012
City, state and zip: Salt Lake City, UT 84114-1012
Contact person(s):
Name: Linda S. Wininger
Phone: 801-538-6262
Email: lindaw@utah.gov

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

General Information

2. Rule or section catchline:
R436-19. Abortion Reporting

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This filing is to bring this rule into compliance with the rulewriting manual and to clarify how the report may be submitted.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The filing adds the purpose and authority to this rule and allows the physician performing an abortion to authorize a facility to submit the report on their behalf and requires that the form be signed by the physician performing the abortion.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This proposed rule change is not expected to have any fiscal impact on the state budget because it is giving more latitude to the facilities in the reporting process and will not change practice for the state.

B) Local governments:
This proposed rule change is not expected to have any fiscal impact on local governments because they are not involved with abortion reporting.

C) Small businesses (*small business* means a business employing 1-49 persons):
This proposed rule change is not expected to have any fiscal impact on small businesses because it is giving more latitude in the reporting process.

D) Non-small businesses (*non-small business* means a business employing 50 or more persons):
This proposed rule change is not expected to have any fiscal impact on non-small businesses because it is giving more latitude in the reporting process.

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 proposed rule change is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because the changes give facilities more leeway in submitting forms.

F) Compliance costs for affected persons
(How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons because the changes allow more latitude in the reporting process.

G) Comments by the department head on the fiscal impact this rule may have on businesses
(Include the name and title of the department head):
There is no fiscal impact on business because the amendment does not include additional requirements for business. Nate Checketts, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
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</thead>
<tbody>
<tr>
<td><strong>Fiscal Cost</strong></td>
</tr>
<tr>
<td>State Government</td>
</tr>
</tbody>
</table>
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 |

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 76-7-313(1)

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of

Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Linda S. Wininger, Director |
| Date: | 01/10/2022 |

R436-19-1. Purpose and Authority.
(1) This rule sets forth the requirements for reporting of abortions performed in the state.
(2) Authority for this rule is found in Section 76-7-313.

To ensure compliance with Subsections 76-7-313(1) and (2), each physician who performs an abortion shall submit or authorize the facility to submit on their behalf a completed "Report of Induced Termination of Pregnancy" form signed by the physician performing the abortion to the department within 30 days after the day on which the abortion is performed.

KEY: abortions, vital records
Date of Last Change: 2022[May 8, 2019]
Authorizing, and Implemented or Interpreted Law: 76-7-313(1)

NOTICE OF PROPOSED RULE

| TYPE OF RULE: | Repeal |
| Utah Admin. Code Ref (R no.): | R510-1 |
| Filing ID | 54297 |

Agency Information

1. Department: Human Services

2. Agency: Aging and Adult Services

3. Building: MASOB

4. Street address: 195 N 1950 S

5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):

| Name: | Phone: | Email: |
| Jean Boyack | 801-538-4263 | jboyack@utah.gov |
| Jacob Murakami | 801-538-4641 | jmurakami@utah.gov |
| Jonah Shaw | 385-310-2389 | jshaw@utah.gov |

Please address questions regarding information on this notice to the agency.
NOTICES OF PROPOSED RULES

General Information

2. Rule or section catchline:
R510-1. Authority and Purpose

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This rule is not necessary because each rule within Title R510 will include its own authority and purpose section.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing repeals Rule R510-1 in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the State budget.

B) Local governments:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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NOTICES OF PROPOSED RULES

Notice of Continuation: June 30, 2017
Authorizing, and Implemented or Interpreted Law: 62A-3-101 through 62A-3-312, 42 USC 3001]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact
Utah Admin. Code Ref (R no.): R510-100  Filing ID 54291

Agency Information
1. Department: Human Services
2. Agency: Aging and Adult Services
3. Building: MASOB
4. Street address: 195 N 1950 S
5. City, state and zip: Salt Lake City, UT 84116
6. Contact person(s):
   Name: Phone: Email:
   Jean Boyack 801-568-4263 jboyack@utah.gov
   Jacob Murakami 801-538-4641 jmurakami@utah.gov
   Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information
2. Rule or section catchline:
   R510-100. Funding Formulas

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule is to establish the funding formulas for various state and federal funds as required by state statute and federal regulation.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The filing repeals and reenacts Rule R510-100. The repealed rule identified the factors that should be included in the funding formulas but did not identify or establish the formulas themselves. The reenacted rule establishes the funding formulas and defines the factors utilized in the formulas.
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to the State budget.

B) Local governments:
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings 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):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the repeal and reenactment of this rule, it is technical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director.

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 62A-3-108

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. See Section 63G-3-302 and Rule R15-1 for more information.)
(iii) The number of persons 60 to 74 years of age at or below the federal poverty level, calculated as its proportion of the total clients 60 years of age and older served by the In-Home Services program for the previous state fiscal year, and

(ii) The number of persons with a disability 60 years of age and older and at or below the federal poverty level, calculated as its proportion of the total clients 60 years of age and older served by the In-Home Services program for the previous state fiscal year, and

(iii) The number of persons 60 to 74 years of age at or below the federal poverty level calculated as its proportion of the total clients 60 years of age and older served by the In-Home Services program for the previous state fiscal year, and

(4) Base Restrictions for OAA.

(a) If any AAA in existence on July 1, 1986, should in the future sub-divide into two or more AAs, the base amount allocated to the original AAA shall be divided proportionally among the new AAs.

(b) Base factor funds shall consist of those federal Title III and state funds appropriated for Title III social and nutrition services and allocated as base funds in FY 2003.

(6) Funding Distribution for OAA.

(a) Distribution of funds under the formula shall be as follows:

(i) Base factor funds;

(ii) 7.5% of total remaining formula funds allocated to the land area factor; and

(iii) 92.5% of total remaining formula funds allocated to the population factor.


(1) Affected Funding Sources for In-Home Services.

(a) The funding formula shall include all federal and state funds appropriated for use by local area agencies on aging to be used for In-Home Services with the exception of:

(i) funds allocated under Section R510-100-1 and

(ii) funds identified under Section 62A-3-108(2), and

(iii) Adult Services funded under the Division pursuant to Section 62A-3-301 et seq.

(b) Designated population factors shall consist of the following five categories and the percentage that the number from each category represents of the total combined number of all five categories:

(i) The number of minority persons, as defined by the Governor's Office of Planning and Budget, age 60 and over.

(ii) The number of persons 75 and over weighted two times, plus

(iii) The number of minority persons, as defined by the Governor's Office of Planning and Budget, age 60 and over.

(iv) The number of persons age 60 and over and at or below the federal poverty level, calculated as its proportion of the total clients 60 years of age and older served by the In-Home Services program for the previous state fiscal year, and

(v) The number of persons age 75 and over weighted two times, plus

(vi) The number of persons 75 and over weighted two times, plus

(vii) The number of minority persons, as defined by the Governor's Office of Planning and Budget, age 60 and over.

(c) All population figures utilized shall reflect the most recent U.S. census figures adjusted on an annual basis based on available population estimates from the Governor's Office of Planning and Budget.
(3) Funding Distribution for In-Home Services.
   (a) Distribution of funds under the formula will be as follows:
   (i) 7% of total formula funds allocated to the land area factor; and
   (ii) 92% of total formula funds allocated to the population factor.
(4) Funding Formula Phase-In for In-Home Services.
   (a) The Division is authorized to apply an adjustment to the allocation calculated in accord with funding formula contained in paragraph (2) of this section for five fiscal years beginning with FY 2016.
   (b) Each adjustment shall be applied to the allocation to all area agencies calculated in accord with the funding formula contained in paragraph (2) of this section and shall represent 20% of the difference in funds compared with the fiscal year 2015 funding in accord with paragraph (2) of this section.

R510-100-3. Long-Term Care Ombudsman Program.
   (1) Affected funding sources for the Long-Term Care Ombudsman (LTCO) Program.
      (a) All Federal and State funds received for delivery of the LTCO Program with the exception of State Division administrative funds.
      (i) Funding Formula for the LTCO Program.
         The funding formula for the LTCO Program shall allocate dollars to each designated AAA based on the following factors:
         (A) Federal Funds.
            Using the base allocation of federal funds available for the LTCO program during State Fiscal Year 1993, each designated AAA will receive an equal share of the dollars available.
            Additional funds that may become available above the base allocation will be distributed based on each AAA's proportion of long-term care beds in the State as reported by the State Department of Health and the Division for the preceding year. Long-term care beds shall include licensed nursing facility beds, licensed residential care beds, and approved adult foster care beds.
         (B) State General Funds.
            A base allocation of $60,000 shall be distributed equally to each designated AAA.
            State General funds in excess of this base allocation shall be distributed based on each AAA's proportion of long-term care beds in the State, as reported by the State Department of Health and the Division for the preceding year.
R510-100-1. Purpose and Authority.
   (1) This rule establishes funding formulas for the allocation of funds to local area agencies for the services and programs.
   (2) This rule is authorized by Section 62A-3-108 and 45 CFR 1321.37.

R510-100-2. Definitions.
   (1) "Alternatives Program" means the Home and Community Based Alternatives Program authorized by Section 62A-3-104.
   (2) "Base Funding" means the equal base amount determined by the Board of Aging and Adult Services to establish an equal baseline for the funding formula.
   (3) "Local Area Agency Allocation" means the amount of funding for each local area agency receives for each specified federal grant or state appropriation, Long-Term Care Ombudsman Program, Nutrition Services Incentive program, or Alternatives Program.
   (4) "Long-Term Care Ombudsman Program" means the program authorized by Title XI, Part A of the Older Americans Act, 42 U.S.C. 3058 et seq.
   (5) "Nutrition Services Incentive Program" means the program authorized by Title III, Part A of the Older Americans Act, 42 U.S.C. 3030a, for the efficient delivery of nutritious meals to older individuals.
   (6) "Specified federal grant or state appropriation" means federal grants or state-appropriated funds for supportive services, congregate and home delivered meals, preventative health programs, and respite programs.
   (7) "Total Allocation" means the total amount of funding available for each specified federal grant or state appropriation, Long-Term Care Ombudsman program, Nutrition Services Incentive program, or Alternatives Program.

   (1) Each local area agency's allocation for the specified federal grant or state appropriation is sum of the base allocation plus the population allocation plus the square mileage.
      (a) Base allocation shall be calculated by dividing the base funding by the number of local area agencies in the state.
      (b) Population allocation shall be calculated by multiplying the local area agency's weighted average percentage of population by the total funding.
      (i) The local area agency's weighted average percentage of population shall be calculated by dividing the population in the area covered by the local area agency by the population of the state.
      (ii) The population funding shall be calculated as the difference between the total allocation and the base funding multiplied by 92.5%.
      (c) Square mileage allocation shall be calculated by multiplying the local area agency's weighted average percentage of square mileage by the square miles funding.
      (i) The local area agency's weighted average percentage of square mileage shall be calculated by dividing the square mileage covered by the local area agency by the square mileage of the state.
      (ii) The square miles funding shall be calculated as the difference between the total allocation and the base funding multiplied by 7.5%.

R510-100-4. The Long-Term Care Ombudsman Program.
   (1) Each local area agency's allocation for the Long-Term Care Ombudsman Program is the sum of the base allocation plus the bed count allocation.
      (a) Base allocation shall be calculated by dividing the base funding by the number of local area agencies in the state.
      (b) Bed count allocation shall be calculated by multiplying the local area agency's weighted average percentage of bed count by the bed count funding.
      (i) The local area agency's weighted average percentage of bed count shall be calculated by dividing the number of beds available in the area covered by the local area agency by the total number of beds available in the state.
      (ii) The bed count funding shall be calculated as the difference between the total allocation and the base funding.

R510-100-5. The Nutrition Services Incentive Program.
   (1) Each local area agency's allocation for the Nutrition Services Incentive Program is the sum of the weighted average percentage of meal count multiplied by the total allocation.
NOTICES OF PROPOSED RULES

(a) The weighted average percentage of meal count shall be calculated by the total number of congregate meals and home delivered meals served by the local area agency divided by the state meal count total.

(b) The state meal count total is the total number of congregate meals and home delivered meals served statewide during the previous fiscal year.

(2) Each local area agency's total allocation for congregate meals is the local area agency's allocation multiplied by the weighted average percentage of congregate meals.

(a) The local area agency's allocation is as described in Subsection R510-100-5(1).

(b) The weighted average percentage of congregate meals shall be calculated by dividing the number of congregate meals served by the local area agency by the meal count total as described in Subsection R510-100-5(1)(b).

(3) Each local area agency's total allocation for home delivered meals is the local area agency's allocation multiplied by the weighted average percentage of home delivered meals.

(a) The local area agency's allocation is as described in Subsection R510-100-5(1).

(b) The weighted average percentage of home delivered meals shall be calculated by dividing the number of home delivered meals served by the local area agency divided by the meal count total as described in Subsection R510-100-5(1)(b).

R510-100-6. The Alternatives Program.

(1) Each local area agency's allocation for the Alternatives Program is the sum of the base allocation plus the square miles allocation plus the population allocation.

(a) Base allocation shall be calculated by dividing the base funding by the number of local area agencies in the state.

(b) Square miles allocation shall be calculated by multiplying the local area agency's weighted average percentage of square mileage by the square miles funding.

(i) The local area agency's weighted average percentage of square mileage shall be calculated by dividing the square mileage covered by the local area agency by the square mileage of the state.

(ii) The square miles funding shall be calculated as the difference between the total allocation and the base funding multiplied by 7%.

(c) The population allocation is the sum of each local area agency's categorical population allocation as described in Subsection R510-100-6(2).

(2) The local area agency's categorical population allocation shall be calculated by multiplying the local area agency's weighted average percentage of categorical populations by the categorical population allocation.

(a) The local area agency's weighted average percentage of categorical populations consist of the following category calculations:

(i) the weighted average percentage for Low Income Category I is the total population of low-income individuals at least 60 years of age and 74 years of age or younger residing in the state covered by the local area agency divided by the total population of low-income individuals at least 60 years of age and 74 years of age or younger who are state residents;

(ii) the weighted average percentage for Low Income Category II is the total population of low-income individuals at least 75 years of age and 84 years of age or younger residing in the area covered by the local area agency divided by the total population of low-income individuals at least 75 years of age and 84 years of age or younger who are state residents;

(iii) the weighted average percentage for Low Income Category III is the total population of low-income individuals 85 years of age or older residing in the area covered by the local area agency divided by the total population of low-income individuals 85 years of age or older who are state residents; and

(iv) the weighted average percentage for minority is the total population of minority individuals residing in the area covered by the local area agency divided by the total population of minority individuals who are state residents; and

(v) the weighted average percentage for disabilities is the total population of individuals with disabilities residing in the area covered by the local area agency divided by the total population of individuals with disability who are state residents.

(b) The categorical population allocation is calculated by multiplying the state's weighted average percentage of categorical populations by the population funding as described in Subsection R510-100-6(3).

(c) The state's weighted average percentage of categorical populations consist of the following category calculations:

(i) the weighted average percentage for Low Income Category I is the total population of low-income individuals at least 60 years of age and 74 years of age or younger residing in the state divided by the total population of the state;

(ii) the weighted average percentage for Low Income Category II is the total population of low-income individuals at least 75 years of age and 84 years of age or younger residing in the state divided by the total population of the state;

(iii) the weighted average percentage for Low Income Category III is the total population of low-income individuals 85 years of age or older residing in the state divided by the total population of the state;

(iv) the weighted average percentage for minority is the total population of minority individuals residing in the state divided by the total population of the state; and

(v) the weighted average percentage for disabilities is the total population of individuals with disabilities residing in the state divided by the total population of the state.

(3) The population funding is the difference between the total allocation and the base funding multiplied by 93%.

KEY: elderly, funding formula, long-term care ombudsman

Date of Last Change: 2022[June 30, 2015]
Notice of Continuation: June 30, 2017
Authorizing, and Implemented or Interpreted Law: 62A-3-108

NOTICE OF PROPOSED RULE

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<tr>
<td>Utah Admin. Code Ref (R no.):</td>
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Agency Information

1. Department: Human Services
2. Agency: Aging and Adult Services
3. Building: MASOB
4. Street address: 195 N 1950 S

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
NOTICES OF PROPOSED RULES

Salt Lake City, UT 84116

Name: Jean Boyack
Phone: 801-568-4263
Email: jboyack@utah.gov

Name: Jacob Murakami
Phone: 801-538-4641
Email: jmurakami@utah.gov

Name: Jonah Shaw
Phone: 385-310-2389
Email: jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R510-101. Carryover Policy for Title III: Grants for State and Community Programs on Aging

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is not necessary because federal funds appropriated to the Division of Aging and Adult Services are appropriated in two-year periods and there is no provision that warrants the need to address funds carried over from year to year within the same two-year period.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The filing repeals Rule R510-101 in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.

B) Local governments:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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149
### Agency Authorization Information

| Agency head or designee, and title: | Tracy Gruber, Executive Director | Date: | 12/14/2021 |

### R510. Human Services, Aging and Adult Services.


##### R510-101-1. Policy.

In accordance with Federal regulation 45 CFR, Chapter XIII Subchapter C, Part 1321.37, the Division of Aging and Adult Services distributes OAA Title III social and nutrition dollars to AAA according to an established intrastate funding formula. All Title III funds of a specified federal year unspent at the end of that year’s state contract period shall be re-contracted to the AAA in the succeeding year’s contract. Administration of federal carryover funds must conform with federal laws and regulations. All Title III funds carried over by the AAA from one state fiscal year to the next must be spent according to a written amendment to the Area Plan as approved by the Division.


2.1 The amounts of carryover funds in all Title III categories shall be determined at the time of the final state fiscal year financial report as submitted by the AAA and as reviewed and finalized by the Division.

2.2 Upon Division approval of an Area Plan amendment which designates amount and use of carryover funds, the Division will amend the current state year AAA contract to add all Title III carryover funding from the previous year.

2.3 The Division shall spend out the previous year’s funds prior to spending current funds.

### KEY:
- elderly, carryover funding*

### Date of Last Change:
- 1987

### Notice of Continuation:
- June 30, 2017

### Authorizing, and Implemented or Interpreted Law: 62A-3-104
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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):

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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General Information

2. Rule or section catchline:

R510-102. Amendments to Area Plan and Management Plan

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is not necessary because the requirements for area plans can be found in the federal regulations and the federal regulations refer to Division of Aging and Adult Services' procedure.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The filing repeals Rule R510-102 in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.

B) Local governments:

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

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

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 62A-3-104

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Tracy Gruber, Executive Director  Date: 12/14/2021

R510. Human Services, Aging and Adult Services.
   — A. Area Plan Amendments will be made only with the approval of the Division.
   — B. The AAA must submit Area Plan amendments in accordance with the uniform area plan format and other instructions issued by the Division.

R510-103. Use of Senior Centers by Long-Term Care Facility Residents Participating in Activities Outside Their Planning and Service Area

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is not explicitly authorized or required by statute and is not necessary because the provisions in this rule are more appropriately addressed in policies established by the local area agencies.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The filing repeals Rule R510-103 in its entirety.
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

<table>
<thead>
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<th>A) State budget:</th>
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<tr>
<td>The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.</td>
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<th>C) Small businesses (&quot;small business&quot; means a business employing 1-49 persons):</th>
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<td>The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.</td>
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<th>E) Persons other than small businesses, non-small businesses, state, or local government entities (&quot;person&quot; means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</th>
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<td>The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to other persons.</td>
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<th>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</th>
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<th>G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):</th>
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<tr>
<td>After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director</td>
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6. A) 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.)

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-3-104
R510. Human Services, Aging and Adult Services.  

[510-101.  Use of Senior Centers by Long-Term Care Facility Residents Participating in Activities Outside Their Planning and Service Area.  

(1) Eligibility: Long-term care facility residents shall have access to senior centers and programs operated within which receive financial assistance through the Older Americans Act (OAA), Social Services Block Grant, or any other source of federal funds. 

(2) Fees and Contributions: 

(a) Facility residents who individually participate and who are 60 or over are encouraged to donate at the contribution rate as established by the responsible AAA Advisory Council and/or Nutrition Council for all programs. The amount of contribution will be confidential.

(b) Facility residents who are under age 60 shall be subject to the fee for participants under 60 as established by the responsible AAA Advisory Council and/or Nutrition Council.

(c) Long-term care residents who elect to take a special class or participate in an activity where there is a charge will be required to pay the fee in accordance with the center’s policy. This would include requested transportation costs to and from such activities.

(d) The source of contributions and fees for group participants shall be the long-term care facility’s responsibility if the use of senior centers is an activity planned by the long-term care facility.

(e) Contributions and fees shall not originate from the resident’s personal needs allowance unless participation in the senior center is totally at the request of an individual or their family or legally responsible person, and participation in senior centers is not a component of the facility’s activity plan.

(6) Visiting senior center groups shall be given an opportunity to donate a confidential contribution to the planned group activity.

(3) Supervision: Residents who participate in the senior center programs as part of a long-term care group planned activity and/or who require supervision shall be accompanied by a facility staff member and/or other responsible parties.

(4) Advance Reservations: As is the standard policy for all senior center participants, activities by long-term care facility residents who participate in senior center activities shall require an advanced reservation.

(5) Complaints Regarding Adherence: 

All complaints regarding adherence to this regulation by long-term care facilities should first be reported to the facility administrator. If this action does not resolve the complaint, the concern should be directed to the State Long Term Care Ombudsman (LTCO) Program where its resolution will be coordinated with the appropriate agencies.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Language changed to conform to the current edition of the Administrative Rules’ Rulewriting Manual for Utah. Substantive changes align with current practice and reflect current statutory or regulatory requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings 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):

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the repeal and reenactment of this rule, it is technical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee: Tracy Gruber, Executive Director Date: 12/14/2021

R510. Human Services, Aging and Adult Services.
R510-104-1. Purpose.
This Rule explains and clarifies the senior nutrition programs administered in Utah.

R510-104-2. Authority.
This Rule is authorized by 62A 3-104: 42 USC Section 3001

(1) The Division shall develop a comprehensive and coordinated nutrition service system statewide. The Division shall encourage and assist the AAAs in utilizing resources to develop greater capacity in their nutrition programs and services. The Division will approve a nutrition screening tool that will be used to identify nutritional risk or malnutrition. All seniors participating in the Nutrition Program For The Elderly, Congregate Meals and Home Delivered Meals, are strongly encouraged to complete the nutrition screen. If an individual does not want to fill out the screening form, he or she will not be denied a meal. A nutrition screen may be required by a AAA for a client to receive liquid meals.

(2) The Division shall monitor, coordinate, and assist in the planning of nutritional services with the advice of a registered dietitian or an individual with comparable expertise. The nutrition service system shall provide older Utahns, particularly those in the greatest economic and social need categories, with particular attention to low-income and low-income minorities, access and outreach to nutrition services, nutrition education and nutritionally-sound meals, to promote better health through improved diet.

(3) Provisional Meals — Meals delivered to a congregate meal participant who is unable to personally visit the congregate meals site for a limited period of time (to be determined by the AAA). The AAA has the discretion to determine what circumstances would make provisional meals appropriate.

(4) NPE — Nutrition Progams for the Elderly — The term primarily refers to Congregate Meals and Meals on wheels which utilize state and federal funding to provide services to seniors, although Food Stamps may also be considered as a NPE.

(5) Division — Utah State Division of Aging and Adult Services.

(6) AAA — Area Agency on Aging.

(7) Dietary Guidelines for Americans — The "Dietary Guidelines for Americans" has been published jointly every 5 years since 1980 by the Department of Health and Human Services (HHS) and the Department of Agriculture (USDA). The Guidelines provide authoritative advice for people two years and older about how good dietary habits can promote health and reduce risk for major chronic diseases. They serve as the basis for Federal food and nutrition education programs. The Guidelines also clarify the Daily Reference Intake (DRI), which replaces the Recommended Daily Amounts (RDA) previously used to determine the nutritional values of the meals served under the nutrition programs. The complete document can be accessed at http://www.health.gov/dietaryguidelines/dga2005/document/default.htm

(8) Modified diets — Now referred to as Medical Nutritional Therapy by the American Dietitian Association, this refers to meals that have been altered to make them compatible with a particular client’s nutritional needs. Examples include limiting sodium for a client with high blood pressure or restructuring the portions or components of a meal to accommodate a client with diabetes.

(1) Nutritional Requirements:

(a) Food Requirements: AAAs shall ensure that the meals provided through their nutrition projects comply with the DRI Guidelines for Americans. Compliance shall be documented for each meal served by the nutrition provider.


(iii) Computer analysis based upon an acceptable software program approved by the Division.

(iv) Computation of food values for portions of food commonly used.

(b) Menu Cycles and Analysis:

(i) Nutrition providers shall send an approved copy of the menus to be used to the appropriate nutrition site(s) and to the AAA.

(ii) A registered dietitian and/or nutritionist shall sign off on the menus and recipes used under the nutrition programs to ensure that the meals served meet DRI guidelines. Any substitutions (deviations) from the approved menu(s) shall be documented and reported by the nutrition project director.

(iii) Service providers contracting with a third party shall stipulate in the contract that menus must be received by the service provider at least one week prior to use for analysis and approval.

(iv) Any substitutions to the original menus must be documented and kept on file. For audit purposes, menus shall be maintained for a minimum of 3 years, or until disposition is authorized by the grantor agency.

(d) Modified Diets:

(i) Modified diets shall be available to program participants. Each project will provide modified menus where the AAA director feels they are feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals. The AAA shall be responsible for the method of obtaining orders for modified diets, maintaining such orders on file and reviewing them.

(e) Utensils for the Blind and Disabled: Upon request, the AAA may provide the appropriate food containers and utensils for the blind and the disabled. The provider is required to submit

R510-104-5. Providers Selection.

(1) The AAA shall make awards for congregate and home-delivered nutrition services to providers that furnish either or both types of service. Each AAA shall assure that each service provider selected meets all applicable Federal, State and Local regulations.

(2) Each AAA, when feasible, shall give preference in making awards for home-delivered meal services to providers that furnish either or both


(1) All persons aged 60 or older and their spouses, regardless of their age, are eligible for OAA nutrition services. If sufficient resources are not available to serve all eligible individuals who request a service, the AAA shall ensure that preference is given to those of greatest social or economic need, with particular attention to low-income, limited English speaking individuals and low-income minorities.

(2) Other individuals who may receive congregate and home-delivered meals at the election of the AAA include those listed below. These individuals do not need to pay for the meal, but are encouraged to make the recommended donation as a qualified senior would:

(a) Individuals with disabilities (who has not attained the age of 60), if they reside in a housing facility primarily occupied by elderly persons that has a congregate meal site funded by the OAA on the premises.

(b) Clients of Home and Community-Based Alternatives program who are under 60 may be allowed to participate in the nutrition program as capacity allows. To be eligible to receive meals through nutrition programs, the client’s case manager must include nutrition services in the care plan. If the participant is under 60, the Alternatives program shall pay the actual cost of the meal as determined by the AAA, rather than the suggested donation.

(c) Individuals with disabilities who reside at home with and accompany to a congregate meal site an older individual who may be eligible under the Act.

(d) Volunteers who are specifically assist with the nutrition program may be given a meal regardless of age.


(1) The AAA shall make awards for congregate and home-delivered nutrition services to providers that furnish either or both types of service. Each AAA shall assure that each service provider selected meets all applicable Federal, State and Local regulations.

(2) Each AAA, when feasible, shall give preference in making awards for home-delivered meal services to providers that meet the following:

(a) Organizations that have demonstrated an ability to provide home delivered meals efficiently and reasonably, and that furnish assurances to the AAA that they will maintain efforts to solicit voluntary support and that OAA funds made available will not be used to supplant funds from non federal sources.

(b) Food service certification in applied food service sanitation by nationally recognized industry programs and approved by the Utah State Department of Health, shall be required for one person per shift where food is prepared and cooked for NPE meals.

(3) Each AAA shall provide a mechanism that will assure the review of need for home-delivered meals for absent participants at the Congregate Sites. Each AAA shall develop a policy, to be reviewed and approved by DAAS regarding regular attendees who cannot attend the congregate site due to illness or other reasons, which determines whether and how often a client may receive provisional meals delivered to them from the congregate site by a
spouse, friend or volunteer. If provisional meals are needed, AAA staff must document the client’s needs and should consider the appropriateness of encouraging the client to participate in the home delivered meal program.

R510-104-8. Additional Meal Policy.

(1) Nutrition providers may serve a second meal or third meal if planned as an objective in the Area Plan. When two meals are served per day, they shall provide 66 2/3% of the DRI. When three meals are served per day, they shall provide 100% of the DRI. Provision of more than one meal qualifies for NSIP reimbursement if each meal meets the 33 1/3% DRI. Second helpings of the same meal that do not constitute a complete meal (i.e., a second serving of mashed potatoes) do not qualify for NSIP reimbursement. A second complete meal complying with the DRI, provided to a senior as a second meal, does qualify for NSIP reimbursement.

(2) To qualify, second meals in the local meal county reports for USDA reimbursement, AAAs will be allowed to serve up to 1.5% of the total meals per quarter in second meals without formally developing a local second meal policy. If second meals claimed in the local meal count reports are equal to or greater than 1.5% of total first meals per quarter, a second meal policy shall be developed by each local AAA for USDA reimbursement.

(3) Nutrition services providers may serve a second meal to Senior Citizens who have been identified through nutrition screening to be at nutritional risk and/or socially or economically in need. The AAA shall have written program objectives which are specific, verifiable, and achievable for nutrition service provider(s), including the number and frequency of meals to be served at each designated congregate site or center, and to individual recipients in the home-delivered meal program, if providing more than 1.5% of total meals as second meals.

(a) Second meals should be packaged so that the food will more likely be kept at proper storage temperatures for a reasonable length of time.

(b) The participants who receive a second meal shall be given the opportunity to make a second confidential contribution for that meal.

(c) Records will be maintained by the nutrition provider(s) on all additional meals served to eligible participants.


(1) AAAs shall develop written procedures to be followed by the service providers for the provision of emergency meals in the event of weather-related emergencies, disasters, or situations which may interrupt meal service or the transportation of participants to the nutrition site. Through the intake, assessment, and re-evaluation process, clients will be identified who do not have food within their home, or through nearby support networks to provide the nutrition they need to last through short-term emergencies.

R510-104-10. Outreach.

(1) Each nutrition provider shall establish outreach activities which encourage the maximum number of eligible clients to participate. Nutrition Education: Each project shall provide nutrition education on at least a semi-annual basis.


(1) In situations where nutritional considerations make solid foods inappropriate, the need for nutrient supplements to include medical meals (meeting the required RDI Guidelines) may be part of medical nutrition therapy recommended by a registered dietitian, registered nurse or physician, primarily when the participant cannot tolerate or digest regular meals.

(2) Only seniors are eligible for medical meals purchased through the Nutrition Program for the Elderly (NPE) funding. Exceptions can be made for Alternatives clients under 60. Additionally, AAAs always have the discretion to use county dollars in any way they see fit.

(3) A medical or secondary meal shall only be offered in place of regular food as the first meal. In order to receive medical meals through the Nutrition Programs for the Elderly (NPS), the following requirements must be met:

(a) A demographic questionnaire must be completed (for the AAA records).

(b) A physician must issue a prescription, or a clinically based assessment must be completed by a dietician or nurse.

(c) A medical meal distributed through the AAAs NPE Programs must meet the 33 1/3 DRI nutrient requirements. If the medical meal is picked up by the client or client representative at a senior center, the meal will count as a congregate meal (C1) and the medical meal is delivered to the client's home by the AAA staff, the meal will be considered a home delivered meal (C2).

(5) The Participant may not be provided more than a one month supply of medical liquid supplement at one time.

(6) A confidential contribution system shall be in place with a suggested donation in order to qualify the medical meal for the USDA cash-in-lieu reimbursement.

R510-104-12. Food Service Management.

(1) Food Service Management: All AAAs shall ensure the following:

(a) Each meal project shall comply with applicable State and local laws regarding the safe and sanitary handling of food, equipment, and supplies used in storage, preparation, service, and delivery of meals to older adults. Compliance with current Serv-Safe guidelines (http://www.sersafe.com) ensures proper compliance to the State and local requirements. All food used by the nutrition service provider(s) must meet standards of quality, sanitation, and safety applying to foods that are processed commercially and purchased by the project. No food prepared or canned in a home or any other non-licensed facility may be used in meals provided by a project financed through the nutrition service provider(s) award.

(b) Inventories: Each AAA shall require that accurate inventory records for consumable goods be maintained for four years by nutrition projects funded in whole or in part by the Older Americans Act funds. Either the periodic or perpetual system of inventory shall be acceptable, if conducted consistent with generally accepted inventory control principles.

(c) Training: The provider shall plan and provide training and supervision in sanitation, food preparation, and portion control by qualified personnel for all paid and volunteer staff who prepare, handle and serve food. Each of these individuals must have a current Food Handlers Permit.

(d) Refrigerated Storage: The refrigeration cooling period for hot food brought below 40 degrees Fahrenheit shall not exceed 4 hours.

(e) Frozen Food Requirements: All packaged frozen meals and freezing methods used to freeze meals utilized by the nutrition...
Requirements for Congregate Meal Providers:


(1) Each AAA and AAA Advisory Council, or local equivalent, shall determine the number of congregate sites to be established and their days of operation.

(2) Local AAA's must provide congregate meals a minimum of five days per week except in a rural area where such frequency is not feasible and a lesser frequency has been approved by the division.

(3) Leftover Food:
   (a) All food transported to sites which becomes "leftover," except unopened prepackaged food, must be properly disposed of at the meal site or the main food preparation site in compliance with State Health Department regulations.

(b) AAAs shall develop policies and procedures to minimize leftover meals. Use of a reservation system for participation in the congregate meal program is recommended.

(c) Leftovers shall be offered to all participants as second helpings at those congregate settings which do not have on-site methods to preserve leftover food to meet the nutritional standards for later consumption which are approved by the State Health Department. If a complete meal is provided to a client as a second meal, the client shall be given an opportunity to make another confidential donation.

(d) Each nutrition site, in a location that is easily visible to patrons, shall have a disclaimer which states: "For Your Safety: Food removed from the center must be kept hot or refrigerated promptly. We cannot be responsible for illness or problems caused by improperly handled food."

(e) No food shall be taken from the site by staff.

(f) Leftover foods at on-site cooking facilities shall be properly refrigerated and incorporated into subsequent meals whenever possible.

(g) Food being served shall be protected from contamination by the use of packaging or by the use of an easily cleanable counter, serving line, or salad bar protector devices, display cases, or by other means which minimize human contact with the food being served. Enough hot or cold food serving containers shall be available to maintain the required temperature of potentially hazardous food.


All individuals requesting home-delivered meals shall be assessed and only those individuals who have been determined to be homebound, as defined below, shall be eligible for a home-delivered meal.

(1) Homebound Status:
   (a) A person shall be determined to be homebound if he/she is unable to leave home without assistance because of a disabling physical, emotional or environmental condition.

(b) Homebound status shall be documented. The Division shall approve the method of assessment to ensure standard measurable criteria.

(c) Written documentation of eligibility shall be maintained by the AAA.

(d) Homebound status shall be reviewed or re-evaluated on a regular basis, but not less frequently than annually.

(i) A waiver of the full annual assessment may be approved by the AAA director or designee. A written statement of waiver shall be placed in the client’s file and shall be reviewed annually.

(ii) Top priority may be given to emergency requests. Home-delivered meals for an emergency may start as soon as possible after the determination of urgent need has been made. A full
assessment will be made within 14 calendar days from the date of request to determine continued eligibility.

(2) Requirements for Home Delivered Meal Providers:
(a) Home-delivered meal service within a Planning and Service Area (PSA) shall be available 5 or more days per week.
(b) Division approval must be obtained for Home-delivered meal plans that provide meals 4 days/week or less in rural areas.
(c) A home-delivered meal, intended for a meal client that cannot be delivered, may be given to another home-delivered meal client as a second meal. This second meal would qualify for NSIP reimbursement, provided the recipient meets the eligibility criteria.


(1) Project income generated by Title III-C can only be used to:
(a) expand the number of meals provided or to facilitate access to such meals (transportation and outreach);
(b) integrate systematic nutrition screening for nutrition/malnutrition and food insecurity; or
(c) to provide other supportive services directly related to nutrition services, such as outreach, information and referral, transportation, access to grocery shopping, help with food stamp procurement, social activities in conjunction with a meal, and nutrition education.

R510-104-17. Restriction on Use of Funds.

(1) Program income generated by OAA Title III Part C-1 and Part C-2 may be used as the additional alternative (to expand the number of meals provided, or to facilitate access to such meals or to provide other supportive services directly related to nutrition services) or the cost-sharing alternative as stated in 45 CFR 92.259(g)(2) (to match federal and/or state funds) or, a combination of the two alternatives.

(2) To defray program costs, a AAA which serves as the nutrition provider may also perform Nutrition Services for other groups and programs outside the parameters of the Nutrition Program for the Elderly under the OAA, providing such services will not interfere with the project or programs for which the contract was originally granted. These extra nutrition activities shall be managed in a manner that does not impede the preparation or delivery of nutrition services to the elderly, and shall charge the full cost of preparation and delivery of the nutrition services as set forth by the provider. When persons 60 years of age and older participate in these "special events," they assume the identity of the activity and are obligated to pay the requested fee for participation. This shall not be confused with the donation policy of the Title III Nutrition Programs. A nutrition provider who contracts with a AAA is obviously free to serve other clients as it wishes.

R510-104-18. Nutrition Services Incentive Program (NSIP) Participation (Commodities and Cash-In-Lieu of Commodities).

Currently, the NSIP program is used by the federal government to provide reimbursement for meals served under nutrition programs that meet the reporting criteria for federally-funded meals. The NSIP reimbursements have, for the most part, replaced the U.S. Department of Agriculture (USDA) practice of presenting nutrition service providers with either food commodities or cash-in-lieu of commodities to supplement the nutrition providers' resources. However, the USDA reserves the right to provide cash or commodities in the future.

(1) Donated Food Standard Agreement: The AAA or nutrition service provider may enter into a written agreement with the Department of Human Services Federal Food Program of the State of Utah and shall follow all procedures of the "Agreement for Commodities Donated by the U.S. Department of Agriculture."

(2) USDA cash in lieu of commodities payments or revenue earned, depending on whether the accounting for the USDA program is on a cash or accrual basis, shall be used to offset the cost of raw food and the cost of purchased meals.

(a) AAAs shall promptly disburse all USDA cash in lieu of commodities to nutrition providers in their planning and service area that are funded with Title III Part C-1 and Part C-2 funds.
(b) AAAs shall ensure that payments received by providers in lieu of commodities shall be used solely for the purchase of:
(i) United States agricultural commodities and other foods produced in the United States; or
(ii) Meals furnished to them under contractual arrangements with food service management companies, caterers, restaurants, or institutions, have provided that each meal contains United States produce commodities or foods at least equal in value to the per meal cash payment which the nutrition service providers have received.
(c) AAAs which do not expend the Cash-In-Lieu within a maximum of two quarters after it has been allocated by the Division shall be evaluated for need and other available resources at the local AAA. Their rate of entitlement may be reduced in succeeding allocation periods.

(3) USDA Documentation:
(a) AAAs shall ensure that the cost of the U.S. grown food purchased during the project year is at least equal to the amount of the USDA reimbursement under the cash in lieu of commodities program. This documentation shall be based on paid invoices.
(b) In the case of meals served under contractual arrangements with food service management companies, caterers, restaurants or institutions, copies of menus and invoices of food purchases that demonstrate that each meal served contained United States produced commodities or food at least equal in value to the per meal cash payments, constitutes adequate documentation.

R510-104-19. Transfer of Funds.

Statewide transfers between OAA Title III-B and C awards shall not exceed 20%. Transfers between Part C-1 and Part C-2 awards shall not exceed 40% of any one funding category unless the Division requests and receives written approval from the U.S. Department of Health and Human Services Assistant Secretary for Aging.
R510-104-20. Documentation and Record Keeping Requirements.

(1) AAAs shall document and maintain all records and forms required to meet state and federal requirements of the OAA and the USDA (United States Department of Agriculture) for three years.

(2) The number of participants participating in Title III C-1 and their names shall be kept on file in the Planning and Service Area for three years.

(3) AAAs shall work with the Division to complete the annual federal NAPIS (see definitions) reporting requirements by use of the current data management system or by other means as agreed to by the Division.

R510-104. Nutrition Programs.

R510-104-1. Purpose and Authority.

(1) The purpose of the rule is to facilitate the administration of nutrition programs for older individuals, as established pursuant to the Older Americans Act of 1965, 42 U.S.C. 3030e and 42 U.S.C. 3030f.


(1) Terms used in this rule are defined in Section 62A-3-101.

(2) "Alternatives Program" means the Home and Community Based Alternatives Program as described in Rule R510-400.

(3) "Congregate Meal" means a meal provided by a qualified nutrition provider to an eligible individual in a congregate or group setting.

(4) "Dietary Reference Intakes (DRI)" means a set of reference values used to plan and assess healthy nutrient intakes as established by the Food and Nutrition Board of the National Academies of Sciences, Engineering, and Medicine.

(5) "Home Delivered Meal" means a meal provided to an eligible individual at the individual's place of residence.

(6) "Medical Meal" means a meal that provides nutrient supplements when an individual's ability to tolerate or digest solid foods is limited.

(7) "Modified Diet" means a meal that has been tailored to meet an individual's particular nutritional needs.

(8) "Nutrition Education" means the information, instruction, or training to support nutritional and physical choices and behaviors to maintain or improve an individual's health.

(9) "Nutrition Program" means a program that offers congregate and home delivered meals pursuant to 42 U.S.C. 3030e and 42 U.S.C. 3030f.

(10) "Nutrition Provider" means a local area agency that provides congregate or home delivered meals or an entity that provides congregate or home delivered meals pursuant to a formal contract or grant agreement with a local area agency.

(11) "Provisional Meal" means a meal delivered to an individual who receives congregate meals, but who is unable to personally attend the congregate meal site for a limited period of time.


(1) Each local area agency shall ensure that the meals provided through a nutrition program comply with dietary guidelines published by the U.S. Department of Health and Human Services.

(a) Compliance shall be documented for each meal served by a nutrition provider.

(b) Compliance shall be documented using an acceptable computer software program approved by the division.

(2) Nutrition providers shall provide approved menus for meals to nutrition sites and the local area agency.

(a) Menus shall be reviewed and approved by a registered dietitian or nutritionist to ensure compliance with dietary guidelines.

(b) Any deviation from an approved menu shall be documented and reported to the nutrition program director.

(c) Any documentation of a deviation from an approved menu shall be kept on file for a minimum of three years or until destruction is authorized by the local area agency.

(3) Nutrition providers shall provide modified meals when necessary. The local area agency shall be responsible for receiving and reviewing requests for modified meals and maintaining such requests on file.

R510-104-4. Eligibility for Nutrition Program.

(1) Any individual who is 60 years of age or older and the individual's spouse, regardless of the spouse's age, shall be eligible for a nutrition program. If sufficient resources are not available to serve all eligible individuals, the local area agency shall ensure that preference is given to those with the greatest social or economic need.

(2) An individual not described in Subsection R510-104-4(1) may be eligible for a nutrition program at the discretion of the local area agency in the following circumstances:

(a) the individual has a disability and resides in a housing facility primarily occupied by individuals 60 years of age or older that serves as a congregate meal site;

(b) the individual has a disability and resides with and accompanies an individual who is 60 years of age or older to a congregate meal site;

(c) the individual is a volunteer for the nutrition program; or

(d) the individual receives services from the Alternatives Program and the individual's care plan includes nutrition services.

(3) An individual who participates in the nutrition program pursuant to Subsections R510-104-4(2)(a) through (c) shall be encouraged to contribute to the cost of the meal service, but may not be required to pay for the cost of the meal service.

(4) The actual cost of a meal provided to an individual described in Subsection R510-104-4(2)(d) shall be paid by the Alternatives Program.

(5) Any individual who is denied access to a nutrition program shall be informed of the process to appeal that determination.

(6) An appeal described in Subsection R510-104-4(5) is not an adjudicative proceeding as described in Section 63G-4-201.

R510-104-5. Provider Selection.

(1) If a local area agency does not serve as the nutrition provider, the local area agency shall contract with nutrition providers that furnish congregate or home delivered meals. The local area agency shall ensure that each nutrition provider meets applicable federal, state, and local requirements and regulations.

(2) A local area agency shall give preference to a nutrition provider for home delivered meals that meets the following:

(a) demonstrates an ability to provide home delivered meals efficiently and reasonably; and

(b) furnishes assurances to the local area agency that the nutrition provider will solicit voluntary support;

(3) Each nutrition provider shall have at least one person per shift that has a food service certification in applied food service.
sanitation by a nationally recognized food industry program and approved by the Utah Department of Health.

R510-104-6. Additional Meal Policy.
(1) A local area agency may offer a second meal or third meal a day if stated as an objective in the area plan as described in 42 U.S.C. 3026.
(2) If a second meal is offered per day, both meals shall provide 66.6% of the DRI.
(3) If a third meal is offered per day, all three meals shall provide 100% of the DRI.
(4) If a local area agency provides more than 1.5% of its total meals as second or third meals, the local area agency shall develop written nutrition program objectives that include the number and frequency of meals to be served at each congregate meal site and to be served to individuals receiving home delivered meals.
(5) Any meal offered as a second meal shall be packaged in a manner that ensures proper food storage temperature for a reasonable period.
(6) Each local area agency shall document and maintain records of additional meals served to eligible individuals.

Each local area agency shall develop written procedures to be followed by nutrition providers for the emergency meals in the event of weather-related emergencies, disasters, or other situations that may interrupt meal services.

R510-104-8. Outreach.
Each local area agency shall establish outreach activities that encourage the maximum number of eligible individuals to participate in nutrition programs. Each local area agency shall provide nutrition education to eligible individual on at least a semi-annual basis.

(1) A medical meal shall be based upon a recommendation from a registered dietitian, registered nurse, or physician.
(2) A demographic questionnaire must be completed by an individual requesting a medical meal.
(3) Except as provided in Subsection R510-104-9(4), eligibility to receive a medical meal shall be limited to individuals who are 60 years of age or older.
(4) An individual who is receiving services from the Alternatives Program may be eligible to receive a medical meal at the discretion of the local area agency.
(5) A medical meal shall only be offered as a first meal a day.
(6) An individual may not receive more than a one-month supply of medical meals at a time.

R510-104-10. Food Service Management.
(1) Each local area agency shall ensure that each nutrition provider adheres to applicable laws and regulations regarding the safe and sanitary handling and preparation of food and equipment. Each local area agency shall ensure that each nutrition provider uses food that meets the standards of quality, sanitation, and safety that are applicable to food processed commercially.
(2) Each local area agency shall require accurate inventory records for consumable goods. Inventory records shall be maintained for four years by each nutrition provider.

(3) Each nutrition provider shall provide training for proper sanitation, food preparation, and portion control to each paid or volunteer staff member who prepares, handles, or serves food.
(4) Each paid or volunteer staff member who prepares, handles, or serves food shall have a valid food handlers permit.

(1) The actual cost of a congregate meal and a suggested contribution shall be posted at the congregate meal site.
(2) Each eligible individual shall have an opportunity to voluntarily and anonymously contribute toward the cost of a provided meal service.
(a) Each local area agency shall establish and implement procedures to protect the privacy of an individual's decision to contribute toward the cost of a provided meal service.
(b) A locked contribution box shall be placed at the congregate meal site in an area that protects the privacy of the individual's decision to contribute toward the cost of the provided meal service.
(c) Any contributions shall be counted by two persons, and both individuals shall sign a form attesting to the amount received. Such documentation shall be maintained by the local area agency.
(3) An individual who does not meet the eligibility criteria described in Section R510-104-4 shall pay the full cost of the meal, which shall be collected and accounted for separate from any voluntary contribution.

(1) Each local area agency shall determine the number of congregate meal sites to be established in the area served and the days of operation for each congregate meal site.
(2) Each local area agency shall provide congregate meals at least five days per week. A rural area where such frequency is not feasible may offer congregate meals less frequently at the discretion of the division.
(3) Unused prepared food that has been transported to a congregate meal site shall be considered leftover food.
(4) Leftover food shall be properly refrigerated and safely incorporated into subsequent meals. Leftover food that cannot be properly refrigerated and safely incorporated into subsequent meals shall be properly disposed of at the congregate meal site.
(5) Leftover food shall be offered to all individuals as second servings at congregate meal sites that do not have on-site methods to preserve leftover food.
(6) Each congregate meal site shall display a disclaimer which states: "For Your Safety: Food removed from the center must be kept hot or refrigerated promptly. We cannot be responsible for illness or problems caused by improperly handled food."
(7) Each local area agency shall develop a policy that allows a provisional meal to be provided to eligible individuals who cannot attend the congregate meal site on a limited basis. If a provisional meal is provided, the local area agency shall document the individual's needs and shall assess whether the individual should be encouraged to receive home delivered meals.

(1) In addition to the eligibility criteria described in Section R510-104-4, an individual must be determined to be homebound to receive a home delivered meal.
(2) An individual shall be determined to be homebound if the individual cannot leave home without assistance due to a disabling physical, emotional, or environmental condition. A
determination of an individual's homebound status shall be made using a method of assessment approved by the division.

(a) Any waiver of the assessment to determine an individual's homebound status shall be at the discretion of the local area agency.

(b) A request for a waiver of the assessment to determine an individual's homebound status shall be submitted in writing to the local area agency's director or the local area agency director's designee.

(c) A waiver request, and accompanying documentation, shall be maintained in the individual's client file.

(d) An approved waiver request shall be reviewed on an annual basis.

(3) A determination of an individual's homebound status shall be documented and maintained by the local area agency.

(4) An individual's homebound status shall be reviewed or re-evaluated at least annually.

(5) Each local area agency shall provide home delivered meals at least five days per week. A rural area where such frequency is not feasible may offer home delivered meals less frequently at the discretion of the division.


(1) Income generated by a nutrition program shall only be used to:

(a) expand the number of meals provided;

(b) facilitate access to nutrition programs;

(c) integrate systematic nutrition screening for malnutrition and food insecurity; or

(d) provide other supportive services directly related to nutrition services, such as outreach, information and referral, transportation, access to grocery shopping, help with food stamp procurement, social activities in conjunction with a meal, and nutrition education.

(2) A local area agency that serves as a nutrition provider may also perform nutrition services for other groups and programs outside of the nutrition program. A local area agency that performs these additional nutrition services shall charge the full cost of preparation and delivery of the nutrition services.

R510-104-15. Transfer of Funds.

Any transfer of funds between a congregate meal service and home delivered meal service shall not exceed 30% of any one funding category unless the division requests and receives written approval from the U.S. Department of Health and Human Services.

R510-104-16. Documentation and Record Keeping Requirements.

(1) Each local area agency shall maintain all records and forms generated by a nutrition program for three years.

(2) Each local area agency shall document the number of individuals participating in a nutrition program and shall keep a list of all individuals for three years.

(3) Each local area agency shall coordinate with the division to complete annual reporting requirements for the nutrition program.

KEY: elderly, nutrition, home-delivered meals, congregate meals

Date of Last Change: 2022 [April 15, 2013]
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings 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):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the repeal and reenactment of this rule, it is technical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-3-104 Older Americans Act of 1965, Title 111C, 42 USC Section 3001

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. See Section 63G-3-302 and Rule R15-1 for more information.)
R510. Human Services, Aging and Adult Services.

R510-105-1. Authority and Purpose.
(1) The purpose of this rule is to provide guidelines for the equitable distribution of funds collected as a result of the special revenue fund created in Section 62A-3-110 to provide public transportation assistance for seniors or people with disabilities.

R510-105-2. Definitions.
(1) Qualified Organization means an organization that facilitates the provision of public transportation to aging persons, high risk adults or people with disabilities.
(2) Public Transportation means agencies or organizations that directly provide or reimburse for public transit; the transportation of passengers only, and their incidental baggage by means other than chartered bus, sightseeing bus, taxi, or other vehicle not on an individual passenger fare-paying basis (defined in Section 17A-2-1004).
(3) Aging Persons means adults 60 years of age or older.
(4) High Risk Adults means adults from 18 to 60 years of age, not disabled as defined in Section 62A-5-101, but requiring transportation assistance due to a demonstrated inability to provide private transportation or utilize available public transportation.

R510-105-3. Eligibility.
(1) Eligible grantees shall be limited to organizations that provide public transport and may be local or state government or incorporated profit or non-profit entities engaged in providing public transportation to aging persons, high risk adults or people with disabilities.

R510-105-4. Funding Sources.
(1) The fund will consist of:
(a) Private contributions.
(b) Donations or grants from public or private entities.
(c) Voluntary contributions collected under Section 53-3-214.8, less actual administrative costs associated with collecting and transferring the contributions.
(d) Interest and earnings on account monies.

R510-105-5. Administrative Costs.
(1) Administrative costs incurred by the Division in the administration of this program shall be paid from monies in the fund.

(1) In accordance with Title 62A, Chapter 3 awards shall be implemented by contracts between the Department of Human Services, Division of Aging and Adult Services and the contractor.
(2) Contracts will be on an annual basis, to be effective on July 1 of the beginning of the fiscal year and must be used by June 30 of the following year.
(3) All applications for the funds will be reviewed by the State Board on Aging and Adult Services.
(a) The Board shall approve all awards.
(b) The Board reserves the right to decline to award any contracts during any fiscal year in which it deems that insufficient funds are available to reasonably fund a viable contract.
(c) Funds not awarded during one year will be available for award in subsequent years.

R510-105-7. Grant Application Evaluation.
(1) Grant applications will be evaluated by the State Board of Aging and Adult Services based upon the following criteria:
(a) The amount of matching funding committed by the applicant as a percentage of the funds available.
(b) The projected number of individuals the applicant estimates can be assisted by the funding in an estimated percentage of the eligible persons in the geographic area to be served.
(c) The degree to which the applicant’s proposal develops a new, ongoing source of transportation assistance not already in existence.
(d) The application shall not presume ongoing financial support from this fund, beyond the initial grant, to support the applicant’s proposal.

R510-105-8. Reporting and Audit.
(1) The grantee shall collect data and maintain records relating to the project in the format specified by the Division, such data and records to be provided to the Division as specified.
(2) The grantee shall maintain sufficient financial records to support the appropriate disbursement of grant funds, and shall agree to periodic program and fiscal audits by the Division as may be deemed necessary by the Board.

R510-105-1. Authority and Purpose.
(1) The purpose of this rule is to facilitate the administration of the "Out and About" Homebound Transportation Assistance Fund.
(2) The rule is authorized by Subsection 62A-3-104(9)(i) and Section 62A-3-110.

R510-105-2. Definitions.
(1) Terms used in this rule are defined in Section 62A-3-101.
(2) "Out and About Transportation Fund" means the Out and About Homebound Transportation Assistance Fund as described in Section 62A-3-110.
(3) "People with Disabilities" means individuals with a disability as defined in Section 62A-5-101.
(4) "Public Transportation" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income. Public transportation does not include
transportation services provided by chartered bus, sightseeing bus, taxi, school bus service, courtesy shuttle service for patrons of one or more specific establishments, or intra-terminal or intra-facility shuttle services.

R510-105-3. Eligibility.
Agencies or organizations that provide public transportation to aging persons, high risk adults, or people with disabilities are eligible to be awarded funds from the Out and About Transportation Fund.

R510-105-4. Award of Funds.
1. An application to be awarded funds from the Out and About Transportation Fund shall be submitted to the State Board on Aging and Adult Services.
2. The State Board on Aging and Adult Services shall evaluate an application based upon the following criteria:
   a. the amount of matching funding committed by the applicant as compared to the total amount of funds available;
   b. the projected number of individuals the applicant estimates can be assisted by the requested funding as compared to the number of eligible individuals in the geographic area to be served; and
   c. the degree to which the applicant's proposal develops a new, ongoing source of transportation assistance that is not already available.
3. The State Board on Aging and Adult Services shall not presume the availability of ongoing funding from the Out and About Transportation Fund to support the applicant's proposal when evaluating an application.
4. The State Board on Aging and Adult Services shall approve any award of funds from the Out and About Transportation Fund. An award of funds shall be implemented through a contract between the division and the recipient of the funds.
5. Funds from the Out and About Transportation Fund shall be awarded on an annual basis, effective on July 1 of each fiscal year.
   a. Any recipient of funds shall spend all funds by the end of the fiscal year in which the funds were awarded.
6. The State Board on Aging and Adult services may decline to award any funds from the Out and About Transportation Fund if it determines that insufficient funds are available to reasonably fund a viable contract for that fiscal year. Funds not awarded during a fiscal year shall be available for award in the next fiscal year.

R510-105-5. Administrative Costs.
The Out and About Transportation Fund shall cover any administrative costs incurred by the division in the administration of the fund.

R510-105-6. Reporting and Audit.
1. The recipient of funds shall collect data and maintain records relating to the program in the format specified by the division.
2. The recipient of funds shall provide any data or records to the division when requested.
3. The recipient of funds shall maintain sufficient financial records to support the appropriate disbursement of funds. The recipient of funds shall agree to cooperate with period program and fiscal audits by the division.

KEY: transportation, seniors, disabled
Date of Last Change: 2022[March 14, 2003]
Notice of Continuation: January 17, 2018
Authorizing, and Implemented or Interpreted Law: 62A-3-110
B) Local governments:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
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<tr>
<td>Fiscal Cost</td>
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<td>Local Governments</td>
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<td>Non-Small Businesses</td>
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<tr>
<td>Other Persons</td>
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<tr>
<td><strong>Total Fiscal Cost</strong></td>
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<tr>
<td>Fiscal Benefits</td>
</tr>
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</tr>
<tr>
<td><strong>Net Fiscal Benefits</strong></td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 62A-3-101

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022
10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021

R510. Human Services, Aging and Adult Services.
R510-106. Minimum Percentages of Older Americans Act, Title III Part B: State and Supportive Services Funds.

(1) In accordance with the (OAA), as amended in 2000, the following general principles apply to setting minimum percentages which must be spent for Access, In-Home, and Legal Assistance:

(a) In Home, Access, and Legal Assistance are priority services.
(b) "The minimum percentage is intended to be a floor, not a ceiling. AAAs are encouraged to devote additional funds to each of these service areas to meet local needs." (Source: House of Representatives Conference Report regarding the 1987 Amendment to the Older Americans Act.)
(c) AAAs should be given flexibility to administer their programs at the local level.
(d) The minimum percentage should be applied to both Title III B and State Service Dollars.
(2) The minimum percentages shall be established at: 8% for Access Services, 8% for In-Home Services, and 2% for Legal Assistance.
(3) The minimum percentages will be based upon Title III B dollars and State Service dollars that are distributed by formula to the AAAs.
(4) The minimum percentages will be reviewed on an annual basis.


(1) AAAs which do not plan to fund a Title III B priority category of service at the required minimum percentage must request a waiver. In order to be approved, the waiver request must demonstrate to the State that the need for the service is adequately met through other means.

(a) The waiver request must include:
   (i) Categories of service to be waived, i.e. access, in home, or legal.
   (ii) Extent of waiver requested, i.e. request to provide zero funding or request to provide some funding, but not at the minimum percentage required.
   (iii) Justification that services provided in the planning and service area for the waiver category are sufficient to meet the need. Justification should include: types of services in the category available in the planning and service area, funding sources and amounts available, history of service usage, needs assessment data, sources of information, efforts to publicize services, comments from providers of services, waiting lists, etc.

(iv) Documentation of notice to conduct a timely public hearing, upon request of an individual or service provider from the area to be affected by decision, including:
   (A) Copies of publicity to conduct a hearing.
   (B) Lists of individuals and agencies notified.
   (C) Lists of individuals or service providers who requested a hearing.

(v) If a hearing is requested, documentation of notice to conduct a timely public hearing, upon request of an individual or service provider from the area to be affected by decision, will be needed, including:
   (A) Copies of publicity for to conduct a hearing;
   (B) lists of individuals and agencies notified; and
   (C) lists of individuals or service providers who requested a hearing.

(vi) Record of public hearing.

(2) In order for the Area Agency on Aging (AAA) to demonstrate public knowledge about ability to request a hearing, it is recommended that the AAA:

(a) Publicize the hearing in advance so that interested parties can arrange to attend.
(b) Use publicity means that will enable potentially interested parties to be aware of the ability to request a hearing, to have sufficient background to understand the purpose of the hearing, and to be able to testify at the hearing if desired. In addition to a legal notice in the classified section of a newspaper, letters, flyers, larger newspaper articles or other similar announcements are recommended for the purpose of granting a waiver.
(c) Notify interested parties of the ability to request a hearing, such as those individuals or groups specified below:
   (i) All Categories of Services: Clients, potential clients, senior advocates, local advisory council members, designated state advisory council member for the area, representatives or relatives of clients. local elected officials, Department of Human Services, agency staff, and State Division of Aging and Adult Services staff, etc.
   (ii) Access Services: Information and referral providers, public or private transportation providers, outreach staff.
   (iii) In Home Services: Chore provider agencies, home health agencies, local health departments, homemaker provider agencies, friendly visitor and telephone reassurance agencies or volunteers, homemakers, personal care aides, and home health aides.
   (iv) Legal Assistance: Legal Services Developer, Utah Legal Services Corporation, representatives of the Utah Bar Association.

KEY: elderly
Date of Last Change: June 30, 2003
Notice of Continuation: June 30, 2017
Authorizing and Implemented or Interpreted Law: 62A-3-101 et seq.

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.): R510-107
Filing ID 54302

Agency Information

1. Department: Human Services
2. Agency: Aging and Adult Services
3. Building: MASOB

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
**NOTICES OF PROPOSED RULES**

**General Information**

2. **Rule or section catchline:**

   R510-107. Title V Senior Community Service Employment Program Standards and Procedures

3. **Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

   This rule is not necessary because the entirety of this rule is incorporating the federal regulations by reference.

4. **Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

   The filing repeals Rule R510-107 in its entirety.

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

   **A) State budget:**

   The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.

   **B) Local governments:**

   The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

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

   The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

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

   The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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):

   The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to other persons.

   **F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

   There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

   **G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

   After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

### Fiscal Impact Table

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
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<td>Local Governments</td>
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</tbody>
</table>
NOTICES OF PROPOSED RULES

<table>
<thead>
<tr>
<th>Type of Rule:</th>
<th>Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
<td>R510-108</td>
</tr>
<tr>
<td>Filing ID</td>
<td>54303</td>
</tr>
</tbody>
</table>

Agency Information

1. Department: Human Services
2. Agency: Aging and Adult Services
3. Building: MASOB
4. Street address: 195 N 1950 S
5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
</tr>
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<tbody>
<tr>
<td>Jean Boyack</td>
<td>801-568-4263</td>
<td><a href="mailto:jboyack@utah.gov">jboyack@utah.gov</a></td>
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<tr>
<td>Jacob Murakami</td>
<td>801-538-4641</td>
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<td>Jonah Shaw</td>
<td>385-310-2389</td>
<td><a href="mailto:jshaw@utah.gov">jshaw@utah.gov</a></td>
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</tbody>
</table>

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

General Information

2. Rule or section catchline:

R510-108. Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting under the Older Americans Act

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.
This rule is not necessary because the entirety of this rule is a definition of a term and does not include other provisions to which that definition would apply.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The filing repeals Rule R510-108 in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

<table>
<thead>
<tr>
<th>A) State budget:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.</td>
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<th>B) Local governments:</th>
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<td>The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.</td>
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<th>C) Small businesses (&quot;small business&quot; means a business employing 1-49 persons):</th>
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<td>The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.</td>
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<th>D) Non-small businesses (&quot;non-small business&quot; means a business employing 50 or more persons):</th>
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<th>E) Persons other than small businesses, non-small businesses, state, or local government entities (&quot;person&quot; means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</th>
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</tr>
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<td></td>
</tr>
</tbody>
</table>

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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<td>Net Fiscal Benefits</td>
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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.
NOTICES OF PROPOSED RULES

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 62A-3-104

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021

R510. Human Services, Aging and Adult Services.
R510-108-1. Definition.
For the purposes of reporting under title III of the (OAA), rural shall be defined as any county having a total population of less than 100 persons per square mile. This means that all counties in Utah will be considered rural for Title III reporting except Davis, Salt Lake, Utah, and Weber Counties.

KEY: elderly, rural policy
Date of Last Change: 1988
Notice of Continuation: June 30, 2017
Authorizing, and Implemented or Interpreted Law: 62A-3-104

NOTICE OF PROPOSED RULE
TYPE OF RULE: Repeal
Utah Admin. Code Ref (R no.): R510-109 Filing ID 54304

Agency Information
1. Department: Human Services
Agency: Aging and Adult Services
Building: MASOB
Street address: 195 N 1950 S

Contact person(s):
Name: Phone: Email:
Jean Boyack 801-568-4263 jboyack@utah.gov
Jacob Murakami 801-538-4641 jmurakami@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information
2. Rule or section catchline:
R510-109. Definition of Significant Population of Older Native Americans

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This rule is not necessary because the entirety of this rule is a definition of a term and does not include other provisions to which that definition would apply.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The filing repeals Rule R510-109 in its entirety.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.

B) Local governments:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

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

City, state and zip: Salt Lake City, UT 84116

Name: Phone: Email:
Jean Boyack 801-568-4263 jboyack@utah.gov
Jacob Murakami 801-538-4641 jmurakami@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

Please address questions regarding information on this notice to the agency.
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

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

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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):

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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<td>Fiscal Cost</td>
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<td>State Government</td>
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<td>Local Governments</td>
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<td>$0</td>
</tr>
<tr>
<td>Other Persons</td>
<td>$0</td>
</tr>
</tbody>
</table>

| 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     |

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-3-104

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021
R510. Human Services, Aging and Adult Services.
[521-109-1. Definition. A Planning and Service Area has a “significant population of older Native Americans” when 50% or more of its 60+ minority population is older Native Americans.

KEY: elderly, native american, population

Notice of Continuation: June 30, 2017
Date of Last Change: 1989
Authorizing, and Implemented or Interpreted Law: 62A-3-104]

NOTICES OF PROPOSED RULES


NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.): R510-110 Filing ID 54305

Agency Information
1. Department: Human Services
Agency: Aging and Adult Services
Building: MASOB
Street address: 195 N 1950 S
City, state and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Phone: Email:
Jean Boyack 801-568-4263 jboyack@utah.gov
Jacob Murakami 801-538-4641 jmurakami@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information
2. Rule or section catchline:
R510-110. Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This rule is not explicitly authorized or required by statute and is not necessary because the provisions in this rule are more appropriately addressed in policies established by the local area agencies.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule): The filing repeals Rule R510-110 in its entirety.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.

B) Local governments:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

C) Small businesses (*small business* means a business employing 1-49 persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

D) Non-small businesses (*non-small business* means a business employing 50 or more persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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*):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?): There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
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<th>Section 62A-3-104</th>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

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10. This rule change MAY become effective on:

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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designer, and title:</th>
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<tr>
<td>Tracy Gruber, Executive Director</td>
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R510. Human Services, Aging and Adult Services.


R510-110-1. Definitions.

   A. Eldercare: a service provided by a corporation on behalf of its employees who have caregiver responsibilities for elderly relatives. The service includes information and referral, but may extend to other types of services and programs, as determined by the corporation.

   B. Case Management: a service with several components which collectively make up case management. These components include a combination of some or all of the following:

   (1) Intake and Screening: an initial contact with the AAA from the company requesting case management services.

   (2) Assessment: a face to face evaluation utilizing a standardized Division assessment tool. The assessment provides some or all of the following information regarding the individual:

      (a) functional level, including ADL and IADL status;

      (b) cognitive status;

      (c) health status;

      (d) current living arrangement; and

      (e) use of formal and informal support systems.

   (3) Care Planning: a determination of the appropriate and available mix of formal and informal services and support systems required to meet the individual's long term care needs. A care plan is then developed.

   (4) Care Plan Implementation: assessment and coordination of the appropriate services. It also includes assisting the individual to make the necessary financial arrangements as required.

   (5) Continued Care Management: monitoring, reassessment, and termination components of case management. More specifically this includes:

   (...)
NOTICES OF PROPOSED RULES

—-(a) monitoring the service delivery, quality of care provided, and status of the individual;
—-(b) reassessing the individual’s cognitive status, health status, and functional level as they relate to the care provided, and making appropriate changes as needed; and
—-(c) closing the case once an individual no longer requires or is eligible for case management.

C. Entrepreneurial Activities of AAAs include the manufacturing, processing, selling, offering for sale, rental, leasing, delivering, dispersal or advertising of goods or services.

A. A basic mission of AAAs under the (OAA) is to foster the development of comprehensive and coordinated systems of services for all older persons. Activities such as eldercare and case management and other entrepreneurial endeavors, which are intended to enhance the scope and quality of the system of services available to older persons in a Planning and Service Area (PSA), are consistent with the purpose of an AAA. As a result, the Division encourages the Utah AAAs to engage in appropriate relations with private corporations in the development and implementation of eldercare programs, case management, and related activities. Utah AAAs may engage in activities provided that those activities conform to the provision of this policy issuance.

B. The Division recognizes that an AAA, in lieu of a direct contract with a corporation, insurance company, or brokering organization may elect to provide the services directly or to join with other AAAs in those contracts. These arrangements are permissible, provided that the provisions of this policy are followed.

A. An AAA which engages in corporate eldercare and private case management services:
(1) shall assure that its statutory duties are maintained as prescribed in the OAA, Title III: Grants for State and Community Programs on Aging, as amended, to focus on the needs of older persons in greatest need, with particular attention to low-income minority persons, and to engage only in activities which are consistent with its statutory mission as prescribed in the OAA as amended, related federal rules and regulations, and related state policy;
(2) shall assure that activities specified under the Area plan and subsequent amendments, as approved by the Division, will not be reduced as a result of activities engaged in under this policy;
(3) shall not use Title III, Title XIX, SSBG or state funds to supplement third-party payments made by a corporation under a contract covered by this policy;
(4) shall assure that any third-party payment under a private contract fully covers the cost of services provided, including administrative and overhead costs, unless a public/private partnership is established whereby the state or federal governments or other funding source agrees to subsidize the costs of private case management or elder care;
(5) shall account for private corporate contract revenues and expenditures separately from federal and state funds awarded under the Area Plan contract;
(6) shall include in their Area Plan on Aging and amendments thereto, an explanation describing their relationships with private corporations and services rendered to older persons as a consequence of those agreements or contracts. These AAAs, as part of their Area Plans, shall also sign a statement of assurance of compliance with the provisions of this policy.

B. The provision of IVA(2), above, does not constrain the AAA from utilizing OAA Title III Part B: Supportive Services and Senior Centers funds to develop new resources and coordinate services to develop corporate eldercare and private case management services systems in its PSA. This complies with the statutory mission of AAAs of fostering the development of comprehensive and coordinated systems of services for all older persons, which includes all types of services and resources, both public and private, which are available to serve older persons.
C. AAA offices may engage in entrepreneurial activities if this is in response to a demonstrated need and the funds raised by these activities are used for the following purposes:
(1) to further extend services and opportunities for senior citizens, or
(2) to initiate services and opportunities for seniors, provided that these services or opportunities are compatible with the AAA functions and goals.

A. General Provisions:
(1) An AAA cannot execute an agreement or contract that demands exclusivity; an AAA must be free to negotiate other similar agreements or contracts with other companies.
(2) An AAA cannot enter into an agreement or contract that obligates it to be identified with or to promote the company or its products or places it in a conflict of interest with its public mission.
(3) A contract must state that the AAA has the right to refuse services to a company or its employees or clients in the event that there is a potential conflict of interest for the AAA, as identified by the AAA or the Division.
(4) A contract must provide that an AAA has the right to reveal its findings, plans, and recommendations to the client, regardless of the company’s final decision regarding client eligibility and services provided.
(5) A contract must provide that all information as to personal facts and circumstances obtained by the AAA shall be treated as privileged communications, shall be held confidential and shall not be divulged without the written consent of the individual receiving the services, his attorney, or his legal guardian, except as is required by the corporation, insurance company, or brokering organization, or as may be required by the Division for the purposes of monitoring for compliance with the provisions of this policy, or as directed by the court. However, nothing prohibits the disclosure of information in summary, statistical, or other form which does not identify particular individuals.
(6) A contract must hold the AAA and the Division, where it is a party to the contract, harmless and defend them in any actions brought against them on the basis of companies’ policies or decisions regarding benefits and services.
(7) Provisions of the contract may not require the withholding of information or otherwise limit the ability of the AAA to judge or act in the public interest; or restrict the ability of the Division to exercise appropriate oversight of the AAA in its fulfillment of its public mission and responsibilities.
B. Specific Provisions Regarding Long-Term Care Insurance Case Management Contracts. In contracts covering long-term care insurance case management services, companies must assure that:
(1) they are financially stable, are in good standing, and are in compliance with all statutes and rules governing insurance companies in the state of Utah;
(2) their long-term care insurance policies comply with the Utah insurance laws.
NOTICES OF PROPOSED RULES

R510-110-5. Monitoring by the State Division of Aging and Adult Services.

The Division through its program monitoring activities, including financial audits, shall periodically assess AAA compliance through the following actions:

A. Review and approval of the AAA Area Plan and amendments, to be done annually and more frequently for modifications as submitted. The Division office will review:

1. (1) explanation describing AAA relationship with private corporations;
2. (2) signed statement of assurance of compliance with this policy; and
3. (3) related data in program and service costs in Area Plan.
B. Annual review of financial audits. The Division will review:

1. (1) adequacy of AAA financial control system;
2. (2) adequacy of AAA financial system to maintain separate accounting for different funds, including private contracts; and
3. (3) adequacy of AAA support documents to justify costs to each funding source.
C. Field visits and assessments of AAA activities: the Division monitoring and assessment will include a review for compliance with policy contained herein, including contract requirements.
D. When a finding shows the AAA to be out of compliance with the provisions of this policy or contract requirements, the Division may impose one or more of the following: 1) corrective actions; 2) special conditions included in the Division AAA Contract; 3) withhold approval of Area Plan. The filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The filing repeals Rule R510-111 in its entirety.

General Information

2. Rule or section catchline:
R510-111. Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC)

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This rule is not explicitly authorized or required by statute and is not necessary because the provisions in this rule are more appropriately addressed in policies established by the local agency areas.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The filing repeals Rule R510-111 in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.

B) Local governments:
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.
NOTICES OF PROPOSED RULES

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

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings 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):

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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Non-Small Businesses | $0 | $0 | $0 |
Other Persons | $0 | $0 | $0 |
Total Fiscal Benefits | $0 | $0 | $0 |
Net Fiscal Benefits | $0 | $0 | $0 |

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-3-104

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Tracy Gruber, Executive Director | Date: 12/14/2021 |

R510. Human Services, Aging and Adult Services.
[R510-111. Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC).]
R510-111-1. State Funds for NSSC Programs.

(1) Purpose:

[UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03]
NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.): R510-200
Filing ID: 54294

NOTICES OF PROPOSED RULES

Agency Information

1. Department: Human Services
2. Agency: Aging and Adult Services
3. Building: MASOB
4. Street address: 195 N 1950 S
5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Phone: Email:
Jean Boyack 801-568-4263 jboyack@utah.gov
Jacob Murakami 801-538-4641 jmurakami@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R510-200. Long-Term Care Ombudsman Program Policy

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This rule has been redrafted to comply with Executive Order No. 2021-12.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Language changed to conform to the Administrative Rules' Rulewriting Manual for Utah. Substantive changes align with current practice and reflect current statutory or regulatory requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The repeal and reenactment of this rule is due to Executive No. Order 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The repeal and reenactment of this rule is due to Executive No. Order 2021-12, it is technical in nature and does not
NOTICES OF PROPOSED RULES

reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal and reenactment of this rule is due to Executive Order 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the repeal and reenactment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 62A-3-2 | Section 62A-1-111 | Older Americans Act of 1965, 42 U.S.C. 3058g

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the
R510. Human Services, Aging and Adult Services.
R510-200. Long-Term Care Ombudsman Program[Policy].

(1) "Operation of the State Long-Term Care Ombudsman Program is a joint responsibility of the State Long-Term Care Ombudsman, the Division, and local AAAs. Authority to administer the LTCOP is derived from the Older Americans Act (OAA) Title VII: Allotments for Vulnerable Elder Rights Protection Activities and UC 62A-3-201 et seq.

(2) "This provision does not limit the authority of the State Long-Term Care Ombudsman Program to provide ombudsman services to populations other than residents of long-term care facilities so long as the appropriations under the Act are utilized to serve residents of long-term care facilities, as authorized by the Act.

R510-200-1. Authority.

(1) The State Long-Term Care Ombudsman Program is created for the purpose of promoting, advocating, and ensuring the adequacy of care received, and the quality of life experienced by residents of long-term care facilities within the State.

(2) This provision does not limit the authority of the State Long-Term Care Ombudsman Program to provide ombudsman services to populations other than residents of long-term care facilities so long as the appropriations under the Act are utilized to serve residents of long-term care facilities, as authorized by the Act.

R510-200-2. Purpose.

(1) The State Long-Term Care Ombudsman Program is created for the purpose of promoting, advocating, and ensuring the adequacy of care received, and the quality of life experienced by residents of long-term care facilities within the State.

(2) This provision does not limit the authority of the State Long-Term Care Ombudsman Program to provide ombudsman services to populations other than residents of long-term care facilities so long as the appropriations under the Act are utilized to serve residents of long-term care facilities, as authorized by the Act.


(1) "Area Agency on Aging" hereinafter "AAA" is as defined in UC 62A-3-101.

(2) "Direct Supervision" means a supervisor is present at all times, either physically or by telephone.

(3) "Division" is as defined in UC 62A-3-101.

(4) "Family Council" is the organized forum for families, as a group, to influence the quality of care for the residents.

(5) "Government Agency" is as defined in UC 62A-3-202.

(6) "Immediate Family" means a member of the household or a relative with whom there is a close personal or significant financial relationship.

(7) "Long-Term Care Ombudsman," hereinafter "LTCO" means the employees or volunteers designated by the State Long-Term Care Ombudsman to fulfill the duties of the State Long-Term Care Ombudsman Program. They are advocates for resident rights to help protect the quality of life and quality of care for anyone who resides in a long-term care facility.

(8) "Long-Term Care Ombudsman Program," hereinafter "LTCOP" means the Local LTCOP and includes its employees, officers, agents, and volunteers, which are designated by the Division to implement the LTCOP within the defined geographic area of the AAA or Provider Agency.

(9) "Long-Term Care Facility" is as defined in UC 62A-3-202.

(10) "Office of the State Long-Term Care Ombudsman," hereinafter "Office," means the organizational unit in a State or territory which is headed by a SLTCO.

(11) "Provider Agency" is defined as an entity designated by the SLTCO to provide ombudsman services in a particular area.

(12) "Resident" is defined as an individual who resides in a long-term care facility.

(13) "Resident Council" is an independent, organized group of residents living in a long-term care facility that meets on a regular basis to discuss concerns, develop suggestions on improving services, and plan social activities.

(14) "Resident Representative" means, excluding any intention to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, State or Federal law, or a court of competent jurisdiction, any of the following:

(a) an individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making, access medical, social, or other personal information of the resident, manage financial matters, or receive notifications;

(b) a person authorized by State or Federal law (including agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision making, access medical, social, or other personal information of the resident; manage financial matters; or receive notifications;

(c) legal representative; or

(d) the court-appointed guardian or conservator of a resident.

(15) "Resident Rights" means the basic human rights that residents of long-term care facilities are entitled to regardless of residency in such facilities.

(16) "State Long-Term Care Ombudsman," hereinafter "SLTCO," means the individual who heads the Office and is responsible to personally or through representatives of the Office, advocate for residents.

(17) "State Long-Term Care Ombudsman Program," hereinafter "SLTCOP," means the program through which the functions and duties of the Office are carried out, consisting of the ombudsman, the Office headed by the ombudsman, and the representatives of the Office.

(18) "Willful Interference" means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the ombudsman from performing any of his or her responsibilities, or from performing any of the duties of the Office.

R510-200-4. Program Administration.

(1) Division.

(a) shall establish a State Office of Long-Term Care Ombudsman (Office). The Office is a distinct entity, separately identifiable, and located within or connected to the Division.

(b) shall require that the SLTCO serve on a full time basis.

(c) shall not require or request the ombudsman to be responsible for leading, managing, or performing the work of non-ombudsman services, or programs except on a time limited, intermittent basis.

(d) shall ensure that the SLTCO meets minimum qualifications, including demonstrated expertise in:

(i) long-term services and supports or other direct services for older persons or other residents of long-term care facilities;

(ii) consumer-oriented public policy advocacy;

(iii) leadership and program management skills; and

(iv) negotiation and problem resolution skills.

(c) shall ensure that the SLTCO complies with the relevant provisions of the Older Americans Act (OAA) and this rule;
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(f) shall ensure that the SLTCO has sufficient authority to fully perform all the functions, responsibilities, and duties of the Office;

(g) shall provide opportunities for training for the SLTCO in order to maintain expertise to serve as an effective advocate for residents;

(h) shall provide personal supervision and management of the SLTCO;

(i) shall integrate the goals and objectives of the Office into the State plan;

(j) shall provide elder rights leadership;

(k) ensure that mechanisms are in place to prohibit and investigate allegations of willful interference, retaliation, and reprisals:

(l) by a long-term care facility, other entity, or individual with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of the Office; or

(m) by a long-term care facility, other entity, or individual against the ombudsman or representatives of the Office for fulfillment of the functions, responsibilities, or duties enumerated in this rule.

(1) shall provide appropriate sanctions with respect to willful interference, retaliation, and reprisals;

(m) shall not have or maintain personnel policies or practices which prohibit the ombudsman from performing the functions and responsibilities of the ombudsman; and

(n) may require that the SLTCO or other employees or volunteers of the Office adhere to the other personnel policies and procedures of the Division which are otherwise lawful.

(2) SLTCO.

(a) the SLTCO is responsible for:

(i) oversight of the statewide LTCOP;

(ii) providing training to local LTCO staff and volunteers;

(iii) provision of public information regarding the LTCOP;

(iv) working with Federal agencies, the State Legislature, other units of State government agency, and other agencies to obtain funding and other resources;

(v) developing cooperative relationships among agencies involved in long term care;

(vi) resolving conflicts among agencies regarding long-term care;

(vii) assuring consistent, statewide reporting of LTCOP activities;

(viii) monitoring local LTCOPs on an annual basis, or as needed as determined by the SLTCO to ensure that LTCOP goals are being met;

(ix) providing technical assistance to local LTCOPs;

(x) maintaining close communication and cooperation in the LTCO statewide network;

(xi) recommending rules governing implementation of the LTCOP; and

(xii) providing overall leadership for the Utah LTCOP.

(b) the SLTCO shall propose to the State agency, hereinafter "Division" policies, procedures, and standards for administration of the ombudsman program including:

(i) leadership and personal oversight of the statewide LTCOP including:

(A) final approval in hiring of local LTCO Representatives of the Office;

(B) final approval and/or determination in decertification of local LTCO Representatives;

(C) monitoring the performance of local Ombudsman entities; and

(D) evaluating statewide LTCOP performance.

(c) identify, investigate, and resolve complaints that:

(i) are made by, or on behalf of, residents; and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of:

(A) providers, or representatives of providers, of long-term care services;

(B) public agencies; or

(C) health and social service agencies.

(d) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(e) inform residents about means of obtaining services provided by the Ombudsman Program;

(f) ensure that residents have regular and timely access to the services provided through the Office and that the residents and complaints receive timely responses from the representatives of the Office to complaints;

(g) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(h) long-term care advocacy:

(i) prioritize abuse, gross neglect, exploitation, and time-sensitive complaints;

(ii) coordinate with statewide and national advocacy organizations involved in long-term care issues; and

(iii) maintain awareness of current issues and trends in long-term care.

(i) provide administrative and technical assistance to ombudsman entities to assist the entities in participating in the program;

(j) practice vigilance regarding laws and regulations that pertain to the Office by:

(i) analyze, facilitate public comment on, recommend any changes in, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental agency policies and actions, that pertain to the health, safety, welfare, and rights of the residents;

(k) the SLTCO and representatives of the Office must be excluded from State lobbying prohibitions that conflict with OAA provisions. They must have the ability, without representing the positions of the State, Division or other entity housing the Office, to make independent determinations and establish positions and opinions of the office regarding:

(i) disclosure of information maintained by the LTCOP;

(ii) recommendations to changes in laws, regulations, policies, and actions; and

(iii) provision of information to public and private agencies, legislators, the media, and others, regarding the problems and concerns of residents and recommendations related to those problems and concerns;

(l) providing for the certification and training of local LTCO to carry out LTCOP services of investigating and resolving complaints, conducting consultations, and providing information about the LTCOP;

(m) through adoption of memoranda of understanding and other means, the SLTCO shall lead state-level coordination and
support appropriate local ombudsman entity coordination, between the Ombudsman Program and other entities with responsibilities relevant to the health, safety, well being, or rights of residents of long-term care facilities.

(3) Fiscal Management.

(a) the SLTCO shall determine the use of fiscal resources appropriated or otherwise available for the operation of the Office by:
   (i) where local ombudsman entities are designated, the ombudsman shall approve the allocations of Federal and State funds provided to such entities, subject to applicable Federal and State laws and policies; and
   (ii) the ombudsman shall determine that program budgets and expenditures of the Office and local ombudsman entities are consistent with laws, policies, and procedures governing the Ombudsman Program.

   (i) Annual Report.
   (a) the SLTCO shall independently develop and provide final approval of an annual report. Such report shall:
      (i) describe the activities carried out by the Office in the year for which the report is prepared;
      (ii) contain analysis of Ombudsman Program data;
      (iii) describe evaluation of the problems experienced by, and the complaints made by, or on behalf of, residents of long-term care facilities;
      (iv) contain policy, regulatory, and/or legislative recommendations for improving quality of the care and life of the residents, protecting the health, safety, welfare, and rights of the residents, and resolving resident complaints and identified problems or barriers;
      (v) contain analysis of the success of the Ombudsman Program, including success in providing services to residents of long-term care facilities (nursing homes and assisted living facilities);
      (vi) describe barriers that prevent the optimal operation of the Ombudsman Program; and
      (vii) be provided to the following committees of the Utah State Legislature:
         (A) House Health and Human Services Committee;
         (B) Senate Health and Human Services Committee; and
         (C) Social Services Appropriations Committee.
   (b) in order to complete the required annual report, the SLTCO shall collect an annual report from each local ombudsman entity. Such report shall adhere to the guidelines set forth in this section.

(5) Information and Assistance.

(a) the SLTCO shall provide information and referrals regarding long-term care issues and the LTCP to the general public, residents, community organizations, and other agencies.

(6) Technical Assistance.

(a) the SLTCO shall:
   (i) provide specialized technical assistance, consultation, training, and resources to local LTCCOs, provider agencies, and the Division related to the operation of the LTCP;
   (ii) provide statewide LTCP data as available;
   (iii) monitoring of the local LTCP;
   (iv) maintain activities and complaint data for the statewide LTCP regarding Program components; and
   (v) may make site visits or assign a designee to evaluate local LTCCO Entities.

(7) Central Registry.

(a) the SLTCO shall maintain a central registry of all local ombudsmen. The registry shall retain the following information on each:
   (i) the ombudsman’s name, address, and telephone number;
   (ii) a summary of the ombudsman’s qualifications;
   (iii) the AAA with which the ombudsman is associated;
   (iv) the most recent date of certification;
   (v) any conflict of interest; and
   (vi) any information pertaining to any decertification actions and the results of those actions.

R510-200-5. Program Components.

(1) Program Components.

(a) each local LTCP shall provide services to protect the health, safety, welfare and rights of residents.

(b) the following services, known as Program Components, shall be performed in accordance with the following procedures and standards and as directed by the Office of the SLTCO:
   (a) the activities carried out by the AAA/Provider Agency in the area covered by the AAA/Provider Agency;
   (b) contain analysis of the LTCP data for the area covered by the AAA/Provider Agency;
   (c) contain analysis of the successes and failures of the LTCP for the area covered by the AAA/Provider Agency;
   (d) describe barriers that prevent the optimal operation of the LTCP in the area covered by the AAA/Provider Agency;
   (e) volunteer management; and
   (f) interagency coordination.

R510-200-6. Area Agency on Aging/Provider Agency Responsibilities.

(1) The AAA/Provider Agency shall:
   (a) administer the contract for the daily operation of the local LTCP in its service area, including:
      (i) meet the criteria to administer the local LTCP contract;
      (ii) fiscal and Program monitoring of the local LTCP in order to assess provision of LTCCO services pursuant to the contract;
      (iii) provide annually a fiscal report to the SLTCO;
      (iv) provide an annual report to the SLTCO. Such report shall:
         (A) describe the activities carried out by the AAA/Provider Agency for the year in which the report is prepared;
         (B) contain analysis of the LTCP data for the area covered by the AAA/Provider Agency;
         (C) describe evaluation of the problems experienced by, and the complaints made by, or on behalf of, residents of long-term care facilities for the area covered by the AAA/Provider Agency;
         (D) contain analysis of the successes and failures of the LTCP for the area covered by the AAA/Provider Agency; and
         (E) describe barriers that prevent the optimal operation of the LTCP in the area covered by the AAA/Provider Agency.
   (b) support the local LTCP by:
shall seek communication of informed consent from such resident to abuse, gross neglect, or exploitation of a resident, the ombudsman
(i) if the SLTCO or LTCO personally witnesses suspected complainant without consent or court order, with the exception of:
reporting would disclose identifying information of a resident or records;
(ii) may require that representatives of the LTCOP adhere Responsibilities.
(1) Certified Long-Term Care Ombudsman
R510-200-7. Long-Term Care Ombudsman Responsibilities.

(1) Certified Long Term Care Ombudsman Responsibilities.
(a) the SLTCO and representatives of the Office shall be excluded from abuse reporting requirements including when the reporting would disclose identifying information of a resident or complainant without consent or court order, with the exception of:
(i) if the SLTCO or LTCO personally witnesses suspected abuse, gross neglect, or exploitation of a resident, the ombudsman shall seek communication of informed consent from such resident to disclose resident-identifying information to appropriate agencies, or
(ii) if resident is unable to communicate consent, the ombudsman shall follow the consent protocol outlined in section R510 200 20.

(b) providing LTCO services to protect the health, safety, welfare and rights of residents of long-term care facilities in accordance with the provisions of the Federal and State laws governing the LTCO and in accordance with the provisions of the Provider Agency contract for LTCO services;
(c) fulfilling the program components outlined in contractual agreement;
(d) documenting LTCO activities and case work as required by the rules, regulations, and requests by the SLTCO;
(e) visit all long-term care facilities in the coverage area of the AAA/Provider Agency at least quarterly for a non-compliant related walk through;
(f) prohibiting inappropriate access to LTCO records in the possession of the LT CPO;
(g) completing data entry into the ombudsman computer program by:
(i) including case information in all fields of:
(A) case management;
(B) activities;
(C) consultations; and
(D) other required information.
(h) assuring all data is updated, completed, and dispensed to the SLTCO for NORS and other reporting requests or requirements;
(i) performing each responsibility in accordance with all applicable Federal and State laws, regulations, and policies, and keeping the SLTCO informed of all critical issues as they arise; and
(j) follow complaint process procedures as follows:
(i) investigate complaints and develop an action plan to resolve the complaint;
(ii) provide supervision over the implementation of the action plan and any follow up determined necessary;
(k) actions that are outside the scope of authority of a LTCO and are not the responsibility of a LTCO include:
(i) transporting a client;
(ii) providing clients services that should be provided by the facility in which they reside;
(iii) acting as a guardian;
(iv) acting as a payee;
(v) signing consent forms for survey, medication, or restraints;
(vi) signing medical directives; and
(vii) receiving client power of attorney.

(1) This rule incorporates by reference UC 62A-3-203; UC 62A 3-204.
(2) AAA/Provider Agency Role.
(a) the local Provider Agency of the LTCO shall develop written procedures for recruitment, training, and oversight of volunteers with the express approval of the SLTCO.
(b) the procedures shall be consistent with the Ombudsman Program including training and certification requirements as set forth by the SLTCO.
(3) SLTCO Role.
   (a) the SLTCO shall provide technical assistance to assist each local LTCOP in developing and maintaining its volunteer program.
   (4) LTCO Staff Role.
   (a) LTCO staff must ensure direct supervision of the LTCO volunteer program; include all LTCO volunteers within their defined geographical area of the AAA or Provider Agency.
   (5) LTCO Volunteer Role.
   (a) a volunteer who has met the certification requirements shall:
   (i) work under the direct supervision of a LTCO staff person as designated by the LTCO supervisor;
   (ii) be qualified to perform ombudsman responsibilities including provision of the program components;
   (iii) provide appropriate documentation and reporting requirements to the local LTCOP of all activities done on behalf of the LTCOP; and
   (iv) perform his or her responsibilities in accordance with all applicable Federal and State laws, rules, regulations, policies, and procedures.

(1) This rule incorporates by reference UC 62A-3-204.
(2) Designation of Ombudsman Programs: the SLTCO may designate provider agencies to provide ombudsman services throughout Utah.
(3) Criteria for Designation as a Provider Agency: to be eligible for designation as a Provider Agency, an entity must:
   (a) be a government agency or nonprofit entity;
   (b) not have any organizational conflicts of interest identified in R510 200-14 without an appropriate remedy of conflict of interest approved by SLTCO;
   (c) have demonstrated to the satisfaction of the SLTCO personally, or a representative of the Office with final approval from the SLTCO, the capability to carry out the responsibilities of the Office; and
   (d) meet all requirements of this Rule.
(4) Process for Designation when the AAA Serves as the Provider Agency.
   (a) the SLTCO may designate the AAA as the Provider Agency where:
   (i) the AAA meets the criteria for designation;
   (ii) the AAA is not otherwise prohibited from fulfilling the duties of the Provider Agency; and
   (iii) the execution date (State fiscal year) of the AAA's contract with the Division to provide LTCOP services shall constitute the effective date of the designation.
(5) Process by which the AAA sub-contracts with and designates another entity as the Provider Agency.
   (a) the AAA may enter into a contract with a Provider Agency for the provision of the LTCOP services in their designated geographical service area. Said contract must:
   (i) specify the service area;
   (ii) require the Provider Agency to adhere to all applicable Federal and State laws, regulations, and policies; and
   (iii) provide that the contract automatically terminates if the AAA or the Provider Agency is de-designated by the SLTCO.
   (b) the execution date (State fiscal year) of the Provider Agency's contract with the AAA to provide LTCOP Services shall constitute the effective date of the designation.
(6) Process for designation of a Provider Agency, where the Division contracts directly with the Provider Agency.
   (a) where the contract for the LTCOP services is not with or through the AAA, the SLTCO may designate a Provider Agency as follows:
   (i) Division shall issue a Request for Proposal (RFP), approved by the SLTCO, seeking an entity to provide LTCOP services within a particular service area. The RFP shall identify the criteria for designation as a Provider Agency and shall request submission of documents supporting the entity's claim to meet these criteria; and
   (ii) Division shall require that all responding entities develop an ombudsman services plan setting forth:
   (A) the goals and objectives of such entity in providing LTCOP services;
   (B) a description of how each Program Component, from section R510-200-5, SLTCOP Program Administration, shall be met including its staffing plan for the local LTCOP, and
   (C) a description of the resources, which will be provided to assist in the operation of the local LTCOP.
   (b) Division may contract with a Provider Agency to provide LTCOP services. Such contract must:
   (i) specify the service area;
   (ii) require the Provider Agency to adhere to all applicable Federal and State laws, regulations, and policies; and
   (iii) state that the contract will be automatically terminated if the provider is de-designated by the SLTCO.
   (c) the execution date of the Provider Agency's contract with the Division to provide ombudsman services shall be the effective date of the designation.

R510-200-10. De-Designation of Service Providers.
(1) Criteria for De-designation.
   (a) the SLTCO may de-designate an entity, including an AAA, as a Provider Agency for one or more of the following reasons:
   (i) failure to continue to meet the criteria for designation;
   (ii) existence of a conflict of interest with the LTCOP as outlined in section R510-200-14, Conflicts of Interest;
   (iii) failure to disclose any conflict of interest;
   (iv) violation of SLTCO confidentiality requirements as outlined in section R510-200-24, Confidentiality;
   (v) failure to provide adequate LTCOP services;
   (vi) failure to fill a vacant ombudsman position;
   (vii) failure to use funds designated for the LTCOP for LTCOP services or as directed by the SLTCO as outlined in section R510-200-4, Program Administration;
   (viii) failure to adhere to the terms of the contract for the provision of ombudsman services; or
   (ix) failure to adhere to applicable Federal and State laws and regulations.
   (2) Process for De-designation of a Provider Agency.
   (a) when an AAA serves as a Provider Agency, the process to de-designate the Provider Agency shall be as follows:
   (i) the SLTCO shall send notice of the intent to de-designate to the AAA. Notice shall include the reason for de-designation;
   (ii) the Provider Agency shall respond in writing to the notice within ten business days, outlining its plan to reach compliance; and

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(3) Voluntary Withdrawal of a Provider Agency.
   (i) a Provider Agency may voluntarily relinquish its designation by:
      (a) providing written notice 90 days in advance of the date of relinquishment of designation to the SLTCO and AAA; and
      (b) maintaining and performing program activities during the 90 days.

(4) Continuation of Ombudsman Services.
   (a) when a Provider Agency is in the process of appealing its de-designation or has relinquished its designation;
      (i) the SLTCO or the AAA, if applicable, may arrange for the provision of ombudsman services until a new Provider Agency is designated;
      (ii) the Provider Agency shall, at the sole discretion of the SLTCO, surrender any equipment and supplies purchased with State or Federal funds designated for LTCO services; and
      (iii) the Provider Agency shall surrender the balance of any State or Federal monies to the AAA, or to the SLTCO where the AAA serves as the Provider Agency.

(5) Appeal Procedures of De-Designation.
   (a) the Provider Agency may file an appeal with the Director of the Division to have complaints heard regarding any de-designation activities by:
      (i) contacting the Director in writing within ten business days of the SLTCO final decision for de-designation; and
      (ii) address directly:
         (A) the stated reason for de-designation;

(B) the stated reason for de-designation;
   (ii) address directly:
      (A) the stated reason for de-designation;

(D) how said corrections qualify the Provider Agency for re-designation; and
   (D) sub-contracted agencies must use this process to appeal directly to the AAA.

(b) where the Director of the Division denies the appeal for re-designation, final appeal may be made to the State of Utah Department of Human Services Deputy Director by:
   (i) contacting the Deputy Director in writing within ten business days of the Division Director's denial; and
   (ii) address directly:
      (A) the stated reason for de-designation;
      (B) the stated reason for denial of appeal for re-designation;
      (C) how the Provider Agency has made corrections and come into compliance; and
      (D) how said corrections qualify the Provider Agency for re-designation.

   (1) Criteria for certification as an ombudsman.
      (a) to be certified as a LTCO, an individual must:
         (i) demonstrate ability to carry out the responsibilities of a LTCO;
         (ii) ombudsman staff, with the exception of volunteers and staff hired prior to July 1, 2018, must have a bachelor's degree in social work or related field and/or three years of experience in a related field or approval from the SLTCO if the best candidate does not have the degree or experience;
         (iii) have taken and passed a criminal background check through the Utah Department of Public Safety Bureau of Criminal Identification (BCI) paid for by the individual, or the corresponding AAA, or the contract provider;
         (iv) be reviewed in the Adult Protective Services (APS) Perpetrator registry as incorporated by reference UC 62A-3-311 to ensure APS has not registered a supported finding against the individual for abuse, neglect, or exploitation;
         (v) meet the minimum qualifications for the applicable LTCO position;
         (vi) complete the certification training requirements;
         (vii) complete the certification testing requirement as soon as possible, but no later than six months after beginning the certification training that is approved by the SLTCO; and
         (viii) must have a general knowledge of long-term care facilities and/or gerontology, long-term care, health care, legal or human service programs, advocacy, complaint and dispute resolution, mediation, or investigation.

(2) Notification of Certification.
   (a) provided that all certification requirements have been met, the SLTCO shall:
      (i) send a State authorized certification badge to the individual being designated as a LTCO within 30 days of completion of certification requirements.

(3) Training and Certification Requirements for ombudsman.
   (a) there is one tier of Ombudsmen, the following requirements apply for both paid staff and volunteers:
      (i) to become a certified ombudsman, 40 hours of classroom training is required in addition to any previous classroom
training and 20 hours of job shadowing. Appropriate training shall be established by and at the sole discretion of the SLTCO, and (ii) the position of certified ombudsman requires multiple examinations. These exams: (A) require scores of 70% or higher; (B) failure to achieve 70% will result in the opportunity for the examinee to retake the exam once within 30 days; (C) failure to achieve 70% on a second attempt will result in a requirement to receive further training; or (D) failure to achieve 70% on a third attempt will result in the examinee’s disqualification for certification.

(4) Recertification. (a) the SLTCO will provide for a minimum of 24 hours LTCO specific training annually including: (i) a two day annual mandatory training for all certified LTCO; or (ii) an attendance exception may be granted by the SLTCO at his discretion. (b) for first year LTCO, the required initial training will accrue toward the annual training requirement. (c) with documentation of attendance, community training related to the long-term care population can serve to meet annual training requirements in lieu of State sponsored LTCO training. (d) to be re-certified as a LTCO, an individual must: (i) fulfill LTCO responsibilities as outlined in R510-200-7, Long-Term Care Ombudsman Responsibilities; (ii) renew certification each year by completing a minimum of 24 hours of continued education, as approved by SLTCO; and (iii) pass a criminal background check through the Utah Department of Public Safety BCI every three years, or at the request of the SLTCO, paid for by the corresponding AAA or contract provider. (e) after any absence of 12 months or more, the LTCO must complete the full required certified ombudsman training.

R510-200-12. De-Certification of an Individual as an Ombudsman. (1) Criteria for de-certifying an ombudsman. (a) the SLTCO shall de-certify a LTCO for any of the following reasons: (i) failure of the individual to meet and/or maintain the criteria for certification; (ii) existence of a conflict of interest; (iii) intentional failure of the individual to disclose any conflict of interest; (iv) performing a function not recognized or sanctioned by the LTCOP; (v) violation of the confidentiality requirements; (vi) failure to fulfill LTCO responsibilities as outlined in R510-200-7, Long-Term Care Ombudsman Responsibilities; (vii) falsifying records; (viii) failure to follow the direction of the SLTCO, or designee, regarding LTCO procedures and practices; (ix) a change in employment duties which is incompatible with LTCO duties; or (x) separation from the LTCO including: (A) termination of employment by the Provider Agency; (B) non-fulfillment of job responsibilities; (C) termination or non-renewal of Provider Agency contract for provision of LTCO services; or (D) failure to act in accordance with applicable Federal and State laws and regulations.

(2) Process to de-certify an ombudsman. (a) prior to de-certifying, the SLTCO shall: (i) consult with the relevant AAA and/or Provider Agency to consider remedial actions that could be taken to avoid de-certification; and (ii) discuss with the relevant AAA and/or Provider Agency the impact of the action which led to de-certification. (b) the SLTCO shall provide written notice to the LTCO to be de-certified and the Provider Agency. Such notice shall: (i) specify the reasons for the intended de-certification; and (ii) set for the effective date of the de-certification. (3) Upon completion of the de-certification actions, the SLTCO shall record the actions and results in the central registry.

R510-200-13. Refusal to Certify an Individual as an Ombudsman. (1) Criteria for Refusal to Certify an Individual as an ombudsman. (a) the SLTCO shall refuse to certify an individual as a LTCO for any of the following reasons: (i) it is determined by the SLTCO that the individual does not exhibit the necessary skills for the position; (ii) failure of the individual to meet and/or maintain the criteria for certification; (iii) existence of a conflict of interest; (iv) failure of the individual to disclose any conflict of interest; or (v) falsifying records. (2) Process for Refusal to Certify an Individual as an ombudsman. (a) prior to refusing to certify, the SLTCO shall: (i) consult with the relevant AAA and/or Provider Agency to consider remedial actions that could be taken to avoid refusal to certify. (b) the SLTCO shall refuse to certify an individual as a LTCO by providing written notice of such refusal to the administering agency supervisor. Such notice shall: (i) specify the reasons for the refusal to certify; and (ii) set forth the effective date of such refusal.

R510-200-14. Conflicts of Interest. (1) A conflict of interest exists in the LTCOP when interests intrude upon, interfere with, or threaten to negate the ability of the LTCO to advocate without compromise on behalf of long-term care facility residents. The SLTCO shall have no conflict of interest that would interfere with performing the function of this position. (2) Organizational Conflicts. (a) organization conflicts arise when the LTCOP is placed with a service provider that: (i) is responsible for licensing, surveying, or certifying long-term care facilities (45 CFR 1324.21(a)(1)); (ii) is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities (OAA Sec. 712(9)(2)(A)(i) and (45 CFR 1324.21(a)(2))); NOTE: OAA citation does not have “or individuals with disabilities”); (iii) is responsible for licensing, certifying, or surveying long-term care services in the State (OAA Sec. 712(9)(2)(A)(ii)); (iv) has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility (45 CFR 1324.21(a)(3));
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(v) has governing board members with any ownership, investment or employment interest in long-term care facilities (45 CFR 1324.21(a)(1));

(vi) provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities (45 CFR 1324.21(a)(5));

(vii) provides long-term care services, including programs carried out under a Medicaid waiver approved under section 1115 of the Social Security Act (42 U.S.C. 1315) or under subsection (b) or (c) of section 1915 of the Social Security Act (42 U.S.C. 1396n), or under a Medicaid State plan amendment under subsection (i), (j), or (k) of section 1915 of the Social Security Act (42 U.S.C. 1396n) (OAA Sec. 712(f)(2)(A)(iii));

(viii) provides long-term care management (OAA Sec. 712(f)(2)(A)(iv));

(ix) provides long-term care coordination or case management for residents of long-term care facilities (45 CFR 1324.21(a)(6));

(x) sets rates for long-term care facilities (45 CFR 1324.21(a)(7));

(xi) sets rates for long-term care services (OAA Sec. 712(f)(2)(A)(iv));

(xii) provides adult protective services (OAA Sec. 712(f)(2)(A)(v));

(xiii) is responsible for eligibility determinations for the Medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (OAA Sec. 712(f)(2)(A)(viii));

(xiv) is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities (45 CFR 1324.21(a)(9));

(xv) conducts preadmission screening for placements in facilities described in clause (i) (OAA Sec. 712(f)(2)(A)(xiii));

(xvi) makes decisions regarding admission or discharge of individuals to or from such facilities (OAA Sec. 712(f)(2)(A)(xiv));

(xvii) provides guardianship, conservatorship or other fiduciary or surrogate decision making services for residents of long-term care facilities (45 CFR 1324.21(a)(12));

(xviii) any other service (e.g., Name of Service) provided by the agency that could pose a potential or actual conflict of interest, including other work done by LTCO employee;

(xix) any other perceived or actual conflicts of interest from the resident/consumer/general public perspective with the LTCOP; or

(xx) where there is a shared “front door” to the agency where the LTCOP is located, how the agency determines where to direct calls, emails, or other contacts that come in to the agency.

(3) Individual ombudsman conflicts.

(a) Conflicts for a LTCO include the following:

(i) involvement in the licensing or certification of a long-term care facility or provision of a long-term care service, including solicitation of employment by LTCO, or a member of his/her immediate family;

(ii) ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed LTC facility or LTC service by LTCO or a member of his/her immediate family;

(iii) employment or solicitation of employment of LTCO or a member of his/her immediate family by a LTC facility, participation in the management of a LTC facility by LTCO or a member of his/her immediate family;

(iv) receipt of, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a LTC facility by LTCO or a member of his/her immediate family;

(v) accepting any gifts or gratuities, including meals, from a LTC facility or resident or resident representative or being named as the beneficiary of an estate, will, or trust of resident, or resident representative;

(vi) accepting money or any other consideration from anyone other than the Provider Agency or other entity designated by the Office for the performance of an act in the regular course of LTC ombudsman duties;

(vii) provision of services with conflicting responsibilities while serving as a LTCO, such as adult protective services; discharge planning; serving as guardian, agent under power of attorney or other surrogate decision-maker for LTC residents in the service area;

(viii) participation in preadmission screening or case management for LTC residents;

(ix) serving residents of a facility in which an immediate family member resides; or

(x) participation in activities which negatively impact the LTCO’s ability to serve residents, or are likely to create a perception that the LTCO’s interest is other than as a resident advocate.

(b) under no circumstances shall a LTCO be appointed or employed who has been employed by or participating in the management of a long-term care facility within the previous twelve months.

(4) Completing a Conflict of Interest Agreement.

(a) To ensure compliance with conflict of interest standards;

(i) all staff and volunteers requesting ombudsman certification will update their conflict of interest information upon hiring and then annually at the beginning of the Federal Fiscal Year (FFY), and on an as needed basis as determined by the SLTCO, to affirm that they are in compliance; and

(ii) SLTCO will review conflict of interest with all LTCO annually at the beginning of FFY.

(5) Remediating Conflict.

(a) where an actual or potential conflict of interest within the LTCOP has been identified, all agents of the AAAs, provider agencies, and LTCOs have an affirmative duty to notify the SLTCO of said conflict;

(b) the SLTCO shall determine whether appropriate actions may be taken to sufficiently remedy the conflict.

(c) a conflict can be sufficiently remedied only:

(i) where the existence of the conflict does not and cannot interfere with any duties of the LTCOP; and

(ii) where the conflict is not likely to alter the perception of the LTCOP as an independent advocate for residents of long-term care facilities;

(6) Remediating Organizational Conflict.

(a) where organizational conflicts have been identified within an AAA, Provider Agency, or governing board, the following steps shall be taken to ensure the conflict can be sufficiently remedied:

(i) a written remedial plan shall be developed within ten business days of identification of the conflict to the SLTCO;

(ii) the remedial plan must identify the actual conflict and provide assurances, which shall mitigate the negative impact of the conflict on the LTCOP;
(iii) the AAA, Provider Agency, or governing board shall cease all LTCO activities during the remedial period; and
(iv) the remedial plan must be mutually agreed upon and signed by the agency in which the conflict exists and by the SLTCO.
(7) Remediating individual ombudsman conflicts.
(a) where individual conflicts have been identified, the following steps shall be taken to ensure the conflict can be sufficiently remedied:
(i) development of a written remedial plan;
(A) where the individual is an applicant for a position as a LTCO, an plan shall be developed before the individual is hired for the position;
(B) where the individual is an applicant for certification as a volunteer ombudsman, a plan shall be developed before the individual is certified, or
(C) where the individual is a LTCO staff or volunteer, a plan shall be developed within ten business days of identification of the conflict to the SLTCO. No action shall be taken by the individual on behalf of the LTCOP until the plan is submitted to the SLTCO.
(ii) the remedial plan must:
(A) identify the actual conflict; and
(B) provide assurances, which shall mitigate the negative impact of the conflict on the LTCOP.
(iii) the remedial plan must be mutually agreed upon between the individual LTCO and the SLTCO; and
(iv) ombudsmen are not permitted to serve residents in facilities with which they have a conflict of interest except at the determination of the SLTCO.
(8) Failure to Identify or Remedy a Conflict of Interest.
(a) failure on the part of a LTCO or Provider Agency to identify and report to the SLTCO a conflict of interest may:
(i) be grounds for refusal to certify;
(ii) may result in the de-certification of the LTCO and/or the AAA/Provider Agency; or
(iii) may result in the termination of the LTCO and/or the AAA/Provider Agency.
(b) existence of an unremedied conflict of interest could be grounds for:
(i) the de-certification of the LTCO headed by the AAA/Provider Agency and termination of the contract between the AAA/Provider Agency and the LTCOP;
(ii) de-certification of an LTCO, or
(iii) termination of an LTCO.
(c) appeals may be made following the Grievance Procedure process found in part R510-200-16.
(9) Division, AAAs, and Provider Agencies.
(a) when considering the employment or appointment of an individual as the LTCO, Division, AAAs and Provider Agencies shall:
(i) take reasonable steps to avoid employing or appointing an individual who has an unremedied conflict of interest or who has a member of the immediate family with an unremedied conflict of interest;
(ii) take reasonable steps to avoid assigning an individual to perform duties which would constitute an unremedied conflict of interest;
(iii) establish a process for periodic review and identification of conflicts of the ombudsman and representatives of the Office; and
(iv) take steps, as outlined, to remove or remedy conflicts,
(1) This rule incorporates by reference UC 62A-3-206.
(2) Access to resident/facility records:
(a) the SLTCOP is a Health Oversight Agency, thus the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not preclude release by covered entities of resident private health information or other resident identifying information to the Ombudsman program, including residents:
(i) medical records;
(ii) social records;
(iii) room numbers;
(iv) names;
(v) administrative records;
(vi) policies;
(vii) documents to which the resident or general public has access;
(viii) all long-term care facility licensing and certification records maintained by the State; and
(ix) other resident records:
(b) each LTCO has access to records of the local LTCOP for which he or she serves; and
(c) for the purpose of providing temporary coverage for another local LTCOP, a LTCO may have access to the LTCO records of the other local LTCOP to the extent necessary to provide such coverage.
(3) Division, AAA, and Provider Agency access to records:
(a) the Department of Human Services (DHS), Division, and the relevant AAA and/or Provider Agency may review records, which reflect the activities of the LTCOP;
(b) Division, AAA, or Provider Agency may not review records that disclose the identity of any resident or complainant, except for the SLTCO; and
(c) no State agency, AAA, or Provider Agency may require a LTCO to disclose the identity of a complainant or resident except as specifically provided by Federal or State law.
(4) Maintenance of LTCO records and the LTCO reporting system:
(a) maintaining records through an ombudsman computer program, a statewide uniform reporting system to collect and analyze data relating to complaints, cases, and activities in long-term care facilities;
(b) any paper documentation shall be scanned into the ombudsman computer program.
(1) Concerns.
(a) all concerns that individuals may have regarding the LTCO shall be documented and include:
(i) outcomes; and
(ii) relevant actions.
(2) Timeliness.
(a) all grievances shall be submitted in writing to the Division AAA/Provider Agency administering the LTCOP.
(b) the procedure for submitting a grievance is as follows:
(i) LTCO:
(A) complaints about LTCO shall be directed to the local LTCOP Supervisor;
(B) program supervisor shall notify the SLTCO as soon as the complaint is made;
(C) program supervisor shall investigate the complaint within ten business days;
facilities in the event of an emergency. Such a plan includes:

(a) the SLTCO together with the local LTCO throughout.


(a) the SLTCO together with the local LTCO throughout the State shall develop a plan to assist residents of long-term care facilities in the event of an emergency. Such a plan includes:

(i) coordinating activities and developing emergency preparedness plans relevant to the particular service areas;
(ii) supporting the local ombudsman entity with emergency preparedness including:
(A) information sharing;
(B) resource sharing;
(C) training;
(D) participation in exercises; and
(E) facilitation of relationships with local healthcare coalitions, public health agencies, and any other relevant agencies prior to, during, and after an emergency.

(ii) the SLTCO shall coordinate with representatives of the LTCOP to determine capacity and the support needed to plan and prepare for emergencies.

R510-200-17. Legal Counsel.

(1) Provision of Adequate Legal Counsel.

(a) Division shall provide for the services of a Legal Services Developer.
(b) the Division hired Legal Services Developer shall not represent or provide legal advice to an AAA/Provider Agency or a local LTCO, or individual resident. However, the Legal Services Developer ensures legal representation for individuals using licensed attorneys, not employed by the Division, throughout the State.
(c) the State Attorney General’s Office shall act as legal counsel to the SLTCOP and the SLTCO.
(d) the State Attorney General’s Office shall not represent or provide legal advice to an AAA/Provider Agency or a local LTCOP.
(e) the AAA/Provider Agency is required to provide legal representation for their local LTCO for programmatic purposes.
(f) the SLTCO shall not provide legal representation for residential matters.


(1) Long-Term Care Ombudsman Program Responsibilities to a Guardian.

(a) if a resident has a legal guardian, the LTCO must work with the guardian.
(b) if the LTCO believes that the guardian is not acting in the best interest of the resident, they will contact their immediate supervisor, AAA, or the SLTCO for assistance to advocate for resident rights.


(a) the SLTCO together with the local LTCO throughout
(i) the LTCO shall discuss the complaint with the resident of the long-term care facility in order to:

(A) determine the resident’s perception of the complaint;
(B) determine the resident’s wishes with respect to resolution of the complaint;
(C) advise the resident of his/her resident rights;
(D) work with the resident in developing a plan of action; and
(E) when resident consent is refused or withdrawn, the LTCO shall record the refusal or withdraw of consent.

(ii) the LTCO shall seek any information required on an as needed basis to complete the investigation.

(iii) the LTCO shall seek advice from the resident’s representative, guardian, POA, spouse, or family member; or

(iv) if the LTCO determines that the resident’s representative, guardian, POA, spouse, or family member is not acting in the resident’s best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire.

(4) Investigation Procedures.

(A) seek advice from the resident’s representative, guardian, POA, spouse, or family member; or

(B) determine the resident’s wishes with respect to possible what has happened, why it has happened, who or what is responsible for resolving the complaint, and possible solutions to the problem;

(C) advise the resident of his/her resident rights;

(D) work with the resident in developing a plan of action; and

(E) when resident consent is refused or withdrawn, the LTCO shall record the refusal or withdrawal of consent.

(f) the ombudsman advocacy is resident focused:

(i) the LTCO shall discuss the complaint with the resident of the long-term care facility in order to:

(A) determine the resident’s perception of the complaint;
(B) determine the resident’s wishes with respect to resolution of the complaint;
(C) advise the resident of his/her resident rights;
(D) work with the resident in developing a plan of action; and
(E) when resident consent is refused or withdrawn, the LTCO shall record the refusal or withdrawal of consent.

(ii) the LTCO shall seek any information required on an as needed basis to complete the investigation.

(iii) the LTCO shall seek advice from the resident’s representative, guardian, POA, spouse, or family member; or

(iv) if the LTCO determines that the resident’s representative, guardian, POA, spouse, or family member is not acting in the resident’s best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire.

(5) Plan of Action.

(a) upon verifying a complaint, the LTCO shall determine a plan of action to resolve the complaint.

(b) the LTCO advocates on behalf of or with the resident in discussing the complaint with the appropriate facility, staff, or other relevant party and together, they develop an agreement that resolves the complaint.

(c) the LTCO shall attempt to resolve the dispute directly with the appropriate staff of the facility, unless the LTCO and the resident determine that another strategy would be more advantageous.

(6) Complaint Referrals.

(a) a LTCO shall make a referral to another agency when:

(i) the resident gives permission, or, if resident is unable, responsible party gives permission, or, if the LTCO determines that the resident’s representative, guardian, POA, spouse, or family member is not acting in the resident’s best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire; and

(ii) one or more of the following applies:

(A) another agency has statutory responsibility to support or assist the resident (e.g. Adult Protective Services (APS) or Medicaid Fraud);

(B) the action to be taken in the complaint is outside of the LTCO’s scope of authority (e.g. Department of Health, Licensing);

(C) the LTCO needs additional assistance in order to complete the investigation.

(d) to verify a complaint, the LTCO shall take one or more of the following steps, as appropriate given the nature of the complaint:

(i) research relevant laws, rules, regulations, and policies;

(ii) personally observe and analyze the evidence;

(iii) interview the resident and/or complainant;

(iv) interview staff, administration, other residents and families;

(v) identify relevant agencies and interview and/or obtain information from their staff; and

(vi) examine relevant records.

(e) facility visits can be unannounced, and occur at any hour provided the LTCO identifies him/herself upon entering the premises as a person authorized to investigate complaints.

(f) the local LTCO may choose to give notice if deemed appropriate, in either case the ombudsman shall:

(i) upon arrival at the facility or agency, present official identification to the administration or designated person in charge;

(ii) identify any factors that may interfere with the investigation;

(iii) start the investigatory process to establish as clearly as possible what has happened, why it has happened, who or what is responsible for resolving the complaint, and possible solutions to the problem;

(iv) interview the resident, as well as other residents, staff, family, friends and physicians as deemed necessary;

(v) make phone calls, on-site observation, review resident records, and make collateral contacts with other agencies and professionals;

(vi) take any other appropriate investigatory actions within the purview of the LTCO;

(vii) during the course of the investigation, the local LTCO shall look for credible evidence, which supports or refutes the complaint. Evidence may be directly observed by the LTCO or indirectly gathered from statements from reliable sources; and

(viii) LTCO shall be provided privacy by the facility or agency during all aspects of the investigative process.

(7) Closing a Complaint or Case.

(a) the complaint or case may be closed when any of the following occurs:

(i) the complaint has been resolved to the satisfaction of the resident of the long-term care facility;

(ii) the LTCO has determined, after investigation, that the complaint:

(A) cannot be verified; or
(B) was made in bad faith.

(iii) further activity by the LTCO is unlikely to produce satisfaction for the resident;

(iv) the complaint is not appropriate for LTCO activity;

(v) after referral the LTCO anticipates no further response regarding the complaint from the agency to which the referral was made;

(vi) the resident, who has capacity, requests that the LTCO close the case; or

(vii) when the resident lacks capacity and the LTCO determines that the resident's representative, guardian, POA, spouse, or family member is not acting in the resident's best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire.

(8) Abuse, Neglect, and Exploitation Complaints.

(a) upon receiving an abuse, neglect or exploitation complaint the LTCO shall inform the complainant that in order to meet the State of Utah mandated reporting requirement he/she must:

(i) directly call APS Intake; or

(ii) directly call local law enforcement.

(b) if the case also involves resident rights issues, the LTCO shall provide ombudsman services to the identified client.

(9) Documentation of Complaints.

(a) all LTCO complaints and documentation shall be entered into the ombudsman computer program.

(10) Consent.

(a) in order to access resident files maintained in a facility, the resident or resident representative must communicate informed consent orally, visually, written, or through auxiliary aids.

(b) the date and method of obtaining the verbal consent shall be documented in the case file.

(c) if a request for verbal consent is denied by the resident or their legal representative, the LTCO shall not access the records.

(d) if the request for verbal consent is unsuccessful for any reason other than specific denial by the resident or legal representative, the LTCO may proceed to access the records. The reasons for not obtaining consent shall be documented in the case file.

(e) if the request for verbal consent cannot be given by the resident and it is determined that the resident's legal representative is not acting in the resident's best interest, the LTCO may proceed to access the records. Such attempts shall be documented.


(1) In addition to receiving and investigating complaints, local LTCOs are mandated by Federal and State statute to provide public education regarding long-term care issues.

(2) Public education may include activities such as frequent presence in facilities, community advocacy, attendance at family or resident councils, technical assistance and in service to long-term care facilities, community organizations, and public information presentations.

R510-200-22. Resident and Family Councils.

(1) The LTCO shall offer assistance with the development of resident and family councils.

(2) The LTCO shall promote resident councils in each long-term care facility in the service area by ongoing education and trainings.

(3) Where a long-term care facility does not have an active resident council, the local LTCO shall assist the residents and the facility in developing said council.
The purpose of the rule is to facilitate the administration of the Long-Term Care Ombudsman Program, established pursuant to Title 62a, Chapter 3, Part 2, Long-Term Care Ombudsman Program and the Older Americans Act of 1965, 42 U.S.C. 3058g.

The rule is authorized by Section 62A-1-111, Title 62a, Chapter 3, Part 2, Long-Term Care Ombudsman Program, and the Older Americans Act of 1965, 42 U.S.C. 3058g.


(1) Terms used in this rule are defined in Sections 62A-3-101 and 62A-3-202 and 42 U.S.C. 3058f.

(2) "Provider Agency" is defined as an entity designated by the ombudsman to provide local ombudsman services in a particular area.

(3) "Resident Council" is an independent, organized group of residents living in a long-term care facility that meets on a regular basis to discuss concerns, develop suggestions on improving services, and plan social activities.

(4) "Resident Rights" means the basic human rights that residents of long-term care facilities are entitled to regardless of residency in such facilities.

(5) "Willful Interference" means an action or inaction taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the ombudsman from performing any of the responsibilities or duties of the ombudsman program.

R510-200-3. Program Administration.

(1) The division shall establish an ombudsman office pursuant to 42 U.S.C. 3058g. The office shall be responsible for administration of the ombudsman program and shall be managed by the ombudsman.

(2) The ombudsman shall serve on full-time basis. The ombudsman may not be required to manage or perform services or duties unrelated to the program, except on a time-limited and intermittent basis.

(3) The ombudsman shall meet the following minimum qualifications:

(a) demonstrates expertise in long-term services and supports or other direct services for residents;

(b) demonstrates expertise in consumer-oriented public policy advocacy;

(c) possesses leadership and program management skills; and

(d) possesses negotiation and problem resolution skills.

(4) The ombudsman shall ensure compliance with the relevant state and federal requirements of the office and ombudsman program.

(5) The ombudsman shall be provided opportunities for training to maintain expertise to serve as an effective advocate for residents.

(6) The office shall ensure that policies and procedures exist to prohibit and investigate allegations of willful interference, retaliation, and reprisals against any individual for the filing of a complaint or cooperation with the office.

(7) The office shall enforce appropriate sanctions for willful interference, retaliation, and reprisals.

(8) The office is responsible for the following administrative requirements of the ombudsman program:

(a) providing certification and training to local ombudsman entities, staff, and volunteers;

(b) providing information to the public regarding the ombudsman program;

(c) obtaining funding and resources from state and federal sources;

(d) developing cooperative relationships with agencies involved in long-term care;

(e) resolving conflicts amongst agencies involved in long-term care;

(f) ensuring consistent reporting of ombudsman program activities;

(g) monitoring local ombudsman entities on at least an annual basis to assess the performance of local ombudsman entities;

(h) providing technical assistance to local ombudsman entities;

(i) recommending rules or policies and procedures for the implementation of the ombudsman program;

(j) overseeing personnel decisions of local ombudsman entities, including having final approval in the hiring of any local ombudsman entity's representatives;

(k) having final approval of any determination to de-certify a local ombudsman entity's representative;

(l) identifying, investigating, and resolving complaints made by or on behalf of residents and decisions of providers, public agencies, or health and social services agencies that may adversely affect the health, safety, welfare, and rights of residents;

(m) informing residents of their ability to obtain services offered by the ombudsman program;

(n) ensuring that residents have regular and timely access to services offered by the ombudsman program;

(o) engaging in long-term care advocacy, including prioritizing complaints of abuse, gross neglect, or exploitation and

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coordinating with statewide or national long-term care advocacy organizations;
(p) reviewing, facilitating public comment on, and recommending changes in federal, state, or local laws, regulations, and policies that pertain to the health, safety, welfare, and rights of residents; and
(q) coordinating responsibilities between the office and local ombudsman entities for the health, safety, well-being, and preservation of rights of residents.

(8) The office shall assess and monitor the use of fiscal resources appropriated or otherwise available to the office.

(9) The office shall approve allocation of funds to local ombudsman entities and shall ensure that the budgets and expenditures of local ombudsman entities adhere to state and federal requirements.

(10) The ombudsman shall prepare an annual report that includes the following:
(a) a description of the activities carried out by the office in the year for which the report is prepared;
(b) an analysis of the ombudsman program data;
(c) an evaluation of the problems experienced by or complaints made by residents;
(d) a recommendation of policy, regulatory, or legislative amendments for improving the quality of care and life or residents;
(e) an analysis of the ombudsman program's ability to provide services to residents; and
(f) a description of barriers that prevent the optimal operation of the ombudsman program.

(11) Each local ombudsman entity shall provide its own annual report to the office to facilitate the creation of the ombudsman's annual report described in Subsection R510-200-3(10).

(12) The annual report described in Subsection R510-200-3(10) shall be provided to the following committees of the Utah State Legislature:
(a) House Health and Human Services Committee;
(b) Senate Health and Human Services Committee; and
(c) Social Services Appropriations Committee.

(13) The office shall maintain data and records regarding activities of the ombudsman program and complaints submitted to the office.

(14) The office shall maintain a central registry of each local ombudsman entity that contains the following information:
(a) the names, addresses, and telephone numbers of each local ombudsman entity's employee or volunteer;
(b) a summary of each local ombudsman entity's representatives' qualifications;
(c) the local area agency with which the local ombudsman entity is associated;
(d) the most recent date of certification of each local ombudsman entity's employee or volunteer;
(e) any conflict of interest; and
(f) any information pertaining to any de-certification action.

R510-200-4. Designation of Service Providers.

(1) The office shall designate the local area agency as the provider agency if the local area agency meets the following criteria for designation:
(a) the local area agency may not have any organizational conflicts of interest as described in 42 U.S.C. 3058g(d)(2);
(b) the local area agency demonstrates the capability to carry out the responsibilities of the ombudsman program; and
(c) the local area agency meets any additional requirements as specified by the office.

(2) The execution date of the local area agency's contract with the office to provide ombudsman program services shall constitute the effective date of the designation.

R510-200-5. Local Area Agency Responsibilities.

(1) Each local area agency shall administer the contract for the daily operation of a local ombudsman entity within the local area agency's service area. Administration of the contract shall include:
(a) fiscal monitoring of a local ombudsman entity to ensure that services are being provided pursuant to the terms of the contract;
(b) providing an annual report described in Subsection R510-200-3(11) to the ombudsman;
(c) monitoring of a local ombudsman entity to ensure attainment of the entity's goals and objectives; and
(d) ensuring that a local ombudsman entity visits each long-term care facility within the coverage area on at least a quarterly basis for a non-complaint related walk-through.

(2) Each local area agency shall provide a local ombudsman entity with opportunities for the entity to collaborate with other social services organizations.

(3) Each local area agency shall provide referrals for services to a local ombudsman entity.

(4) Each local area agency shall ensure that information pertaining to a local ombudsman entity is provided to the ombudsman and office in the format required.

(5) Each local area agency shall prohibit the disclosure of the identity of any complainant or resident of a long-term care facility.

(6) Each local area agency shall restrict access to records to certified local ombudsman entities' staff only.

(7) Each local area agency shall ensure a local ombudsman entity's attendance at certification training and any mandatory statewide training.

(8) Each local area agency shall provide staff support to a local ombudsman entity as needed to support the ombudsman program.

(9) Each local area agency shall arrange for temporary ombudsman services in a service area when a local ombudsman entity's staff are unavailable or a staff position is vacant.

(10) A local area agency may apply for a waiver of any of the responsibilities described in Subsections 510-200-5(1) through (9) to the office. The ombudsman shall review any request for a waiver.


(1) Each local ombudsman entity shall provide ombudsman program services to protect the health, safety, welfare and rights of residents.

(2) The services that a local ombudsman entity shall provide include:
(a) the receipt and investigation of a complaint made by or on behalf of a resident pursuant to the process described in Section R510-200-12;
(b) the provision of information and assistance to residents;
(c) the provision of community education regarding the ombudsman program;
(d) routine visits to a resident or long-term care facility on at least a quarterly basis;
(e) advocacy on behalf of a resident;
(f) interagency coordination;
(g) the provision of activities for residents and resident and family councils;  
(h) development of resident councils and family councils;  
i) management of volunteers for the ombudsman program; and  
j) consultation with a resident.

(3) Each local ombudsman entity shall ensure that residents in the service area have regular, timely access to representatives of the ombudsman program and receive timely responses to complaints or requests for assistance.

(4) Each local ombudsman entity shall represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents.

(5) Each local ombudsman entity shall review, facilitate public comment on, and recommend changes in federal, state, or local laws, regulations, and policies that pertain to the health, safety, welfare, and rights of residents.

(6) Each local ombudsman entity shall document the following case information in the ombudsman electronic case management program:

(a) activities completed on the case;  
b) consultations completed on the case; and  
c) any other required information.

(7) Local ombudsman entities may not complete the following tasks or engage in the following activities:

(a) transporting residents;  
b) providing services to residents that should be provided in the facility in which they reside;  
c) acting as a guardian;  
d) acting as a payee;  
e) signing consent forms for surveys, medications or restraints;  
f) signing medical directives; or  
g) exercising a resident's power of attorney.


(1) The office may de-designate a local area agency for any of the following reasons:

(a) failure of the local area agency to meet the criteria for designation;  
(b) existence of a conflict of interest as described in 42 U.S.C. 3058g(f)(2);  
(c) failure of the local area agency to disclose any conflict of interest described in 42 U.S.C. 3058g(f);  
(d) a violation of the office's confidentiality requirements described in Section R510-200-19;  
(e) failure to provide adequate ombudsman program services;  
(f) failure to fill a vacant local ombudsman entity's position;  
g) failure to use funds designated for the ombudsman program for ombudsman program services as directed by the office;  
h) failure to adhere to the terms of the contract for the provision of ombudsman services; or  
i) failure to adhere to any other applicable state or federal law or regulation.

(2) The office shall send notice of intent to de-designate to the local area agency:

(a) The local area agency shall respond in writing within ten business days of receipt of the notice of intent to de-designate;  
(b) The office may terminate or amend its contract with the local area agency to provide ombudsman program services after ten business days have passed since the local area agency's receipt of the notice of intent to de-designate.

(3) A local area agency may appeal the office's decision to de-designate the local area agency to the division director.

(a) An appeal of the office's decision to de-designate a local area agency shall be submitted in writing to the division director within ten business days of the office's final decision for de-designation.

(b) An appeal of the office's decision to de-designate a local area agency shall state the following:

(i) the stated reason for de-designation;  
(ii) the local area agency's attempts to correct the reason for de-designation; and  
(iii) the local area agency's explanation for why its attempts to correct the reason for de-designation should qualify it for re-designation.

(4) If an appeal of the office's decision to de-designate a local area agency is denied by the division director, the local area agency may appeal the division director's decision to the department's deputy director.

(a) An appeal of the division director's decision shall be submitted in writing to the department's deputy director within ten business days of the division director's decision.

(b) An appeal of the division director's decision shall state the following:

(i) the stated reason for de-designation;  
(ii) the local area agency's attempts to correct the reason for de-designation; and  
(iii) the local area agency's explanation for why its attempts to correct the reason for de-designation should qualify it for re-designation.

(5) A local area agency may voluntarily withdraw designation as a provider agency.

(a) A local area agency shall provide written notice to the office of its intent to voluntarily withdraw designation at least 90 days in advance of the date of relinquishment of designation.

(b) A local area agency that provides written notice of its intent to voluntarily withdraw designation shall continue performing ombudsman program services until the date of relinquishment of designation.

(6) If a local area agency is in the process of appealing its de-designation or has relinquished its designation, the local area agency shall surrender any equipment or supplies purchased with funds allocated for ombudsman program services. The local area agency shall also surrender the balance of any funds advanced to the local area agency for the provision of ombudsman program services.


(1) Each local area agency shall develop written procedures for the recruitment, training, and oversight of volunteers upon the express approval of the office. The procedures shall be consistent with the ombudsman program's training and certification requirements.

(2) The office shall provide technical assistance to each local ombudsman entity in developing and maintaining its volunteer program.

(3) Each volunteer must meet certification requirements described in Section 510-200-9.
(4) Each volunteer who has met certification requirements shall:
(a) work under the direct supervision of a local ombudsman entity’s staff member;
(b) be qualified to perform ombudsman responsibilities including provision of the ombudsman program's components; and
(c) provide appropriate documentation to the local ombudsman entity of activities completed on behalf of the ombudsman program.


(1) An employee or volunteer of the office or a local ombudsman entity shall meet the following requirements to be certified to provide ombudsman program services:
(a) demonstrates ability to carry out the responsibilities of the ombudsman program;
(b) has a bachelor's degree in social work or a related field or three years of experience in a related field;
(c) passes a criminal background check through the Department of Public Safety Bureau of Criminal Identification;
(d) passes a review of the Adult Protective Services database to ensure that the employee or volunteer does not have a supported finding for abuse, neglect, or exploitation of a vulnerable adult;
(e) meets the minimum qualifications for the applicable employee or volunteer position;
(f) completes the certification training requirements described in Subsection 510-200-9(2); and
(g) has a general knowledge of long-term care facilities, long-term care, health care, legal or human service programs, advocacy, complaint and dispute resolution, mediation, or investigation.

(2) An employee or volunteer of the office or a local ombudsman entity shall complete the following training certification requirements:
(a) 40 hours of classroom training and 20 hours of job shadowing; and
(b) completion of required examinations, with a passage rate of 70% or higher.

(3) An employee or volunteer may only take each of the required examinations a maximum of three times.
(a) If an employee or volunteer fails to achieve the 70% passage rate on the first attempt, the employee or volunteer may retake the examination within 30 days.
(b) If an employee or volunteer fails to achieve the 70% passage rate on the second attempt, the employee or volunteer must receive further training before attempting the examination a third time.
(c) If an employee or volunteer fails to achieve the 70% passage rate on the third attempt, the employee or volunteer shall be disqualified from certification.
(d) If all certification requirements have been satisfied, the office shall send a state authorized certification badge to the individual or employee within 30 days of completion of the certification requirements.

(4) Each employee or volunteer shall complete the following to qualify for recertification:
(a) annual fulfillment of the employee's or volunteer's ombudsman program responsibilities;
(b) a minimum of 24 hours of annual training including participation in a two-day mandatory training; and
(c) successful completion of a criminal background check through the Utah Department of Public Safety Bureau of Criminal Identification every three years, or at the request of the office.

R510-200-10. De-Certification or Refusal to Certify an Employee or Volunteer.

(1) The office may refuse to certify or de-certify an employee or volunteer for any of the following reasons:
(a) failure of the employee or volunteer to maintain the criteria for certification;
(b) existence of a conflict of interest;
(c) intentional failure of the employee or volunteer to disclose any conflict of interest;
(d) performance of a function not authorized by the ombudsman program;
(e) violation of the confidentiality requirements described in Section R510-200-19;
(f) failure to perform or fulfill any of the volunteer's or employee's responsibilities;
(g) falsification of records; and
(h) failure to follow the direction of the ombudsman regarding ombudsman program procedures and practices.

(2) The office shall consult with the applicable local area agency to consider remedial action before refusing to certify or de-certifying an employee or volunteer.

(3) The office shall provide written notice to the employee or volunteer of its intent to refuse to certify or de-certify. The written notice shall specify the reasons for the refusal to certify or de-certification and the effective date of the refusal to certify or de-certification.

(4) Upon completion of the refusal to certify or de-certification action, the office shall record the action in the central registry described in Subsection 510-200-3(14).


(1) Employees and volunteers of the office and each local ombudsman entity may not have any conflict of interest as described in 42 U.S.C. 3058(f).

(2) Employees and volunteers of the office and each local ombudsman entity have an affirmative duty to notify the office of any actual or potential conflict of interest.

(3) An organizational conflict of interest may only be remedied if the existence of the conflict does not interfere with any duties of the office or local ombudsman entity and the existence of the conflict is not likely to alter the perception of the ombudsman program as an independent advocate of residents.

(4) An organizational conflict may be remedied by completing the following steps:
(a) a written remedial plan shall be developed within ten business days of identification of the organizational conflict and submitted to the office;
(b) the written remedial plan must identify the conflict and provide assurances that mitigate the negative impact of the conflict on the ombudsman program;
(c) the local area agency and local ombudsman entity shall cease all ombudsman program activities during the remedial period; and
(d) the written remedial plan must be mutually agreed upon and signed by the entity with which the conflict exists and the office.

(5) The office, local area agencies, and local ombudsman entities shall take reasonable steps to avoid employing or volunteering an individual who has an unremedied conflict of interest.
or who has a member of their immediate family with an unremedied conflict of interest.

**R510-200-12. Intake, Investigation, and Complaint Processing.**

1. Each local ombudsman entity shall receive, investigate, and try to resolve complaints made by or on behalf of residents.
2. A complaint may be submitted to a local ombudsman entity by a resident, family or friends of a resident, long-term care facility staff, or another person or agency.
3. An employee or volunteer of a local ombudsman entity shall initiate a complaint if the employee or volunteer has personal knowledge of an action, inaction, or decision that may adversely affect the health, safety, or rights of a resident.
4. Upon receipt of a complaint, the local ombudsman entity shall determine the following:
   - (a) the type of complaint received, using the National Ombudsman Reporting System categorization;
   - (b) the outcome sought by the complainant;
   - (c) whether previous attempts have been made to resolve the complaint;
   - (d) whether the complaint is appropriate for the ombudsman program to address; and
   - (e) whether resolution of the complaint would conflict with the rights of another resident.
5. A local ombudsman entity shall initiate an investigation within three business days of receipt of a complaint.
6. A local ombudsman entity shall meet with the complainant and discuss the following:
   - (a) alternatives for handling the complaint;
   - (b) options for the complainant to personally take appropriate action, with assistance from the local ombudsman entity;
   - (c) explanation of the local ombudsman entity's role to act in accordance with the resident's wishes; and
   - (d) assurances that the local ombudsman entity will maintain the resident's confidentiality.
7. A local ombudsman entity shall meet with the resident for whom a complaint has been submitted and shall discuss the following:
   - (a) the resident's perception of the complaint;
   - (b) the resident's wishes with respect to resolution of the complaint;
   - (c) the resident's rights;
   - (d) a plan of action; and
   - (e) whether the resident consents to the complaint and investigation of the complaint or whether the resident lacks the capacity to consent.
8. If a resident lacks capacity to consent, the local ombudsman entity shall seek advice from the resident's representative, guardian, power of attorney, spouse, or family member.
9. If the local ombudsman entity believes that the resident's representative, guardian, power of attorney, spouse, or family member is not acting in the resident's best interest, the local ombudsman entity shall seek evidence to show the resident's desires and carry out that desire to the extent possible.
10. A local ombudsman entity is not required to verify a complaint to seek a resolution on behalf of a resident. A resident's perception is a sufficient basis upon which a local ombudsman entity may seek a resolution.
11. Upon investigation of a complaint, a local ombudsman shall complete one or more of the following steps:
   - (a) research relevant laws, rules, regulations, and policies;
   - (b) personally observe and analyze the evidence;
   - (c) interview the resident and complainant;
   - (d) interview staff, administration, other residents and families;
   - (e) identify relevant agencies and obtain information from their staff; and
   - (f) examine relevant records.
12. A local ombudsman entity shall present official identification to the administration or designated employee of a long-term care facility upon arrival.
13. Upon investigation of a complaint, a local ombudsman entity shall seek credible evidence that supports or refutes the complaint. Evidence may be directly observed by the local ombudsman entity or gathered from statements or information from reliable sources.
14. Upon conclusion of an investigation, a local ombudsman entity shall verify a complaint when the local ombudsman entity determines that the circumstances described in the complaint are substantiated or generally accurate. In making this determination, the local ombudsman entity shall give the benefit of the doubt to the resident's perspective.
15. If a complaint is verified, the local ombudsman entity shall determine a plan of action to resolve the complaint.
   - (a) The local ombudsman entity shall advocate on behalf of the resident in discussing the complaint with the appropriate facility, staff, or other relevant party as they develop an agreement that resolves the complaint.
   - (b) The local ombudsman entity shall try to resolve the dispute directly with the appropriate facility or staff, unless the local ombudsman entity determines that another strategy would be more advantageous.
16. A local ombudsman entity shall submit a referral to another agency on behalf of a resident if one or more of the following applies:
   - (a) another agency has statutory responsibility to support or assist the resident;
   - (b) the action to be taken in the complaint is outside of the local ombudsman entity's scope of authority;
   - (c) the local ombudsman entity needs additional assistance to achieve resolution of the complaint; or
   - (d) it is determined that additional expertise may benefit the resident.
17. A local ombudsman entity may only submit a referral to another agency on behalf of a resident if the resident consents or the resident's representative, guardian, power of attorney, spouse, or family member consents. If the local ombudsman entity determines that the resident's representative, guardian, power of attorney, spouse, or family member is not acting in the resident's best interest, the local ombudsman entity shall seek evidence to show what the resident would have desired and, where such evidence is available, work to carry out that desire.
18. A complaint or case shall be closed if any of the following occur:
   - (a) the complaint has been resolved to the satisfaction of the resident;
   - (b) the local ombudsman entity has determined that the complaint cannot be verified or was made in bad faith;
   - (c) further activity by the local ombudsman entity is unlikely to produce a result to the satisfaction of the resident;
   - (d) the complaint is not appropriate for action from the local ombudsman entity.
(c) the local ombudsman entity anticipates no further response regarding the complaint from the agency to which the referral was made; or
(f) the resident has capacity and requests that the local ombudsman entity closes the case.

(2) If a complaint is made about a local ombudsman entity, the local ombudsman entity shall:

(a) The local area agency program supervisor or director shall investigate the complaint within ten business days of receipt of the complaint.
(b) The nature of the complaint and investigation shall be documented.
(c) The division director shall provide a response to the complainant within ten business days following completion of the investigation.
(d) The response shall be documented.


(1) Each local ombudsman entity shall have access to facility and residents' records in the area served.
(2) The records described in Subsection R510-200-14(1) include the following:
   (a) medical records;
   (b) social records;
   (c) room numbers;
   (d) names;
   (e) administrative records;
   (f) long-term facility policies;
   (g) documents to which the resident or general public has access;
   (h) facility licensing and certification records maintained by the state; and
   (i) other resident records.
(3) If a local ombudsman entity is providing temporary coverage for another local ombudsman entity, the covering entity may have access to the records described in Subsection R510-200-14(2) of the local ombudsman entity for which it is providing coverage.
(4) The department, division, office, and each local area agency may review any records that reflect the activities of the ombudsman program. The department, division, and each local area agency may not review records that disclose the identity of any resident or complainant, except as provided in Section R510-200-19.


(1) The division shall provide for the services of a Legal Services Developer.
   (a) The Legal Services Developer shall ensure that legal representation is available for residents by licensed attorneys not employed by the division.
   (b) The Legal Services Developer shall not represent or provide legal advice to any local area agency, local ombudsman entity, or resident.
(2) The Utah Office of Attorney General shall represent and provide legal advice to the division and office.
(3) The Utah Office of Attorney General may not represent or provide legal advice to any local area agency or local ombudsman entity.


(1) If a resident has a legal guardian, the ombudsman or local ombudsman entity shall coordinate and communicate with the resident's legal guardian.
(2) If an ombudsman or local ombudsman entity believes a resident's legal guardian is not acting in the best interest of the resident, the ombudsman or local ombudsman entity shall contact the local area agency or office for assistance to advocate for the resident's rights.
(1) The office and each local ombudsman entity shall develop a plan to assist residents of long-term care facilities in the event of an emergency. The plan shall include the following:
(a) coordinating activities and developing emergency preparedness plans relevant to the particular service areas;
(b) information sharing;
(c) resource sharing;
(d) training;
(e) participating in simulated exercises; and
(f) facilitating relationships with local healthcare coalitions, public health agencies, and any other relevant agencies before, during, and after an emergency.
(2) The office shall coordinate with each local ombudsman entity to determine capacity limitations and supports needed to plan and prepare for emergencies in each service area.

(1) Each local ombudsman entity shall complete quarterly routine visits to long-term care facilities.
(a) Each routine visit may be unannounced.
(b) Each routine visit shall be staggered to ensure that the long-term care facility cannot predict when a routine visit will occur.
(c) A local ombudsman entity shall increase routine visits to a long-term care facility that has a history of serious or frequent complaints.
(2) During a routine visit, each local ombudsman entity shall provide information regarding ombudsman program services to the residents, family, and staff.
(3) During a routine visit, each local ombudsman entity shall observe the conditions of the long-term care facility that affect the health, safety, welfare, or rights of residents.
(4) During a routine visit, each local ombudsman entity shall ensure that each long-term care facility posts posters or other information regarding the ombudsman program in an area visible to all residents, family, and staff.

(1) Files maintained by the ombudsman program shall only be disclosed at the discretion of the ombudsman.
(2) The identity of a complainant or resident of a long-term care facility may not be disclosed by the ombudsman unless one of the following occurs:
(a) the complainant or resident, or the legal representative of either, consents in writing, orally, or through the use of auxiliary aids and services to the disclosure;
(b) disclosure is ordered by a court; or
(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the resident, to an agency that:
(i) has statutory responsibility for the resident;
(ii) has statutory responsibility over the act alleged in the complaint;
(iii) can assist the ombudsman or local ombudsman entity to achieve resolution of the complaint; or
(iv) can provide expertise that would benefit the resident.

R510-200-20. Liability.
(1) No representative of the office or local ombudsman entity shall incur any civil or criminal liability for the good faith performance of official duties. Official duties are the duties of a representative as described in Rule R510-200 or applicable federal and state laws and regulations.
(2) The following shall be considered evidence of a performance of official duties in good faith:
(a) making every reasonable effort to follow procedures set forth in applicable laws, policies and procedures;
(b) seeking, and making reasonable efforts to follow direction from the office; and
(c) seeking, and making reasonable efforts to follow direction from the local ombudsman entity's supervisor or director.
(3) The following may not be considered official duties:
(a) transporting a client;
(b) acting as a guardian or payee;
(c) signing consent forms for surveys, medication, or restraints;
(f) signing medical directives;
(g) exercising a resident's power of attorney; and
(h) similar actions.
(4) The division shall not provide liability insurance or indemnification for the local area agencies or local ombudsman entities.

KEY: elderly, ombudsman, LTCO
Date of Last Change: 2022 [January 14, 2021]
Notice of Continuation: June 30, 2017
Authorizing, and Implemented or Interpreted Law: 62A-3-201 to 208; 62A-3-104

NOTICE OF PROPOSED RULE

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.): R510-400
Filing ID 54295

Agency Information
1. Department: Human Services

Building: MASOB
Street address: 195 N 1950 S
City, state, and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Phone: Email:
Jean Boyack 801-568-4263 jboyack@utah.gov
Jacob Murakami 801-538-4641 jmurakami@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

2. Rule or section catchline:

R510-400. Home and Community Based Alternatives Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule has been redrafted to comply with Executive Order No. 2021-12.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Language changed to conform to the Administrative Rules’ Rulewriting Manual for Utah. Substantive changes align with current practice and reflect current statutory or regulatory requirements.

FISCAL INFORMATION

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings 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):

The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the repeal and reenactment of this rule, it is technical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| Older Americans Act of 1965, 42 U.S.C. 3030d(a)(5) | Section 62A-1-111 |

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: Tracy Gruber, Executive Director | Date: 12/14/2021 |


R510-400-1. Purpose.
(1) The Home and Community Based Alternatives program provides a comprehensive array of quality, client centered services. The services are delivered in a variety of community settings designed to provide a choice of service delivery options to the eligible client who can continue to live in their own home, if their needs for social and medical services can be met. Home and Community Based Alternatives services contribute to improving the quality of life and help to preserve the independence and dignity of the recipient. This rule is intended to clarify the obligations and options available to administrators of the program and to ensure compliance with state and federal regulations. (2) The objective of the Older Americans Act Title IIIB Services is to provide services to frail older clients, including the older client who is a victim of Alzheimer disease and related disorders with neurological and organic brain dysfunction, and to their family.

R510-400-2. Authority.
(1) The Division of Aging and Adult Services is given rulemaking authority by Section 62A-3-104. The Home and Community Based Alternatives program is provided by the Older Americans Act Title IIIB. The Utah State Department of Human Services is the umbrella agency with oversight responsibility provided by the Division of Aging and Adult Services (DAAS). The Home and Community Based Alternatives program is funded from several sources and administered by the Division of Aging and Adult Services.

(1) Adult means an individual who is 18 years of age or older.
(2) Aging and Aged means an individual who is 60 years of age or older.
(3) Agency means the designated Area Agency on Aging or other sub-contracting agency which may be selected by the Division, if the designated Area Agency on Aging declines to be a contractor or has been determined to be out of compliance with the contract.
(4) Assessment means a complete review of an individual's current strengths and deficits, living environment, social resources and care giving needs.
(5) Assessment Instrument means a document that meets minimum assessment criteria, as approved by DAAS, for documenting the needs of individuals.
(6) Caregiver means an individual who has the primary responsibility of providing care and/or supervision to an adult, three or more times a week.
(7) Care Plan means a written plan which contains a description of the needs of the client, the services necessary to meet those needs, the provider of those services, the funding source, and the goals to be achieved.
(8) Case Management means assessment, reassessment, determination of eligibility, development of a care plan, on-going documentation, arranging client specific services, case recording, client monitoring and follow-up.
(9) Chore Services consists of heavy household chores such as washing floors, windows and walls, tucking down loose rugs and tiles, and moving heavy furniture.
(10) Department means the Utah State Department of Human Services.
(11) Director means the Director of the Agency.
(12) Division means the Utah State Division of Aging and Adult Services.
(13) Emergency means that a vulnerable adult is at risk of death or immediate and serious harm to self or others. Section 62A-3-301(6) through (12).
(14) Equipment, Rent or Purchase means rental or purchase of equipment deemed necessary for the client's care.
(15) Home means an individual's place of residence.
(16) Home Health Aid means basic assistance and health maintenance by an Aide to individuals in a home setting under the direction of appropriate health professionals.
(17) Homemaker Services mean services which provide assistance in maintaining the client's home environment and home management. This includes, but is not limited to, assistance with vacuuming, laundry, dish washing, dusting, cleaning, bathroom, changing bed linen (unoccupied bed), cleaning stove and refrigerator, ironing, and garbage disposal, which relate to the client's well being.
(18) Home and Community Based Alternatives Services means a comprehensive array of services that are provided to an individual which enable him to increase self-sufficiency and to maintain their functional independence.

NOTICES OF PROPOSED RULES
NOTICES OF PROPOSED RULES

(19) Protective Services means services provided by the Division, including the services of guardian and conservator provided in accordance with Title 75, Utah Uniform Probate Code, to assist persons in need of protection to prevent or continue abuse, neglect, or exploitation until that condition no longer requires intervention. The service shall be consistent, if at all possible, with the accustomed lifestyle of the vulnerable adult as provided by Section 62A-3-301(12).

(20) Personal Attendant Services are defined as personal and non-medical supportive services specific to the needs of a medically stable adult experiencing chronic physical or cognitive functional impairments who is capable of directing their own care or who has a surrogate available to direct the care.

(21) Personal Care means assistance with activities of daily living in a home setting to an individual who is unable to perform activities of daily living independently or when the care giver is temporarily absent or requires respite.

(22) Respite means a rest or relief for the primary Caregiver from care giving tasks and responsibilities, to maintain the Caregiver as the primary person delivering care giving activities.

(23) Risk Score means a score that reflects the amount of risk an individual has of premature institutionalization. Risk score is determined using a DAAS approved assessment instrument that reflects a moderate to high level of risk. Risk score is determined by a DAAS approved assessment instrument.

(24) Screening Tool means an instrument that initially determines the client's level of functioning to determine the need for long-term Home and Community Based Services.

(25) Vulnerable Adult means an elder adult, or an adult who has a mental or physical impairment which substantially affects that person's ability to:
   (a) Provide personal protection;
   (b) Provide necessities such as food, shelter, clothing, or mental or other health care;
   (c) Obtain services necessary for health, safety, or welfare;
   (d) Carry out the activities of daily living;
   (e) Manage the adult's own resources; or
   (f) Comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

R510-400-4. Funding Sources.
(1) The Home and Community Based Alternatives program is funded by a variety of Federal, State and local community dollars, program fees, voluntary and public contributions.
(2) The Older Americans Act Title IIIB Services Programs are funded by Federal dollars allocated by Congress, State matching funds, local matching funds and voluntary contributions.

(3) PROCEDURES-Funding Limitations:
   (a) Within each Agency at least 75% of the program funding shall be used to serve clients 60 or older.
   (b) The Division shall establish the program expenditure limit per client, prior to July 1 of each year.
   (c) At the discretion of the Director or designee, waivers of the expenditure limit can be approved using the Expenditure Limit Waiver Process outlined below.

(4) PROCEDURES—Expenditure Limit Waiver Process:
   (a) Waivers of the allowed expenditure limit may be granted on an individual basis.
   (b) Requests for a waiver must be in writing and approved by the Agency Director or their designee.
   (c) Waiver requests, documentation, and accompanying approval or denial must be maintained in the Client's file.

(d) The waiver must be re-approved with each Eligibility Declaration determination.

R510-400-5. Eligibility.
(1) Services may be provided as funds permit to eligible adults as determined by DAAS Policy and Procedures for Home and Community Based Alternatives services.
(2) Older Americans Act Title IIIB Services may be provided to eligible Aging and Aged Adults.
(3) PROCEDURES—Home and Community Based Alternatives Program Eligibility:
   (a) The DAAS Eligibility Declaration form shall be used to determine financial eligibility.
   (b) Eligibility is determined by the Agency using the following criteria:
      (i) Age: Clients must meet the definition of an Adult.
      (ii) Income and Assets:
         (A) Income and asset guidelines shall be established by the Division prior to July 1 of each year and shall remain in effect until suspended.
         (B) The Client’s and their spouse's income and assets will be considered in determining eligibility using the DAAS—Eligibility Declaration form.
      (iii) Frailty level:
         (A) The Client’s Assessment Risk Score must be at a moderate to high level as measured by a DAAS approved assessment instrument.
      (iv) Payer of last resort:
         (A) Payer of last resort is the term used to denote that the Alternatives program is liable for payment for care and services only after all other liable third parties have met their legal obligation to pay.
      (4) PROCEDURES—Older American Act Title IIIB Services Program eligibility:
         (a) Clients are determined eligible based on age and need.
         (b) Eligibility is determined by the Agency using the following criteria:
            (i) Age: Clients must be 60 years of age or older.
            (ii) Need Criterion: The Client must have an Assessment Risk Score at a moderate to high level as measured by a DAAS approved assessment instrument.

R510-400-6. Authorized Services.
(1) The Agency may provide or arrange for an array of Home and Community Based Alternatives services, determined by assessment to be essential to maintain the individual's independence in order for him to remain in the home.
(2) PROCEDURES—Authorized Services:
   (a) The Home and Community Based Alternatives services program may also provide an additional array of services based upon client need and which program funding permits that allows clients to remain in their own home. These services include case management and other services such as homemaker, personal care, home health, skilled health care, respite, equipment rental or purchase, emergency response systems, or other services as needed. Case Managers, in providing care management and other services as appropriate, are encouraged to use innovation to efficiently and effectively meet client needs.
   (b) Older Americans Act Title IIIB Program Services shall be provided as specified in the Older Americans Act 1965 as amended (Sections 306(a)(2)).
R510-400-7. Fees and Voluntary Contributions.

(1) Fees shall be assessed for all clients receiving Home and Community Based Alternative Services. Fees are based on the client's and spouse's adjusted income as determined by the DAAS Eligibility Declaration form and calculated against the Department's Fee Schedule.

(2) Older Americans Act Title III-B Program participants shall not be assessed fees for receiving Older Americans Act Title III-B funded services. Clients receiving Title III-B services shall be given the opportunity to make a confidential donation to the program.

(3) PROCEDURES: Fees:

(a) The Agency shall establish procedures for fee collection. Every reasonable effort shall be made to collect the required fee. Services may be terminated for refusal to pay the required service program fee.

(b) Clients whose income and/or assets are above the maximum eligibility guideline, may purchase Home and Community Based Alternative Services at cost.

(c) Waivers for full or partial fees may be granted on an individual basis using the following process:

(i) Case Managers will document the circumstances which necessitate a waiver of the fees.

(ii) The request must be made in writing.

(iii) The Agency Director or their designee must approve the waiver.

(iv) The documentation must be maintained in the Client's files at all times.

(v) All fee waivers must be re-approved with each new request by the Case Manager or on an annual basis.

(A) Clients shall be informed as to the cost of the services they receive under the Home and Community Based Alternatives program and Older American Act Title III-B Program.

(B) PROCEDURES: Voluntary Contributions:

(a) Each client and family shall be given the opportunity to voluntarily contribute toward the cost of the service program.

R510-400-8. Service Provider Requirements.

(1) Home and Community Based Alternative Services shall be provided through a public agency, a private licensed Service Provider Agency with at least one year experience in providing home support or home health services, or by an individual providing personal attendant services with demonstrated skills and abilities in providing the required services. The one year experience requirement may be waived by the AAA Director or designee provided there is adequate documented justification.

(2) PROCEDURES: Service Provider Requirements:

(a) The service provider may be a public or private social service or health care agency.

(b) The agency must have one year of experience in providing in-home services.

(c) The service provider must be appropriately licensed.

(d) The service provider must maintain liability insurance and bonding of all employees.

(e) It is the responsibility of the service provider to:

(i) provide all employees with written instructions based upon the client's Care Plan;

(ii) instruct employees as needed in performing the required tasks

(iii) provide supervision of employees

(iv) inform employees regarding personal liability.

(2) PROCEDURES: Case Load Requirements:

(a) A Case Manager shall be assigned for each Client. Average case load size across all programs the case manager may work shall not exceed fifty (50) clients per available Full Time Equivalent and should be proportionate to the Agency's Case Managers' time, case mix, and situation. Exceptions may be made only upon written request to the Division. The Division will review the request and if appropriate, approve a temporary waiver.

(b) Case Manager Qualifications:

(i) Case Management shall be performed by a person with a Bachelor Degree in a social science, health science, or other related field. Exceptions to this requirement may be made for individuals who have year for year experience in these fields, or substitutions on a year for year basis as follows:

(A) additional related education for the experience,

(B) additional full time paid related employment for the education.

(ii) State licensure as a Social Service Worker is recommended as a minimal qualification.

(3) Personal Attendant Services:

(a) Where appropriate, agencies and clients can make use of a Personal Attendant to provide services to clients. Personal Attendant Services are defined as: Personal care and non-medical supportive services, specific to the needs of a medically stable elderly person experiencing chronic physical or cognitive functional impairments, who is capable of directing their own care or who has a surrogate available to direct the care.

(b) To be eligible for the Personal Attendant Service the individual must be an active consumer on the Home and Community Based Alternatives Program.

(c) The client and their designated Personal Attendant must:

(i) Understand that Personal Attendant services is a service delivery model designed to benefit the designated client.

(ii) Be able to provide management of the employee (personal attendant) to include recruitment, scheduling, discipline and termination, if needed, of individuals eighteen (18) or more years of age.

(iii) Be willing and capable of training and directing the employee.

(iv) Follow up with the employee regarding First Aid training/certification and provide documentation of such to the Case Manager.

(v) Personal attendant service is available to those clients for whom eligibility has been established and who have an established care plan. Preferably, the client has been receiving services from the Home and Community Based Alternatives program.

(vi) Receive, sign and copy all employee time sheets and submit them to the designated organization by the established deadline. The consumer or the personal representative will be responsible for the verification and accuracy of hours billed by the employee, not to exceed the agreed upon and approved hours on the care plan.

(vii) Complete and maintain with the payroll agent all necessary tax information required by the U.S. Internal Revenue Service.

(viii) Demonstrate the skills necessary to supervise direct service employees.

(ix) Provide training to their employee(s) in the areas of confidentiality, and services to be provided related to the individual's plan of care. If additional training is needed, the consumer or personal representative will request this from their Case Manager.

(x) Actively participate with the Case Manager in the monitoring and revision of the consumer Care Plan.

(x) Provide a back-up service plan to the Case Manager that states clearly the manner in which services will be provided as a back-up when the employee is not able to provide services. Back-up services
may be provided by individuals who are not employees and who will not be eligible for payment for services provided.

(xii) Develop and maintain in the home of the consumer a notebook that includes a copy of:
(A) The current Care Plan;
(B) The Employee Agreement;
(C) The Consumer/Personal representative Letter of Agreement;
(D) All payroll agent's forms and time sheets;
(E) The Back-up Plan; and
(F) The Training Plan, as needed.
(xiii) Provide periodic feedback to the Case Manager regarding the quality of service being provided by the employee and how effectively the service meets the needs identified in the Care Plan. The consumer or personal representative will report immediately to the Case Manager any abuse or exploitation of the consumer by the employee.
(xiv) Notify the Case Manager when consumer needs change in order to adjust the Care Plan as appropriate.
(xv) Determine who is eligible to receive services, and will document the following:
(xvi) Follow applicable sections of the Home and Community Based Alternatives Program policies and procedures as provided by the Case Manager.
(xvii) Furnish requested copies of all documents related to employment or services that are collected by the consumer and/or the personal representative to the Case Manager and/or payroll agent.
(xviii) Report issues of non-compliance, consumer or personal representative and employee(s) conflict, and/or other significant occurrences to the Case Manager.

(1) The initiation of a DAAS approved Screening Assessment to establish a risk score shall be ten working days or less from the initial referral. Enough information shall be gathered with the client, family or referral source to determine potential eligibility and whether they shall be referred for an Assessment or referred to another agency or community resource.
(2) PROCEDURES-Assessment:
The DAAS approved Assessment shall be completed by the Case Manager to identify the need for services(s).
(a) Nursing Assessment: An additional assessment or file review by a Registered Nurse may be completed to identify the appropriate level of intervention necessary.
(b) Reassessment: Annually, the Case Manager will complete the areas indicated in the DAAS approved Assessment Instrument for reassessment of the client's service needs(s) during the same calendar month as the original assessment whenever possible.
(c) PROCEDURES-Family and Other Support System Involvement:
(i) The client's family and/or personal support systems shall be encouraged to participate in the Assessment unless the client and case manager determine that they not be included or it is the client's request that they not be included.

R510-400-10. Care Planning.
(1) The client Care Plan shall be developed based upon their current situation and needs as identified in the DAAS approved Assessment.
(2) PROCEDURES-Care Planning:
(a) A standardized Care Plan form designated by the Division shall be used.
(b) The Case Plan will be developed with the client's input.
(c) The Case Plan shall include methods, services to be provided, amount and frequency of services being authorized, together with the payment source.
(d) The Case Plan will be signed and dated by the Client or their legal representative, the Case Manager and when applicable, the Registered Nurse.
(e) The Case Plan shall be updated annually at the time of the reassessment or more frequently when changes occur with the service need(s).
(f) All support systems, both formal and informal shall be included as part of the Case Plan.
(g) A copy of the Case Plan shall be given to the client with the original maintained in the client's case file.
(h) Service(s) shall be authorized in the care Plan at the minimum level and for the least amount of service hours that will adequately meet the client's needs.
(i) Home and Community Based Alternatives services shall supplement, but not replace or duplicate, support systems that are in place in sufficient quantity to meet client's needs.
(j) Case Managers should be aware of available agency and community services and should be responsible for coordination of services provided to the client.
(3) PROCEDURES Service Authorization:
(a) An Agency Service Authorization Form or the Care Plan must be sent to the Service Provider requesting specific services for the client.

(1) Case Management shall be provided to all recipients of Home and Community Based Alternatives services.
(2) PROCEDURES Case Management:
(a) Case Management shall include an assessment, annual reassessment, three quarterly review and monthly contacts. Other visits or contacts shall be made and documented in accordance with the client's need or as directed in the Care Plan.
(b) A monthly or more frequent contact shall be made with the client, service provider, and/or the client's family.
(c) Assessment and quarterly review, reduction and/or termination of service should be done face to face when possible, with the exception of when the client moves out of the area, enters a nursing facility or dies. Telephone and electronic contacts can be used to communicate adjustments to care plans or service orders, or changes of status.
(d) The Case Manager will record all client contacts and significant changes with a progress note.
(e) The Case Manager is expected to maximize the client's informal support system.
(f) The Case Manager shall make quarterly reviews during the third month following the Assessment and every third month thereafter. Quarterly Reviews shall be conducted in the client's home and will document the following:
(i) A review of the services being delivered.
(ii) Changes in the client's condition.
(A) Progress toward Care Plan objectives and goals.
(B) Appropriateness of services.
(3) The client's satisfaction and concerns with the service provision.
(4) Status of rental/purchased equipment.
R510-400-12. Record Keeping.

(1) The recipient of Home and Community-Based Alternatives program shall have an individual case file that include client eligibility, assessment of the client's needs, care plan, quarterly reviews, progress notes, and when applicable, legal documents addressing guardianship, advanced directives or power of attorney.

(2) PROCEDURES Confidentiality of Records:

(a) All information and records generated within the Home and Community-Based Alternatives Program and Older American Act Title IIIB Programs shall be retained and released in accordance with the Government Records Management Act (GRAMA), pursuant to Section 63G-2-101, et seq.

(b) Information that pertains to Home and Community-Based Alternatives program and Older Americans Act Title IIIB Programs shall be classified as "private."

(c) Information that is medical, psychiatric, or psychological in content shall be classified as "controlled."

(d) Clients' case files and service authorizations must be secured in a locked file at the Agency or designated Service Provider.

(e) Home and Community-Based Alternatives program and Older Americans Act Title IIIB Programs case records, files, authorizations, and supporting program documentation, shall be kept for five years following termination of services or until all audits initiated within the five years have been completed, whichever is later. After the end of the specified retention period, the documents shall be destroyed according to GRAMA document destruction requirements.

(3) PROCEDURES Sharing of Records:

(a) The Case Manager shall provide a copy of the completed Care Plan to the client. The completed Assessment may be provided to the Service Provider.


(1) The Agency shall have the responsibility to develop a method to inform all eligible clients of their rights and responsibilities. This shall be evidenced by a signed Clients Rights and Responsibilities Form in the case file.

(2) PROCEDURES Client Rights:

(a) Client rights shall include:

(b) To be fully informed of their rights and responsibilities governing personal conduct while participating in the programs. This shall be evidenced by a signed and dated Clients Rights and Responsibilities form in the client's file.

(c) To be fully informed of services and related fees for which the client may be responsible and to be informed of all changes in fees.

(d) To be afforded self-determination through participation in the development of the Care Plan. This includes the right to refuse services, referrals to health care institutions or other agencies, and to refuse to participate in research studies.

(e) To be assured confidential treatment and maintenance of records. Clients have the right to approve or refuse the release of their records. However, all information and records generated in these Programs shall be shared pursuant to GRAMA, Section 63G-2-101, et seq.

(f) To be treated with consideration, respect, dignity and individuality, including privacy in care for personal needs.

(g) To be assured that personnel who provide services, are either licensed, certified or registered with the appropriate governmental entity and that they have demonstrated the ability to correctly implement the services for which they are responsible.

(h) To receive proper identification from the individual providing services.


(1) The Agency shall have the responsibility to develop procedures for Client Grievance and Fair Hearing.

(2) PROCEDURES Client Grievance:

(a) The Agency shall maintain a Fair Hearing process and shall have in place a Fair Hearing process for Client Grievance and Fair Hearing.

(b) The Agency shall ensure that the Fair Hearing process shall be available to any client who is dissatisfied with the decision of the Agency.

(c) Any client shall be given the opportunity to appeal to the Fair Hearing process when he believes that their interests in laws, regulations, standards or criteria related to the program were violated. Client Grievance and Fair Hearing procedures shall follow the Agency's contractual agreement with the Division.


(1) The Agency shall maintain an active applicant list when funding dictates that services cannot be provided for all who have been identified as needing services.

(2) PROCEDURES Applicant Lists:

(a) The applicant list shall be comprised of those persons who have been screened using the DAAS approved Demographic Intake and Risk Screening form and have at least a moderate risk score at the time of screening.

(b) Prioritization of the applicant list shall be ranked by a high to moderate risk score, and the clients with the highest risk are provided services first as funding becomes available.

(c) The applicant list will be re-prioritized with each new potential client added.

(d) For applicants who do not meet applicant list criteria, information will be provided on other community resources that may be available.


(1) The Agency shall allow for the interruption, transfer and for termination for the client receiving Home and Community-based Alternatives Services or Older Americans Act Title IIIB Services as changes in client needs, Agency Provider, circumstances or conditions occur.

(2) PROCEDURE Temporary Interruption of Service:

(a) Program Services may be interrupted for temporary periods (e.g. Hospitalization, out-of-state visiting, etc.). Such
discontinuance of service shall not exceed 90 consecutive days. After this
time period, the case will either be closed and reopened as a new case
with no priority other than Risk Score, or will be reviewed by the agency
to determine a resumption of services.

(b) Waivers of time limit of the temporary interruption may
be granted on an individual basis.

(c) Requests for a waiver must be in writing and approved by
the Agency Director or his designee.

(d) Waiver requests, documentation and accompanying
approval or denial must be maintained in the client’s file.

(3) PROCEDURE Termination of Service:

(a) When a client terminates service, the Case Manager will
document in the case file the circumstances that precipitated the
termination.

(b) Services may be terminated due to the following
circumstances:

(i) When health and safety needs can no longer be met.

(ii) Death of the client.

(iii) Program funding does not allow services to continue.

(iv) The client transfers out of the original planning and
    service area. The client may re-apply at the new planning and
    service area and services may be provided as funds permit to eligible adults as
determined by DAAS Policy and Procedures for the Home and
    Community Based Alternatives program services.

(v) The client’s financial situation improves beyond eligibility
criteria, in which case agencies are encouraged to investigate options for
transferring the client to other appropriate programs when discontinuing
services. However, in this transfer, the client should not be given special
preferences that would place them ahead of other potential clients in an
applicant list situation.

(vi) Client chooses to leave the program.

(vii) Client refuses to comply with care plan, exhibits
    inappropriate behaviors, or does not pay monthly fees.

R510-400-17. Purchase and Rental of Equipment.

(1) Equipment may be purchased or rented if it is deemed
necessary for the client’s care, providing no other funding source is
available.

(2) Purchased equipment is the property of the Agency. The
Agency will develop policy and procedures that address the disposition,
inventory and repair of equipment.

(3) PROCEDURE Purchase or Rental of Equipment:

(a) The Case Manager shall have the client and/or the client’s
representative sign an agreement if the equipment is to be returned to
the Agency when it is no longer needed.

(b) The agency’s policy will address the disposition,
inventory and repair of equipment.

(c) Equipment shall be reviewed quarterly as part of the
quarterly review to assess the need for continued use and condition of
equipment.


(1) The Division is responsible for monitoring Home and
Community Based Alternatives Services and Older Americans Act Title
IIIB Programs. Each Agency shall be monitored annually.

(2) PROCEDURE Scheduling:

(a) The Agency shall be notified at least 10 working days
prior to an annual monitoring review. The Division will notify the
Agency of the procedures, scheduling, monitoring standards and any
other relevant information concerning the monitoring visit.

(3) PROCEDURE Division Monitoring Procedures:

(a) In preparation for the monitoring visit, the Division shall
review any corrective action reports, correspondence identifying
technical assistance needs, and other pertinent information.

(b) The Division will monitor service program activities, case
records, service expenditures, caseloads and contractual provisions.

(c) The Division will review randomly selected case records
and interview the clients and Agency Case Managers as necessary to
complete the monitoring process.

(d) A minimum of 10% or ten case records (whichever is the
largest of the case load) will be reviewed. At times more records, up to
100% of program records, may be reviewed if the Division finds
significant program inconsistencies, errors in documentation,
inadequate provision of service, or any other aspect that the Division
deems necessary.

(e) An exit interview will be conducted with the Agency
Director or designee. The purpose of this interview is to present findings of the
monitoring visit. The findings shall include:

(i) Overall evaluation of the performance of the Home and
    Community Based Alternatives Program.

(ii) Contractual, Policy and Procedure deficiencies.

(iii) Situations where additional review of case files of other
documentation is necessary.

(iv) Areas where a plan of correction will be needed.

(v) Identify and recognize positive or innovative aspects of
    the Agency’s service program.

(vi) Client comments.

(g) The Division may request a Department fiscal/contract
audit of the Agency. This audit may be requested when the Division
determines problems concerning:

(i) Budget balance

(ii) Case Management/Provider sub-contract monitoring.

(iii) Case Management/Provider sub-contract monitoring.

(iv) Provider/Client complaints.

(v) Timely payment for service.

(vi) Intake and referral.

(vii) Access problems.

(viii) Eligibility problems.

(h) PROCEDURE Division Monitoring Report:

(a) The Division shall provide the Agency with a written
report of its formal findings within 10 working days of the monitoring
visit.

(b) The report will include contractual, policy and procedural
compliance status and areas of special concern.

(c) The Division will require a corrective action plan that
addresses noncompliance issues as needed.

(4) PROCEDURE Responding to Reports:

(a) The Agency may appeal issues of disagreement to the
Division within 10 working days from receipt of the report. If the
Division, upon appeal, concludes that a corrective action must take
place, the Agency will implement the action.

(b) A correction action plan will be implemented in
accordance with an agreed upon time schedule, but will not exceed 90
days from the time the Division approves the plan.

(c) The Division will provide technical assistance to the
Agency, as requested, to complete the correction action plan. The
Agency will notify the Division upon implementation of the corrective
action plan. The Division may make additional monitoring visits to
the Agency to review records and assure that the corrective action plan
requirements were met.

(d) The Division may enact the termination clause of the DHS
contract if a corrective action plan is not implemented by the Agency.
R510-400-1. Emergency Interim Service.

(1) Home and Community Based Alternatives Services may be provided to clients when circumstances warrant the emergency provision of services.

(2) PROCEDURES Emergency Interim Service:

(a) The existing emergency will be identified and documented.

(b) Services may begin immediately and will continue until assessment determines appropriate service needs and levels for the client.

(c) The DAAS approved Assessment will be completed within five working days from the initiation of the Emergency Interim Service.

(3) PROCEDURES Adult Protective Services clients:

(a) Emergency Interim Services may be provided to Adult Protective Services clients when abuse, neglect or exploitation has been substantiated and Home and Community Based Alternatives Services would help eliminate the abuse, neglect or exploitation.

(b) Emergency Interim Services may be provided for up to sixty (60) days under Protective Eligibility. Client financial eligibility, waiting list and fee criterion may be waived or disregarded with substantiated Adult Protective Service Cases.

(c) When an Adult Protective Services Worker determines that the Emergency Interim Services are needed, she will contact the Agency.

(d) As soon as possible, the client shall be assessed for eligibility according to the Home and Community Based Alternatives Services program standards. If during the 60 days the client is determined to no longer meet the Protective Eligibility, the APS Worker shall make referrals in collaboration with the Agency Case Manager to other appropriate agencies for services.

(e) The Agency will ascertain whether it is able to meet the emergency needs relating to the client's disability and or protective need.

(f) Emergency Interim Services are considered an intermediate step while the Adult Protective Services Worker works with the client to resolve their current crisis and/or problem. The client's case will remain with the Adult Protective Services Worker during the Emergency Interim Service period. Services will be coordinated between the APS Worker and Agency Case Manager.

(4) PROCEDURES Protective Eligibility:

(a) The client's situation is an emergency and requires immediate intervention.

(b) The client is capable of consenting to and accepts services.

(c) The client is unable to consent and the Department has a court order authorizing the service referral.

R510-400-2. Authority and Purpose.

(1) The purpose of the rule is to facilitate the administration of the Home and Community Based Alternatives Program (Alternatives Program), which delivers services in a variety of community settings designed to assist older individuals in avoiding institutionalization and ensuring that their social and medical needs are met.


R510-400-3. Funding Sources and Limitations.

(1) The Alternatives Program is funded by federal and state appropriations, as well as local funding, fees, and voluntary contributions.

(2) Each local area agency shall use 75% of program funding to serve individuals 60 years of age or older.

(3) The division shall establish a program expenditure limit for each individual receiving services from the Alternatives Program by July 1st of each year.

(4) Any waiver of a program expenditure limit shall be at the discretion of the division.

(a) A request for a waiver of a program expenditure limit shall be submitted in writing to the division and approved by the local area agency director or the local area agency director's designee.

(b) A waiver request, and accompanying documentation, shall be maintained in the individual's client file.

(c) A waiver must be re-approved with each new eligibility determination.

R510-400-4. Eligibility.

(1) Eligibility to receive HCBA services from the Alternatives Program shall be determined by the following criteria:

(a) the individual is an adult, as defined in Section 62A-3-101;

(b) the individual has a risk score of moderate to high risk; and

(c) the individual meets financial eligibility as determined by income and asset guidelines established by the division.

(2) Each local area agency shall utilize the screening tool to determine an individual's risk score within ten business days of the initial referral.

(3) An individual shall submit an Eligibility Declaration form to determine financial eligibility. An Eligibility Declaration form shall identify the individual's income and assets, including the individual's spouse's income and assets, if applicable.

(4) "Care Plan" means a written plan which contains a description of the needs of the individual, the services necessary to meet those needs, the provider of those services, the funding source of those services, and the goals to be achieved.

(5) "Case Management" means assessment of the needs of an individual, determination of eligibility, development of a care plan, coordination of services, documentation of services, and individual monitoring and follow-up.

(6) "Home and Community Based Alternatives (HCBA) Services" means a comprehensive array of services that are provided to an individual which enable the individual to increase self-sufficiency and maintain functional independence. These services include case management, homemaker services, personal care services, home health services, skilled health care services, respite services, equipment rental or purchase, and emergency response systems.

(7) "Risk Score" means a score that reflects the amount of risk an individual has of premature institutionalization, as determined using a screening tool.

(8) "Screening Tool" means an instrument approved by the division that initially determines the individual's level of functioning and risk to determine the need for long-term home and community based services.
R510-400-5. Fees and Voluntary Contributions.

(1) Fees shall be assessed for any individual receiving HCBA services according to the department's fee schedule. Fees shall be based on the individual's adjusted income, including the individual's spouse's adjusted income, if applicable.

(2) Each local area agency shall establish procedures for fee collection. Services may be terminated for refusal to pay a required service fee.

(3) Any full or partial waiver for service fees shall be at the discretion of the local area agency director or the local area agency director's designee.

(a) A request for a waiver shall be submitted in writing to the local area agency director or the local area agency director's designee.

(b) A request for a waiver shall include documentation from the case manager that describes the necessity of the waiver.

(c) A waiver request, and accompanying documentation, shall be maintained in the individual's client file.

(d) A waiver must be re-approved with each new request for services or on an annual basis.

R510-400-6. Service Provider Requirements.

(1) HCBA services shall be provided by a service provider that meets the following qualifications:

(a) is a public or private social service or health care agency;

(b) has at least one year of experience in providing in-home services, unless waived by the local area agency director or the local area agency director's designee based upon adequate documented justification;

(c) is appropriately licensed; and

(d) maintains liability insurance and bonding of employees.

(2) A service provider shall be responsible for the following:

(a) providing employees with written instructions based upon the individual's care plan;

(b) instructing employees as needed in performing the required tasks;

(c) providing supervision of employees; and

(d) informing employees of personal liability.

(3) Each local area agency shall be responsible for ensuring that the following case management requirements are implemented:

(a) each individual shall be assigned a case manager;

(b) each case manager may not be assigned more than 50 individuals.

(4) A temporary waiver for the case management requirements may be approved at the discretion of the division. A local area agency shall submit a request for a temporary waiver in writing to the division.

(5) A case manager shall have a bachelor's degree in a social science, health science, or other related field. A local area agency director or the local area agency director's designee may waive this requirement if the applicant has additional related education or additional related full-time paid employment.


(1) Each case manager shall complete the following:

(a) an initial assessment of the individual;

(b) annual reassessments of the individual;

(c) quarterly reviews of the individual's case plan; and

(d) monthly contact or visits with the individual, the individual's service provider, or the individual's family.

(2) For each quarterly review, the case manager shall document the following:

(a) a review of the services being provided;

(b) any changes in the individual's condition;

(c) any progress toward the care plan objectives and goals;

(d) the appropriateness of the services being provided;

(e) the individual's satisfaction with or concerns of the services being provided; and

(f) the status of any rented or purchased equipment.


(1) Each case manager shall complete an assessment of the individual using the assessment instrument to confirm and identify the individual's need for services.

(2) An additional assessment may be completed by a registered nurse to identify the appropriate level of medical intervention necessary.

(3) Each case manager shall complete a reassessment of the individual using the assessment instrument on an annual basis.

(4) An individual's family members or personal support persons may participate in the assessment, unless the individual or case manager determine that they should not be involved.

R510-400-9. Care Planning.

(1) Each case manager shall develop an individual's care plan based upon the individual's current situation and needs as identified in the individual's assessment.

(2) A care plan shall be drafted on a form approved by the division.

(3) A care plan shall be developed with the individual's input.

(4) A care plan shall include a description of the services to be provided, methods for the implementation of services, the amount and frequency of the services being provided, and the funding source of the services to be provided.

(5) A care plan shall be signed and dated by the individual or the individual's agent, the case manager, and a registered nurse if a registered nurse completed an assessment of the individual.

(6) A care plan shall be updated at least annually at the time of reassessment.

(7) A care plan shall include any formal or informal support persons.

(8) A care plan shall be given to the individual and shall be maintained in the individual's client file.

(9) A care plan shall authorize services at the minimum level and for the least amount that will adequately meet the individual's needs.

(10) A copy of the care plan or an agency service authorization form shall be provided to the service provider.

R510-400-10. Record Keeping.

(1) Each individual receiving HCBA services shall have a client file that includes the individual's eligibility determination, assessment of the individual's needs, care plan, quarterly reviews, progress notes, and any relevant legal documents.

(2) Records generated by the Alternatives Program shall be retained and released in accordance Title 63G, Chapter 2, Government Records Management Act (GRAMA).
(a) Except as provided in Subsection R510-400-10(2)(c), records generated by the Alternatives Program shall be classified as private as defined in Section 63G-2-302.

(b) Records that contain medical, psychiatric, or psychological content shall be classified as controlled as defined in Section 63G-2-304.

(3) Each individual's client file shall be secured in a locked file by the local area agency or service provider.

(4) Records generated by the Alternatives Program shall be kept for five years following termination of services or until any audits initiated within five years following termination of services have been completed, whichever is later.


(1) Each local area agency shall develop a method to inform eligible individuals of their rights and responsibilities under the Alternatives Program.

(2) Each individual enjoys the following rights:

(a) to be fully informed of the individual's rights and responsibilities while participating in the Alternatives Program;

(b) to be fully informed of services and related fees for which the individual may be responsible and to be informed of changes in fees;

(c) to be afforded self-determination through participation in the development of the care plan, including the ability to refuse a service or referral to a provider;

(d) to be assured confidential treatment and maintenance of records;

(e) to be treated with consideration, respect, dignity and individuality, including privacy in care for personal needs; and

(f) to be assured that personnel who provide services, are either licensed, certified or registered with the appropriate governmental entity and have demonstrated the ability to correctly implement the services for which they are responsible.

(3) Each individual shall be responsible for the following:

(a) reporting any changes in the individual's circumstances that may impact eligibility or need for services to the case manager;

(b) attending appointments and when unable to do so for any reason, notifying the case manager or service provider; and

(c) adhering to the instructions and requirements of the care plan and services providers.

(4) An individual that receives personal services from a personal care attendant shall be responsible for the following:

(a) recruitment, selection, scheduling, and supervision of the personal care attendant;

(b) training the personal care attendant;

(c) requesting any additional training from the case manager;

(d) providing documentation of the personal care attendant's first aid training and certification to the case manager;

(e) verifying, signing, and providing the personal care attendant's time sheets to the designated entity by an established deadline;

(f) completing, maintaining, and filing any necessary tax documentation with the payroll agent;

(g) ensuring the personal care attendant understands confidentiality standards;

(h) participating in the monitoring and review of the care plan with the case manager;

(i) developing a back-up care plan that states the manner in which the personal care services will be provided when a personal care attendant is unavailable;

(j) developing and maintaining a file that includes copies of the current care plan, personal care attendant employee agreement, personal representative letter of agreement, tax documentation, time sheets, back-up care plan, and training plan;

(k) providing periodic feedback to the case manager regarding the quality of service being provided by the personal care attendant, including immediate notification of any concerns of abuse or exploitation;

(l) obtaining prior authorization for personal care attendant services from the case manager; and

(m) reporting any concerns of non-compliance, conflict, or other incidents to the case manager.


(1) Each local area agency shall develop procedures to resolve individual grievances.

(2) Procedures for individual grievances shall allow for the following:

(a) an appeal to the local area agency director;

(b) an appeal to the state Alternatives Program administrator; and

(c) an appeal to the division director.

(3) An appeal described in Subsection R510-400-12(2) is not an adjudicative proceeding as described in Section 63G-4-201.


(1) An individual shall be placed on the waiting list for HCBA services if the individual is eligible to receive HCBA services, but funding is not available.

(2) Prioritization of individuals on the waiting list shall be ranked according to risk score, and individuals with the highest risk shall be provided services as funding becomes available.

(3) Individuals on the waiting list will be re-prioritized as each new individual is added to the waiting list.


(1) Any temporary interruption of services shall be limited to 90 consecutive days. After 90 consecutive days of interrupted services, the local area agency shall either close the individual's case or review to determine if resumption of services is appropriate.

(a) Any waiver of the 90-day limit on interrupted services shall be at the discretion of the local area agency director or the local area agency director's designee.

(b) A request for a waiver of the 90-day limit on interrupted services shall be submitted in writing to the local area agency director or the local area agency director's designee.

(c) A request for a waiver of the 90-day limit on interrupted services, including any accompanying documentation, shall be maintained in the individual's client file.

(2) Any termination of services shall be documented in the individual's case file, including the circumstances that precipitated the termination of services.

(3) Services may be terminated due to the following circumstances:

(a) the health and safety needs of the individual can no longer be met with HCBA services;

(b) the death of the individual;

(c) program funding does not allow services to continue;

(d) the individual has transferred out of the original planning and service area;

(e) the financial situation of the individual has improved beyond eligibility criteria;

(f) the individual has chosen to leave the program; or
(1) A local area agency may purchase or rent equipment if it is deemed necessary for the individual's care and no other funding source is available.  
(2) Purchased and rented equipment shall be the property of the local area agency.  
(3) Each local area agency shall develop policy and procedures that address the disposition, inventory, and repair of equipment.  
(4) An individual or the individual's agent shall sign an agreement that requires the equipment to be returned to the local area agency when the equipment is no longer needed.  
(5) Use of equipment shall be reviewed by the case manager as part of the quarterly review to assess the need for continued use and condition of equipment.

(1) The division shall monitor and review the local area agency on an annual basis to ensure appropriate administration of the Alternatives Program.  
(2) A local area agency shall be notified at least ten business days in advance of an annual monitoring review.  
(3) The division shall review the following information to prepare and complete an annual monitoring review of a local area agency:  
   (a) any corrective action reports;  
   (b) correspondence identifying technical assistance needs;  
   (c) at least 10% or ten case records, whichever is larger, or the local area agency's case load, selected at random;  
   (d) interviews with the individuals and case managers of the randomly selected cases;  
   (e) service expenditures; and  
   (f) contractual provisions.  
(3) The division shall complete an interview with the local area agency director or the local area agency director's designee. The division shall inform the local area agency director or the local area agency director's designee of the findings of the annual monitoring review, which shall include:  
   (a) an overall evaluation of local area agency's performance of the Alternatives Program;  
   (b) any contractual or policy deficiencies;  
   (c) circumstances that warrant additional review of case files or other documentation;  
   (d) issues that warrant the need for a corrective action plan;  
   (e) identification and recognition of positive or innovative aspects of the local area agency's Alternatives Program; and  
   (f) any comments from individuals.  
(4) The division shall provide the local area agency with a written report of its formal findings described in Subsection R510-400-16(3) within ten business days of the monitoring review.  
(5) The division may request a fiscal or contractual audit of the local area agency when the division documents concerns in the following areas:  
   (a) budgetary balances;  
   (b) subcontract monitoring;  
   (c) case management supervision;  
   (d) service provider or individual complaints;  
   (e) payments for services;  
   (f) access to services;  
   (g) eligibility determinations; or  
   (h) intake and referral.  
(6) Any appeal of the division's findings shall be submitted to the division by the local area agency within ten days of receipt of the written report.  
   (a) The division may require a corrective action plan to address any areas of concern or noncompliance.  
   (b) A corrective action plan shall be implemented according to an agreed upon time schedule, but implementation may not exceed 90 days from the date the division approves the corrective action plan.  
   (c) The division shall provide technical assistance to the local area agency, if requested, to complete the corrective action plan. The division may complete additional monitoring reviews to ensure that the corrective action plan requirements were completed.  
(7) An appeal described in Subsection R510-400-16(6) is not an adjudicative proceeding as described in Section 63G-4-201.  
(8) The division may terminate a contract or reduce funding if a corrective action plan is not implemented or successfully completed by the local area agency.

R510-400-17. Emergency Interim Service.  
(1) HCBA services may be provided to an individual before the individual completes the eligibility determination process described in Section R510-400-4 if an emergency exists that warrants the need for immediate HCBA services.  
(2) Any request for emergency HCBA services shall be submitted to the local area agency by an Adult Protective Services (APS) investigator if a finding of abuse, neglect, or exploitation of a vulnerable adult has been supported and emergency HCBA services would eliminate or alleviate the abuse, neglect, or exploitation of a vulnerable adult.  
(3) Upon receipt of a request for emergency HCBA services, the local area agency shall assess whether it can meet the emergency needs of the individual through the emergency HCBA services.  
(4) A local area agency shall take the following factors into consideration when determining whether it can meet the emergency needs of the individual:  
   (a) the individual's current situation and whether it requires immediate intervention;  
   (b) the individual's capacity to consent to and accept emergency HCBA services; or  
   (c) the existence of a court order authorizing emergency HCBA services if the individual lacks capacity to consent.  
(5) Emergency HCBA services shall begin immediately upon authorization of the local area agency.  
(6) Any emergency HCBA services shall continue until the eligibility determination process described in Section R510-400-4 can be completed, but may not exceed 60 days.  
(7) Emergency HCBA services shall be coordinated with the APS investigator and a local area agency case manager. The APS investigator shall coordinate with the local area agency case manager to provide the individual with referrals to other appropriate agencies or services to resolve the individual’s emergency situation.

KEY: elderly, home care services, long-term care alternatives  
Date of Last Change: 2022[June 30, 2015]  
Notice of Continuation: June 30, 2017  
Authorizing, and Implemented or Interpreted Law:  62A-3-101 through 62A-3-312
NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact
Utah Admin. Code Ref (R no.): R510-401 Filing ID 54296

Agency Information
1. Department: Human Services
Agency: Aging and Adult Services
Building: MASOB
Street address: 195 N 1950 S
City, state and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Jean Boyack
Phone: 801-568-4263
Email: jboyack@utah.gov

Name: Jacob Murakami
Phone: 801-538-4641
Email: jmurakami@utah.gov

Name: Jonah Shaw
Phone: 385-310-2389
Email: jshaw@utah.gov

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

General Information
2. Rule or section catchline:
R510-401. Utah Caregiver Support Program (UCSP)

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This rule has been redrafted to comply with Executive Order No. 2021-12.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Language changed to conform to the Administrative Rules’ Rulewriting Manual for Utah. Substantive changes align with current practice and reflect current statutory or regulatory requirements.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings 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):
The repeal and reenactment of this rule is due to Executive Order No. 2021-12, it is technical in nature. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the repeal and reenactment of this rule, it is technical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fiscal Cost</strong></td>
</tr>
<tr>
<td>State Government</td>
</tr>
<tr>
<td>Local Governments</td>
</tr>
</tbody>
</table>
NOTICES OF PROPOSED RULES

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

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Older Americans Act of 1965, 42 U.S.C. Section 3030s et seq. Section 62A-1-111

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Tracy Gruber, Executive Director</th>
<th>Date: 12/14/2021</th>
</tr>
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</table>

**R510. Human Services, Aging and Adult Services.**

**R510-401. Utah Caregiver Support Program (UCSP).**

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The purpose of the program is to provide support services including information and assistance, counseling, support groups, respite and other home and community-based services to family caregivers of frail older individuals. The program also recognizes the needs of grandparents and other relatives (not biological or adoptive parents) 55 years of age and older providing care to children under the age of 18 years as well as to grandparents and other relatives (not biological or adoptive parents) 55 years of age and older providing care to adults, age 18 to 59 years, with disabilities. Adult family members (age 18 years of older) or other adult informal caregivers providing care to individuals of any age with Alzheimer's disease and related disorders are also served under this program.

Operation of the program is a joint responsibility of the State Division of Aging and Adult Services and local Area Agencies on Aging (AAA). Funds are distributed by formula (R510-100-1) to local AAs.

**R510-401-2. Authority.**

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This Rule is authorized by 62A 3-104, 42 USC Section 3001.

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**R510-401-3. Definitions.**

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1. "Adult" means an individual who is 18 years of age or older.
2. "Agency or Area Agency on Aging (AAA)" means the agency designated by the Division of Aging and Adult Services (DAAS) to coordinate and provide services for a defined geographical area.
3. "Agency Director" means the director of the Agency.
4. "Caregiver or Family Caregiver" means an adult family member, or another adult individual who is an informal provider of in-home and community care to an older individual who:
   - (a) 60 years of age or older; or is a
   - (b) caregiver 60 years of age or older who is caring for persons with mental retardation or related developmental disabilities; or is an
   - (c) adult family member (age 18 years or older) or other adult informal caregiver providing care to individuals of any age with Alzheimer's disease and related disorders; or is a
   - (d) grandparent 55 years of age or older individual who is a relative caregiver (not biological or adoptive parent) of a child not more than 18 years of age; or is a
   - (e) grandparent and other relatives (not biological or adoptive parents) 55 years of age and older providing care to adults, age 18 to 59 years, with disabilities.

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This definition excludes agency and privately-paid supportive service providers.

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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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

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**Agency Authorization Information**

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**Date:** 12/14/2021

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**UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03**
NOTICES OF PROPOSED RULES

(5) "Care Receiver" means an adult 60 years of age or older who receives assistance from, or is dependent upon, another for care and is:

(a) unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(b) due to a cognitive or other mental impairment, requires substantial supervision; or

(6) "Child" means an individual who is not more than 18 years of age or who is an individual with a disability.

(7) "Companion Services" means non-medical, basic supervisory services which are provided to the eligible care receiver in his home on a short-term, intermittent basis. Companion Services provide respite to a caregiver who is caring for eligible care receivers who do not require any personal care assistance, medical assistance, or housekeeping services during the time when companion services are provided.

(8) "Counseling, Support Groups, or Caregiver Training" means provision of advice, guidance, and education about options and methods of caregiving to provide support to caregivers in an individual or group setting.

(9) "Director" means the director of the Division of Aging and Adult Services (DAAS), Utah Department of Human Services.

(10) "Disability" means a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitation in 1 or more of the following areas of major life activity:

(a) self care,

(b) receptive and expressive language,

(c) learning,

(d) mobility,

(e) self-direction,

(f) capacity for independent living,

(g) economic self-sufficiency,

(h) cognitive functions,

(i) emotional adjustment.

(11) "Division" means the Division of Aging and Adult Services (DAAS), Utah Department of Human Services.

(12) "Formal Resources" means an entity or individual that provides services for a fee or reimbursement.

(13) "Grandparent or Older Individual who is a Relative Caregiver" means a grandparent or step-grandparent of a child, or a relative of a child by blood, marriage, or adoption who is 55 years of age or older and:

(a) lives with the child;

(b) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and,

(c) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

(14) "Informal Resources" means family, friends, neighbors, community organizations or others who offer resources and support and are not assigned by formal agencies or organizations, irrespective of any payment received.

(15) "Multifaceted Systems" means a variety of systems of support for the caregiver including but not limited to those described in the required five service categories of the (NFCSP), Title III E of the Older Americans Act, as amended in 2000. "National Family - Caregiver - Support - Program - or NFCSP" is the federal program enacted as P. L. 106-501, Title III E of the Older Americans Act, P. L. 89-73, 12 USC Section 3001 et seq., as amended in 2000.

(16) "National Family - Caregiver Support Program or NFCSP" is the federal program enacted as P. L. 106-501, Title III E of the Older Americans Act, as amended in 2000.

(17) "Relief" means ease from or lessening of discomfort, anxiety, fear, stress, or burden.

(18) "Respite or Respite Care" is temporary, substitute supports or living arrangements to provide a brief period of relief or rest for caregivers as outlined in the service plan developed by a case manager following a formal assessment. It can be in the form of in home respite, adult day care respite, or institutional respite for an overnight stay on an intermittent, occasional, or emergency basis. Respite can be provided for a caregiver for no more than 12 consecutive months from the date of enrollment and shall not exceed the annual service expenditure limit per client, as established by the Division in consultation the Area Agencies on Aging annually. If either condition is met, the caregiver must come off of the program and then may reapply on the anniversary of the start of services. Temporary respite may not be provided by the twenty percent (20%) maximum supplemental services funds.

(19) "Severe Disability" means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments; that:

(a) is likely to continue indefinitely; and

(b) results in substantial functional limitation in 3 or more of the following major life activities:

(i) self care,

(ii) receptive and expressive language,

(iii) learning,

(iv) mobility,

(v) self direction,

(vi) capacity for independent living, and

(vii) economic self-sufficiency.

(20) "Service Plan" means a written plan which contains a description of the needs of the caregiver, the care recipient, and the services and goals necessary to meet those needs.

(21) "Supplemental Services" means other services to complement the care of caregivers, on a limited basis as determined by a case manager through the assessment process and included in a service plan. Supplemental services shall serve to maximize the support of caregivers and shall be flexible, adaptable, and responsive to the needs of the individual caregiver or care receiver wherever they reside in the State of Utah. Services provided under supplemental services shall not fall into other categories defined in the UCSP or the NFCSP.

(a) Expenditures for Supplemental Services are not included in the annual established service expenditure limit for Respite.

(b) Necessity for Supplemental Services shall be specified in the service plan goals. Reimbursement shall include the purchase and/or rental, installation, removal, replacement, or repair of approved items or services for the twelve months that the caregiver is on the program. The case manager will document in the caregiver file all funding resources explored and reasons alternative funding cannot be accessed. Items or services exceeding $250 per purchase must be prior approved by the Agency Director, or designee, based on a formal written request by the case manager or designee documenting the determination of need and estimated cost. The original approved waiver request will be placed and maintained by the Agency in the caregiver file and a copy sent in writing to the Division.

(c) "Supplies or Equipment" means durable and non-durable goods, purchased and or rented under supplemental services, to provide support and assistance to caregivers in their caregiving responsibilities. Reimbursement shall include the purchase of supplies, and the purchase, and or rental, installation, removal, replacement or repair of approved equipment.

(d) "Modifications or durable adaptive aids and devices" purchased as supplemental services shall be one-time purchases to
provide support and assistance to caregivers in their caregiving responsibilities. Minor modifications of homes shall facilitate the ability of older individuals to remain at home or provide for the safety of the care receiver. Adaptive aids and devices shall assist the caregivers helping care receivers to perform normal living activities, and shall include the cost of any necessary installation fitting, adjustment, repair, and training. Adaptive aids and devices may be fabricated by a professional if the care receiver needs specialized aids and devices.

- "Legal, Financial, or Placement Services" purchased as supplemental services shall provide support and assistance to caregivers in their caregiving responsibilities. Services will provide the caregiver with legal, financial, and placement advice, counseling, and representation by an attorney, certified financial advisor, or other person act under the supervision of an attorney, certified financial advisor, or placement professional.
- "Miscellaneous" services shall provide support and assistance to caregivers in their caregiving responsibilities. Miscellaneous services will facilitate the ability to provide services to caregivers that arise from unusual circumstances and shall assist the caregiver in performing their caregiving responsibilities.

R510-401-4. Eligibility for Services.

(1) Services listed in Section R510-406-S are available to caregivers, grandparents, and older individuals who are relative caregivers.

(2) Priority to receive services shall be given in the order below:

- caregivers who are older individuals with greatest social need and older individuals with greatest economic need (with particular attention to low-income older individuals); and
- family caregivers who provide care for individuals with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction; and
- older individuals providing care to individuals with severe disabilities, including children with severe disabilities; and
- grandparents or older individuals who are relative caregivers who provide care for children with severe disabilities.

(3) Respite care and Supplemental Services are available to caregivers who are:

- caregivers of adults 60 years of age or older; or
- adult family members (age 18 years or older) or other adult informal caregivers providing care to individuals of any age with Alzheimer’s disease and related disorders; or
- caregivers 60 years of age or older caring for persons with mental retardation or related developmental disabilities; or
- grandparent or older individuals (not biological or adoptive parent) 55 years of age or older who are a relative caregiver of a child not more than 18 years of age; or
- grandparents and other relatives (not biological or adoptive parent) 55 years of age and older providing care to adults age 18 to 59 years, with disabilities.

(4) To provide Respite and Supplemental Services to eligible the care receiver must be:

- Functionally impaired because the individual is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
- Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual; or
- A child physically or mentally impaired because the individual is unable to perform at least two areas of major life activity.

(4) The caregiver must demonstrate a medium-to-high risk score according to the DAAS Approved Demographic Intake and Screening tool and complete the DAAS-approved Assessment and DAAS-approved Burden score.

(5) In the event that there is insufficient funds to bring an individual on the program the Agency shall maintain a list of potential applicants. All potential applicants will be served in turn by using the DAAS-approved Demographic Intake and Risk Screening tool, and a Caregiver Burden score to determine eligibility for services.

R510-401-5. Responsibilities of the Division.

(1) Pursuant to UCA 62A 3-1O4, the Division shall:

- establish a funding formula for the distribution of the funds as approved by the Board;
- monitor, and at the request of the Area Agency on Aging, consult and assist in UCSP;
- provide training opportunities;
- define minimal documentation and client assessment standards; and
- approve or disapprove waivers and exceptions.

R510-401-6. Program Content.

(1) Each Area Agency on Aging shall provide a multifaceted system of caregiver support services for caregivers and for grandparents or older individuals who are relative caregivers to include:

- Information to caregivers about available services;
- individual, one-on-one assistance to caregivers in gaining access to services in the form of information and assistance or case management. Assistance may include but is not limited to such activities as phone contact and home visits;
- individual counseling, support groups, and caregiver training to assist the caregivers in making decisions and solving problems relating to their caregiving roles;
- respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and
- Supplemental Services, on a limited basis, to complement the care provided by caregivers.

(2) The Area Agency on Aging shall use the DAAS-approved Demographic Intake and Risk Screening form and assessment tool to determine eligibility for respite and supplemental services and said tools shall be kept in the client file.

(3) Prior to receiving respite or supplemental services the Area Agency on Aging shall develop a written service plan for the caregiver, which shall be kept in the client file.

(4) The Area Agency on Aging shall ensure the provision of the full range of caregiver support services in the community by coordinating its activities with the activities of other community agencies and voluntary organizations providing supportive services to family caregivers and grandparents or other individuals who are relative caregivers of children.

(5) Older Americans Act information and services shall be provided to family caregivers in a direct and helpful manner. In cases where caregiver support programs already exist within the community, coordination of these programs and the UCSP is essential to maximize the dollars available for family caregivers and avoid duplication of services.

(6) To assure coordination of caregiver services in the planning and service area, the Area Agency on Aging shall convene a
minimum of one joint planning meeting annually with other local providers who currently provide support services to family caregivers. As practical, the Area Agency on Aging shall coordinate the activities under this program with other community agencies and voluntary organizations providing services to caregivers.

(7) Funds allocated on an annual basis under the UCSP for services provided by an Area Agency on Aging shall be expended as follows:

(a) Information to caregivers about available services: the Area Agency on Aging may not use less than three percent of the funds allocated under the UCSP to provide these services.

(b) Assistance to caregivers in gaining access to the services: the Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.

(c) Individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in the areas of health, nutrition and financial literacy and in making decisions and solving problems relating to their caregiving roles. The Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.

(d) Respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities: The Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.

(e) Supplemental Services, on a limited basis, to complement the care provided by caregivers: The Area Agency on Aging may not use more than twenty percent of the funds allocated under the UCSP to provide these services.

(f) The Area Agency on Aging shall spend no more than ten percent of funds on services provided to grandparents and other individuals who are relative caregivers of a child not more than 18 years of age.

(g) If a customer discontinues Respite and/or Supplemental Services before the end of the twelve-month period and before the annual established service expenditure limit per client is reached, the case shall be closed.

(h) If funds are available, the caregiver may be readmitted to the program subsequent to the case closing but shall do so within twelve months from the original date of enrollment.

(i) If no funds are available, the person will be placed at the top of the list to be the first person to be admitted to the program if the person still has time left on the program.

(j) If funds become available, but there is no time remaining based on the original admission, then the caregiver needs to reapply and be considered for admission to the program with all other applicants.

(9) The Area Agency on Aging shall make use of trained volunteers to expand the provision of available resources and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community settings.


(1) The Area Agency on Aging shall develop and maintain a Caregiver Advisory Council.

(2) The Caregiver Advisory Council may be a subgroup of the Area Agency on Aging Advisory Council providing they meet the requirements set forth in the rule.

(a) The Caregiver Advisory Council may be comprised of no less than five members, some of who shall be caregivers.

(2) The Caregiver Advisory Council shall meet no less than semiannually, and meetings shall be scheduled by each Area Agency on Aging.

(4) The primary duty of the Caregiver Advisory Council shall include but not be limited to conducting an annual caregiver satisfaction survey for the caregiver program.

(5) The Caregiver Advisory Council shall advise the Area Agency on Aging in determining service needs and developing action plans. When there is a concern over the use of limited resources for Respite Care and Supplemental Services, the Area Agencies on Aging, in consultation with their Caregiver Advisory Council, may further limit the amount of services provided to an individual caregiver. This local policy decision shall be in writing and shall be uniform for all caregivers for the current fiscal year.


(1) Individuals receiving services from this program may be encouraged to participate in voluntary contributions for services, provided that the method of solicitation is non coercive.

(2) Voluntary contributions shall in no way be based on a means test of an individual client’s income.

(3) Each Area Agency on Aging shall implement procedures for voluntary contributions in the UCSP, and shall comply, at a minimum, with the following:

(a) provide each recipient with an opportunity to voluntarily contribute to the cost of the services;

(b) clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary;

(c) protect the privacy and confidentiality of each recipient with respect to the recipient’s contribution or lack of contribution; and

(d) establish appropriate procedures to safeguard and account for voluntary contributions.

(4) Use all collected voluntary contributions to expand the service for which such contributions were given.

(5) In no instance shall services be denied if individuals do not participate in voluntary contributions.

(6) Area Agencies on Aging will consult with relevant service providers and older individuals in their planning and service area to determine the best method for accepting voluntary contributions.


(1) The Area Agency on Aging shall collect data and maintain records relating to the UCSP in the format specified by the Division.

(2) The Area Agency on Aging shall furnish the records to the DAAS as specified.

(3) The Area Agency on Aging shall report to DAAS, as specified, the activities and determinations of the Caregiver Advisory Council.

(4) The Area Agency on Aging shall report to DAAS any mechanisms used with caregivers regarding information about and access to various services so that the persons can better carry out their caregiver responsibilities.


(1) An Area Agency on Aging may request in writing a waiver for Respite and Supplemental Services in order to enable the caregiver to carry out their duties in assisting the care receiver. In requesting a waiver, the Area Agency on Aging must demonstrate that efforts have been made to access other sources of services or funds. The Agency Director or designee may grant waives for Supplemental Services or Respite on a case-by-case basis provided that such waiver is
R510-401-1. Authority and Purpose.
(1) The purpose of the rule is to facilitate the administration of the Utah Caregiver Support Program (UCSP), as established pursuant to the Older Americans Act of 1965, 42 U.S.C. Section 3030s et seq.
(2) The rule is authorized by Section 62A-1-111 and the Older Americans Act of 1965, 42 U.S.C. Section 3030s et seq.

(1) Terms used in this rule are defined in Section 62A-3-101, 42 U.S.C. 3022, and 42 U.S.C. 3030s.
(2) "Respite or Respite Care" means temporary, substitute supports or living arrangements to provide a brief period of relief or rest for caregivers as outlined in the service plan developed by a case manager following a formal assessment. Respite services include in-home respite, adult day care respite, or institutional respite for an overnight stay on an intermittent, occasional, or emergency basis.
(3) "Service Plan" means a written plan which contains a description of the needs of the caregiver, the care recipient, and the services and goals necessary to meet those needs.
(4) "Severe Disability" means the same as defined in 45 C.F.R. 1321.3.
(5) "Supplemental Services" means other services to complement the care of caregivers, on a limited basis, as determined by a case manager through the assessment process and included in a service plan. Supplemental services do not include services described in 42 U.S.C. 3030s-1(b)(1)-(4).

(1) Family caregivers and older relative caregivers are eligible to receive services described in Section R510-401-4.
(2) Priority to receive services shall be given in the following order of preference, as determined by the administration of a risk screening and assessment tool approved by the division:
(a) to family caregivers and older relative caregivers who are older individuals with greatest social and economic need;
(b) to family caregivers who provide care for older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction;
(c) to older relative caregivers of individuals with severe disabilities or older relative caregivers of children;
(3) If there are insufficient funds to offer eligible caregivers services, the local area agency shall maintain a list of all eligible caregivers. All eligible caregivers shall be given priority to receive services pursuant to the order of preference described in Subsections R510-401-3(2).

(1) Each local area agency shall provide a multifaceted system of caregiver support services for family caregivers and older relative caregivers. The multifaceted system of caregiver support services shall include the following:
(a) information to caregivers about available services;
(b) individualized assistance to caregivers in gaining access to services, which may include phone contact and home visits;
(c) individual counseling, support groups, and caregiver training to assist the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems related to their caregiving roles;
(d) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and
(e) supplemental services, on a limited basis, to complement the care provided by caregivers.
(2) Each local area agency shall coordinate its services with the services of other community agencies and voluntary organizations which provide supportive services to family caregivers and older relative caregivers.
(3) To ensure coordination of caregiver services in the planning and service area, each local area agency shall, at a minimum, convene an annual joint planning meeting with other community agencies or voluntary organizations which provide supportive services to family caregivers and older relative caregivers.
(4) Each local area agency shall allocate funds received for the UCSP as follows:
(a) at least 3% of funds shall be used to provide information to caregivers about available services;
(b) at least 5% of funds shall be used to provide assistance to caregivers in gaining access to services;
(c) at least 5% of funds shall be used to provide individual counseling, support groups, and caregiver training to caregivers to assist caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems related to their caregiving roles;
(d) at least 5% of funds shall be used to provide respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and
(e) no more than 20% of funds may be used to provide supplemental services, on a limited basis, to complement the care provided by caregivers.
(5) Prior to receiving respite or supplemental services, the local area agency shall develop a written service plan for the caregiver, which shall be maintained in the client file.
(a) If respite services are authorized for the caregiver, the written plan shall authorize the respite services for a twelve-month period and shall establish an expenditure limit for the individual to receive respite services.
(b) If supplemental services are authorized for the caregiver, the written plan shall authorize the supplemental services for a twelve-month period and shall establish an expenditure limit for the individual to receive supplemental services. The expenditure limit for the individual to receive supplemental services shall not be included in the expenditure limit described in Subsection 510-401-4(5)(a).
(6) If a caregiver discontinues respite or supplemental services before the end of the twelve-month period and before the established service expenditure limit for the individual is reached, the case shall be closed.
(a) The caregiver may be re-authorized to receive respite or supplemental services if funds are available and the caregiver reapplies within 12 months from the original date of enrollment to receive respite or supplemental services.
(b) The caregiver shall be given priority to receive respite or supplemental services if there are no funds available, but the caregiver reapplies within 12 months from the original date of enrollment to receive respite or supplemental services.
(c) The caregiver shall be authorized to receive respite or supplemental services pursuant to the process and order of preference described in Subsection R510-401-3(2) if funds are available, but the caregiver does not reapply within twelve months from the original date of enrollment to receive respite or supplemental services.
(7) The local area agency shall use trained volunteers to expand the available resources and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants in community settings.
   (1) Each local area agency shall develop and maintain a
caregiver advisory council.
   (2) Each caregiver advisory council shall meet the
following requirements:
      (a) be comprised of at least five members, including at least
one caregiver;
      (b) meet at least semi-annually;
      (3) administer an annual caregiver satisfaction survey for the
USCP; and
      (4) advise the local area agency on the service needs and
action plans of the area being served.

R510-401-6. Voluntary Contributions.
   (1) Each local area agency shall be allowed to offer a voluntary
contribution for services provided by the USCP. The method for
notation of a voluntary contribution may not be coercive.
   (2) Any voluntary contribution may not be taken into
consideration when determining an individual's economic need for
services.
   (3) Each local area agency shall develop and implement
procedures for the collection of voluntary contributions, which shall
include the following:
      (a) provide each caregiver with an opportunity to voluntarily
contribute to the cost of the service being provided;
      (b) clearly inform each caregiver that there is no obligation
to contribute and that the contribution is voluntary;
      (c) protect the privacy and confidentiality of each caregiver
with respect to the caregiver's contribution or lack of contribution;
      (d) establish appropriate procedures to safeguard and account
for voluntary contributions; and
      (e) require that all voluntary contributions be used to expand
the services for which the contributions were.

   (1) Each local area agency shall collect and maintain
information relating to the USCP in the format specified by the division.
   (2) Each local area agency shall provide information to the
division when requested.
   (3) Each local area agency shall record the activities and
decisions of each caregiver advisory council. Each local area agency
shall report the activities and decisions of each caregiver advisory
council to the division.

R510-401-8. Waiver Requests for Respite and Supplemental
Services.
   (1) Any waiver of a limit on respite or supplemental services
shall be at the discretion of the local area agency.
   (2) A request for a waiver of a limit on respite or
supplemental services shall be submitted in writing to the local area
agency and reviewed by the local area agency's director or the local
area agency director's designee. A waiver request shall demonstrate
the local area agency's efforts to access other sources of services or
available funds.
   (3) A waiver request, and accompanying documentation,
shall be maintained in the individual's client file.
   (4) Any approved waiver request shall be submitted in
writing to the division.

KEY: caregiver, care receiver, elderly, respite
Date of Last Change: 2022[January 18, 2010]
Notice of Continuation: November 24, 2020

Authorizing, and Implemented or Interpreted Law: 63A-3-104(4); 62A-3-104(5)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-2
Filing ID 54273

Agency Information

1. Department: Human Services
Agency: Child and Family Services
Building: Multi-Agency State Office Building
Street address: 120 N 1950 W
City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Phone: Email:
Carol Miller 801-557-1772 carolmiller@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R512-2. Title IV-B Child Welfare/Family Preservation and
Support Services and Title IV-E Foster Care, Adoption, and
Independent Living

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with
Executive Order No. 2021-12, issued by Utah's Governor
on May 6, 2021.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain
the substantive differences between the repealed rule and the
reenacted rule):
This rule has been updated to ensure legal citations are
accurate and to bring this rule in-line with the

Fiscal Information

5. Provide an estimate and written explanation of the
aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to adopt federal requirements applicable to Titles IV-B and IV-E of the Social Security Act.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to adopt federal requirements applicable to Titles IV-B and IV-E of the Social Security Act.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to adopt federal requirements applicable to Titles IV-B and IV-E of the Social Security Act.

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 changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to adopt federal requirements applicable to Titles IV-B and IV-E of the Social Security Act.

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 because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to adopt federal requirements applicable to Titles IV-B and IV-E of the Social Security Act.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
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<tr>
<th>Section</th>
<th>62A-4a-102</th>
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NOTICES OF PROPOSED RULES


R512-2. Title IV-B Child and Family Services [Welfare/Family Preservation and Support Services] and Title IV-E Foster Care, Prevention, and Permanency [Adoption, and Independent Living].

R512-2-1. Purpose and Authority.

1. The purpose of [ ]This rule is to adopt federal requirements applicable to Titles IV-B and IV-E of the Social Security Act.

2. This rule is authorized by Section 62A-4a-102.


1. The Division of Child and Family Services (Child and Family Services) adopts the following federal requirements applicable to Title IV-B, Subparts 1 and 2 for child and family [welfare and family preservation and support] services:

2. Public Welfare, 42 USC 621, 622, 623, 624, 626, 627, 629, 629a, 629b, 629c, 629d, 629e, 629f, 629g, [629h], and 629m as amended by Public Law [112-133] [H.J. Res. 62] (December 27, 2020) [September 29, 2014], incorporated by reference; and


R512-2-3. Title IV-E Foster Care, Prevention, and Permanency [Adoption, and Independent Living].

1. Child and Family Services adopts the following federal requirements applicable to Title IV-E Foster Care, Prevention, and Permanency [Adoption, and Independent Living]:

2. The Public Health and Welfare, 42 USC 670, 671, 672, 673, [673a], 673b, 674, 675, 675a, 676, 677, 679, 679b, 1320a-2, 1320a-2a, and 1320a-9 as amended by Public Law [113-183] [H.J. Res. 62] (December 27, 2020) [September 29, 2014], incorporated by reference; and
4. **Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the due process rights of foster parents when a decision is made to remove a foster child from their home.

**B) Local governments:**

There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the due process rights of foster parents when a decision is made to remove a foster child from their home.

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

There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the due process rights of foster parents when a decision is made to remove a foster child from their home.

**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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the due process rights of foster parents when a decision is made to remove a foster child from their home.

**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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the due process rights of foster parents when a decision is made to remove a foster child from their home.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. **A) 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.)

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Total Fiscal Benefits: $0

Net Fiscal Benefits: $0

This table does not include certain costs excluded by law or regulation, but the total cost is $0.

6. **B) Legal impact summary:**

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.
(1) [For the purpose of this rule, the following definitions apply:]
   (a) ["Child and Family Services" means the Division of Child and Family Services.]
   (b) "Emergency foster care" means temporary placement of a child in a foster home or crisis placement.
   (c) "Natural parent" means a child's biological or adoptive parent[.]
   (d) "Removal" means taking a child from a foster home [for the purpose of placing] to place the child in another foster home or facility, or not returning a child who has run from a foster home back to that foster home.

(1) As authorized by Section 62A-4a-206, a foster parent has a right to due process when a decision is made to remove a foster child from their home, if the foster parent disagrees with the decision, unless the removal is for the purpose of placing the child in another foster home or facility, or not returning a child who has run from a foster home back to that foster home.

   (a) [Return the child to the child's natural parent or legal guardian[.]]
   (b) [Immediately placing the child in an approved adoptive home[.]]
   (c) [Placing the child with a relative, as defined in Section 78A-6-307.] 80-3-102.
   (d) [Placing an Indian child in accordance with preplacement preferences and other requirements described in the Indian Child Welfare Act, 25 USC, Section 1915 (January 3, 2007).]

(2) As authorized by Section 80-3-502, a separate judicial process is available to contest the removal of a foster child from the foster parent. This process is available when the child has been in the foster home for at least 12 months, unless the removal is for the reasons cited in Subsection R512-31-3(1). To utilize this judicial process, the foster parent is not required to exhaust the administrative remedies listed in Section R512-31-6.

(1) A foster parent shall be notified that a foster child in the foster parent's care is to be moved to another placement ten days prior to removal, unless there is a reasonable basis to believe that immediate removal is necessary[.] as specified in Subsection R512-31-4(4). The foster parent shall be notified by personal communication with the foster parent and by written Notice of Agency Action.

(2) The Notice of Agency Action shall be sent by certified mail, return receipt requested, or personally delivered.

(3) In addition to requirements specified in Section 63G-4-201, the Notice of Agency Action shall include the date of removal, the reason for removal, and a description of the Foster Parent Conflict Resolution Procedure[.], and notice regarding the ability of the foster parent to petition the juvenile court judge currently assigned to the case for a review and determination of the appropriateness of the decision by Child and Family Services to remove the child from the foster home, if the child has been in the foster home for 12 months or longer, in accordance with Section 78A-6-318.

(4) If there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, the notification to the foster parent may occur after removal of the child. Notification shall be provided through personal communication on the day of removal and by written Notice of Agency Action. The Notice of Agency Action shall be sent by certified mail, return receipt requested, within three working days of removal of the child.

R512-31-5. Request for Due Process.
(1) The foster parent shall submit a written request for a hearing prior to the removal of the child from the home, unless the child was removed as specified in [Rule] Subsection R512-31-4(4). The request shall be sent to the entity specified in the Notice of Agency Action.
(2) If the child was removed as specified in [Rule]Subsection R512-31-4(4), the foster parent shall submit a written request for a hearing no later than ten days after receiving the Notice of Agency Action.

(3) Prior to a hearing being granted, an attempt to resolve the conflict shall be made as specified in [Rule]Section R512-31-6 and Rule R512-31-(6)(1)(b).


(1) The Foster Parent Conflict Resolution Procedure consists of the following:

(a) A foster parent must first attempt to resolve a conflict with Child and Family Services informally through discussion with the caseworker or supervisor. If a conflict is not resolved through informal discussion, an agency conference may be requested by the foster parent.

(b) The foster parent shall have the opportunity to provide written and oral comments to Child and Family Services in an agency conference chaired by the region director or designee. The agency conference shall include the foster parent, foster care caseworker, and the caseworker's supervisor, and may include other individuals at the request of the foster parent or caseworker.

(c) If the foster parent is not satisfied with the results of the agency conference with Child and Family Services, the foster parent shall have the opportunity to request a review to be held before removal of the child, by:

(1) if the juvenile court judge currently assigned to the child's case; or

(2) if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.

(d) If the foster parent is not satisfied with the results of the agency conference with Child and Family Services and a foster child is to be removed from the foster home, an administrative hearing shall be held through the Department of Human Services. The Office of Administrative Hearings shall serve as the neutral fact finder required by Section R512-31-6.

(e)(1) If a child is removed from a foster home based upon the child's statement alone, an agency conference will be held within five business days of a request by the foster parent. If the foster parent is not satisfied with the results of the agency conference, Child and Family Services shall request an expedited administrative hearing or expedited juvenile court hearing. No administrative action may be taken with regard to that foster parent's license until after all conflict resolution procedures have been completed.


(1) An administrative hearing regarding removal of a child from a foster home for another placement shall be conducted in accordance with Rule R497-100. The administrative law judge shall determine if Child and Family Services has abused its discretion in removing the child from the foster home. [i.e., the decision was arbitrary and capricious].

(2) If there is a criminal investigation of the foster parent in progress relevant to the reason for removal of the child, no administrative hearing shall be granted until the criminal investigation is completed and, if applicable, charges are filed against the foster parent.

(3) If there is an investigation for child abuse, neglect, or dependency involving the foster home, no administrative hearing shall be granted until the investigation is completed.


(1) The foster child shall remain in the foster home until the conflict resolution procedure specified in [Rule]Section R512-31-6 is completed, unless the child was removed as specified in [Rule]Subsection R512-31-4(4). The time frame for the conflict resolution procedure shall not exceed 45 days.

(2) If the child was removed as specified in [Rule]Subsection R512-31-4(4), the child shall be placed in emergency foster care until the conflict is resolved or a final determination is made by the Office of Administrative Hearings as required by Section 62A-4a-206.

KEY: child welfare, foster care, due process
Date of Last Change: 2022 January 7, 2016
Notice of Continuation: August 19, 2021
Authorizing, and Implemented or Interpreted Law: 62A-41a-102; 62A-4a-105; 62A-4a-206; 63G-4-201; 78A-6-318; 80-3-502

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE: Amendment</th>
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<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.): R512-40</td>
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<td>Filing ID: 54275</td>
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Agency Information

1. Department: Human Services

2. Agency: Child and Family Services

3. Building: Multi-Agency State Office Building

4. Street address: 120 N 1950 W

5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):

<table>
<thead>
<tr>
<th>Name:</th>
<th>Phone:</th>
<th>Email:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carol Miller</td>
<td>801-557-1772</td>
<td><a href="mailto:carolmiller@utah.gov">carolmiller@utah.gov</a></td>
</tr>
<tr>
<td>Jonah Shaw</td>
<td>385-310-2389</td>
<td><a href="mailto:jshaw@utah.gov">jshaw@utah.gov</a></td>
</tr>
</tbody>
</table>

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

General Information

2. Rule or section catchline: R512-40. Recruitment, Home Studies, and Approval of Adoptive Families for Children in the Custody of Child and Family Services

3. Purpose of the new rule or reason for the change: (Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah’s Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The proposed changes to this rule are not expected to have any fiscal impact on state government revenues or expenditures as the revised language brings this rule current to the requirements of Executive Order No. 2021-12.

B) Local governments:

There is no impact to local governments due to these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12.

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

There is no impact to small businesses due to these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12.

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 these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12.

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 persons other than small businesses, non-small businesses, state, or local government entities due to these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
NOTICES OF PROPOSED RULES

<table>
<thead>
<tr>
<th>Section 53-10-108</th>
<th>Section 62A-4a-102</th>
<th>Section 62A-4a-105</th>
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<td>[50x319]</td>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Tracy Gruber, Executive Director</th>
<th>Date: 12/14/2021</th>
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R512-40-1. Purpose and Authority.

(1) The purpose of this rule is to establish criteria for recruitment of adoptive families, standards for conducting adoptive home studies, and requirements for approval of adoptive homes.

(2) This rule is authorized by Sections 53-10-108, 62A-4a-102, 62A-4a-105, 62A-4a-205.6, 62A-4a-607, and 78B-6-118.


(1) For the purpose of this rule the following definitions apply:

(a) "Adoptive parent" means a couple or individual who completes Child and Family Services training for prospective adoptive parents and is approved by Child and Family Services.

(b) "Cohabiting" means residing with another person and being involved in a sexual relationship.

(c) "Home study" means a pre-placement adoption evaluation defined in Section 78B-6-128 regarding the capacity of the adoptive parents, their family, and their resources available to meet the needs of a child in custody.

(d) "ICWA" means the Indian Child Welfare Act, which defines relative by the law or custom of the Indian child's tribe and includes extended relatives. This definition extends beyond the state's definition of relative. (Defined in 25 U.S.C. Sec. 1901 et seq.)

(e) "Involved in a sexual relationship" means any sexual activity and conduct between persons.

(f) "Relative" is defined in Section 78A-6-307 as a relative who is the child's grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepchild, sibling, or the first cousin of the parent, or an adult who is an adoptive parent of the child's sibling.

(g) "Permanency" means the establishment and maintenance of a legally permanent living situation for a child to give the child an internal sense of family stability and belonging and a sense of self that connects the child to his or her past, present, and future.

(h) "Residing" means living in the same household on an uninterrupted basis for 30 days or more or on an intermittent basis.


(1) Child and Family Services seeks to [identify] recruit permanent adoptive families for children in state's custody whose primary permanency goal is adoption, or whose parents have voluntarily relinquished their parental rights or whose parental rights have been terminated by a court. Kin caregivers and other relatives should be considered first.

(2) [Identification] Recruitment of an adoptive family for children in state's custody is accomplished by:

(a) discussing with the relative or adoptive applicant caring for the child about adopting the child;

(b) targeting efforts to identify family members and others known to the child to consider adoption;

(c) discussing with the current caregiver adopting the child:

(1) identifying if the child is in a relative placement who will adopt them;

(2) discussing with the current caregiver about adopting the child;

[3] [f] requiring each licensed child placing agency in Utah to inform adoptive applicants that there are children in state's custody available for adoption in accordance with Section 62A-4a-607.


(1) Adopting a child in state's custody is based on an adult or couple's ability to provide a permanent family for the child. Adoptive applicants shall:

(a) Apply in the region where they live.

(b) Complete the adoption training program approved by Child and Family Services, with one exception:

(i) Training for relatives who are adopting a child will be based on needs identified on a case-by-case basis.

(c) Be assessed and approved as an adoptive parent by Child and Family Services following completion of a home study pursuant to R512-40-5.

(d) Obtain a foster care license issued by the Department of Human Services, Office of Licensing, or meet the same standards.
required to be licensed in R501-12, or receive a written waiver from Child and Family Services for a specific standard.

(2) An employee of Child and Family Services must receive a determination by Child and Family Services that no conflict of interest exists in the adoption process.

(i) Legally married couples and single adults, including relatives of a child and employees of Child and Family Services, may apply to adopt a child in state's custody based on their ability to provide a permanent family for the child. Only relatives to the child may be cohabiting under Section 78B-6-117. Adoptive applicants shall:

(a) apply in the region where they live;
(b) complete the adoption training program approved by Child and Family Services, which may be adapted for relatives based on the child's needs;
(c) be assessed and approved as an adoptive parent by Child and Family Services following completion of a home study pursuant to Section R512-40-5;
(d) obtain a foster care license issued by the Department of Human Services, Office of Licensing, or meet the same standards required to be licensed in Section R501-12, or receive a written waiver from Child and Family Services for a specific standard; and
(e) receive a determination by Child and Family Services that no conflict of interest exists in the adoption process.

(3) Relatives are not required to become licensed to be considered for adoption and will have an assessment completed by Child and Family Services.

R512-40-5. Home Study Requirements for Adoption.

(1) A home study must be completed by the Department of Human Services, Office of Licensing, and Child and Family Services, or by a licensed child-placing adoption agency contracted with Child and Family Services to conduct home studies.

(A) A prospective adoptive parent may be approved for the adoptive placement of a child in the custody of Child and Family Services as follows:

(i) The prospective adoptive parent and all adults residing in the home have passed criminal background checks, including a national fingerprint-based check that is approved according to criteria specified in Sections 53-10-108, 62A-2-120, 78A-6-308, and 78B-6-128, and Pub. L. 109-248.

(ii) A child abuse registry check is completed by Child and Family Services for the prospective adoptive parent and all adults residing in the home, including a check of child abuse registries in any states in which the prospective adoptive parent and all adults residing in the home have resided in the five years prior to application, that is approved according to criteria specified in Sections 62A-2-120, 78A-6-308, and 78B-6-128, and Pub. L. 109-248.

(iii) The prospective adoptive parent is a relative of the child and/or an ICWA placement preference and is legally married, single, or may be cohabiting.

(iv) The prospective adoptive parent who is not a relative of the child or ICWA placement preference is legally married or single and not cohabiting.

(2) The home study should be consistent with the standards of the Child Welfare League of America (www.cwla.org).

(a) The following factors are critical in the success of adoptive placements and are required content in adoptive applicant interviews and home study documentation:

(i) Commitment to the legal adoption of the child as a permanent member of the family.
(ii) Stable marital or cohabiting relationship and/or commitment and stability in other existing family relationships and/or the ability to sustain long-term relationships that would provide a base for an adoptive child.
(iii) Proper motivation and realistic expectations of a child who has experienced trauma and other effects of abuse and neglect.
(iv) Emotional openness, empathy, and flexibility.
(v) Strong social support system for both the parent and child.
(vi) Knowledge of resources to help raise a child.
(b) The following factors may significantly contribute to adoption disruption and are required content to be addressed in adoptive applicant interviews and home study documentation:

(i) History of emotional or psychological problems or substance abuse.
(ii) Marital or relationship difficulties and incompatibilities that seriously compromise the ability to meet the needs of the child.
(iii) Serious problems in child rearing.
(iv) Unrealistic expectations of self and child.
(v) Impulse control disorders.
(vi) Disruptive and/or crisis-filled lifestyle.
(vii) Criminal activity.
(c) The home study assessment and family evaluation will include information gathered from the following:

(i) Criminal background clearances for all adults in the home as described in subparagraph 1a(i) above.
(ii) Child abuse registry clearances for all adults in the home as described in subparagraph 1a(ii) above.
(iii) Three written statements of reference, one of which may be from a relative, which are positive regarding the applicant's stability and parenting capacity.
(iv) Psycho-social information gathered from the prospective adoptive parent and family members.
(v) Home visits and interviews to assess the prospective adoptive parent in the following areas:

(A) Marriage, relationship, and personal stability.
(B) Ability to manage stress.
(C) Parenting skills and emotional openness and flexibility to provide continuity of a caring relationship.
(D) Capacity to parent a child who has experienced trauma and who may have other special needs.
(E) How the children living at home will be affected.
(F) How supervision for the child will be arranged in accordance with the child's age and developmental ability at times when the prospective adoptive parent is not able to be in the home.

(vi) Health status verification regarding the prospective adoptive parent based on a doctor's examination made within six months prior to the date of application.

(vii) Financial status that verifies income sufficient to provide for a child's needs.

(viii) Home health and safety assessment.

(d) The evaluation of the family shall include their strengths and challenges.

(e) To preserve family connections for adopted children, home study requirements for relatives or friends known to the child that do not impact the health and safety of the child may be waived.

(f) Recommendations shall be made regarding the specific child intended to be adopted or the age and type of child who can best fit into the home to ensure the healthy development of the child.

(1) A family adopting a child in the custody of Child and Family Services must have a home study completed by the Department of Human Services, Office of Licensing, by Child and Family Services, or by a licensed child-placing adoption agency contracted with Child and Family Services.
NOTICES OF PROPOSED RULES

(2) A prospective adoptive parent may not be approved for the adoptive placement of a child in state's custody unless:

(a) the prospective adoptive parent is legally married or single and not cohabiting, with the exception of relatives to the child who may be cohabiting under Section 78B-6-117;

(b) the prospective adoptive parent and each adult residing in the home have completed criminal background checks, including a national fingerprint-based check that is approved according to criteria specified in Sections 53-10-108, 62A-2-120, 80-3-305, and 78B-6-128, and Pub. L. 109-248; and

(c) a child abuse registry check is completed by Child and Family Services for the prospective adoptive parent and each adult residing in the home, including a check of child abuse registries in any states in which the prospective adoptive parent and each adult residing in the home have resided in the five years prior to application to adopt that is approved according to criteria specified in Sections 62A-2-120, 80-3-305, and 78B-6-128, and Rule R512-2.

(3) The home study should be consistent with the standards of the Child Welfare League of America and Section 78B-6-128.

(a) The following factors are critical in the success of adoptive placements and are required content in adoptive applicant interviews and home study documentation:

(i) commitment to the legal adoption of the child as a permanent member of the family;

(ii) stable marital relationship or commitment and stability in existing family relationships and the ability to sustain long-term relationships that would provide a base for an adoptive child;

(iii) proper motivation and realistic expectations of a child who has experienced trauma and other effects of abuse and neglect;

(iv) emotional openness, empathy, and flexibility;

(v) strong social support system for both the parent and child; and

(vi) knowledge of resources to help raise a child.

(b) The following factors may significantly contribute to adoption disruption and are required content in adoptive applicant interviews and home study documentation:

(i) history of emotional or psychological problems or substance abuse;

(ii) marital difficulties and incompatibilities that seriously compromise the ability to meet the needs of the child;

(iii) serious problems in child rearing;

(iv) unrealistic expectations of self and child;

(v) impulse control disorders;

(vi) disruptive or crisis filled lifestyle; and

(vii) criminal activity.

(c) The home study assessment and family evaluation will include information gathered from the following:

(i) criminal background clearances for each adult in the home;

(ii) child abuse registry clearances for each adult in the home;

(iii) written statements of reference as specified in Rule R501-12;

(iv) psycho-social information gathered from the prospective adoptive parent and family members;

(v) home visits and interviews to assess the prospective adoptive parent in the following areas:

(A) marriage and personal stability;

(B) ability to manage stress;

(C) parenting skills and emotional openness and flexibility to provide continuity of a caring relationship;

(D) capacity to parent a child who has experienced trauma and who may have other special needs;

(E) how the children living at home will be affected; and

(F) how supervision for the child will be arranged in accordance with the child's age and developmental ability at times when the prospective adoptive parent is not able to be in the home;

(vi) health status verification regarding the prospective adoptive parent based on a doctor's examination made within six months prior to the date of application;

(vii) financial status that verifies income sufficient to provide for a child's needs; and

(viii) home health and safety assessment.

(d) The evaluation of the family shall include their strengths and challenges.

(e) To preserve family connections for adopted children, home study requirements for relatives or friends known to the child that do not impact the health and safety of the child may be waived.

(f) Recommendations shall be made regarding the specific child intended to be adopted or the age and type of child who can best fit into the home to ensure the healthy development of the child.
(5) A family that is not licensed as a foster parent or has let their license lapse must have a home study update within 18 months of the original home study to include background and child abuse registry clearances and address any changes in the circumstances of the family.

(6) A home study that is older than two years will require new training requirements and a complete new home study.

(7) The home study document will be maintained in the Child and Family Services offices and will be destroyed according to the retention schedule.

NOTE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

**UTAH ADMIN. CODE Ref (R no.):** R512-41

**Filing ID:** 54276

**Agency Information**

1. **Department:** Human Services
2. **Agency:** Child and Family Services
3. **Building:** Multi-Agency State Office Building
4. **Street address:** 120 N 1950 W
5. **City, state and zip:** Salt Lake City, UT 84116

**Contact person(s):**

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Carol Miller</td>
<td>801-557-1772</td>
<td><a href="mailto:carolmiller@utah.gov">carolmiller@utah.gov</a></td>
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<td><a href="mailto:jshaw@utah.gov">jshaw@utah.gov</a></td>
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</table>

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

**General Information**

2. **Rule or section catchline:** R512-41. Qualifying Adoptive Families and Adoption Placement

3. **Purpose of the new rule or reason for the change:** (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. **Summary of the new rule or change:** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

| A) State budget: | 
|---|---|---|
| There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the requirements used to qualify adoptive parents and the criteria for adoption placement. |

| B) Local governments: | 
|---|---|---|
| There is no impact to local governments due to these rule changes because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the requirements used to qualify adoptive parents and the criteria for adoption placement. |

| C) Small businesses ("small business" means a business employing 1-49 persons): | 
|---|---|---|
| There is no impact to small businesses due to these rule changes because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the requirements used to qualify adoptive parents and the criteria for adoption placement. |

| 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 these rule changes because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the requirements used to qualify adoptive parents and the criteria for adoption placement. |

| 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 persons other than small businesses, non-small businesses, state, or local government entities due to these rule changes because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services defines the requirements used to qualify adoptive parents and the criteria for adoption placement. |

| F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?): | 
|---|---|---|
| There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature. |

| G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head): | 
|---|---|---|
| After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director |

6. A) **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.)

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(1) [For the purpose of this rule the following definitions apply:]

Adoptive parent[s] means a couple or individual who completes Child and Family Services training and has completed a home study for prospective adoptive parent[s] and is approved by Child and Family Services.

(b) "Permanency" means the establishment and maintenance of a permanent living situation for a child to give the child an internal sense of family stability and belonging and a sense of self that connects the child to his or her past, present, and future.

R512-41-3. Requirements for Adoptive Parent(s).

Prospective adoptive parent[s] who apply to adopt a child in the custody of Child and Family Services, including a relative of a child or a Child and Family Services employee, must meet all of the requirements listed in Rule R512-40.
shall have the opportunity to meet the child [prior to] before permanent placement. Release of all documents is subject to the Government Records Access Management Act, Title 63G, Chapter 2—and other governing statutes.

(8) When the approved adoptive parent(s) agree to accept the placement of a child for adoption, the adoptive parent(s) and a representative from Child and Family Services shall sign an agreement for the intent to adopt a specific child on a form provided by Child and Family Services.

(9) When the adoptive parent(s) agree to accept the placement of a child who is not free for adoption, the parent(s) shall sign the Child and Family Services' foster care agreement.


(1) Child and Family Services will make every effort to make a smooth and effective transition of the child to the prospective adoptive parent(s) with the cooperation of the foster family and others who have a supportive relationship with the child.

(2) [All] Out-of-home requirements continue to be applicable until the adoption is finalized.

(3) The prospective adoptive parent(s) will have access to all relevant information in the case record to help them understand and accept the child and preserve the child's history.

(4) The prospective adoptive parent(s) shall be advised about adoption assistance and community services available to meet the special needs of the child before and after the adoption is final as well as of community services.

(5) Child and Family Services will develop a Child and Family Plan within 30 days of placement and supervise the adoptive placement, including frequent visits with the child and adoptive family for at least the first six months after placement.

(6) Child and Family Services' supervision will continue until the adoption is final.

R512-41-7. Adoption Disruption or Removal of a Child from Adoptive Parent(s) [Prior to] Before Finalization.

(1) Child and Family Services shall consider removal of a child before an adoption is finalized if the adoptive parent(s) request removal or if serious circumstances impair the child's security or development.

(2) [Prior to] Before removal, Child and Family Services shall respond to the adoptive parent(s) concerns in a timely manner, counsel with the adoptive parent(s) and, if possible and appropriate, offer further treatment, including intensive in-home services or temporary removal of the child from the home for respite purposes.

(3) When removal is recommended, the [Adoption Committee shall review the placement progress and present situation, and shall decide to either continue placement with further services or to remove the child from the home. The region director will review and approve the decision.

(4) If the [Adoption Committee decides to remove the child, a Notice of Agency Action shall be sent to the adoptive parent(s), notifying them of their due process rights. The adoptive parent(s) shall be offered the same rights as those offered to a foster family regarding removal of a child, in accordance with [Rule R512-31(9)].

(5) Child and Family Services will reconsider any potential kinship caregivers if the child is disrupted or removed from an adoptive placement or a permanent placement has not been identified.

R512-41-8. Adoption Finalization and Post Adoption.

(1) Before an adoption is final, the [Adoption Committee shall assess if the child qualifies for adoption assistance and, when appropriate, what level of monthly subsidy the child is eligible to receive, in accordance with [Rule R512-43].

(2) The prospective adoptive family shall be made aware of available post adoption resources.


(1) An [Adoption Committee will be appointed in each Child and Family Services region and will consist of at least three members to include senior-level Child and Family Services staff and one or more members from an outside agency with expertise in adoption or foster care.

(2) The [Adoption Committee is responsible for deciding adoptive parent(s) who can best meet the needs of a child when the child is not residing with the family that will adopt. The [Adoption Committee is also responsible for recommending removal of the child from a placement when indicated.

(3) Anyone who has information regarding the child and the prospective adoptive parents under consideration may be invited by the [Adoption Committee to present information but not to participate in the deliberations.

(4) Any member of the [Adoption Committee who has a potential conflict of interest must recuse himself or herself from the proceeding.

(5) The [Adoption Committee will reach its decision through consensus. If consensus cannot be reached, the [Adoption Committee will submit their recommendation to the region director for a decision.

(6) Child and Family Services will send written notification of selection to the adoptive parent(s).

(7) A family or individual that is not selected for an adoption placement of a specific child shall have no right to appeal the decision, unless the parent(s) selected for the adoptive placement [are] the child's current foster parent(s) and the foster parent(s) have completed all of the requirements. If the foster parent(s) are not selected for the adoptive placement, the foster parent(s) due process rights for removal of a child apply, in accordance with [Rule R512-31(9)].

(8) The adoption committee will make and retain a written record of their proceedings, which are confidential.

R512-41-10. Adult Adoptee or Adoptive Parent(s) Request for Records.

[Proposal-The adoption records of Child and Family Services shall be made available to the adoptive parent(s) or adult adoptee upon written request in accordance with the Government Records Access Management Act, Title 63G, Chapter 2. An adult adoptee may also register with the Utah Department of Health Mutual-Consent, Voluntary Adoption Registry, Section 78B-6-144 to attempt to contact biological family members.

R512-41-11. Information Regarding the Adoptive Parent(s).

[Proposal—No identifying information regarding the adoptive parent(s) shall be released to birth families without the written consent of the adoptive parent(s).]
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-43 Filing ID 54277

Agency Information

1. Department: Human Services
Agency: Child and Family Services
Building: Multi-Agency State Office Building
Street address: 120 N 1950 W
City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Phone: Email:
Carol Miller 801-557-1772 carolmiller@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R512-43. Adoption Assistance

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings 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):
The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director
6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Section 62A-4a-102</th>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Tracy Gruber, Executive Director |
| Date: | 12/14/2021 |


(1) [The purpose of the adoption assistance program is to] aids an adoptive family in establishing and maintaining a permanent adoptive living arrangement for a child who qualifies for the program under state and/or federal law.

(2) The adoption assistance program is intended to provide a permanent family for a child in public foster care or who receives Supplemental Security Income (SSI) disability benefits by providing financial and medical assistance for the child's benefit and best interest to the family who adopts the child.

(3) This rule is authorized by Section 62A-4a-102.

R512-43-2. Definitions. In addition to terms defined in Section 62A-4a-902, the following terms are defined for purposes of this rule:

(a) a judicially removed child whose placement resulting in adoption was immediately preceded by protective, temporary, or legal custody with a state IV-E agency, or a child who was placed with a state IV-E agency through a Voluntary Placement Agreement, or the child of a minor parent in foster care; [Sa]

(b) a child or youth who was taken into protective custody episode; [Sb] or

(c) [Sc]

(1) Qualification for adoption assistance is based upon the child meeting qualifying factors, not the adoptive family.

(2) A child qualifies for adoption assistance if all of the following are met:
   (a) the state has determined that the child cannot or should not be returned home;
   (b) the state can document that reasonable efforts were made to place the child for adoption without providing adoption assistance;
   (c) an exception applies if the child has significant emotional ties with the adoptive family and it is not in the child's best interest to consider a different adoptive placement;
   (d) the state determines the child meets the definition of a child with a special need in accordance with Title IV-E, 
   (e) a child under age five in public foster care meets the special need definition of "a child with a physical, emotional or mental disability" when the child is at risk to develop such a condition due to specific factors identified in the child's or birth parents' health and social histories.

(3) In determining eligibility for adoption assistance, there is no income eligibility requirement or means test for the adoptive parents.

(4) A child must be a United States citizen or qualified alien to receive adoption assistance.

(5) An application for adoption assistance shall be submitted to the regional adoption assistance committee on a form provided by Child and Family Services.

(6) Application for adoption assistance, approval, and completion of the adoption assistance agreement, including signatures of an adoptive parent and a representative from Child and Family Services, are to be completed before finalization of the adoption.

NOTICES OF PROPOSED RULES

R512-43-4. Reimbursement of Non-Recurring Adoption Expenses.

(1) A parent who adopts a child meeting all of the qualifying factors for adoption assistance listed in Section R512-43-3(22) may be reimbursed for non-recurring adoption expenses on behalf of the child.

(2) A parent may be reimbursed up to $2,000 per child for allowable non-recurring expenses directly related to the legal adoption of a child with a special need. Reimbursement shall be limited to costs approved by the regional adoption assistance committee.

(3) Expenses may include reasonable and necessary adoption fees, court costs, adoption-related attorney fees, pre-placement adoptive evaluation, health and psychological examinations of adoptive parents, post-placement adoptive evaluation, and reasonable costs of lodging and food for the child and adoptive parents during the placement or adoption process.

(4) Adoptive parents are responsible to provide necessary receipts for reimbursement.

(5) Only those costs that are incurred in accordance with federal law and that have not been reimbursed from other sources or funds may be included.

(6) Non-recurring adoption expenses are reimbursable through Title IV-E if adoption assistance is obtained. The child does not
have to be determined Title IV-E eligible for the parents to receive this reimbursement.


(1) [Qualifying for a Monthly Subsidy.

(a) The child meets all of the qualifying factors for adoption assistance listed in Section R512-43-3(b) and;

(b) The child meets the definition of child in public foster care, qualifies for SSI, or the child had a previous IV-E agreement or Utah state adoption assistance agreement; and

(c) The child's eligibility for SSI [disability benefits] is established no later than the time adoption proceedings are initiated.

(2) [Guiding Principles for Monthly Subsidies.

(a) The amount of monthly subsidy to be paid for a child is based on the child's present and long-term care and treatment needs and available resources, including the family's ability to meet the needs of the child. A combination of the parents' resources and subsidy should cover the ordinary and special needs expenses of the child projected over an extended period of time.

(b) The amount of the monthly subsidy may not exceed the payment that would be made if the child was placed in a foster family home at the point in time when the agreement is being initiated or revised.

(c) The amount of monthly subsidy may increase or decrease when the child's level of need or the family's ability to meet those needs changes. The family or the Child and Family Services worker may initiate a request for a change in the amount of subsidy up to two times per fiscal year, when needs or resources change.

(d) If the adoptive family is receiving post adoption services and has an open Child and Family Services case, a change in the amount of subsidy may be initiated at any time during the open case to address service needs.

(e) For a child in public foster care, the requested amount of monthly subsidy is negotiated between the adoptive parent and the Child and Family Services worker, [Prior to] Before subsidy negotiation, the adoptive parents must have reviewed the child's case file information and discussed in depth with the Child and Family Services worker what will be needed after the child leaves state's custody.

(f) The amount of the monthly subsidy is subject to the approval of the regional adoption assistance committee. If the requested amount is not granted, the adoptive parent has a right to appeal as stated in Section R512-43-12.

(g) Utilizing the level of need criteria specified in Section R512-43-5(b), the Child and Family Services worker and adoptive family identify the child's level of need.

(h) The Child and Family Services worker and adoptive family shall identify the applicable monthly subsidy payment range, according to the child's specified level of need, as specified in Section R512-43-5(c).

(i) The Child and Family Services worker and adoptive family shall negotiate the amount of monthly subsidy to be requested from the regional adoption assistance committee. The requested monthly subsidy amount may not exceed the maximum amount for the specific level of need identified for the child nor the maximum amount that the child would receive if placed in a foster family home.

(j) The identified need level for the child and requested amount of monthly subsidy [as shall be presented to the regional adoption assistance committee for approval. If the requested amount is not approved or is reduced by the committee, Child and Family Services [must] shall send a written notice to the adoptive parents within 30 days informing them of the process to request a fair hearing.

(k) The level of need is determined by considering the child's age, history, physical, mental, emotional, and social functioning and needs, and any other relevant factors. Frequency of occurrence, duration, severity, and number of needs or problem areas are also considered.

(l) The presence of a particular issue listed within a designated level does not mandate that the child be categorized at that level as the child's needs, taken as a whole, determine the level selected for the child.

(m) The level of need is classified into three categories.

(n) Level one applies to a child with a minimal number and severity of needs. It is expected that most of these issues will improve with time, and significant improvement may be anticipated over the course of the adoption.

(o) Level two applies to a child with a moderate number and severity of needs. It is expected that most of these issues will improve with time, and significant improvement may be anticipated over the course of the adoption.

(p) Level three applies to a child with a significant number or high severity of needs. It is expected that most of these issues will become more severe over time.
(ii) The child's level of need may require personal attendant care or specialized care outside of the home, when prescribed by a professional.

(iii) For children ages five and under issues may include, but are not limited to: severe life threatening medical issues; moderate or severe cognitive disability, autism, or fetal alcohol spectrum disorder; serious developmental delays in three or more areas of fine or gross motor, cognitive or social[ and emotional domains; anticipated need for ongoing support for activities of daily living, such as feeding, dressing and self care; or high levels of threat for harm to self or others due to aggressive behaviors.

(iv) For children ages six to 18 issues may include, but are not limited to: moderate or severe retardation or autism; life threatening medical issues; severe physical disabilities not expected to improve over time; predatory sexual perpetration; high risk of serious injury to self or others due to aggressive behavior; serious attempts or threats of suicide; severely inhibiting diagnosed mental health disorders diagnosed within the past year that limit normal social and emotional development, such as a need for ongoing self contained or special education services.

(15) The regional adoption assistance committee must approve the level of need identified for the child.

(16) A child's need level may be increased in severity by one level if the adoption assistance committee determines that the child's permanency may be compromised due to financial barriers to the child's adoption and if at least one of the following circumstances apply:

(a) The child has been in state custody for longer than 24 months.

(b) The child is nine years of age or older.

(c) The child is part of a sibling group of three or more children being placed together for purposes of adoption.

(17) Identifying Amount for Monthly Subsidy Based Upon the Child's Level of Need

(a) Each level of need corresponds to a dollar range in the amount of monthly subsidy that may be paid for a child, with the specific amount based upon the individual child's needs and the family's ability to meet those needs.

(b) The monthly subsidy amount for an individual child may not exceed the maximum amount for the payment range applicable to the child's level of need.

(c) A family may choose to defer receipt of a monthly subsidy for which a child qualifies, with the option to initiate a monthly subsidy at a later date.

(d) A family may choose to receive a lesser amount than would be allowable for the level of need at a given point in time.

(e) Monthly subsidy payments for a child's needs categorized as level of need range from zero to 40 percent of the maximum maintenance payment that may be paid for a child in a foster family home.

(f) A family may choose to receive a lesser amount than would be allowable for the child's level of need at a given point in time.

(g) Monthly subsidy payments for a child's needs categorized as level of need range from 20 percent to 70 percent of the maximum maintenance payment that may be paid for a child in a foster family home.

(h) Monthly subsidy payments for a child's needs categorized as level of need range from 50 percent to 100 percent of the maximum maintenance payment that may be paid for a child in a foster family home.

(25) For extraordinary, infrequent, or uncommon documented needs that cannot be covered by a monthly subsidy or state medical assistance, refer to supplemental adoption assistance in Section 512-43-7.

(26) Funding Sources and Eligibility for Monthly Subsidy

(a) The two funding sources for the monthly subsidy are Title IV-E Adoption Assistance and state adoption assistance funds. The child's eligibility determines which funding source is used for payment.

(b) Title IV-E Adoption Assistance shall be considered first for the monthly subsidy. To receive Title IV-E Adoption Assistance, a child with special needs shall meet at least one of the following federal requirements:

(i) The child is determined eligible for SSI for a disability by the Social Security Administration before the initiation of adoption proceedings.

(ii) A child in foster care who meets the age criteria defined by the federal fiscal year qualifies for Title IV-E adoption assistance if other enhanced eligibility criteria is met.

(iii) A child in foster care who has been in foster care for any previous 60 consecutive months may qualify for Title IV-E Adoption Assistance if other enhanced eligibility criteria is met.

(iv) A child in foster care who is a sibling of another child in foster care who qualifies under the enhanced age criteria and is being adopted into the same family may qualify for Title IV-E adoption assistance if other enhanced eligibility criteria is met.

(v) The child is in foster care for purposes of adoption assistance if other enhanced eligibility criteria is met.

(vi) The child had a previous IV-E adoption assistance agreement.

(vii) The child's needs were met through foster care maintenance payments made to and for the child's minor parent or parents as provided by Subsection 475(4)(B) of the Social Security Act or

(viii) The child had a previous IV-E adoption assistance agreement.

(c) State adoption assistance funds may be used for the monthly subsidy if the qualified child is not eligible for Title IV-E Adoption Assistance.

(d) The child lived with a specified relative within the six months before the voluntary placement, and

(e) Title IV-E foster care maintenance payments were made on behalf of the child.

(f) The child's needs were met through foster care maintenance payments made to and for the child's minor parent or parents as provided by Subsection 475(4)(B) of the Social Security Act or

(g) The child had a previous IV-E adoption assistance agreement.

(h) State adoption assistance funds may be used for the monthly subsidy if the qualified child is not eligible for Title IV-E Adoption Assistance.

(i) The monthly subsidy may be used according to the parents' discretion. Some examples of the uses of the monthly subsidy payment are:

(a) medical, dental, or mental health services not paid for by the state medical assistance or family insurance;

(b) special equipment for physically or mentally challenged children;

(c) respite care;

(d) child care;

(e) therapeutic equipment;

(f) minor renovation of the home to meet special needs of the child.
NOTICES OF PROPOSED RULES

R512-43-6. State Medical Assistance.
(1) A child qualifies for state medical assistance as a component of adoption assistance when [all of the] the following requirements are met:
   (a) [T]he child meets [all of the] qualifying factors for adoption assistance listed in Section R512-43-3(2), and;
   (b) [T]he child meets the definition of child in public foster care, qualifies for SSI disability benefits, or the child had a previous IV-E adoption assistance agreement or Utah state adoption assistance agreement;
   (c) [T]he child's eligibility for SSI benefits is established no later than the time adoption proceedings are initiated; and
   (d) [T]he child meets state medical assistance citizenship requirements.
(2) A qualified child may receive state medical assistance through an adoption assistance agreement without also receiving a monthly subsidy payment.
(3) The adoptive family must meet [all] Medicaid requirements, including application, citizenship verification, and annual review requirements in order for Medicaid to be initiated and continue throughout the period of the adoption assistance agreement.

R512-43-7. Supplemental Adoption Assistance.
(1) A child who meets [all] each qualifying factor for a monthly subsidy and for whom an adoption assistance agreement for a monthly subsidy or state medical assistance is in effect may qualify for supplemental adoption assistance.
(2) Supplemental adoption assistance may only be used for extraordinary, infrequent, or uncommon documented needs not otherwise covered by a monthly subsidy, state medical assistance, or other public benefits for which a child who has a special need is eligible for.
(3) Supplemental adoption assistance is not an entitlement, and will be granted only when justified by unique needs of the child and when [all] other resources for which a child is eligible for have been exhausted.
(4) Supplemental adoption assistance requests up to $3,000 will be considered and are subject to the approval of the regional adoption assistance committee.
(5) Supplemental adoption assistance requests from $3,001 to $10,000 shall be considered by the appropriate regional advisory committee established under [Subsection 62A-4a-905(2)].
(6) Supplemental adoption assistance requests exceeding $10,001 shall be considered by a state level advisory committee with the same membership composition as the regional advisory committees.
(7) Recommendations from the advisory committee are subject to the approval of the [R]egion [D]irector or designee.
(8) Any obligation made or expense incurred by a family [prior to] before approval shall not be reimbursed with supplemental adoption assistance funds unless approval is granted by the [R]egion [D]irector.
(9) A request for an amendment or extension of an existing supplemental adoption assistance agreement will be reviewed by the same committee that reviewed the initial request. If the total amount of multiple requests in a year is $3,000 to $10,000, the request shall be submitted to the appropriate regional advisory committee. If the request exceeds $10,000, the request shall be submitted to the state level advisory committee.
(10) Supplemental adoption assistance is subject to the availability of state funds appropriated for adoption assistance.

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
A written request for a fair hearing may be submitted to the Department of Human Services within ten working days after receiving a decision by the Department of Human Services. If:
(a) [T]he adoption assistance application is denied;
(b) [T]he adoption assistance application is not acted upon with reasonable promptness;
(c) [A]doption assistance or supplemental adoption assistance is reduced, suspended, terminated, or changed without the concurrence of the adoptive parents;
(d) [T]he amount of adoption assistance or supplemental adoption assistance approved was less than the amount requested by adoptive parents; or

After one year of suspended monthly subsidies, the monthly subsidy payment will be terminated.

If the parent contacts Child and Family Services after termination of the monthly subsidy, Child and Family Services will repay up to one year of monthly subsidy payments at the amount determined in the [A]doption [A]ssistance [A]greement.

(1) An adoption assistance agreement for a monthly subsidy or state medical assistance shall be terminated if any of the following occur:
(a) [T]he terms of the adoption assistance agreement are concluded;
(b) [T]he adoptive parents request termination;
(c) [T]he child's 18th birthday, unless approval has been given by the adoption assistance committee to continue until the month following the child's 21st birthday due to mental or physical disability;
(d) [T]he child dies;
(e) [T]he adoptive parents die;
(f) [T]he state determines the child is no longer receiving financial support from the adoptive parents;
(g) [T]he state determines that the child is no longer a special need and that one of the criteria in Section R512-43-5 applies.

(2) An adoption assistance agreement for a monthly subsidy or state medical assistance shall be terminated if any of the following occur:
(a) [T]he terms of the adoption assistance agreement are concluded;
(b) [T]he adoptive parents request termination;
(c) [A]n erroneous state determination was utilized to find a child ineligible for assistance;
(d) [T]he state or adoption agency failed to advise adoptive parents of the availability of assistance.

The adoptive parents bear the burden of documenting that the child meets the definition of a child with a special need and that one of the criteria in Section R512-43-5 applies. The state may provide corroborating facts to the family or the hearing officer.

(1) Child and Family Services is responsible to determine if a child in Utah public foster care qualifies for adoption assistance when the child is placed in an adoptive home in another state. If the child qualifies, Child and Family Services provides adoption assistance regardless of the state of residence of the adoptive family and child.

(2) If a child with a previous IV-E adoption assistance agreement enters public foster care because the adoption was dissolved or ended due to the result of the death of the parents, the state in which the child is taken into custody in public foster care is responsible to provide adoption assistance in a subsequent adoption.

(3) If a child with a previous IV-E adoption assistance agreement does not enter public foster care when the adoption dissolved or ended due to the death of both parents, the new adoptive parent is responsible to apply for adoption assistance in the new adoptive parent's state of residence.

(4) A parent desiring to adopt an out-of-state child who is not in public foster care but is receiving SSI disability benefits shall apply for adoption assistance in the parent's state of residence.

(5) An adoption assistance agreement remains in effect regardless of the state of residence of the adoptive parents as long as the child continues to qualify for adoption assistance.

(6) If a needed service specified in the agreement is not funded by the new state of residence, the state making the original adoption assistance payment remains financially responsible for paying for the specific service.

KEY: adoption, child welfare, foster care
Date of Last Change: April 8, 2019
Notice of Continuation: August 12, 2020

NOTICES OF PROPOSED RULES

R512-43-5 applies.

(a) [T]he fair hearing officer may approve appropriate state or federal adoption assistance for post finalization requests if one of the following is met:

(ii) Relevant facts regarding the child, the biological family, or child's background were known but not presented to adoptive parents prior to finalization;

(iii) Adoption assistance was not requested prior to before finalization of the adoption and one of the criteria in Section R512-43-5 applies.

(b) [T]he child enters the military.

(c) [T]he adoptive parents' legal responsibility for the child ceases.

(d) [T]he child marries.

(e) [T]he state determines that the child is no longer a special need and that one of the criteria in Section R512-43-5 applies.

(f) [T]he adoptive parents bearing the burden of documenting that the child meets the definition of a child with a special need and that one of the criteria in Section R512-43-5 applies. The state may provide corroborating facts to the family or the hearing officer.

R512-43-12. Fair Hearings.
(1) [Fair Hearing Request.

A written request for a fair hearing may be submitted to the Department of Human Services within ten working days after receiving a decision by the Department of Human Services. If:
(a) [T]he adoption assistance application is denied;
(b) [T]he adoption assistance application is not acted upon with reasonable promptness;
(c) [A]doption assistance or supplemental adoption assistance is reduced, suspended, terminated, or changed without the concurrence of the adoptive parents;
(d) [T]he amount of adoption assistance or supplemental adoption assistance approved was less than the amount requested by adoptive parents; or

NOTICES OF PROPOSED RULES
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-44  Filing ID 54278

Agency Information
1. Department: Human Services
Agency: Child and Family Services
Building: Multi-Agency State Office Building
Street address: 120 N 1950 W
City, state and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Carol Miller  Phone: 801-557-1772  Email: carolmiller@utah.gov
Name: Jonah Shaw  Phone: 385-310-2389  Email: jshaw@utah.gov

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

General Information
2. Rule or section catchline:
R512-44. Choose Life Adoption Support Restricted Account

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The proposed changes to this rule are not expected to have any fiscal impact on state government revenues or expenditures as the revised language brings this rule current to the requirements of Executive Order No. 2021-12. The amendment is technical in nature and does not include a fiscal impact.

B) Local governments:
There is no impact to local governments due to these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12. The amendment is technical in nature and does not include a fiscal impact.

C) Small businesses (*small business* means a business employing 1-49 persons):
There is no impact to small businesses due to these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12. The amendment is technical in nature and does not include a fiscal impact.

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 these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12. The amendment is technical in nature and does not include a fiscal impact.

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 persons other than small businesses, non-small businesses, state, or local government entities due to these rule changes. These revisions bring this rule in-line with Executive Order No. 2021-12. The amendment is technical in nature and does not include a fiscal impact.

F) Compliance costs for affected persons
(How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses
(Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses.

Tracy Gruber, Executive Director

6. A) 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.)

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NOTICES OF PROPOSED RULES

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Other Persons $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

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 41-1a-418 | Section 41-1a-419 | Section 41-1a-422
26 U.S.C., Sec 501(c)(3) | Section 62A-4a-102 | Section 62A-4a-105

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021

R512-44. Choose Life Adoption Support Restricted Account.
R512-44-1. Purpose and Authority.
(1) [The purpose of this rule specifies the requirements for carrying out the purposes of the Choose Life Adoption Support Restricted Account as outlined in Section 62A-4a-608, with the funding specified in Section 41-1a-
(2) This rule is authorized by Section 62A-4a-102.
(1) [For the purposes of this rule:
(a) ]"Administrator" means the employee of Child and Family Services appointed by the [D] director to administer the Choose Life Adoption Support Restricted Account.
(b) ]"Child and Family Services" means the Division of Child and Family Services.
(c) ]"Director" means the [D] director of Child and Family Services.
(d) ]"RFP" means Request for Proposal.
(1) Funds from the Choose Life Adoption Support Restricted Account shall be used for charitable organizations that support, promote, and provide education about adoption. This may occur by producing and distributing educational and promotional materials on adoption, conducting educational courses on adoption, and providing other programs that support adoption as specified in Section 62A-4a-608.
R512-44-4. Responsibilities of the Director.
(1) In addition to the responsibilities defined in Section 62A-4a-608, the [D] director shall:
(a) ]designate a staff member to serve as the [A] administrator of the Choose Life Adoption Support Restricted Account;
(b) ]approve policies of the Choose Life Adoption Support Restricted Account; and
(2) ]approve policies of the Choose Life Adoption Support Restricted Account.
R512-44-5. Funding Limitations and Requirements.
(1) Child and Family Services shall distribute the funds in the Choose Life Adoption Support Restricted Account to one or more charitable organizations that:
(a) ]qualify as being tax exempt under [Section 501(c)(3) of the] Internal Revenue Code of 2006, 26 U.S.C., Sec 501;
(b) ]are part of their primary mission, include the support, promotion, and education about adoption of children; and
(c) ]are licensed or registered to do business within the state in accordance with [Utah] state law.
(2) Funding for individual projects shall be based on yearly revenues available in the restricted account. If unobligated account revenues for a given year are less than $50,000, Child and Family Services may forego the RFP process for that year.
(3) Each program or project funded through the Choose Life Adoption Support Restricted Account shall provide a dollar-for-dollar match from non-government sources. In-kind contributions may be used as part of the match requirement [not exceed 50% of the match requirement may be in-kind.]

(b) Items that may be used as in-kind match are contributed services of support personnel, office space, furniture and equipment, utility costs, donated printing, vehicles, and contributed services of professional personnel including physicians, nurses, social workers, psychologists, educators, public accountants, and lawyers who are performing services for which they would normally be paid.

(c) The source of original funding for this in-kind match shall not be state or federal monies.

(4) Of the total money available for allocation in the Choose Life Adoption Support Restricted Account, awards shall be granted according to the allocation plan approved by the [director of the department].


(1) A RFP shall be developed by the [administrator based upon the approved allocation plan and adoption support priorities, and in accordance with state	buying
guidelines].

(2) The RFP shall specify the purposes and eligibility requirements for projects or programs to be funded through the Choose Life Adoption Support Restricted Account.

(3) The proposal requirements may vary from year to year.

(4) The RFP shall be disseminated through the online State Purchasing Bid Program. Project or program proposals shall be submitted as specified in the RFP.

R512-44-7. Procedures in Selecting Programs or Projects to be Supported by the Choose Life Adoption Support Restricted Account.

(1) Proposals received by Child and Family Services in response to the RFP shall be reviewed according to the criteria specified in the RFP, consistent with Section 62A-4a-608.

(2) The [administrator or Child and Family Services] shall negotiate contracts with successful offerors, based on state	buying
guidelines.


[Choose Life Adoption Support Restricted Account] funds may be used for research programs consistent with Section 62A-4a-608 at funding levels deemed appropriate. Basic or applied research programs or projects that provide empirical data that help support adoption of children or inform adoption education may be funded.


[Each program or project funded through the Choose Life Adoption Support Restricted Account shall be evaluated by Child and Family Services at least once each year to determine if the purposes and goals of the project have been met.

KEY: adoption, Choose Life Adoption Support

Date of Last Change: 2022

Notice of Continuation: January 27, 2021

Authorizing, and Implemented or Interpreted Law: 41-1a-418; 41-1a-419; 41-1a-422; 62A-4a-102; 62A-4a-105; 62A-4a-311; 62A-4a-608; 63J-1-504; 63J-1-602.4]
procedures for Child and Family Services to collect fees for processing criminal background screenings.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to collect fees for processing criminal background screenings.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to collect fees for processing criminal background screenings.

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 changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to collect fees for processing criminal background screenings.

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 because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to collect fees for processing criminal background screenings.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Pub. L. No. 109-248 | Section 62A-4a-102 | Section 80-3-305

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. See Section 63G-3-302 and Rule R15-1 for more information.)

R512-51. Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs.

R512-51-1. Purpose and Authority.

(1) [Purpose of Rule.] This rule [is to] enables the Division of Child and Family Services ("Child and Family Services") to collect fees for processing criminal background screenings. These screenings are for prospective foster and adoptive parents of children in state custody and other adults in the home as required by the Adam Walsh Child Protection and Safety Act of 2006 [Public Law]Pub. L. No. 109-248 and Section [78A-6-308]80-3-305. These screenings are also for employees of other licensed programs upon request of the Office of Licensing as authorized by Section 62A-2-120, as capacity allows.

(2) This rule is authorized by Section 62A-4a-102, as capacity allows.


(1) It is the responsibility of Child and Family Services [R]regional [O]ffices to collect fees for electronic fingerprint scanning for criminal background screenings for prospective foster and adoptive parents of children in state custody and other adults in the home, and for employees of other Department of Human Services licensed programs.

(2) The amount of the fee charged for electronic fingerprint scanning will be approved by Child and Family Services as required by Section 62A-4a-102 and will not exceed the amount being charged for the same service from the Department of Public Safety, Bureau of Criminal Identification.

R512-51-3. Fee Collection for Cost of Submission of Electronic Fingerprints for Criminal Background Check.

(1) Child and Family Services has the option to collect fees for [all or part of] the actual cost of submission of electronic fingerprints for criminal background checks through the Department of Public Safety, Bureau of Criminal Identification and the Federal Bureau of Investigation.

(2) Child and Family Services may elect to pay [all or part of] this cost for prospective foster and adoptive parents of children in state custody and other adults in the home, subject to legislative funding [for this purpose].

(3) Child and Family Services will not pay any of the cost of submission of electronic fingerprints for criminal background checks for employees of other Department of Human Services licensed programs, but may submit the electronic fingerprints upon verification of payment of those fees by the Office of Licensing or designee.

KEY: criminal background screening, fees, foster care, adoption

Date of Last Change: 2022[October 22, 2009]

NOTICE OF PROPOSED RULE

Type of Rule: Amendment

Utah Admin. Code Ref (R no.): R512-60  Filing ID 54280

Agency Information

1. Department: Human Services
2. Agency: Child and Family Services
3. Building: Multi-Agency State Office Building
4. Street address: 120 N 1950 W
5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):

1. Name: Carol Miller 2. Phone: 801-557-1772 3. Email: carolmiller@utah.gov
4. Name: Jonah Shaw 5. Phone: 385-310-2389 6. Email: jshaw@utah.gov

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

General Information

2. Rule or section catchline: R512-60. Children's Account

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

NOTICES OF PROPOSED RULES
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to carry out the purposes of the Children's Account.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to carry out the purposes of the Children's Account.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to carry out the purposes of the Children's Account.

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 changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to carry out the purposes of the Children's Account.

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 because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to carry out the purposes of the Children's Account.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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NOTICES OF PROPOSED RULES

Section 62A-4a-310

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021


R512-60. Children's Account.

R512-60-1. Purpose, Authority, Definitions, and Scope.

(1) [Purpose] The purpose of [This rule is to specify] specifies the requirements for carrying out the purposes of the Children's Account, with the funding specified in Section 62A-4a-309.

(2) [Authority] This rule is authorized by Section 62A-4a-102.


(3) Definitions. For the purposes of this rule:

(a) "Administrator" means the employee of Child and Family Services appointed by the Director to administer the Children's Account.

(b) "CA" is the Children's Account.

(c) "Child and Family Services" means the Division of Child and Family Services.

(d) "Conflict of Interest" is defined as a situation where a Council member's private or outside economic, social, political, or volunteer interests interfere (or have the potential to, or may appear to interfere) with that Council member's duties and responsibilities.

(e) "Council" means the Child Welfare Improvement Council established under Section 62A-4a-311.

(f) "Director" means the director of Child and Family Services.

(g) "State procurement" means the requirements outlined in Section 63G-6a, Title 63G, Chapter 6a, Utah Procurement Code.


(1) Scope. Funds from the CA shall be used for community-based education, service, and treatment programs to prevent the occurrence and recurrence of child abuse and neglect, as specified in Section 62A-4a-305.

(2) The Council shall advise Child and Family Services on matters relating to abuse and neglect and recommend how funds contained in the CA should be allocated.

R512-60-3.4. Conflict of Interest.

(1) Child and Family Services shall obtain written disclosure of any potential conflicts of interest from a prospective member before appointment to the Council membership.

(2) Council members shall provide written disclosure of any potential conflicts of interest to Child and Family Services for annual review and approval.

(3) An individual who may have a conflict of interest on condition that they may only participate on the Council as it advises Child and Family Services on matters relating to abuse and neglect. A Council member with a conflict of interest shall not receive any information, nor participate in any discussion, presentation, consideration, or vote regarding the Council's recommendations regarding the allocation of CA funds, including any information related to state procurement or contract development or review.

(4) Child and Family Services may appoint a prospective member who may have a conflict of interest on condition that they may only participate on the Council or Child and Family Services to receive a contract award. Council members participating in the development of fund allocation recommendations or state procurement shall keep confidential any information regarding the Council's recommendations regarding the allocation of CA funds, including any information related to state procurement or contract development or review.

(5) A Council member shall not exert influence or make any requests for favored consideration from any individual on the Council or from Child and Family Services to receive a contract award. Council members participating in the development of fund allocation recommendations or state procurement shall keep confidential any information regarding the Council's recommendations regarding the allocation of CA funds, including any information related to state procurement or contract development or review.

R512-60-4. Responsibilities of the Director.

(1) The director shall meet the responsibilities defined in Section 62A-4a-303.

(2) The director shall also:

(a) Designate a staff member to serve as the Administrator of the CA and as the liaison with the Council.

(b) Review policies and procedures regarding the administration of the CA that have been developed by the Council.

(c) Hold a public hearing for comments on the CA allocation plan and prevention priorities.

(d) Approve the allocation plan and prevention priorities.

(e) Approve policies of the CA.

R512-60-5. Proposal Requirements.

(1) A state procurement shall be developed by Child and Family Services based upon the approved allocation plan and prevention priorities, and in accordance with state guidelines. The state procurement shall specify the purposes and eligibility requirements for projects or programs to be funded through the CA. The proposal requirements may vary from year to year.

(2) Child and Family Services shall widely disseminate the state procurement. Project or program proposals shall be submitted as specified in the state procurement.

(1) Funding for individual projects shall be recommended by the Council and approved by Child and Family Services based on availability of funds and identified prevention priorities, with consideration for programs or projects that serve the largest portion of the population, serve segments of the population at highest risk for abuse and neglect, or are of exceptional merit as evidence-based or evidence-informed in prevention of abuse or neglect.

(a) Contracts may be renewed according to the terms of the procurement.

(2) Each program or project funded through the CA shall provide a dollar-for-dollar match from private or local government sources.

(a) In-kind contributions may be used as part of the local match requirement. No more than 50% of the local match requirement may be in-kind. The entity that receives the statewide evaluation contract is exempt from the cash-match provisions contained in Section 62A-4a-309. Upon recommendation of the executive director and the Council, Child and Family Services may reduce or waive the match requirements for an entity if Child and Family Services determines that imposing the requirements would prohibit or limit the provision of services needed in a particular geographic area.

(b) Items that may be used as in-kind match are contributed services of support personnel, office space, furniture and equipment, utility costs, vehicles, contributed services of professional personnel including physicians, nurses, social workers, psychologists, educators, public accountants, and lawyers who are performing services for which they would normally be paid. The source of original funding for this in-kind match shall not be state or federal monies.

R512-60-[7]8. Procedures in Selecting Programs or Projects to be Supported by the Children’s Account.

(1) Proposals received by Child and Family Services in response to the state procurement shall be reviewed according to the criteria specified in the state procurement, consistent with Section 62A-4a-307.

(2) The Administrator or other Child and Family Services designees shall negotiate contracts with successful offerors based on state purchasing guidelines.


(1) Each program or project funded through the CA shall be evaluated at least once each year to determine if the purposes and goals of the project have been met.

(2) This evaluation may be done by personnel within Child and Family Services or by contract with a qualified individual, non-profit organization, or agency.

(3) A copy of the written evaluation shall be provided to Child and Family Services, who will provide evaluation information to the Council.


(1) CA funds may be used for research programs consistent with Section 62A-4a-305 at funding levels the Council deems appropriate.

(2) Basic or applied research programs or projects that provide empirical data to support efforts to prevent the occurrence or recurrence of child abuse and neglect in any of its basic forms, including physical abuse, neglect or abandonment, sexual maltreatment, psychological abuse, or educational or medical neglect, may be funded.
NOTICES OF PROPOSED RULES

A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for the prompt and equitable resolution of consumer complaints.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for the prompt and equitable resolution of consumer complaints.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for the prompt and equitable resolution of consumer complaints.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for the prompt and equitable resolution of consumer complaints.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for the prompt and equitable resolution of consumer complaints.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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<tr>
<td>Total Fiscal Cost</td>
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Fiscal Benefits

| 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

| Net Fiscal Benefits | $0 | $0 | $0 |

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
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<tr>
<td>62A-4a-102</td>
<td>Section 63G-2-304</td>
</tr>
<tr>
<td>63G-2-603</td>
<td>Title 63G, Chapter 4 et seq.</td>
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</tbody>
</table>
NOTICES OF PROPOSED RULES

R512-75.  Rules Governing Adjudication of Consumer Complaints.

R512-75-1.  [Introductory Provisions.] Purpose and Authority.

(a)  The purpose of this rule is to define consumer complaint procedures, intended to provide for the prompt and equitable resolution of a consumer complaint filed in accordance with this rule.

(b)  This rule is authorized by Section 62A-4a-102.

R512-75-2.  Definitions.

(2)  Absorbable within Child and Family Services' appropriation authority means those expenditures that fall within Child and Family Services' budgetary parameters.

(3)  "Aggrieved [P]erson" or "[C]omplainant" means any person who is alleged to have been adversely affected by an act or omission of Child and Family Services or its employees.

(4)  "Child and Family Services" means the Division of Child and Family Services of the Department of Human Services, including its regional offices.

(5)  The "Department" means the Department of Human Services.

(6)  The "Director" means the Director of Child and Family Services.

(7)  "Office of the Child Protection Ombudsman" means the office, separate from Child and Family Services, designated by the Department to investigate a consumer complaint regarding Child and Family Services.

(8)  "Ombudsman Service Review Analyst" means the representative from the Office of the Child Protection Ombudsman designated to investigate a consumer complaint.

(9)  "Reasonable time" means the time specified in the action plan.


(1)  An aggrieved person shall first make a reasonable attempt to resolve a complaint with a caseworker and the caseworker's supervisor. If resolution is not reached, a complaint may be filed with the regional office.

(2)  If there is a filing of an initial complaint with a regional office:

(a)  The complainant or aggrieved person shall make a], the complaint must be filed within six months from the date of the alleged circumstances giving rise to the complaint. A complaint may be made in any form.

(b)  Each complaint shall:

(i)  include the aggrieved person's name, address, and phone number;

(ii)  describe Child and Family Services' alleged act or omission in sufficient detail to inform Child and Family Services of the nature and date of the alleged event[; and]

(iii)  describe the action desired[; and]

(iv)  The complaint shall be provided to the Child and Family Services regional designee. The region shall have ten [working] business days from the date of the filing of the complaint to submit a response to the complaint.

(c)  The procedures for an investigation of the complaint by the regional office.

(d)  A complaint filed with the Child and Family Services' Constituent Services Office will be forwarded to the regional office or appropriate Child and Family Services staff to address the complaint. The regional office or state specialist will contact the complainant and address the complaint. The Child and Family Services regional office or Child and Family Services staff may hold meetings [of the concerned parties] to discuss the complaint. The review shall be conducted to the extent necessary to assure that all relevant facts are reviewed and considered. If the complaint is resolved, no further action is necessary.

(e)  Within 20 [calendar] business days of receiving the complaint, the regional office or Child and Family Services staff shall issue a written decision to the Child and Family Services Constituent Services Office, setting forth its action plan to address the complaint or to explain the resolution of the complaint.

(f)  If a complaint filed with a regional office is not adequately addressed resolved to the satisfaction of the complainant, the complaint shall be forwarded to the Child and Family Services Constituent Services Office.

(g)  A complaint filed with the Child and Family Services Constituent Services Office that is not resolved to the satisfaction of the complainant shall be forwarded to the Office of the Child Protection Ombudsman. Child and Family Services shall immediately notify the aggrieved person in writing that the complaint is being forwarded to the Office of Child Protection Ombudsman.

(h)  Child and Family Services will forward copies of all correspondence regarding the steps taken by Child and Family Services to address the complaint to the Office of Child Protection Ombudsman.

NOTICES OF PROPOSED RULES

[---]

10.  This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Tracy Gruber, Executive Director | Date: 12/14/2021 |

1. An aggrieved person who is not satisfied with the regional office decision may file a complaint [to decision rendered by a regional office to with the Office of the Child Protection Ombudsman] and request that the recommendations be amended.

2. If Child and Family Services cannot [is unable to] resolve the complaint, it shall be forwarded to the Office of Child Protection Ombudsman according to the requirements of Rule R515-1. [Processing Complaints Regarding the Utah Division of Child and Family Services].


1. Once the Office of the Child Protection Ombudsman completes an investigation according to [the provisions of] Rule R515-1 and if recommendations are made to Child and Family Services, Child and Family Services has ten [calendar] business days to agree with the recommendations.

2. If Child and Family Services does not agree with the recommendations, Child and Family Services may file an appeal [to the recommendations of the Office of the Child Protection Ombudsman] within ten [calendar] business days of receipt [of the recommendations from the Office of Child Protection Ombudsman].

The appeal shall be filed with the Department [to] the executive director and request that the recommendations be amended.

KEY: consumer hearing panel, grievance procedures

Date of Last Change: 2022|September 15, 2010

Notice of Continuation: October 15, 2018

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 63G-2-304; 63G-2-305; 63G-2-603; 63G-4 et seq.

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<th>NOTICE OF PROPOSED RULE</th>
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<tbody>
<tr>
<td>TYPE OF RULE: Amendment</td>
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<tr>
<td>Utah Admin. Code Ref (R no.): R512-76</td>
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<tr>
<td>Filing ID: 54282</td>
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</tbody>
</table>

**Agency Information**

1. **Department:** Human Services

2. **Agency:** Child and Family Services

3. **Building:** Multi-Agency State Office Building

4. **Street address:** 120 N 1950 W

5. **City, state and zip:** Salt Lake City, UT 84116

6. **Contact person(s):**

   Name: Carol Miller
   Phone: 801-557-1772
   Email: carolmiller@utah.gov

   Name: Jonah Shaw
   Phone: 385-310-2389
   Email: jshaw@utah.gov

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

**General Information**

2. **Rule or section catchline:** R512-76. Expungement of DCFS Allegations

3. **Purpose of the new rule or reason for the change**

   (Why is the agency submitting this filing?):

   The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. **Summary of the new rule or change**

   (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

   This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

   **A) State budget:**

   There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to define the criteria for the expungement of an allegation associated with an individual who is identified as a perpetrator or alleged perpetrator in the Management Information System and the Licensing Information System.

   **B) Local governments:**

   There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to define the criteria for the expungement of an allegation associated with an individual who is identified as a perpetrator or alleged perpetrator in the Management Information System and the Licensing Information System.

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

   There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to define the criteria for the expungement of an allegation associated with an individual who is identified as a perpetrator or alleged perpetrator in the Management Information System and the Licensing Information System.
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 changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to define the criteria for the expungement of an allegation associated with an individual who is identified as a perpetrator or alleged perpetrator in the Management Information System and the Licensing Information System.

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 because the changes just update and make corrections to the existing rule text and do not change procedures for Child and Family Services to define the criteria for the expungement of an allegation associated with an individual who is identified as a perpetrator or alleged perpetrator in the Management Information System and the Licensing Information System.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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</table>

| Other Persons | $0 | $0 | $0 |
| Total Fiscal Cost | $0 | $0 | $0 |

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 62A-4a-102
Section 62A-4a-1008

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.
R512-76-1. Purpose and Authority.

(1) [The purpose of ] This rule is to define the criteria for the expungement of an allegation associated with an individual who is identified as a perpetrator or alleged perpetrator in the [Management Information System (MIS) and the Licensing Information System (LIS)].

(2) This rule is authorized by Sections 62A-4a-102 and 62A-4a-1008.


(1) “DCFS” “Child and Family Services” means the Division of Child and Family Services.

(2) “CPS” means Child Protective Services.

(3) “Expungement” means to seal an allegation associated with an individual identified as a perpetrator or alleged perpetrator that meets the criteria for expungement.

(4) “LIS” means the Licensing Information System as described in Section 62A-4a-1006.

(5) “MIS” means the Management Information System as described in Section 62A-4a-1003.


(1) An individual may submit a written request to expunge an allegation in which they are identified as a perpetrator or alleged perpetrator in the MIS or LIS. If the perpetrator or alleged perpetrator is a minor [at the time when] expungement is sought, the perpetrator or alleged perpetrator’s parent or guardian may submit the written request to expunge the allegation.

(2) Eligibility is based on [the] meeting [of] the criteria for expungement as outlined in [the Criteria for Expungement subsection of this rule Section R512-76-4.

(3) If the individual does not meet the criteria for expungement, the request will be denied. The individual shall wait at least one year before submitting the same request.

(4) Decisions to approve or deny expungements are governed by the criteria for expungement and are not at the discretion of [the Division of Child and Family Services].


(1) Automatic [E]xpungement after one year includes:

(a) All allegation types with a finding of [U]nsubstantiated or found to be without merit by the [J]uvenile [C]ourt will be automatically expunged if:

(i) [E]five years have passed since the CPS case closure date with no subsequent [CPS case, including unaccepted referrals involving allegations against] report involving the same alleged perpetrator.

(2) Automatic Expungement after five years:

(a) All [A]ll allegation types [U]nsubstantiated or found to be without merit by the [J]uvenile [C]ourt will be automatically expunged if:

(i) [F]ive years have passed since the CPS case closure date with no subsequent [CPS case, including unaccepted referrals involving allegations against] report involving the same alleged perpetrator; and
NOTICES OF PROPOSED RULES

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-80 Filing ID 54283

NOTICE OF PROPOSED RULE

Agency Information

1. Department: Human Services

Agency: Child and Family Services

Building: Multi-Agency State Office Building

Street address: 120 N 1950 W

City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Phone: Email:
Carol Miller 801-557-1772 carolmiller@utah.gov
Jonah Shaw 385-310-2389 jshaw@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 (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah’s Governor on May 6, 2021.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes definitions of abuse, neglect, and dependency.

B) Local governments:

There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes definitions of abuse, neglect, and dependency.

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

There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes definitions of abuse, neglect, and dependency.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes definitions of abuse, neglect, and dependency.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes definitions of abuse, neglect, and dependency.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Tracy Gruber, Executive Director</td>
<td>12/14/2021</td>
</tr>
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</table>


R512-80-1. Purpose, Interpretation, and Authority.

(1) [Purpose. The purpose of this rule specifies definitions utilized by the Division of Child and Family Services (Child and Family Services).

(2) [Authority. This rule is authorized by Section 62A-4a-102.


(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 Sections 76-10-1201 through 76-10-1206.

(2) "Abuse" is as defined in Section 76A-6-105. It includes 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, 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.[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 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[80-1-102 and 78A-6-319]53G-6-210.

(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:

(a) demeaning or derogatory remarks that affect or can reasonably be expected to affect a child's development of self and social competence; or

(b) 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 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-6-105.80-1-102.

(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) taken as a whole, appeals to the prurient interest in sex of a child;

(b) 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) taken as a whole does not have serious value for a child.

[2] Serious value[2] 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 [28A-6-105]80-1-102.

(20) "Molestation" is as defined in Section [28A-6-105]80-1-102.

(21) "Neglect" is as defined in Section [28A-6-105]80-1-102. It includes 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 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, 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 "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 "serious physical injury" as defined in Section 76-5-109.

(28) "Severe abuse" is as defined in Section [28A-6-105]80-1-102 for all categories except sexual abuse, sexual exploitation, abandonment, and certain conduct by an individual under 18 years of age. In Section 62A-4a-1002:

(a) if committed by an individual 18 years of age or older, sexual abuse, sexual exploitation, or abandonment constitute severe abuse, irrespective of whether there is evidence of harm or threatened harm; or

(b) if committed by an individual under 18 years of age, serious physical injury or sexual conduct that indicates a significant risk of harm constitute severe abuse.

(29) "Severe neglect" is as defined as in [28A-6-105]80-1-102.

(30) "Sexual abuse" is as defined in Section [28A-6-105]80-1-102. 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 Sections [28A-6-105]62A-4a-1002 and 80-1-102.

(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" is as defined in Section [28A-6-105]80-1-102.

KEY: child welfare
Date of Last Change: 2022[August 10, 2020]
Notice of Continuation: October 13, 2016
Authorizing, and Implemented or Interpreted Law: 62A-4a-102
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides In-Home Services.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides In-Home Services.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides In-Home Services.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides In-Home Services.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides In-Home Services.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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<td>62A-4a-102</td>
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<td>62A-4a-201</td>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021


R512-100. In-Home Services.

R512-100-1. Purpose and Authority.
(1) "The purpose of [In-Home] services is to] enhance a parent's capacity to safely care for their child in their home and to safely reduce the need for out-of-home care in Utah. In-Home services include front-end services that help prevent removal and allow a child to remain at home with their parent or caregiver. It includes cases where a child is placed with a non-custodial parent or relatives who have custody and guardianship of the child. It also includes services for when a child returns home from out-of-home care and there are continuing services with Child and Family Services and court oversight.

(2) In-Home services are a set of evidence-based services, strategies, and tools that support the safety, permanency, and well-being of a child and the strengthening of their family.

(3) The key components of In-Home services interventions include:
   (a) Case management based on practice model skills of engaging, assessing, planning, and intervening;
   (b) Assessing and addressing safety and risk issues to help stabilize the family, providing purposeful home visits and a private conversation with the child;
   (c) The application of an evidence-based assessment to identify child and family needs and protective factors early in the case, guiding caseworkers to better target the individual needs of the family with services, and informing the development of the Child and Family Plan;
   (d) Direct services and interventions that help the family make needed changes in addition to linking the family to evidence-based services and community resources.

(4) Pursuant to Sections 62A-4a-105, 62A-4a-201, and 62A-4a-202, Child and Family Services may authorize to provide In-Home services.

(5) This rule is authorized by Section 62A-4a-102.

R512-100-2. Definitions.
(1) "Child and Family Plan" is a written document that is developed by the Child and Family Team based on the assessment of the child and family's strengths and needs. The Child and Family Plan will guide and enable the family to make the changes that are necessary to meet their child's need for safety, permanency, and well being defined in Section 80-1-102.

(2) "Child and Family Services" means the Division of Child and Family Services.

(3) "Child and Family Team" is the family's identified informal supports and the service providers working with the family.

(4) "Utah Family and Children Engagement Tool (UFACET)" is an assessment tool used to identify child and family needs and guide addressing those needs with services in the Child and Family Plan.

(5) "Prevention Candidate," for the purposes of the Title IV-E Prevention Program, is a child under age 18 when at serious risk of entering or reentering foster care, but able to remain safely in the home or kinship placement as long as mental health, substance use disorder, or in-home parent skill-based programs or services for the child, parent, or kin caregiver are provided. A child may be at serious risk of entering foster care based on circumstances and characteristics of the family as a whole or circumstances and characteristics of individual parents, children, or kinship caregiver that may affect the parents' ability to safely care for and nurture their children.

(6) "Kinship Caregiver," for the purpose of the Title IV-E Prevention Program, includes relatives as defined in [Utah Code [Section [78A-6-307]80-3-102] and includes individuals that are unrelated by either birth or marriage but have an emotionally significant relationship with the child that takes on the characteristics of a family relationship.

   (a) For Indian children, the definition of extended family member under the Indian Child Welfare Act, 25 U.S.C. Section 1903, applies, which includes an extended family member as defined by the law or custom of the Indian child's tribe; in the absence of such a law or custom, a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second stepparent; or an Indian custodian as defined by the Indian Child Welfare Act case law.

   (b) Children who are under the placement and care responsibility of the state are, by definition, in foster care and are not prevention candidates when placed with a kinship caregiver.

   (5) "Prevention Candidate" is a child under age 18 when at serious risk of entering or reentering foster care, but able to remain safely in the home or kinship placement as long as mental health, substance use disorder, or in-home parent skill-based programs or services for the child, parent, or kinship caregiver are provided. A child may be at serious risk of entering foster care based on circumstances and characteristics of the family as a whole or circumstances and characteristics of individual parents, children, or kinship caregiver that may affect the parents' ability to safely care for and nurture their children.

(6) "Utah Family and Children Engagement Tool (UFACET)" is an assessment tool used to identify child and family needs and guide addressing those needs with services in the Child and Family Plan.
R512-100-3. Qualifications.

1. In-home services may be provided to families under the following conditions:
   (a) A child or a family, including the parents, if appropriate, shall assist in developing the child or family plan, and services to meet the identified needs.
   (b) Services are available in each geographic region.

2. The caseworker will engage the child and family with the evaluation strategy approved in the Title IV-E Prevention Program Plan.

R512-100-4. Service Delivery.

1. Child and Family Team:
   (1) The caseworker will engage the child and family to assemble a child and family team. A child and family team includes informal supports identified by the family in addition to the service providers who are or will be working with the family. The child and family team meets regularly and assesses the strengths and needs of the child and family, and plans for the child's safety, permanency, and well-being. Teamwork occurs through ongoing information sharing and collaboration.

2. Assessing:
   (a) The purpose of assessing is to inform the child and family team so that they know what they need to do what they need to do. Assessing is a sequential process of gathering information about the family's strengths and needs, analyzing the information, drawing conclusions, and acting on those conclusions by developing a plan to meet the identified needs. These needs are met through ongoing and evolving process throughout the case.

3. Planning:
   (a) A child and family plan shall be developed for each family receiving in-home services in accordance with Section 62A-4a-205. The child and family plan guides the services and interventions, and is tracked and adapted throughout the case.

   (b) Members of the child and family team, including the parents and the child, if age appropriate, shall assist in developing the child and family plan.

   (c) A copy of the completed child and family plan shall be provided to the parent or guardian.

   (d) If in-home services are court-ordered, a copy of the child and family plan shall be provided to the court, uploaded into eSign and made available to the Assistant Attorney General, Guardian ad Litem, and legal counsel for the parent or guardian.

R512-100-5. Title IV-E Prevention Program.

1. Title IV-E Prevention Program Plan
   (a) Child and Family Services will operate the Title IV-E Prevention Program in accordance with a five-year Title IV-E Prevention Program Plan approved by the federal government.

   (b) Child and Family Services will engage in consultation with other state agencies responsible for administering health programs, including mental health and substance abuse prevention and treatment services, and with other public and private agencies with experience in administering child and family services in developing or modifying the five-year Title IV-E Prevention Program Plan.

   (c) Prevention program services will be specified and approved in the Title IV-E Prevention Program Plan.

   (d) Prevention program services may include mental health and substance abuse prevention and treatment services provided by a qualified individual; or in-home parent skills-based programs, which include parenting skills training, parent education, and family counseling.

   (e) Prevention program services must have been determined as evidence-based through either the Title IV-E Prevention Services Clearinghouse or through the transitional payment review process approved by the federal government. Programs and services must have an evidence rating of well-supported, supported, or promising.

   (f) Prevention program services must meet the federal requirements for trauma-informed service delivery.

   (g) Selection of prevention program services will be based on review of needs of the prevention services population, service gaps, and consideration of expected outcomes identified through program research.

   (h) Prevention program services will be monitored to ensure fidelity to the practice model and to determine outcomes achieved.

   (i) Information learned through fidelity monitoring will be used to refine and improve practice.
NOTICES OF PROPOSED RULES

(4)[11] Prevention program services that have an evidence rating of "well-supported", "promising", or "supported" from the Title IV-E Prevention Services Clearinghouse may receive a waiver for evaluation when the effectiveness of the service is compelling and when approved in the Title IV-E Prevention Program Plan.

(4)[12] Prevention Candidate Determination

(a) Child and family eligibility for the Title IV-E Prevention Program is determined through the caseworker utilizing designated assessment tools with the child and family. The Structured Decision Making (SDM), Safety and Risk Assessments and the [Utah Family and Children Engagement Tool (UFACET)] results are used to determine if the child is at serious risk of entering foster care, but can remain safely at home or reside with a kinship caregiver, as long as substance use, mental health, or in-home parenting skills services necessary to prevent the entry of the child into foster care are provided. Prevention candidate status is confirmed through finalization of the [C]child and [F]amily [P]lan, which is the child’s prevention plan.

(5)[13] Prevention Program Services

(a) Prevention program services may be provided to a child who is a prevention candidate or to the child’s parent or kinship caregiver when the need for the services by the child, parent, or kinship caregiver is directly related to the safety, permanency, or well-being of the child or to prevent the child from entering foster care. Services may be provided for up to 12 months for each authorization period.

KEY: child welfare
Date of Last Change: 2022[January 22, 2020]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-200 Filing ID 54284

Agency Information

1. Department: Human Services
Agency: Child and Family Services
Building: Multi-Agency State Office Building
Street address: 120 N 1950 W
City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Phone: Email:
Carol Miller 801-557-1772 carolmiller@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R512-200. Child Protective Services, Intake Services

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah’s Governor on May 6, 2021.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services receives and evaluates whether an investigation is needed, and assigns for investigation referrals of suspected child abuse, neglect, and dependency.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services receives and evaluates whether an investigation is needed, and assigns for investigation referrals of suspected child abuse, neglect, and dependency.

C) Small businesses (“small business” means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services receives and evaluates whether an investigation is needed, and assigns for investigation referrals of suspected child abuse, neglect, and dependency.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services receives and evaluates whether an investigation is needed, and assigns for investigation referrals of suspected child abuse, neglect, and dependency.

258 UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services receives and evaluates whether an investigation is needed, and assigns for investigation referrals of suspected child abuse, neglect, and dependency.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses: (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director.

6. A) 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.)

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Non-Small Businesses | $0 | $0 | $0
Other Persons | $0 | $0 | $0
Total Fiscal Benefits | $0 | $0 | $0
Net Fiscal Benefits | $0 | $0 | $0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| Section 62A-4a-102 | Section 62A-4a-105 | Section 62A-4a-202.6 |

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. See Section 63G-3-302 and Rule R15-1 for more information.)

| A) Comments will be accepted until: | 03/03/2022 |

10. This rule change MAY become effective on: | 03/10/2022 |

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Tracy Gruber, Executive Director |
| Date: | 12/14/2021 |

R512-200-1. Purpose and Authority.

(1) The purpose of Intake Services is:

(2) To receive and evaluate whether an investigation is needed:

(b) A and assign for investigation referrals of suspected child abuse, neglect, and dependency.

(2) Pursuant to Sections 62A-4a-105 and 62A-4a-403, Child and Family Services is authorized to provide CPS.

(3) This rule is authorized by Section 62A-4a-102.
NOTICES OF PROPOSED RULES

(1) [The following terms are defined for the purposes of this rule:]
   (a) "Child and Family Services" means the Division of Child and Family Services.
   (b) "CPS" means Child Protective Services.
   (c) "SAFE" means Child and Family Services' Child Welfare Management Information System.

(1) [Qualification for Services.]
   (a) Child and Family Services will maintain a system for receiving referrals or reports about child abuse, neglect, or dependency. The system shall supply Child and Family Services CPS workers with a complete previous Child and Family Services history for each child, including siblings, care episodes, reports of abuse, neglect, or dependency, treatment plans, and casework deadlines.
   (b) [Priority of the referral.]
      (i) Child and Family Services establishes CPS priority time frames as follows:
         (1) A Priority 1 response shall be assigned when [the child referred is in need of immediate protection], there is an emergency situation requiring an immediate response and law enforcement is not available. Intake will begin to collect information immediately after the completion of the initial contact from the referent. As soon as possible thereafter, to determine the priority the [intake worker will obtain additional information, staff the referral, determine the priority, notify law enforcement, and assign to the Child and Family Services CPS worker]. The [intake worker will provide the Child and Family Services CPS worker with information concerning earlier investigations on SAFE. The Child and Family Services CPS worker has, as a standard of 60 minutes from the time intake notifies the worker to initiate efforts to make face-to-face contact with an alleged victim. For a Priority 1 [rural referral], a Child and Family Services CPS worker has, as a standard, three hours to initiate efforts to make face-to-face contact if the alleged victim is more than 40 miles from the investigator who is assigned to make the face-to-face contact.
         (2) A Priority 2 response shall be assigned when physical evidence is at risk of being lost, the child is at risk of further abuse, neglect, or dependency, but the child does not have immediate protection and safety needs, there is a critical situation requiring an urgent response within 24 hours as determined by the [intake worker will begin to collect information as soon as possible after the completion of the initial contact from the referent. As soon as possible, determine the priority the [intake worker will obtain additional information, staff the referral, to determine the priority], assign the referral to the Child and Family Services CPS worker, and notify law enforcement. The [intake worker shall give verbal notification to the assigned Child and Family Services CPS worker]. The [intake worker shall also provide the Child and Family Services CPS worker with information concerning earlier investigations on SAFE. The Child and Family Services CPS worker has, as a standard, will respond as quickly as needed depending on the situation, but no later than 24 hours from the time intake notifies the worker to initiate efforts to make face-to-face contact with the alleged victim.]
         (3) A Priority 3 response shall be assigned when potential for further harm to the child and the loss of physical evidence is low. [Prior to transferring the case to a Child and Family Services CPS worker, and to determine the priority the [intake worker will obtain additional information, research data sources, staff the referral as necessary, determine the priority, complete documentation including data entry, make disposition to CPS, and notify law enforcement. The [intake worker shall also provide the Child and Family Services CPS worker with information concerning earlier investigations on SAFE. The Child and Family Services CPS worker will make the face-to-face contact with the alleged victim by the end of the third business day.]
   (2) [Out of State Abuse or Neglect Report.]
      (a) Child and Family Services will take reasonable steps to ensure that reports of abuse or neglect are referred for investigation to the appropriate out-of-state agency and shall take reasonable steps to adequately protect children in Utah who were victims of abuse in another state or country from the alleged perpetrator.
      (b) When the referent identifies an incident of abuse or neglect that occurred outside Utah but the child is in Utah at the time of the referral, the [Child and Family Services CPS] intake worker shall:
         (i) [Obtain all the information needed to complete a referral,]
         (ii) [Determine whether the child is at risk of abuse or neglect from the alleged perpetrator,]
         (iii) [Contact the CPS agency in the state where the incident of abuse occurred and complete the referral process of that state,]
         (iv) [Assign the referral to a Child and Family Services CPS worker for a courtesy interview and coordination with the other state's investigation, when requested, and]
         (v) [In domestic violence related child abuse cases, recognize another state's protective order.]
      (c) When a referent identifies an incident of abuse or neglect that occurred in Utah, and the child is not in Utah at the time of the referral, the [intake worker shall:
         (a) [Obtain all the information needed to complete a referral,]
         (b) [Determine the location of the child and the length of time the child will be at their current location, if the child will be outside the state of Utah longer than 30 days, a request for courtesy casework will be made in the state where the child is currently located, and]
         (c) [If the child is determined to be at risk, a request will be made for courtesy casework within the priority time frame.]
      (d) The Department of Health Child Care Licensing unit or the Department of Human Services Office of Licensing and appropriate Child and Family Services staff shall be notified by [intake when Child and Family Services receives a referral for an allegation of child abuse, neglect, or dependency against a licensed child care provider or out-of-home care provider. The referral shall be forwarded to the assigned personnel for conflict of interest investigations when the allegation involves a child living in substitute care while in protective custody or temporary custody of Child and Family Services, or any other Child and Family Services conflict of interest in accordance with Section 62A-4a-202.6.]
      (e) [Availability,]
NOTICES OF PROPOSED RULES

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-201 Filing ID 54285

Agency Information

1. Department: Human Services
2. Agency: Child and Family Services
3. Building: Multi-Agency State Office Building
4. Street address: 120 N 1950 W
5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Carol Miller Phone: 801-557-1772 Email: carolmiller@utah.gov
Name: Jonah Shaw Phone: 385-310-2389 Email: jshaw@utah.gov

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

General Information

2. Rule or section catchline:

R512-201. Child Protective Services, Investigation Services

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

5. Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services conducts investigations of possible child abuse or neglect.

B) Local governments:

There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services conducts investigations of possible child abuse or neglect.

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

There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services conducts investigations of possible child abuse or neglect.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services conducts investigations of possible child abuse or neglect.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services conducts investigations of possible child abuse or neglect.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

---

(a) CPS are available in [all] each geographic region[s] of the state Utah.

KEY: social services, child welfare, domestic violence, child abuse

Date of Last Change: 2022 September 22, 2015
Notice of Continuation: February 15, 2018
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-202.6
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Section 62A-4a-102</th>
<th>Section 62A-4a-105</th>
<th>Section 62A-4a-202.3</th>
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</table>

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. See Section 63G-3-302 and Rule R15-1 for more information.)

<table>
<thead>
<tr>
<th>A) Comments will be accepted until:</th>
<th>03/03/2022</th>
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10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Tracy Gruber, Executive Director</th>
<th>Date: 12/14/2021</th>
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R512-201-1. Purpose and Authority.
(1) [Purpose: ]CPS promotes the safety and protection of children through accurate and timely safety and risk assessments. The CPS caseworker shall assess the safety and risk to a child, as well as determine the protective capacities of the caregiver[.][[12]] and resources they have available to them [ in order] to identify the most effective interventions at the most accurate level of intensity.
(2) [Authority: Pursuant to ]Sections 62A-4a-105 and 62A-4a-202.3[i] authorize Child and Family Services [i is authorized ]to provide CPS.
[[12]] This rule is also authorized by Section 62A-4a-102.

(1) "CPS[.][" means Child Protective Services.
(2) "SDM[.][" means Structured Decision Making.
(3) "SDM Safety Assessment[.]["] means a research informed safety assessment used to determine the current safety of the child.
(4) "SDM Risk Assessment[.]["] means an evidence-based risk assessment used to determine the ongoing risk to a child.

[[]Children who are the subject of a referral for child abuse, neglect, or dependency qualify for investigation services, as described in Section 62A-4a-403 and Rule R512-200[.][, Child Protective Services, Intake Services].

R512-201-4. Scope of Services.
(1) A CPS investigation shall include[ that is not limited to] the following:
[[][A] an SDM Safety and Risk Assessment. The Child and Family Services CPS caseworker shall assess the immediate safety needs of a child and the family's capacity to protect the child, as well as any ongoing risk to a child. The Child and Family Services CPS

(b12) [CPS Investigation and Assessment.] In addition to the requirements of Sections 62A-4a-202.3 and 62A-4a-409, a CPS investigation may include [but is not limited to] the following:

(i) [A]ssessment of immediate risk, safety, and protection needs of a child[1];

(ii) [A]ssessment of risk, protection, and safety needs for any siblings or other children residing in the home [as a sibling or child at risk] or cared for by the same caregiver that are reasonably likely to have also been subjected to similar abuse or neglect based on the specific shared circumstances, or are reasonably likely to be subjected to abuse or neglect[2];

(iii) [A]ssessment of the family’s strengths, needs, challenges, and limitations, and the ability and willingness to protect the child[3];

(iv) [D]etermination of eligibility for enrollment or membership in a Native American tribe[4]; and

(v) [M]edical or mental health evaluations completed as required by statute within required time frames to evaluate physical injury, severe physical abuse, medical neglect, exposure to a hazardous, illegal chemical environment, recent sexual abuse, or evaluate to negate or lessen the possibility of physical injury, severe physical abuse, medical neglect, exposure to a hazardous, illegal chemical environment, or recent sexual abuse.

(2) [Availability.]

(a) [CPS are available in all each geographic region] of the state.

(b) [Transfer of a Case When a Child has Moved Out of the State of Utah.]

(i) [A] Child and Family Services regional and inter-regional offices will cooperate to ensure that a CPS investigation is not interrupted and children are not placed in danger when the child has moved out of the state.

(ii) [If the child and family move outside the state of Utah before the Child and Family Services CPS caseworker is able to make the face-to-face contact with the child and the new location of the child and family is known, the Child and Family Services CPS caseworker shall contact the state child welfare agency where the family has moved and request courtesy casework. If the state child welfare agency where the family has moved refuses to complete courtesy casework, the case shall be closed as “unable to locate.” If the receiving state child welfare agency agrees to complete the courtesy casework, the Child and Family Services CPS caseworker shall make the appropriate finding based on information from the receiving state.]

(iii) [If the child and family move outside the state of Utah after the Child and Family Services CPS caseworker has made the face-to-face contact with the alleged victim and the whereabouts of the child and family are known, the Child and Family Services CPS caseworker who began the investigation shall contact the state child welfare agency where the family has moved and [shall] make a request for courtesy casework referral, providing the information that was obtained in the investigation. The case shall be closed as “unable to complete investigation” unless the information obtained meets the standard of “reasonable cause to believe” that the abuse, neglect, or dependency occurred. If a finding of “supported” is made against one or both of the parents or caregivers, upon case closure a [N]otice of [A]gency [A]ction shall be sent to the address of the family in their current state of residence.]
NOTICES OF PROPOSED RULES

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change the general allegations categories used by Child and Family Services.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change the general allegations categories used by Child and Family Services.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change the general allegations categories used by Child and Family Services.

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 changes just update and make corrections to the existing rule text and do not change the general allegations categories used by Child and Family Services.

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 because the changes just update and make corrections to the existing rule text and do not change the general allegations categories used by Child and Family Services.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| Section 62A-4a-102 | Section 62A-4a-105 |

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Tracy Gruber, Executive Director | Date: 12/14/2021 |


R512-202-1. Purpose and Authority.

(1) The purpose of this rule provides information about the allegation categories used by the Division of Child and Family Services (Child and Family Services).

(2) Pursuant to Section 62A-4a-105, Child and Family Services is authorized to provide Child Protective Services (CPS).

(3) This rule is authorized by Section 62A-4a-102.


(2) Referral and Investigation Allegation Categories for Abuse, Neglect, and Dependency. The following terms are defined for the use of referral and investigation allegation categories for abuse, neglect, and dependency:

(a)(1) "Abuse"] means non-accidental harm or threatened harm of a child or sexual exploitation or sexual abuse as described in Section 78A-6-105 and Rule R512-80. Abuse does not include reasonable discipline or management of a child including withholding privileges, or the use of reasonable and necessary physical restraint or force on a child in self-defense, defense of others, to protect the child, or to remove a weapon in the possession of a child. Abuse includes the following:

(i) Subjecting a child to threatened harm. This also includes as defined in Rule R512-80, and conduct described in:

(ii) Section 76-5-112, recklessly engaging in conduct that creates a substantial risk of death or serious bodily injury to a child;

(iii) Section 76-5-112.5, knowingly or intentionally causing or permitting a child to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia. "Exposed to" means the child is able to access or view an unlawfully possessed controlled substance or chemical substance, has reasonable capacity to access drug paraphernalia, or
[HH](a) "Abandonment"[6] except in the case of the safe relinquishment of a newborn child pursuant to Section 62A-4a-802, 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['] and child relationship. Abandonment also arises when a parent:

[Aa](i) [A]Although having legal custody of the child, has surrendered physical custody of the child, and for a period of six months following the surrender has not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

[Bb](ii) [H]Has failed to communicate with the child by mail, telephone, or otherwise for six months;

[Gc](iii) [E]Has failed to have shown the normal interest of a natural parent, without just cause; or

[Bb](iv) [H]Has abandoned an infant as described in Section 78A-6-316[80-4-203.

[ti](ii) Educational Neglect: 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.

[(iii) Environmental Neglect: An environment that poses an unreasonable risk to the physical health or safety of a child.

[Ti](b) "Failure to Protect"[— 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 of the person neglecting the child but fails to report the abuse or neglect or the alleged perpetrator's identity[.] as defined in Rule 512-80.

[ti](c) "Failure to Thrive"[— A medically diagnosed condition in which the child fails to develop physically. This condition is typically indicated by inadequate weight gain as defined in Rule 512-80.

[ti](d) "Medical Neglect"[— Failure or refusal to provide proper 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] as defined in Rule 512-80. Exceptions and limitations provided in Section 78A-6-105[80-1-102 include:

[Aa](i) [A]A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child[;] and

[Bb](ii) [A]A health care decision made for a child by the child's parent or guardian does not constitute neglect unless clear and convincing evidence shows that the health care decision is not reasonable and informed. Nothing may prohibit a parent or guardian from exercising the right to obtain a second health care opinion per Section 78A-6-105[80-3-304.

[ti](e) "Non-Supervision"[— 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] as defined in Rule 512-80.

[Ti](f) "Physical Neglect"[— 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] as defined in Rule 512-80.

NOTICES OF PROPOSED RULES
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] as defined in Rule R512-80.

"Dependency"—The condition of a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian as described in Section 62A-4a-101 and Rule R512-80. Dependency may be due to a lack of understanding by the child's parent or guardian as a result of a lack of education or due to a mental, emotional, or physical disability. Dependency may also be due to a parent or guardian's lack of economic resources, or the institutionalization of a parent or guardian as defined in Section 62A-4a-101 and Rule R512-80.

"Safe Relinquishment of a Newborn Child"—A means a parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with the requirements of Section 62A-4a-802 and retain anonymity, as long as the newborn child has not been subjected to abuse or neglect.


(a) The Child and Family Services worker receiving or investigating a report of child abuse, neglect, or dependency shall categorize the information into an allegation category. Severe and chronic categories of abuse and neglect are found in Sections 62A-4a-101 and 62A-4a-1002. This rule contains the allegation categories that are not severe or chronic.

KEY: social services, child welfare, domestic violence, child abuse

Date of Last Change: 2022
Notice of Continuation: February 15, 2018
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-301 Filing ID 54244

Agency Information

1. Department: Human Services
2. Agency: Child and Family Services
3. Building: Multi-Agency State Office Building
4. Street address: 120 N 1950 W
5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Phone: Email:
Carol Miller 801-557-1772 carolmiller@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R512-301. Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies roles and responsibilities of Child and Family Services to a parent or guardian of a child receiving Out-of-Home Services.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies roles and responsibilities of Child and Family Services to a parent or guardian of a child receiving Out-of-Home Services.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies roles and responsibilities of Child and Family Services to a parent or guardian of a child receiving Out-of-Home Services.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies roles and responsibilities of Child and Family Services to a parent or guardian of a child receiving Out-of-Home Services.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies roles and responsibilities of Child and Family Services to a parent or guardian of a child receiving Out-of-Home Services.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
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<tr>
<td>62A-4a-102</td>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

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<td>Tracy Gruber, Executive Director</td>
<td>12/14/2021</td>
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R512-301. Out-of-Home Services, Responsibilities PERTAINING to a PARENT or GUARDIAN.

R512-301-1. Purpose and Authority.

(1) The purposes of this rule are to (a) clarify:
   (a) Roles and responsibilities of Child and Family Services to a parent or guardian of a child receiving out-of-home services in accordance with Rule R512-300;
   (b) Roles and responsibilities of a parent or guardian while a child is receiving out-of-home services.


(3) This rule is authorized by Section 62A-4a-102.


The following terms are defined for the purposes of this rule:


3. "Child and Family Team" means a group that includes the child and family and other concerned individuals involved in providing formal or informal supports or services to the family, that meet together as often as needed to assist the family in meeting their needs, providing a safe home for their children, and achieving the goals that will lead to conclusion of Child and Family Services involvement. The family is involved in identifying individuals they want included as a part of the child and family team.


5. "Reunification" means safely returning the child to the parent or guardian from whom the child was removed by court order or through a voluntary placement.

R512-301-3. Child and Family Services Roles and Responsibilities to a Parent or Guardian of a Child Receiving Out-of-Home Services when Reunification is the Primary Permanency Goal.

(1) Child and Family Services is responsible to make reasonable efforts to reunify a child with a parent or guardian when a court has determined that reunification is appropriate, in accordance with Section 62A-4a-203, or when a child has been placed with Child and Family Services through a voluntary placement.

(2) Child and Family Services shall actively seek to involve both the custodial and non-custodial parents or guardians in the child and family team process, unless their whereabouts are unknown, including participation in establishing the child and family team, completing an assessment, developing the child and family plan, and selecting the child's primary and concurrent permanency goals, as described in Rule R512-300. Child and Family Services shall also involve the child's foster parents, stepparent [when appropriate], and the guardian ad litem, if one has been appointed by the court.

(3) The child and family plan shall address the strengths and needs of both the child and the family. In accordance with Section 62A-4a-205, the plan shall identify what the parents must do [in order] for the child to be returned home, specifically how the requirements may be accomplished and how the requirements shall be measured. The plan shall also include the specific services needed to reduce the problems that necessitated placing the child in out-of-home care. Child and Family Services shall utilize and complete an assessment, with the input of the child and family team, to identify the provisions that will be included in the plan. The plan shall be crafted by the child and family team and designed to maintain and enhance parental functioning, improve safety, well-being, and permanency for the child, and preserve familial connections.

(4) In accordance with Section 62A-4a-205, additional weight and attention shall be given to the input of the child's parents and the foster parents in the plan development.

(5) Child and Family Services shall make a substantial effort to develop a child and family plan with which the child's parents agree. If a parent does not agree with the services outlined on the child and family plan, Child and Family Services shall make attempts to resolve the disagreement, and, if unsuccessful, shall inform the court of the disagreement.

(6) The parent or guardian, foster parent, Guardian ad Litem, and the parent or guardian's legal counsel shall be provided a copy of the child and family plan [upon finalization of the plan shall be uploaded into eSign and made available to the parent or guardian, foster parent, guardian ad litem, and the parent or guardian's legal counsel] as soon as reasonably possible following finalization.

(7) The caseworker shall make diligent attempts to have regular face-to-face contact with the parent or guardian to facilitate progress towards completion of the provisions outlined in the child and family plan. At a minimum, the caseworker shall visit the parent or guardian at least once per month.

(8) Child and Family Services shall make diligent efforts to engage a parent or guardian in continuing contacts with the child, whether through visitation, phone, or written correspondence, when it is not prohibited by court order. Visitation requirements specified in Rule R512-300 apply.

(9) Child and Family Services shall also make reasonable and diligent efforts to engage and involve a parent or guardian in their child's activities and appointments, such as attending school meetings, recreational activities, and health care visits, when it is determined to be safe for the child and not prohibited by court order.

(10) Child and Family Services must include the parent or guardian as fully as possible when making health care decisions for the child, as long as the child's health and well-being are not compromised by the decision.

(11) The parent or guardian has a right to a reasonable notice and may participate in court and administrative reviews for the child in accordance with The Public Health and Welfare Act of 2014, 42 USC 6275, USC 6275 and Section 78A-6-317.80-3-104.

R512-301-4. Roles and Responsibilities of a Parent or Guardian of a Child Receiving Out-of-Home Services when Reunification is the Primary Permanency Goal.

A parent or guardian is responsible for:

(1) Complying with court orders;

(2) Participating in the child and family team process;

(3) Providing input into the assessment and child and family plan development process [in order] to identify specific behavioral changes and actions necessary to enable the child to safely return home [in order].

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03 269
R512-301-5. Guidelines for Making Recommendations for Reunification to the Court.

1. In accordance with Section 62A-4a-205, when considering reunification, the child's health, safety, and welfare shall be the paramount concern.

2. The [C]child and [E]family [T]team shall consider the following factors in determining whether to recommend that the court order reunification:
   (a) [T]he risk factors that led to the placement were acute rather than chronic;
   (b) [T]he child and family assessments, [C]including the safety, risk, and family functioning assessments, as well as any other pertinent assessments, [T]conclude that the parent appears to have or has developed the ability to ensure the child's safety and provide a nurturing environment;
   (c) [T]he parent is committed to the child and indicates a desire to have the child returned home;
   (d) [T]he child has a desire for reunification, as determined using age appropriate assessments;
   (e) [T]he child has a desire for reunification, as determined using age appropriate assessments;
   (f) [T]he child being abused while the parent was under the influence of drugs or alcohol, and whether the parent's substance abuse continues to impact their ability to safely parent;
   (g) [T]he continuation of a chaotic, dysfunctional lifestyle;
   (h) [T]he parent's past history of violent behavior and whether any behavioral changes have been made to address that behavior;
   (i) [T]he testimony of a properly qualified professional or expert witness that the parent's behavior is unlikely to be successfully changed.

3. Child and Family Services shall provide at least the following information to the court:
   (a) [T]he risk factors that led to the placement were acute rather than chronic;
   (b) [T]he child and family assessments, [C]including the safety, risk, and family functioning assessments, as well as any other pertinent assessments, [T]conclude that the parent appears to have or has developed the ability to ensure the child's safety and provide a nurturing environment;
   (c) [T]he parent is committed to the child and indicates a desire to have the child returned home;
   (d) [T]he child has a desire for reunification, as determined using age appropriate assessments;
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   (f) [T]he child being abused while the parent was under the influence of drugs or alcohol, and whether the parent's substance abuse continues to impact their ability to safely parent;
   (g) [T]he continuation of a chaotic, dysfunctional lifestyle;
   (h) [T]he parent's past history of violent behavior and whether any behavioral changes have been made to address that behavior;
   (i) [T]he testimony of a properly qualified professional or expert witness that the parent's behavior is unlikely to be successfully changed.


1. When the safety issues that resulted in the child being placed in out-of-home care are remedied or eliminated and the parent has demonstrated the behavioral changes needed to safely enable the child to return home, Child and Family Services may recommend a trial home placement or a return home to the court. The child may return home when allowable by court order or in conjunction with provisions of a voluntary placement.

2. Successful reunification shall be systematically considered and planned for from the earliest possible point in the life of the case. Prior to the child being physically returned home, the [C]child and [E]family [T]eam shall discuss and have a well-defined plan for the child to transition home from out-of-home care. Good transition planning shall include identifying ongoing formal and informal supports, as well as crisis or relapse planning, in order to prevent reentry into out-of-home care.

3. In order for all [E]ach pertinent part[ies]y to shall adequately prepare for the child to return home, Child and Family Services shall provide reasonable notice, unless otherwise ordered by the court, of the date the child will be returning home. Parties to be notified include the child, parents, members of the [C]child and [E]family [T]eam, [G]uardian ad [P]rivilegium, school staff, therapist, and other partner agencies.

4. Child and Family Services shall provide services directed at assisting the child and family make a successful transition of the child back into the home, and shall have supports in place to help observe and monitor that no further abuse or neglect is occurring to the child.

5. If it is determined that the child and family require more intensive services to ensure successful reunification, intensive family reunification or In-Home Services may be utilized in accordance with Rule R512-100.

6. A child may be returned home for a trial home visit for up to 90 days. The trial home visit shall continue until the court has returned custody to the parent or guardian.


1. When it is not in a child's best interest to be reunified with the child's parents, Child and Family Services may explore with both parents the option of voluntary relinquishment in accordance with Section 78A-6-312.5, unless exceptions specified in 42 CFR 1356.21 or Section 62A-4a-203.5 apply.

2. If the child is Native American, provisions of the Indian Child Welfare Act (ICWA) of 1978, 25 USC 1914 shall apply.


1. If a court determines that reunification services are not appropriate, Child and Family Services shall petition for termination of parental rights in accordance with [42 USC 675, 42 CFR 1356.21, and] Section 62A-4a-203.50 unless exceptions specified in 42 CFR 1356.21 or Section 62A-4a-203.5 apply.

2. Child and Family Services shall document in the [C]child and [E]family [T]plan and the court report when a determination is made that there are compelling reasons that filing for termination of parental rights is not in the child's best interest and shall make the plan available to the court for review.

3. When Child and Family Services files a petition to terminate parental rights, if a permanent family has not already been identified for the child, the caseworker must concurrently begin to identify, recruit, process, and seek approval of a qualified adoptive family for the child. These efforts must be documented in the case record as specified in Rule R512-300.
NOTICES OF PROPOSED RULES

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services.

B) Local governments:

There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services.

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

There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services clarifies qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services.

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(4) If the child is Native American, provisions of the Indian Child Welfare Act [ICWA] of 1978, 25 USC 1913, [shall be met].

(5) Child and Family Services shall not give approval to finalize an adoption until the period to appeal a termination of parental rights has expired. If an appeal has been filed, the adoption may not be finalized until the appeal is resolved.

KEY: social services, child welfare, domestic violence, child abuse

Date of Last Change: 2022 [January 7, 2016]

Notice of Continuation: February 15, 2018

NOTICES OF PROPOSED RULES

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-106

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

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<td>R512-302</td>
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Agency Information

1. Department: Human Services

Agency: Child and Family Services

Building: Multi-Agency State Office Building

Street address: 120 N 1950 W

City, state and zip: Salt Lake City, UT 84116

Contact person(s):

Name: Carol Miller

Phone: 801-557-1772

Email: carolmiller@utah.gov

Name: Jonah Shaw

Phone: 385-310-2389

Email: jshaw@utah.gov

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

General Information

2. Rule or section catchline:


3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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Public Notice Information

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A) Comments will be accepted until: 03/03/2022

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R512-302-1. Purpose and Authority.

(1) The purposes of this rule are to clarify:
   (a) [qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services]; and
   (b) [roles and responsibilities of Child and Family Services to a caregiver for a child receiving Out-of-Home Services in accordance with Rule R512-300].


In addition to definitions in Rule R512-300[2], the following terms are defined for the purposes of this rule:

(1) "Caregiver" means a licensed resource family, also known as a licensed foster family, and may also include a licensed or unlicensed kin provider or a foster family certified by a contract provider that is licensed as a child placing agency. Caregiver does not include a group home or residential facility that provides [Out-of-[H]ome [S]ervices under contract with Child and Family Services.
NOTICES OF PROPOSED RULES


(1) An individual or couple shall be licensed by the Office of Licensing as provided in Rule R501-12 to qualify as a caregiver for a child receiving [O]ut-of-[H]ome [S]ervices. After initial licensure, the caregiver shall take [a]ll [s]teps necessary for timely licensure renewal to ensure that the license does not lapse.

(2) A caregiver qualifying for an initial license and any adults living in the home shall complete criminal background checks required by Section [28A-6-308][23-3-305] and P.L. 109-248 before a child in state custody may be placed in that home.

(3) Child and Family Services or the contract provider shall provide pre-service training required in Rule R501-12[5] after the provider has held an initial consultation with the individual or couple to clearly delineate duties of caregivers.

(4) The curriculum for pre-service and in-service training shall be developed by the contract provider and approved by Child and Family Services according to Child and Family Services' contract with the provider.

(5) Child and Family Services or the contract provider shall verify in writing a caregiver's completion of training required for licensure as provided in Rule R501-12[5].

(6) Child and Family Services or the contract provider shall also verify in writing a caregiver's completion of supplemental training required for serving children with more difficult needs.

(7) Once a license is issued, the caregiver's name and identifying information may be shared with the court, [A]ssistant [A]ttorney [G]eneral, [G]uardian ad litem, foster parent training contract provider, resource family cluster group, foster parent associations, the Department of Health, and the child's primary health care providers.


(1) Child and Family Services shall make diligent efforts to place children with a kinship caregiver following preference for placement Section 80-3-302. For emergency placement provisions, Child and Family Services will follow the requirements of Section 62A-4a-209.

(2) A caregiver shall have the experience, personal characteristics, temperament, and training necessary to work with a child and the child's family to be approved and selected to provide [G] out-of-[H]ome [S]ervices.

(3) A[n Out-of-Home] caregiver shall be selected according to:

(a) the caregiver's skills and abilities to meet a child's individual needs and, when appropriate, an ability to support both parents in reunification efforts;

(b) the caregiver's willingness [and] to consider serving as a permanent home for the child if reunification is not achieved[.]; and

(c) [W]hen dictated by a child's level of care needs, the caregiver's ability to have [Child and Family Services may require] one parent to be available in the home at all times.

(4) A[n Out-of-Home] caregiver shall be selected according to the caregiver's compatibility with the child, as determined by Child and Family Services exercising its professional judgment. The best interest of the child shall be Child and Family Services' primary consideration when making a placement decision[.]

(a) Child and Family Services may consider the [Out-of-Home] caregiver's possession or use of a firearm or other weapon, espoused religious beliefs, or choice to school the child outside the public education system in accordance with Section 63G-4-104[.]; and

(b) Child and Family Services may consider the child's sex, age, behavior, and the composition of the foster family.

(5) A child in state custody shall be placed with a[n Out-of-Home] caregiver who is fully licensed as provided in Rule R501-12. A child may be placed in a home with a probationary license only if the [Out-of-Home] caregiver is a child-specific placement.

(6) A[n Out-of-Home] caregiver shall be given necessary information to make an informed decision about accepting responsibility to care for a child. The worker shall obtain [all available necessary] information about the child's permanency plan, family visitation plans, and needs such as medical, educational, mental health, social, behavioral, and emotional needs, for consideration by the caregiver.

(7) If the court has not given custody to a non-custodial parent or kin provider, to provide safety and maintain family ties, the child shall be placed in the least restrictive placement that meets the child's special needs and is in the child's best interests, according to the following priorities:

(a) a relative of the child.

(b) a friend designated by the custodial parent or guardian of the child, if the friend is a licensed foster parent.

(c) a former foster placement, shelter facility, or other foster placement designated by Child and Family Services.

(d) a foster placement designated by Child and Family Services.

(8) A child in state custody shall not be denied or delayed on the basis of race, color, or national origin of the [Out-of-Home] caregiver or the child involved.


(1) Child and Family Services shall actively seek the involvement of the caregiver in the [s]Child and [F]amily [H]eam process, including participation in the [s]Child and [F]amily [H]eam process, completing an assessment, and developing the [s]Child and [F]amily [P]lan as described in Rule R512-300[.4].

1. A [Out-of-Home] caregiver shall be responsible to provide daily care, supervision, protection, and experiences that enhance the child's development as provided in a written agreement entered into with Child and Family Services and the [Child and Family Plan].

2. The caregiver shall be responsible to:
   a. [Participate in the child and family team process;]
   b. [Provide input into the assessment and child and family plan development process;]
   c. [Complete goals and objectives of the plan relevant to the caregiver;]
   d. [Promptly communicate with the worker the child's progress and concerns and progress in completing the plan or regarding problems in meeting specified goals or objectives in advance of proposed completion time frames;] and
   e. [Support and assist with parental visitation.]

3. The caregiver shall document individualized services provided for the child, when required, such as skills development or transportation.

4. The caregiver shall maintain and update the child's portable, permanent record to preserve vital information about the child's life events, activities, health, social, and educational history while receiving [Out-of-Home] services. The caregiver shall share relevant health and educational information during visits with appropriate health care and educational providers to ensure continuity of care for the child.


1. A [Out-of-Home] caregiver shall receive payments according to the rate established for the child's need level, not upon the highest level of service the caregiver has been trained to provide.

2. The daily rate for the monthly foster care maintenance payment provides for the child's board and room, care and supervision, basic clothing and personal incidentals, and may also include a supplemental daily payment based upon a child's medical need or to assist with care of a youth's child while residing with the youth in an [Out-of-Home] placement. Foster care maintenance may also include periodic one-time payments for special needs such as an initial clothing allowance, additional needs for a baby, additional clothing, gifts, lessons or equipment, recreation, non-tuition school expenses, and other needs recommended by the child and family team and approved by Child and Family Services.

3. A caregiver may also be reimbursed for transporting a foster child for visitation with a parent or siblings, to participate in case activities such as child and family team meetings and reviews, and for transporting the child to activities beyond those normally required for a family. The caregiver must document all the mileage on a form provided by Child and Family Services.

4. The caregiver shall submit required documentation to receive payments for care or reimbursement for costs.


4. Investigation of any report or allegation of abuse or neglect of a child that allegedly occurs while the child is living with an [Out of Home] caregiver shall be investigated by staff designated [for this purpose by the Department of Human Services or law enforcement as provided in Section 62A-4a-202;]


4. Removal of a child from a caregiver shall occur as provided in Section 62A-4a-206 and Rule R512-31.


4. A foster parent or foster parents must comply with Section 78A-6-137[62A-4a-602], which states that they are not cohabiting unless they are relatives of the child. Child and Family Services cannot place a child with a couple who is cohabiting.

KEY: child welfare
Date of Last Change: 2022[2013]
Notice of Continuation: February 15, 2018
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105[; 63G-4-104; 78A-6-308; Pub. L. 109-248]
NOTICES OF PROPOSED RULES

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services offers Transition to Adult Living services to youth in foster care.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services offers Transition to Adult Living services to youth in foster care.

C) Small businesses (“small business” means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services offers Transition to Adult Living services to youth in foster care.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services offers Transition to Adult Living services to youth in foster care.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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<td>Fiscal Cost</td>
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NOTICES OF PROPOSED RULES

Fiscal Benefits

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Total Fiscal Benefits $0

Net Fiscal Benefits $0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-4a-102, Section 62A-4a-105

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director  Date: 12/14/2021


R512-305-1. Purpose and Authority.

(1) [The purpose of] Transition to Adult Living (TAL) services [is to] help prepare a youth who is receiving out-of-home services in accordance with Rule R512-300 to gain skills to transition to adulthood and to provide support to youth upon leaving the Division of Child and Family Services (Child and Family Services) custody. TAL is a continuum of services that begins while youth are in care and continues while they transition out of care. Youth receiving In-Home Services may also receive [some] TAL services.

(2) TAL services, which include the Education and Training Voucher Program, and are authorized by the John H. Chafee Foster Care Independence Program of 2011, 42 U.S.C. § 677 (February 9, 2018), incorporated by reference.

(3) This rule is authorized by Section 62A-4a-102.


(1) [Qualification for and duration of services]

(a)(1) TAL services are required for [all] youth receiving out-of-home services, age 14 years or older, until Child and Family Services custody is terminated regardless of permanency goal, as specified in Rule R512-300.

(b)(2) TAL services provide aftercare services for youth if they are no longer in Child and Family Services custody and are not yet 23 years of age, and the youth:

(i) has already received the statutory [Education and Training] Voucher Program, and are authorized by the John H. Chafee Foster Care Independence Program of 2011, 42 U.S.C. § 677 (February 9, 2018), incorporated by reference.

(ii) (b) Aftercare services consist of time-limited support to youth. This assistance can be provided through support, financial aid, or Basic Life Skills training. It may include housing, counseling, employment education, and other appropriate support and services to complement a youth's efforts to achieve self-sufficiency.

(3) TAL services build on the youth's individual strengths and develop personal assets in order to help young people acquire the motivation and the means to be successful throughout their lives. The strategies are aimed at helping youth achieve five fundamental aspects of adult life, including:

(a) work, career planning, and education;

(b) housing and money management;

(c) home life and daily living;

(d) self-care and health education; and

(e) communication, social relationships, family, and marriage.

(4) Aftercare services consist of time-limited support to youth. This assistance can be provided through support, financial aid, or Basic Life Skills training. It may include housing, counseling, employment education, and other appropriate support and services to complement a youth's efforts to achieve self-sufficiency.

(3) Availability:

(a)(5) TAL services are available in [all] each geographic region[s] of the state.

(b)(6) TAL services are available on the same basis to Native American youth who are or were formerly in Tribal custody within the boundaries of the state.

R512-305-3. Transition to Adult Living Services for a Youth in Child and Family Services Custody.

(1) The caseworker, with the assistance of the youth and [C] child and [F] family [T] team, ensures completion of the empirically validated life skills assessment to identify the strengths and needs of the youth.
(2) Based upon the empirically validated life skills assessment, a TAL plan is developed that identifies the youth's strengths, needs, and specific services.

(3) The youth, with the assistance of the [C]hild and [F]amily [T]eam, determines the TAL plan. Youth aged 14 years or older are required to have a TAL plan, with youth taking the lead in setting goals and facilitating the [C]hild and [F]amily [T]eam with staff guidance. Youth 14 years and older must be given the opportunity to have at least two individuals of their own choosing as members of the [C]hild and [F]amily [T]eam.

(4) TAL services do not substitute for [active]reasonable efforts to address the youth's permanency goal.

(5) The TAL plan includes a continuum of training and services to be completed by the youth and designated team members in such settings as at the foster home, with a therapist, at school, or through other community-based resources and programs.

(6) Basic [L]ife [S]kills training shall be offered to [all] foster youth age 14 years and older. The training may include training in daily living skills, budgeting, career development and financial management skills, substance abuse prevention, and preventive health activities, including smoking avoidance, nutrition education, and pregnancy prevention.


R512-305-4. Transition to Adult Living Placement for a Youth in Child and Family Services Custody.

(1) A TAL placement may be used as an alternative to out-of-home care when it is determined that such a placement is in the best interest of the youth.

(2) The appropriate types of living arrangements for youth in this situation include:

(a) living with kin;
(b) living with former out-of-home caregivers while paying rent;
(c) living in the community with roommates;
(d) living alone;
(e) living in a group facility, Young Women Christian Association [YWCA], boarding house, or dorm; or
(f) living with an adult who has passed a background check or the placement was assessed and approved by the region director or designee.

(3) This recommendation will be presented to the [C]hild and [F]amily [T]eam, who will work to ensure that this type of placement is appropriate and that the following [Practice G] guidelines are met:

(a) a TAL placement may be used as an out-of-home care placement;
(b) a youth must be at least 16 years of age to be in a TAL placement;
(c) the [C]hild and [F]amily [T]eam is responsible to determine if a recommendation for a TAL placement for a youth is appropriate;
(d) the region director or designee is authorized to approve a TAL placement;
(e) the caseworker and youth shall complete a contract outlining responsibilities and expectations while in the TAL placement;
(f) the caseworker shall visit with and monitor progress of the youth at least twice monthly or at an interval determined by the [C]hild and [F]amily [T]eam;
(g) the youth may receive a TAL stipend while in the TAL placement;
(h) if the TAL placement is not successful, the [C]hild and [F]amily [T]eam shall meet to determine, with the youth, a more appropriate living arrangement in accordance with R512-305-4.


(1) Aftercare services provide support to youth who leave out-of-home care, as specified in R512-305-2.

(2) A youth may access services by contacting a Child and Family Services office and being referred to a regional TAL coordinator.

(3) Services may include additional Basic Life Skills training, information and referral, mentoring, computer access for resources, and follow-up support. Funds may also assist eligible youth in the following areas, as listed below:

(a) education, training, and career;
(b) physical, mental, health, and emotional support;
(c) transportation; and
(d) housing support.

(4) Funds used for room and board are subject to federal limits.

KEY: social services, child welfare, out-of-home care, Transition to Adult Living

Date of Last Change: 2022 [January 9, 2019]
Notice of Continuation: February 15, 2018
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105
NOTICES OF PROPOSED RULES

General Information

2. Rule or section catchline:
R512-306. Out-of-Home Services, Transition to Adult Living Services, Education and Training Voucher Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah’s Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
   A) State budget:
   There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services manages the Education and Training Voucher Program.
   
   B) Local governments:
   There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services manages the Education and Training Voucher Program.
   
   C) Small businesses (“small business” means a business employing 1-49 persons):
   There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services manages the Education and Training Voucher Program.
   
   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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services manages the Education and Training Voucher Program.

   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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services manages the Education and Training Voucher Program.

   F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
   There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

   G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
   After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)


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The Education and Training Voucher Program is authorized by Pub [lic Law] L. No. 107-133., which is incorporated by reference. 20 USC 1087kk and 20 USC 108711 (January 3, 2007) are also incorporated by reference.

(3) This rule is authorized by Section 62A-4a-102.


(1) The following terms are defined for the purposes of this rule: "Child and Family Services" means the Division of Child and Family Services.


(3) "Full-time" means enrollment in the standard number of credit hours for each semester or quarter as defined by the educational institution.

(4) "GED" means General Education Development.

(5) "Institution of higher education" means a school that:

[A] awards a bachelor's degree or not less than a two-year program that provides credit towards a degree;

[B] provides not less than one year of training towards gainful employment; or

[C] is a vocational program that provides training for gainful employment and has been in existence for at least two years, and that also meets the following:

[P] public or non-profit facility; and

[A] accredited or pre-accredited by a recognized accrediting agency that the Secretary of Education determines to be reliable and is authorized to operate in the state.

(6) "Out-of-home care" means substitute care for children in the custody of Child and Family Services and Native American Tribes.

(7) "Part-time" means enrollment in fewer credit hours than the full-time standard as defined by the educational institution.

[A] maintains at least a C grade average or 2.0 on a 4.0 scale on a cumulative basis or equivalent passing status as determined by the educational institution.

[B] GED means General Education Development.


[D] Full-time means enrollment in the standard number of credit hours for each semester or quarter as defined by the educational institution.


[F] Part-time means enrollment in fewer credit hours than the full-time standard as defined by the educational institution.


(1) To be eligible for the Education and Training Voucher Program, an individual must meet all of the following requirements:

[a] an individual in out-of-home care who has not yet reached 18 years of age;

[b] an individual no longer in out-of-home care who reached 18 years of age while in out-of-home care and who has not yet reached 26 years of age;

[c] an individual adopted or entered guardianship from out-of-home care after reaching 16 years of age and who has not yet attained 26 years of age.
NOTICES OF PROPOSED RULES

(d) [H]has an individual educational assessment and individual education plan completed by Child and Family Services or their designee;
(e) [S]submits a completed application for the Education and Training Voucher Program;
(f) [H]has applied for or been accepted to a qualified college, university, or vocational program;
(g) [A]plies for available financial aid from other sources before obtaining funding from the Education and Training Voucher Program;
(h) [K]enrolls as a full-time or part-time student in the college, university, or vocational program; however, this requirement has been temporarily suspended until September 30, 2022 due to the Federal CARES Act; and
   (i) [M]aintains a 2.0 cumulative grade point average on a 4.0 scale or equivalent as determined by the educational institution.

(2) The application and attachments will be reviewed and approved by regional Transition to Adult Living program staff or their designee. Individuals meeting [MH]e requirements will be accepted for program participation when Education and Training Voucher Program funding is available. If demand exceeds available funding, Child and Family Services may establish a waiting list, which will then be awarded to the applicants in the order received on a first-come first-serve basis for funding or Child and Family Services may approve applications for lesser amounts of funding. The individual will receive written notice of approval or denial of the application. If denied or terminated, a written reason for denial will be provided.

(3) If an application for benefits under the Education and Training Voucher Program is denied, the applicant has the right to appeal the decision through an administrative hearing in accordance with Section 63G-4-301.

(4) The individual may participate in the Education and Training Voucher Program until:
   (a) [F]he completion of the degree or vocational program;
   (b) [F]he individual reaches age 26 years; or
   (c) [F]he individual has completed a maximum of five years in the Education and Training Voucher Program.

(5) The individual must provide ongoing documentation of full-time or part-time enrollment, satisfactory progress as detailed in the individual education plan, additional requests for funding, and any changes in total costs for attendance or other financial aid to Child and Family Services [in order to continue receiving benefits under the program.

(6) A program participant who receives less than a 2.0 GPA in a single grading period will be placed on probationary status[and];
   (a) [F]he individual [will]shall receive written notice of the probationary status[and];
   (b) [F]he individual will have one subsequent grading period to regain or show significant progress toward a 2.0 GPA to continue in the program[;]
   (c) [L]upon completion of a satisfactory grading period, the participant will be notified that the probation period is over[; or]
   (d) [L]he participant that does not receive satisfactory grades while on probation will receive written notice of loss of eligibility for the Education and Training Voucher Program.

(7) An individual under age 26 years who has previously been denied acceptance to the program or who lost eligibility for the program due to not making satisfactory progress may reapply for the program at any time.

(8) An individual may receive vouchers up to a maximum amount of $5,000 per year through the Education and Training Voucher Program, however, this requirement has been temporarily increased to $12,000 per year until September 30, 2022 due to the Federal CARES Act. Amounts are determined by the cost of tuition at specific educational institutions and enrollment status.

   (a) [In accordance with 20 USC 1087kk, t]he total amount awarded may not exceed the total cost of attendance[as described in R512-306-4], minus:
      (i) [E]xpected contributions from the individual’s family; and
      (ii) [K]Financial aid from other [S]tate or [E]ederal or [F]ederal grants or programs[;]
   (b) Awards are subject to the availability of Child and Family Services Education and Training Voucher Program funds appropriated for this program.

   (c) In accordance with the John H. Chafee Foster Care Independence Program of 2011, 42 [U]S.C. 677, the amount of benefits received through the Education and Training Voucher Program may be disregarded in determining an individual’s eligibility for, or amount of, any other [E]ederal or [E]nerally supported assistance.

KEY: out-of-home care, Transition to Adult Living
Date of Last Change: 2022[December 24, 2018]
Notice of Continuation: October 19, 2018
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 63G-4-301; Pub. L. 115-123, Section 50753(c)

NOTICExE OF PROPOSED RULE

TYPE OF RULE: Amendment

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<th>Utah Admin. Code Ref (R no.):</th>
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Agency Information
1. Department: Human Services
2. Agency: Child and Family Services
3. Building: Multi-Agency State Office Building
4. Street address: 120 N 1950 W
5. City, state and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Carol Miller 801-557-1772 carolmiller@utah.gov
Name: Jonah Shaw 385-310-2389 jshaw@utah.gov

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

2. Rule or section catchline:
R512-308. Out-of-Home Services, Guardianship Services and Placements

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
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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):
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F) Compliance costs for affected persons
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G) Comments by the department head on the fiscal impact this rule may have on businesses
(Include the name and title of the department head):
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NOTICES OF PROPOSED RULES

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R512-308-1. Purpose and Authority.
(1) The purpose of this rule is to define guardianship services and placements. Guardianship services and placements provide a permanent, safe living arrangement for a child in the court-ordered custody of Child and Family Services, when it is not appropriate for the child to return home, adoption has been ruled out as a permanency goal, and continuing agency custody is not in the child's best interest.

(2) Guardianship services are authorized by Section 62A-4a-105.
(3) This rule is authorized by Section 62A-4a-102.

(1) "Child and Family Services" means the Division of Child and Family Services.
(2) "Child and Family Team" has the same meaning as defined in Rule R512-301.
(3) "Guardianship" has the same meaning as defined in Section 28A-6-105 80-1-102.

(1) Guardianship services refer to services provided to both relatives and non-relatives who are seeking legal guardianship. [All of the following factors must be met in order to qualify for guardianship services.
(a) The child cannot safely return home. This requirement is met if the court determines that reunification with the child's parents is not possible or appropriate and the Child and Family Team and regional screening committee agree that adoption is not an appropriate plan for the child.
(b) The parent and child have a significant bond but the parent is unable to provide ongoing care for the child, such as an emotional, mental, or physical disability, and the child's current caregiver has committed to raising the child to the age of majority and to facilitate visitation with the parent.
(c) The prospective guardian must:
(i) be able to maintain a stable relationship with the child;
(ii) have a strong commitment to providing a safe and stable home for the child on a long-term basis;
(iii) have a means of financial support;
(iv) have connections to community resources to assist with the care of the child; and
(v) be able to care for the child without Child and Family Services supervision.
(d) The child has no ongoing care or financial needs beyond basic maintenance and does not require the services of a case manager.
(e) There are compelling reasons why the child cannot be adopted, such as when the child's tribe has exclusive jurisdiction over the tribe has chosen to intervene in the adoption proceedings.
(2) For this reason, the tribe has the authority to approve guardianship with the current caregiver.

[In addition to general qualifying factors, in R512-308-3, all of the following factors apply to non-relatives who are seeking legal guardianship.]
(a) The prospective guardian is a licensed out-of-home care provider.
(b) The child has lived at least six months in the home of the prospective guardian. The region director or designee may waive the six-month placement requirement for sibling groups if at least one sibling has been in the home for six months and meets other eligibility criteria.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 62A-4a-102 Section 62A-4a-105

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021

(1) Guardianship services refer to services provided to both relatives and non-relatives who are seeking legal guardianship. [All of the following factors must be met in order to qualify for guardianship services.
(a) The child cannot safely return home. This requirement is met if the court determines that reunification with the child's parents is not possible or appropriate and the Child and Family Team and regional screening committee agree that adoption is not an appropriate plan for the child.
(b) The parent and child have a significant bond but the parent is unable to provide ongoing care for the child, such as an emotional, mental, or physical disability, and the child's current caregiver has committed to raising the child to the age of majority and to facilitate visitation with the parent.
(c) The prospective guardian must:
(i) be able to maintain a stable relationship with the child;
(ii) have a strong commitment to providing a safe and stable home for the child on a long-term basis;
(iii) have a means of financial support;
(iv) have connections to community resources to assist with the care of the child; and
(v) be able to care for the child without Child and Family Services supervision.
(d) The child has no ongoing care or financial needs beyond basic maintenance and does not require the services of a case manager.
(e) There are compelling reasons why the child cannot be adopted, such as when the child's tribe has exclusive jurisdiction or the tribe has chosen to intervene in the adoption proceedings:
(i) under the Indian Child Welfare Act, 25 USC Section 1914, a tribe has the right to determine the child's permanency;
(ii) for this reason, the tribe has the authority to approve guardianship with the current caregiver.

[In addition to general qualifying factors, in R512-308-3, all of the following factors apply to non-relatives who are seeking legal guardianship.]
(a) The prospective guardian is a licensed out-of-home care provider.
(b) The child has lived at least six months in the home of the prospective guardian. The region director or designee may waive the six-month placement requirement for sibling groups if at least one sibling has been in the home for six months and meets other eligibility criteria.
A Child and Family Team has reviewed the home study and assessed the placement and found that continuation with the caregiver is in the child's best interest and supports the safety, permanency, and well-being of the child.

Child and Family Services has no concerns with the care the child has received in the home.

Child and Family Services has observed that the child has a stable and positive relationship with the prospective guardian.

**R512-308-5. Relative Qualifying Factors.**

(14) In addition to general qualifying factors found in R512-308-3, all of the following factors apply for relatives to seek legal guardianship:

(a) The child's prospective guardian is a relative to the child who meets the relationship requirements of the Department of Workforce Services Specified Relative Program, as outlined in Section R986-200-214, which currently includes:

- (i) Grandparents;
- (ii) Brothers and sisters;
- (iii) Stepbrothers and stepsisters;
- (iv) Aunts and uncles;
- (v) First cousins;
- (vi) First cousins once removed;
- (vii) Nephews and nieces;
- (viii) People of prior generations as designated by the prefix grand, great, great-great, or great-great-great;
- (ix) The former spouse of any person listed above;
- (x) The spouse of any person listed above;
- (xi) Individuals who can prove they met one of the above-mentioned relationships via a blood relationship even though the legal relationship has been terminated;
- (xii) Former stepparents;
- (xiii) An adult of the same ethnicity, culture, country of origin, religion, language, and/or nationality as the refugee/asylee child in his or her care;
- (xiv) A Native American adult who has a Native American child placed in or living in that adult's home, and both the child and the adult are members of, or eligible for membership in, a federally-recognized tribe; and
- (xv) An adult of the same ethnicity, culture, country of origin, religion, language, and/or nationality as the refugee/asylee child in his or her care.

(b) The child's needs may be met without continued Child and Family Services funding.

**R512-308-6. Guardianship Subsidy Availability, Scope, Duration.**

(1) Guardianship subsidies are available to meet the needs for children in out-of-home care:

(a) for whom guardianship has been determined as the most appropriate primary goal;

(b) who do not otherwise have adequate resources available for the child's care and maintenance;

(c) who meet the qualifying factors described in R512-308-3 and also either R512-308-4 or R512-308-5 of this rule.

For prospective guardians who are also relatives of the child, the caseworker must be provided with a copy of a denial letter or other written proof obtained from the Department of Workforce Services verifying that the prospective guardian does not meet the requirements for the Specified Relative Grant.

(2) As of Dec 31, 2021, the following factors must be considered when determining the amount of the monthly subsidy to be granted:

(a) All of the following financial needs of the child, including [security income, Social Security benefits, and other benefits]; and

(b) the regional guardianship subsidy committee may require verification of the child's financial situation.

(3) If a child is receiving benefit income and the income can continue after guardianship is granted, this amount will be deducted from the guardianship subsidy amount and
NOTICES OF PROPOSED RULES


The guardianship subsidy agreement shall also include provisions for the guardian to notify Child and Family Services if:

(a) the guardian is moving out of the state of Utah.
(b) the guardian is no longer providing any financial support for the child or is providing reduced financial support for the child.
(c) the amount of the guardianship subsidy payment may be reduced or terminated.
(d) the child exits custody.
(e) the child moves out of state.
(f) the child changes his or her address.
(g) the guardian has a change in address.
(h) the guardian has a change in employment status.
(i) the child has run away.


(1) A guardianship subsidy agreement must:

(a) be signed by the guardian and a Child and Family Services designee prior to any payments being made;
(b) identify the reason a subsidy is needed;
(c) list the amount of the monthly payment;
(d) identify dates the agreement is in effect;
(e) identify responsibilities of the guardian;
(f) identify under what circumstances the agreement may be amended or terminated and the time period for reviews;
(g) include a provision for a reduction or termination in the amount of the guardianship subsidy in the event a legislative or executive branch action affects Child and Family Services' budget or expenditure authority, making it necessary for Child and Family Services to reduce or terminate guardianship subsidies, or if a regional office determines that reduction is necessary due to regional budget constraints;
(h) include a provision for assignment of benefits to the Office of Recovery Services in accordance with the Office of Recovery Services requirements; and
(i) include a provision for correction of any under or overpayment that was made in error or that was incorrectly paid to the guardian by the Department of Human Services or Child and Family Services.

R512-308-9. Guardianship Subsidy Agreement.

(1) A guardianship subsidy agreement specifies the terms for financial support for the child's basic needs and may be for a duration of no longer than three years.

(2) A guardianship subsidy worker will complete the guardianship subsidy agreement.

(3) The effective date of the initial agreement is the date of the court order granting guardianship.

(4) A guardianship subsidy agreement must:

(a) be signed by the guardian and a Child and Family Services designee prior to any payments being made;
(b) identify the reason a subsidy is needed;
(c) list the amount of the monthly payment;
(d) identify dates the agreement is in effect;
(e) identify responsibilities of the guardian;
(f) identify under what circumstances the agreement may be amended or terminated and the time period for reviews;
(g) include a provision for a reduction or termination in the amount of the guardianship subsidy in the event a legislative or executive branch action affects Child and Family Services' budget or expenditure authority, making it necessary for Child and Family Services to reduce or terminate guardianship subsidies, or if a regional office determines that reduction is necessary due to regional budget constraints;
(h) include a provision for assignment of benefits to the Office of Recovery Services in accordance with the Office of Recovery Services requirements; and
(i) include a provision for correction of any under or overpayment that was made in error or that was incorrectly paid to the guardian by the Department of Human Services or Child and Family Services.
(b) Written notification of the need to renew the agreement shall be provided to the guardians no less than 60 days prior to the next renewal date. Child and Family Services shall supply the guardian with the appropriate forms for renewal.

(c) Child and Family Services and the guardian may negotiate the terms of a new agreement at any time. To be effective, all new agreements shall be in writing, on a form designated by Child and Family Services, and signed by the parties. Oral modifications or agreements shall neither bind the Department of Human Services or Child and Family Services nor the guardian.


(1) When a decision is made to deny, reduce, or terminate a guardianship subsidy, Child and Family Services shall send by certified mail a written Notice of Agency Action.

(2) The notice shall include information about how to request a fair hearing.


(1) A guardianship subsidy agreement will be terminated if any of the following circumstances occur:

(a) [T]he terms of the agreement are concluded;
(b) [T]he guardian requests termination;
(c) [T]he child reaches age 18;
(d) [T]he child dies;
(e) [T]he guardian [parent] dies or, in a two-parent family, if both guardian parents die;
(f) [T]he guardian-parent's legal responsibility for the child ceases;
(g) Child and Family Services determines that the child is no longer receiving financial support from the guardian;
(h) [T]he child marries;
(i) [T]he child enters the military;
(j) [T]he child is adopted;
(k) [T]he child is placed in out-of-home care, or

(2) The Department of Human Services or [Child and Family Services determines that funding restrictions prevent continuation of subsidies for [all] guardians.

(3) A guardianship subsidy agreement will be suspended and reviewed for possible termination if any of the following circumstances occur:

(a) [T]he child is incarcerated for more than 30 days;
(b) [T]he child is out of the home for more than a 30-day period or is no longer living in the home;
(c) [T]he guardian fails to complete the renewed guardianship subsidy agreement within five working days of the renewal date;
(d) [T]here is a supported finding of child abuse or neglect against the guardian.

(4) The decision to terminate or suspend a guardianship subsidy payment shall be made by the regional guardianship subsidy screening committee.

KEY: out-of-home care, guardianship

Date of Last Change: 2022[December 8, 2017]
Notice of Continuation: May 19, 2020
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 78A-6-105
providing owner's or operator's security covering a foster care youth's operation of a vehicle.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services reimburses a foster parent for providing owner's or operator's security covering a foster care youth's operation of a vehicle.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services reimburses a foster parent for providing owner's or operator's security covering a foster care youth's operation of a vehicle.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services reimburses a foster parent for providing owner's or operator's security covering a foster care youth's operation of a vehicle.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services reimburses a foster parent for providing owner's or operator's security covering a foster care youth's operation of a vehicle.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021


R512-309-1. Purpose and Authority.

(1) The purpose of this rule is to establish parameters and a process by which Child and Family Services may, within amounts appropriated for this specific purpose, reimburse a foster parent for providing owner's or operator's security covering a youth in foster care youth's operation of a vehicle if the youth is in the legal custody of Child and Family Services.

(2) Upon cancellation of the permit or license for the youth, the foster parent will be notified by Child and Family Services that the permit or license of the youth be cancelled.

(3) The foster parent is willing to assume the responsibility for signing as the responsible adult, the foster parent is jointly and severally liable with the minor for civil compensatory damages caused by the minor when operating a motor vehicle upon the highway as provided under Section 53-3-211. The foster parent's liability may not exceed the greater of the minimum liability insurance policy limits established under Section 31A-22-304 or the policy limits of the foster parent's liability insurance policy issued in accordance with Section 31A-22-302 that were in effect at the time when damages were caused by the minor's operation of a motor vehicle.

(4) The foster parent who signs the application of a minor for a provisional license must certify that the minor applicant, under the authority of a permit issued, has completed at least 40 hours driving in a motor vehicle, of which at least 10 hours shall be during night hours after sunset.


(1) The following terms are defined for the purposes of this rule:

(a) "Child and Family Services" means the Division of Child and Family Services.

(b) "Foster parent" means a licensed resource family, also known as a licensed foster family, and may also include a kinship provider or proctor provider. Foster parent does not include a group home or residential facility that provides Out-of-Home Services under contract with Child and Family Services.

(c) "Guardianship" has the same meaning as defined in Section 78A-6-105.

(d) "Minor" has the same meaning as defined in Section 53-3-211.

(e) "Owner's or operator's security" is described in Section 41-12a-301.


(1) The child has been placed in the home of a foster parent who is receiving a foster care maintenance payment from Child and Family Services.

(2) Obtaining a driver license is an objective of the Child and Family Plan that has been developed for the youth with Transition to Adult Living Services.

(3) The foster parent is willing to assume the responsibility for signing as the responsible adult for a youth in foster care youth to receive a driver license under Section 53-3-211.

(a) [The foster parent is willing to provide the minimum insurance coverage for the youth as described in Section 31A-22-304.]

(b) [The foster parent will sign a liability waiver if they do not sustain the automobile insurance.] and

(c) [The foster parent will ensure that the vehicle in which they have insured for the youth is in good operating condition.]


(1) In accordance with Section 62A-4a-121, Child and Family Services may reimburse a foster parent for providing owner's or operator's security covering a youth's operation of a motor vehicle in amounts required under Section 31A-22-304 if the youth is in the legal custody of Child and Family Services. Reimbursement will be limited to the minimum liability insurance policy limits established under Section 31A-22-304. As allowed within the amounts appropriated to Child and Family Services for this purpose, Child and Family Services will reimburse the additional cost of the insurance premium for a youth when the foster parent has met the eligibility requirements.

(2) The foster parent will submit to Child and Family Services a current and valid statement from the insurance company that will identify the actual cost of providing insurance coverage for the youth in foster care youth.


(1) Child and Family Services will notify the Driver License Division of a request that the permit or license of the youth be cancelled when a person who has signed the application makes a written request to Child and Family Services that the permit or license of a youth in foster care youth be cancelled.

(2) Upon cancellation of the permit or license for the youth, Child and Family Services will verify to the foster parent that they are relieved from liability for that youth operating a motor vehicle subsequent to the cancellation.

KEY: child welfare, foster care

Date of Last Change: 2022[January 21, 2016]
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code R512-310 Filing ID 54250

Agency Information
1. Department: Human Services
   Agency: Child and Family Services
   Building: Multi-Agency State Office Building
   Street address: 120 N 1950 W
   City, state and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Carol Miller Phone: 801-557-1772 Email: carolmiller@utah.gov
Name: Jonah Shaw Phone: 385-310-2389 Email: jshaw@utah.gov

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

General Information
2. Rule or section catchline:
   R512-310. Reasonable and Prudent Parent Standard

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
   The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
   This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
   There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for a reasonable and prudent parent standard and normalizing activities for children.

B) Local governments:
   There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for a reasonable and prudent parent standard and normalizing activities for children.

C) Small businesses ("small business" means a business employing 1-49 persons):
   There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for a reasonable and prudent parent standard and normalizing activities for children.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides for a reasonable and prudent parent standard and normalizing activities for children.

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):
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F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
   There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-4a-102
Section 62A-4a-105
Section 62A-4a-211
Section 62A-4a-212

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director Date: 12/14/2021

R512-310-1. Purpose and Authority.

(1) [The purpose of this rule is to establish standards for normalcy for a child who is in Child and Family Services custody, including a reasonable and prudent parent standard and normalizing activities for children.

(2) This rule is authorized by Sections 62A-4a-102, 62A-4a-105, 62A-4a-210, 62A-4a-211, and 62A-4a-212.


[As used in this part:

(1) "Activity" is defined in Section 62A-4a-210.

(2) "Age-appropriate" is defined in Section 62A-4a-210.

(3) "Caregiver" is defined in Section 62A-4a-210.

(4) "Child and Family Services" means the Division of Child and Family Services.

(5) "Out-of-home placement" is defined in Section 62A-4a-210.

(6) "Reasonable and prudent parent standard" is defined in Section 62A-4a-210.

R512-310-3. Highlights.

(1) A child who comes into out-of-home care under this chapter is entitled to may participate in age-appropriate activities for the child's emotional well-being and development of valuable life-coping skills.

(2) Child and Family Services shall make efforts to normalize the lives of children in the custody of Child and Family Services and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable
and prudent parent standard, without prior approval of Child and Family Services.

(3) Child and Family Services shall allow a caregiver to make
important decisions, similar to the decisions that a parent may make, regarding the child's participation in activities.

(4) Child and Family Services will verify that private agencies providing out-of-home placement under contract with Child and Family Services promote and protect the ability of a child to participate in age-appropriate activities.

(5) A caregiver is not liable for harm caused to a child in an
out-of-home placement if the child participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with a reasonable and prudent parent standard.

(6) Child and Family Services will provide training to
caregivers and providers regarding how to use and apply the reasonable
and prudent parent standard.

R512-310-4. Requirements for Decision Making.

(1) A caregiver shall use a reasonable and prudent parent standard in determining whether to permit a child to participate in an activity.

(2) A caregiver shall consider:
(a) [ ] the child's age, maturity, and developmental level to maintain the overall health and safety of the child;
(b) [ ] potential risk factors and the appropriateness of the activity;
(c) [ ] the best interest of the child based on the caregiver's knowledge of the child;
(d) [ ] the importance of encouraging the child's emotional and developmental growth;
(e) [ ] the importance of providing the child with the most family-like living experience possible; and
(f) [ ] the behavioral history of the child and the child's ability
to safely participate in the proposed activity.

(3) Child and Family meetings may be convened at any point to discuss whether the caregiver has used the reasonable and prudent parent standard to determine what activities a child may participate in or if the child feels they are being denied the ability to participate in a normalizing activity.

R512-310-5. Participation in Activities.

[ ] Caregivers shall ensure that the child has the safety equipment and any necessary permissions and training necessary to safely engage in each activity the child participates in, including but not limited to the following activities: such as boating, rock climbing, recreational vehicle use, sports, and camping.

(a) Boating;
(b) Rock climbing;
(c) Recreational vehicle use;
(d) Sports;
(e) Camping.

R512-310-6. Group Home or Residential Setting Activities.

(1) When children are placed in a group home or residential treatment setting, the provider will incorporate normalcy activities into the program. The activities will be in line with the reasonable and prudent parent standard and will help children with skills essential for positive development.

(2) The provider will also have the presence on-site of at least one official who, with respect to any child placed with the provider, will be the designated caregiver who may apply the reasonable and prudent parenting standard to decisions involving the participation of the child in age or developmentally-appropriate activities.

KEY: child welfare, foster care
Date of Last Change: 20220101
Notice of Continuation: August 12, 2019
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-210; 62A-4a-211; 62A-4a-212

NOTICE OF PROPOSED RULE

Type of Rule: Amendment
Ref (R no.): R512-500

Agency Information

1. Department: Human Services
Agency: Child and Family Services
Building: Multi-Agency State Building
Street address: 120 N 1950 W
City, state and zip: Salt Lake City, UT 84116

Contact person(s):
Name: Phone: Email:
Carol Miller 801-557-1772 carolmiller@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R512-500. Kinship Services, Placement and Background Screening

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in line with the Utah Rulewriting Manual.
NOTICES OF PROPOSED RULES

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes standards for kinship placement for a child who is in Child and Family Services custody, including preliminary placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes standards for kinship placement for a child who is in Child and Family Services custody, including preliminary placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes standards for kinship placement for a child who is in Child and Family Services custody, including preliminary placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

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 changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes standards for kinship placement for a child who is in Child and Family Services custody, including preliminary placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

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 because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes standards for kinship placement for a child who is in Child and Family Services custody, including preliminary placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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R512-500. Kinship Services, Placement and Background Screening.

R512-500-1. Purpose and Authority.

(1) The purpose of this rule is to establish standards for kinship placement for a child who is in Child and Family Services custody, including preliminary placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

(2) This rule is authorized by Sections 62A-4a-102, 62A-4a-209, [78A-6-207]80-3-302, and [78A-6-207.5]80-3-303.


(1) "Abuse" is defined in Section [78A-6-105]80-1-102.

(2) "Child" is defined in Section 62A-4a-101.

(3) "Child and Family Services" means the Division of Child and Family Services.[Department of Human Services].

(4) "Child and Family Team" has the same meaning as defined in Rule R512-301.

(5) "Friend" means an adult the child knows and is comfortable with, other than a non-custodial parent or relative as defined in Section [78A-6-105]80-3-302. [A friend who is not licensed as a foster parent and who is designated a preference for care of a child by a parent or guardian or the child, if the child is of sufficient maturity to articulate his or her wishes, and in accordance with Section 62A-4a-209, must be willing to become a licensed foster parent.]

(6) For preliminary placements, "Kinship caregiver" means a non-custodial parent, relative, or friend [as defined in this section] who is selected for placement and care of a child in Child and Family Services custody. [This may be a married couple, a single adult, or a relative who may be cohabiting.]

(7) "Neglect" is defined in Section [78A-6-105]80-1-102.

(8) "Non-custodial parent" is a natural parent as defined in Section [78A-6-207]80-1-102 who is a biological or adoptive mother, an adoptive father, or a biological father who was married to the child's biological mother at the time when the child was conceived or born, or who has had paternity established, who has not been granted legal custody of the child.

(9) "Non-relative" is defined in Section 62A-4a-209.

(10) "Preliminary placement" means an out-of-home placement with a non-custodial parent, relative, or with a friend who is either a licensed foster parent or is willing to become a licensed foster parent, which is referred to in statute as an emergency placement with a non-custodial parent or relative as authorized in Section 62A-4a-209 or a post-shelter hearing placement with a non-custodial parent, relative, or friend as authorized in Section [78A-6-207.5]80-3-303.

(11) "Relative" is defined in Section [78A-6-207]80-3-102 as the child's "grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, step-parent, first cousin, stepchild, sibling of the child, first cousin of the child's parent, or an adult who is an adoptive parent of the child's sibling." For a Native American child, relative also includes "extended family members" as defined by the Indian Child Welfare Act (ICWA), 25 USC 1903, which is "by the law or custom of the Native American child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Native American child's grandparent, aunt, or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or step-parent."

(12) "Severe type of child abuse or neglect" is defined in Section 62A-4a-1002.

(13) "Sibling" is defined as a child who has the same biological parent or adoptive parent as the child.

(14) "Substantiated" is defined in Section 62A-4a-101.

(15) "Supported" is defined in Section 62A-4a-101.


(1) [All children need permanency through enduring relationships that provide stability, familiarity, and support for the culture of the child; support the child's sense of self based on existing attachments; provide for the child's safety and physical care; and connect the child to their past, present, and future through continuing family relationships. First priority is to maintain a child safely at home. However, if a child cannot safely remain at home, kinship care has the potential for providing these elements of permanency by virtue of the kin's knowledge of and relationship to the family and child.]

(2) The family will be involved in placement decisions and will be participants of the Child and Family Team. All kinship work is done in the context of a Child and Family Team. Kinship care includes elements of child protection, in home services, family preservation, and out of home care. When a child cannot safely remain home, kinship care is preferable to other out of home placements if the kinship caregiver can keep the child safe and appropriately meet the child's needs.
R512-500-4. Preferences for Placement.

(1) The following order of preference shall be used when determining the placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:

(a) a non-custodial parent of the child;
(b) a relative of the child;
(c) subject to statute, a friend, if the friend is a licensed foster parent; and
(d) other placements that are consistent with the requirements of law.

(2) The caregiver's willingness and ability to care for and keep the child safe are fundamental. The kinship caregiver must have or acquire knowledge of the child, be able to meet the child's needs, support reunification efforts, and be able to provide the child access to parents, siblings, and other family members through visits or caring for the child and siblings as a group.

(3) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

(4) Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the Child and Family Team, kinship caregivers will receive support from other family members and from informal and formal supports to provide for the child.

(5) Providing for kinship care in the Child and Family Services spectrum of services requires due diligence to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the child and family team, kinship caregivers will receive support from other family members and from informal and formal supports to provide for the child.

(6) Preferences for Placement.

(1) The following order of preference shall be used when determining the placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:

(a) a non-custodial parent of the child;
(b) a relative of the child;
(c) subject to statute, a friend, if the friend is a licensed foster parent; and
(d) other placements that are consistent with the requirements of law.

(2) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

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(4) Providing for kinship care in the Child and Family Services spectrum of services requires due diligence to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the child and family team, kinship caregivers will receive support from other family members and from informal and formal supports to provide for the child.

(5) During the spectrum of services provided by Child and Family Services, there will be ongoing efforts to locate, notify, and engage kin, building and sustaining continued connections and relationships for the child.

(6) Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the Child and Family Team, kinship caregivers will receive support from other family members and from informal and formal supports to provide for the child.

(7) Kinship work is done in the context of a child and family team. Kinship care includes elements of child protection, in-home services, family preservation, and out-of-home care. When a child cannot safely remain home, kinship care is preferable to other out-of-home placements if the kinship caregiver can keep the child safe and appropriately meet the child's needs.

(8) The caregiver's willingness and ability to care for and keep the child safe are fundamental. The kinship caregiver must have or acquire knowledge of the child, be able to meet the child's needs, support reunification efforts, and be able to provide the child access to parents, siblings, and other family members through visits or caring for the child and siblings as a group.

(9) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

(10) Providing for kinship care in the Child and Family Services spectrum of services requires due diligence to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the child and family team, kinship caregivers will receive support from other family members and from informal and formal supports to provide for the child.

(11) Preferences for Placement.

(1) The following order of preference shall be used when determining the placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:

(a) a non-custodial parent of the child;
(b) a relative of the child;
(c) subject to statute, a friend, if the friend is a licensed foster parent; and
(d) other placements that are consistent with the requirements of law.

(2) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

(3) Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the Child and Family Team, kinship caregivers will receive support from other family members and from informal and formal supports to provide for the child.

(4) Providing for kinship care in the Child and Family Services spectrum of services requires due diligence to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the child and family team, kinship caregivers will receive support from other family members and from informal and formal supports to provide for the child.
(1) The requirements specified in Section 62A-4a-209 must be met for Preliminary Placement of a child with a kinship caregiver.
(2) Termination of parental rights does not terminate the right of a relative of the parents to seek placement and adoption of the child.
(3) The family will be involved in placement decisions and will be participants of the Child and Family Team. Considerations for the Preliminary Placement of a child with a kinship caregiver shall include:
   (a) Approved background screening requirements specified in Rule R512-500-7;
   (b) Sufficient information to determine whether:
      (i) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;
      (ii) the child is comfortable with the relative or friend;
      (iii) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;
      (iv) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;
      (v) the relative or friend is committed to caring for the child as long as necessary; and
      (vi) the relative or friend can provide a secure and stable environment for the child.
(4) Assessment of safety will be based on safety decision-making principles, which include:
   (a) Potential threats of harm;
   (b) Vulnerabilities of the child; and
   (c) Protective capacities of the potential kinship caregiver and their support system.
(5) The limited home inspection specified in Section 62A-4a-209 is required for a non-custodial parent, relative, or friend. The limited home inspection is conducted in the home of the prospective kinship caregiver to determine if there are apparent safety risks in the home that present a potential threat of harm to the child. The limited home inspection determines if the following are met:
   (a) the home is free from observable health and fire hazards;
   (b) there are adequate sleeping arrangements to meet the specific needs of each child; and
   (c) any firearms, ammunition, hazardous chemicals, and medications are secured and not accessible to children.
(6) References may be contacted to obtain input regarding placing the child with the potential kinship caregiver or information about other available relatives or friends who may care for the child.

(1) The Child and Family Team will determine the most appropriate caregiver to meet the ongoing and permanency needs of the child.
   (a) Since the Preliminary Placement is made in an emergency situation they may or may not be the most appropriate caregiver to meet the ongoing and permanency needs of the child.
   (b) The ongoing caregiver may be the kinship caregiver who is the Preliminary Placement or may be a different prospective caregiver.
(2) Child and Family Services will evaluate with the prospective caregiver their capacity for ongoing care of the child as well as permanency if reunification efforts are not successful. The components of the evaluation process include:
   (a) The child specific home study, including:
      (i) Results of the background screening specified in R512-500-7;
      (ii) Obtaining positive written references from three different people known to the kinship caregiver expressing the referent's opinion about the family's ability to care for the child;
      (iii) Physical and emotional ability of the kinship caregiver to provide adequate care for the child;
      (iv) Understanding of family dynamics and how placement will impact relationships within the family;
      (v) Ability to provide for the child's safety and well being needs and to support a plan for permanency;
      (vi) Analysis of the type of resources and support needed by the kinship caregiver to care for the child;
      (vii) Ability of the home to meet the requirements of the Office of Licensing;
   (b) Providing information to the kinship caregiver to assist with considering options for ongoing care of the child, including:
      (i) Educating the kinship caregiver of the expectations of caring for a child who is under the jurisdiction of the court;
      (ii) Assessing the resources that may be available to assist the kinship caregiver in providing a stable placement for the child.
(iii) Becoming a licensed out-of-home care placement for the child.

(iv) Requesting temporary custody and guardianship from the court.

(1) The child and family team will determine the most appropriate relative or friend to meet the ongoing and permanency needs of the child:

(a) since the preliminary placement is made in an emergency situation, they may or may not be the most appropriate caregiver to meet the ongoing and permanency needs of the child; and

(b) the ongoing caregiver may be the kinship caregiver who is the preliminary placement or may be a different prospective caregiver.

(2) Child and Family Services will evaluate with the prospective relative or friend their capacity for ongoing care of the child as well as permanency if reunification efforts are not successful. The components of the evaluation process include:

(a) the child-specific home study for the relative or friend will include:

   (i) results of the background screening;

   (ii) obtaining positive written references from three different people known to the relative or friend expressing the referent's opinion about the family's ability to care for the child;

   (iii) physical and emotional ability of the relative or friend to provide adequate care for the child;

   (iv) understanding of family dynamics and how placement will impact relationships within the family;

   (v) ability to provide for the child's safety and well-being needs and to support a plan for permanency;

   (vi) analysis of the type of resources and support needed by the relative or friend to care for the child; and

   (vii) ability of the home to meet required safety standards of the Office of Licensing; and

(b) providing information to the kinship caregiver to assist with considering options for ongoing care of the child, including:

   (i) educating the kinship caregiver of the expectations of caring for a child who is under the jurisdiction of the court;

   (ii) assessing the resources that may be available to assist the kinship caregiver in providing a stable placement for the child;

   (iii) becoming a licensed out-of-home care placement for the child; and

   (iv) requesting temporary custody and guardianship from the court.

R512-500-7. Background Screening.

(1) Background Screening Procedure for Preliminary Placements.

(a) In order for a non-custodial parent, relative, or friend to be considered for Preliminary Placement of a child, background screening must be completed that meets the requirements of Sections 62A-4a-209, 78A-6-307, 78A-6-307.5, and 78A-6-308. If any non-relative adults live in the household, applicable background screening requirements in Sections 62A-4a-209, 78A-6-307, 78A-6-307.5, and 78A-6-308 must be met.

(b) A non-custodial parent or relative and all persons 18 years of age and older living in the household must provide the following information in order for background screening to be conducted:

   (i) Full first, middle, last, maiden, alias, and all previous married names;

   (ii) Social Security number, if a number has been issued;

   (iii) Proof of identity verified by a government-issued photo identification;

   (iv) Date of birth.

(2) Background Screening Procedure for Ongoing Care of a Child.

(a) As part of the evaluation of capacity for ongoing care of a child, in addition to background screening required for Preliminary Placement, anyone over the age of 18 years in the home must complete an FBI fingerprint-based criminal history records check.

(b) A Utah child abuse registry check will be completed or all persons over the age of 18 years residing in the home. If any person 18 years of age or older residing in the home has lived out of the state of Utah in the five years immediately preceding the date of the application, a child abuse and neglect registry check must be completed for any state in which the individual resided.

(c) All persons 18 years of age and older living in the household must provide the following information on a form provided by Child and Family Services in order for background screening to be conducted:

   (i) Full first, middle, last, maiden, alias, and all previous married names;

   (ii) Social Security number, if a number has been issued;

   (iii) Proof of identity verified by a government-issued photo identification;

   (iv) Date of birth.

(v) The potential kinship caregiver and applicable adults living in the household shall provide fingerprints from an authorized law enforcement agency or designated electronic scanning site.

(vi) If the applicant has lived outside of Utah in the five years preceding the date of the application, a list of the states the applicant has lived in will be provided.

(1) Full first, middle, last, maiden, alias, and all previous married names;

(2) Social Security number, if a number has been issued;

(3) Proof of identity verified by a government-issued photo identification;

(4) Date of birth;

(e) the potential kinship caregiver and applicable adults living in the household shall provide fingerprints from an authorized law enforcement agency or designated electronic scanning site; and

(f) if the applicant has lived outside of Utah in the five years preceding the date of the application, a list of the states the applicant has lived in will be provided.

KEY: child welfare, kinship

Date of Last Change: 2022[December 23, 2019]
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

<table>
<thead>
<tr>
<th>A) State budget:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B) Local governments:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C) Small businesses (<em>small business</em> means a business employing 1-49 persons):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D) Non-small businesses (<em>non-small business</em> means a business employing 50 or more persons):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>E) Persons other than small businesses, non-small businesses, state, or local government entities (<em>person</em> means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <strong>agency</strong>):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>There are no compliance costs for any affected persons. The changes are largely clerical in nature.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner</td>
<td></td>
</tr>
</tbody>
</table>

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Cost FY2022 FY2023 FY2024</td>
</tr>
<tr>
<td>State Government</td>
</tr>
</tbody>
</table>
must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Steve Gooch, Public Information Officer Date: 01/10/2022

R590. Insurance, Administration.
R590-143. Life [A]and Health Reinsurance Agreements.
R590-143-1. Authority. This rule is [adopted and] promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-17-404, and 31A-17-404.3.

R590-143-2. Purpose and Scope. [This rule shall apply to all domestic life and accident and health insurers and to all other licensed life and accident and health insurers which are not subject to a substantially similar rule in their domiciliary state. This rule shall also similarly apply to licensed property and casualty insurers with respect to their accident and health business. This rule does not apply to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance.] (1) The purpose of this rule is to:

(a) recognize that a licensed insurer may enter into a reinsurance agreement that yields legitimate relief to a ceding insurer; and
(b) establish criteria for a licensed insurer to enter into a reinsurance agreement.

(2)(a) This rule applies to:
(i) a domestic life insurer;
(ii) a domestic accident and health insurer;
(iii) a foreign life insurer not subject to a similar rule in its domiciliary state;
(iv) a foreign accident and health insurer not subject to a similar rule in its domiciliary state; and
(v) a property and casualty insurer with respect to its accident and health insurance business.
(b) This rule does not apply to:
(i) assumption reinsurance;
(ii) yearly renewable term reinsurance; and
(iii) certain nonproportional reinsurance, such as stop-loss or catastrophe reinsurance.

R590-143-3. Definitions. Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) (a) "Credit Quality (C1)" means the risk that invested assets supporting the reinsured business will decrease in value due to:
(i) default; or
(ii) a decrease in earning power.
(b) Credit Quality (C1) does not include a change in interest rate.
(2) "Disintermediation (C3)" means the risk that interest rates rise and policy loans and surrenders increase, or that maturing contracts do not renew at anticipated rates of renewal where:
(i) there will be an increasing mismatch due to asset durations being greater than liability durations.

<table>
<thead>
<tr>
<th>Local Governments</th>
<th>$0</th>
<th>$0</th>
<th>$0</th>
</tr>
</thead>
<tbody>
<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><strong>Total Fiscal Cost</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
</tr>
<tr>
<td><strong>Fiscal Benefits</strong></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><strong>Total Fiscal Benefits</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
</tr>
<tr>
<td><strong>Net Fiscal Benefits</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 31A-2-201 Section 31A-17-404 Section 31A-17-404.3

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency
(ii) policyholders will move their funds into new products offering higher rates; and
(iii) the company may have to sell assets at a loss to provide for these withdrawals.

(3) "Lapse" means the risk that a policy will voluntarily terminate before the recoupment of a statutory surplus strain experienced at issue of the policy.

(4) "Reinvestment (C3)" means the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected and there will be an increasing mismatch if asset durations are less than liability durations.

R590-143-4, Accounting Requirements.

[A. No.] (1) An insurer subject to this rule may not, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1a) Renewal expense allowances provided or to be provided to the reinsurer in an accounting period[s] are not sufficient to cover anticipated allocable renewal expenses of the reinsurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall, using assumptions equal to the applicable statutory reserve basis on the business reinsured.

(2) The ceding insurer may be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the treaty is not a deprivation of surplus or assets to terminate a reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as:

(i) commission reserve adjustments;
(ii) premium taxes; and
(iii) direct expenses, including but not limited to:
(A) billing;
(B) valuation;
(C) claims; and
(D) maintenance expected by the company at the time the business is reinsured.

(3) The treaty does not transfer all of the significant risk inherent in the business being reinsured.

(i) The following table identifies for a representative sample of products or type of business, the significant risks, which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with this table.

<table>
<thead>
<tr>
<th>Risk categories:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Morbidity</td>
</tr>
<tr>
<td>(b) Mortality</td>
</tr>
<tr>
<td>(c) Lapse</td>
</tr>
</tbody>
</table>

(ii) This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

(4) "Credit Quality (C1)"

This is the risk that a reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company for a ceding insurer to a reinsurer involving payment of an amount that is not solely from income realized from the reinsured policy.

(5) "Disintermediation (C2)"

This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

(i) The following table identifies for a representative sample of products or type of business, the risks determined to be significant:

<table>
<thead>
<tr>
<th>Risk categories:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Morbidity</td>
</tr>
<tr>
<td>(b) Mortality</td>
</tr>
<tr>
<td>(c) Lapse</td>
</tr>
</tbody>
</table>

(ii) This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.

(ii) "Disintermediation (C2)"

This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

**TABLE**

<table>
<thead>
<tr>
<th>Risk Category</th>
<th>Significant</th>
<th>Insignificant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Insurance - other than LTC/LTD*</td>
<td>1 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Health Insurance - LTC/LTD*</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Immediate Annuities</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Single Premium Deferred Annuities</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Flexible Premium Deferred Annuities</td>
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<td>0 0 0 0</td>
</tr>
<tr>
<td>Guaranteed Interest Contracts</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Other Annuity Deposit Business</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Single Premium Whole Life</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Traditional Non-Par Permanent</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
<tr>
<td>Traditional Non-Par Term</td>
<td>0 0 0 0</td>
<td>0 0 0 0</td>
</tr>
</tbody>
</table>

*significant 0 - Insignificant

298 UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
(b)(ii) Notwithstanding the requirements of [Paragraph (2)(a)]Subsection (1)(g)(ii), the assets supporting the reserves for the following classes of business [excepted in Paragraph (2)(b)] either - except for the classes of business [excepted in Paragraph (2)(b)] transfer the underlying assets to the reinsurer or legate segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the commissioner which legally segregates, by contract[- or contract provision], the underlying assets.

(ii) The significant risk categories in the table in Subsection (1)(f)(i) as follows:

- **A** morbidity;
- **B** mortality;
- **C** lapse;
- **D** credit quality (C1);
- **E** reinvestment (C3); and
- **F** disintermediation.

(iii) Products not specifically included in the table in Subsection (1)(f)(i) shall be determined in accordance with the significant risk categories in Subsection (1)(f)(ii).

(2) Credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not otherwise establish a trust or escrow account or otherwise establish a mechanism satisfactory to the commissioner which legally segregates, by contract, the underlying assets.

### TABLE

<table>
<thead>
<tr>
<th>Category</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Insurance - other than</td>
<td>+</td>
<td>+</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>LTC/LTD*</td>
<td></td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Health Insurance - LTC/LTD*</td>
<td></td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Immediate Annuities</td>
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<td>+</td>
<td>+</td>
<td>+</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Single Premium Deferred Annuities</td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Guaranteed Interest Contracts</td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Other Annuity Deposit Business</td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Single Premium Whole Life</td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Traditional Non-Par Permanent</td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Traditional Non-Par Term</td>
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<td>+</td>
<td>+</td>
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<tr>
<td>Traditional Par Permanent</td>
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<td>+</td>
<td>+</td>
<td>+</td>
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</tr>
<tr>
<td>Traditional Par Term</td>
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<td>+</td>
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<td>+</td>
</tr>
<tr>
<td>Adjustable Premium Permanent</td>
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<td>+</td>
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<tr>
<td>Universal Life Flexible Premium</td>
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<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Universal Life Fixed Premium</td>
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<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Universal Life Fixed Premium - dump-in premiums allowed</td>
<td>0</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
</tbody>
</table>

+ = Significant
0 = Insignificant
* LTC = Long-term care insurance; LTD = Long-term disability insurance

NOTICES OF PROPOSED RULES
(b) A ceding insurer’s actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall comply with this rule and any applicable actuarial standards of practice when determining the proper credit in a financial statement filed with [this the department].

(c) The actuary shall maintain adequate documentation and be prepared upon request to:

(i) describe the actuarial work performed for inclusion in the financial statement and to; and

(ii) demonstrate that such work conforms to this rule.

(2) Any binding letter of intent, a letter of intent has been duly executed by both parties no later than the inception of such reinsurance. The 34% of $20 million, or $6.8 million, [66% of the total of $4 million minus $0.5 million], is reported as income on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus Account, page 4 of the Annual Statement, and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" line of the Summary of Operations. For example, on the last day of calendar year N, company XYZ pays a $20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is calculated by multiplying $20 million by 1 minus 0.34, resulting in $13.2 million, [$20 million - $6.8 million], which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. The 34% of $20 million, or $6.8 million, [24% of $20 million], is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.

(B) At the end of year N+1 the business has earned $4 million. ABC has paid $0.5 million in profit and risk charges in arrears for the year and has received a $1 million experience refund.

Company ABC's annual statement would report $1.65 million, calculated by taking [(66% of the total of $4 million - $0.5 million)] up to a maximum of $13.2 million, on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and $1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account.

The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.

R590-143-[4]5. Written Agreements.

(1) A reinsurance agreement or an amendment to any agreement may not be used to reduce a liability or to establish an asset in a financial statement filed with the department, unless the agreement, an amendment, or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

(2) In the case of a binding letter of intent, a reinsurance agreement, or an amendment to a reinsurance agreement shall be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

(3) A reinsurance agreement shall contain the following provisions which provide that:

(a) The agreement constitutes the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

(b) Any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.
General Information

2. Rule or section catchline:
R590-157. Surplus Lines Insurance Premium Tax and Stamping Fee

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of the rule clearer and update the new Section R590-157-7 to use the Department’s current language. The current Section R590-157-7 is being removed because penalties are already provided for in statute, and Section R590-157-8 is being removed because this rule is already in force. A late fee $10 minimum is being codified to align with current practice. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the 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 will not change how the Department functions.

B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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 will not affect small businesses.

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 will not affect 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 is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

6. 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.)

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R590-157. Authority.

Fee. (a) the amount of the stamping fee; and (b) the accounting and reporting forms and procedures to be used in calculating the surplus lines premium tax and the stamping fee.

Surplus lines transaction and collect and receive the surplus lines premium tax and the stamping fee.

R590-157-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-3-303, and 31A-15-103.

R590-157-2. Purpose and Scope.

Purpose[s] of this rule are to prescribe:

(a) the amount of the stamping fee; and
(b) any cancellation, endorsement, audit, or other adjustment to the surplus lines insurance policy that affects the premium.

[A.] (1) The commissioner hereby authorizes the Surplus Line Association of Utah to act as the commissioner's agent for:

(1) collecting and remitting the premium tax imposed by Subsection 31A-3-301 on an insurance transaction described in Section 31A-15-103, 31A-15-104, and 31A-15-106;

(2) collecting the stamping fee authorized under [Section 31A-15-103(11)], and

(d) prescribing the forms and procedures that surplus lines producers may use.

[B.] (2) The Surplus Line Association shall remit all premium taxes it collects to [the commissioner’s benefit:]

[C.] (3) A courtesy filing fee may not be included as a surplus lines premium for the purpose of computing premium taxes and stamping fees.


[A.] (1) Within 60 days of the effective date of a surplus lines transaction, the surplus lines producer must file with the Surplus Line Association:

(a) a copy of the insurance policy, binder, certificate, endorsement, or other documentation sufficient to identify the subject of the insurance;

(b) the coverage, conditions, and term of insurance;

(c) the type of transaction;

(d) the effective date;

(e) the premium charged;

(f) the premium taxes payable;

(g) the name and address of the policyholder's name and address; and

(h) the surplus lines insurer's name and address.

[B.] The Surplus Line Association may prescribe the forms and procedures to be used by surplus lines producers in fulfilling Section R590-157-5.

[C.] (1) For each surplus lines producer, the Surplus Line Association shall prepare a monthly statement of surplus lines transactions reported during the preceding 30 days for each surplus lines producer. This statement shall list:

(a) the transaction[s] and premium amount[s] reported;

(b) the surplus lines premium taxes due under Section 31A-3-301; and

(c) the stamping fee due under Subsection 31A-15-103(11)(d).

[D.] (3) The monthly statement shall be mailed to the [each] surplus lines producer[s] by the 5th day of each month.

[E.] (4) A surplus lines producer shall remit payment in full to the Surplus Line Association by the 25th day of each month, the amounts due shown on the monthly statement.

[F.] (5) A surplus lines producer shall hold, in trust, any premium taxes and stamping fees [shall be held in trust by the surplus lines producer] until the premiums and stamping fees are remitted to the Surplus Lines Association.

[G.] [Within three days of the date received.] The Surplus Line Association shall deposit, in a qualified depository approved by the Office of the State Treasurer, for the credit of the Utah Insurance Department, any funds received as payment of the surplus lines premium tax within three days of receipt.

H. (6) For tax credits for return premiums, which are not offset by charges in the monthly statement, the Surplus Line Association shall submit a request for payment to the Insurance Department. A reimbursement will be issued to the designated person by the Insurance Department pursuant to the Division of Finance's policies and procedures.

I. (8) The Surplus Line Association shall prepare the following reports for the benefit of the commissioner:

(a) a monthly report shall be prepared listing:

(i) the name of each surplus lines producer reporting;

(ii) the amount of each surplus lines premium written during the month; and

(iii) the name of each surplus lines producer reporting surplus lines premiums, taxes, and fees reported: The report shall also list:

(iv) the name[s] of each surplus lines insurer[s]; and

(v) the amount of written surplus lines premium attributed to them each surplus lines insurer for the month.

This report shall be submitted by the 15th of the subsequent month.

(b) an annual report shall be prepared on the basis of both surplus lines producers and surplus lines insurers and shall list: submitted by January 31 of each year, that lists:

(i) all surplus lines premiums reported during the previous year; and

(ii) all premium taxes paid during the previous calendar year.

This report shall be submitted to the commissioner by January 31 of each year.

(c) an annual financial report including submitted within 30 days after the Surplus Line Association's fiscal year ends, that includes the Association's:

(i) income;

(ii) expenses; and

(iii) balance sheet for the Surplus Lines Association.

This report shall be submitted to the commissioner within 30 days of the end of the Association's fiscal year.
NOTICES OF PROPOSED RULES

R590-157-7 Penalties.  A person found to be in violation of this rule shall be subject to penalties as provided under 31A 2-308.

R590-157-8. Enforcement Date.  The commissioner will begin enforcing the revised provision of this rule effective January 1, 2009.

R590-157-9. Severability.  If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

KEY: insurance fee, taxes
Date of Last Change: 2022[January 1, 2018]
Notice of Continuation: January 4, 2018
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-3-303; 31A-15-103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R657-5
Filing ID 54338

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 and zip: Salt Lake City, UT 84116
Mailing address: PO Box 146301
City, state and zip: Salt Lake City, UT 84114-6301
Contact person(s):
Name: Staci Coons
Phone: 801-450-3093
Email: stacicoons@utah.gov

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

General Information
2. Rule or section catchline:
R657-5. Taking Big Game

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The proposed rule amendments allows for the addition of clarifying definitions and weapon requirements, the amendments also regulate the use of trail cameras as directed by H.B. 295 passed in the 2021 General Session, DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, DWR does not believe that these amendments would create a cost or savings impact to the state budget or the 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 are clarifying definitions and weapon requirements into current regulations 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.
NOTICES OF PROPOSED RULES

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

The proposed rule amendments do have the potential to impact small businesses that use trail cameras for the taking of big game, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

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

The proposed rule amendments do have the potential to impact non-small businesses that use trail cameras for the taking of big game, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

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 proposed rule amendments do have the potential to impact other persons that use trail cameras for the taking of big game, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

DWR has determined that this amendment may create additional costs for those individuals who will be removing the trail cameras during the closed season. The cost could include gas expenses, time off work and travel expenses. The restriction of trail cameras was a direct result of H.B. 295 (2021).

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. Brian Steed, Executive Director

6. A) 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.)

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B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 23-14-18 | Section 23-14-19

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022
10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: J. Shirley, Division Director Date: 01/13/2022

R657. Natural Resources, Wildlife Resources.
R657-5. Taking Big Game.
R657-5-1. Purpose and Authority.
(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking big game.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:
(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.
(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.
(c) "Antlerless elk control permit" means a permit allowing an individual to harvest an antlerless elk on an antlerless elk control unit.
(d) "Antlerless moose" means a moose with antlers shorter than its ears.
(e) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.
(f) "Buck [pronghorn] deer" means a [pronghorn]deer with horns antlers longer than five inches.
(g) "Buck [pronghorn] elk" means an elk with antlers five inches or shorter.
(h) "Bull [moose] elk" means a [moose] elk with antlers longer than five inches.
(i) "Cow [moose] elk" is not defined in the rule.
(j) "Cow bison" means a [female bison] moose with antlers longer than its ears.
(k) "Cow pronghorn" means a female bighorn sheep.
(l) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.
(m) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism and safety attached to the device.
(n) "Drone" means an autonomously controlled, aerial vehicle of any size or configuration that is capable of controlled flight without a human pilot aboard.
(o) "Ewe" means a female bighorn sheep or any bighorn sheep younger than one year of age.
(p) "Immediate family member" means the landowner's or lessee's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild, grandchild, grandfather, and grandmother.
(q) "Limited entry hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as limited entry and does not include general or once-in-a-lifetime hunts.
(r) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.
(s) "Limited entry hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.
(t) "Limited entry permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.
(u) "Location" means a man-made structure or an area used for hunting big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.
(v) "Mammal" means an animal classified as such in the guidebook of the Wildlife Board for taking big game.
(w) "Mule deer" means a deer with antlers five inches or shorter.
(x) "Night Vision Device" means any device that enhances visible or non-visible light, including but not limited to: night vision, thermal imaging, infrared imaging, or electronics that enhance the visible or non-visible light spectrum.
(y) "Night Vision Device" does not include Trail Cameras as defined in Subsection (x).
(z) "Once-in-a-lifetime" means an animal classified as such in the guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.
(aa) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.
(bb) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.
(cc) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.
(dd) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.
(ee) "On or before" means any date, including the calendar year for which the permit is issued.
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R657-5-3. Age Requirements and Restrictions.
(1)(a) A person 12 years of age or older may apply for or obtain a permit to hunt big game.

(b) A person 11 years of age may apply for a permit to hunt big game, provided that person's 12th birthday falls within the calendar year for which the permit is issued and that person does not use the permit to hunt big game before their 12th birthday.

(2)(a) A person at least 12 years of age and under 16 years of age must be accompanied by his/her parent or legal guardian, or other responsible person 21 years of age or older and approved by his/her parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

R657-5-4. Duplicate License and Permit.
(1) When a person has an unexpired license, permit, tag or certificate of registration, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or certificate of registration provided the person did not receive the original license, permit, tag or certificate of registration.

(1) A person may not use any weapon or device to take big game other than those expressly permitted in this rule.
(2) A person may not use:
   (a) a firearm capable of being fired fully automatic;
   (b) any light enhancement device or aiming device that casts a visible beam of light; or
   (c) a firearm equipped with a computerized targeting system that marks a target, calculates a firing solution and automatically discharges the firearm at a point calculated most likely to hit the acquired target.

(3) Nothing in this section shall be construed as prohibiting laser range finding devices or illuminated sight pins for archery equipment.

(4) Use of specialized hunting technologies and equipment.
   (a) A person may not use any night vision device to locate or attempt to locate a big game animal from 48 hours before any big game hunt in the area through 48 hours after any big game hunt ends in the area.
   (b)(i) A person shall not place, maintain, or use any trail camera or non-handheld device capable of capturing image, video, location, time, or date data in the field to take, attempt to take, or aid in the take or attempted take of big game between July 31 and December 31; and
   (ii) Engage in the sale of purchase of trail camera or other non-handheld device media, including images, video, location, time, or date data to take, aid in the take or attempted take of big game or
   (iii) Engage in the storage and sale or purchase of stored media, including images, video, location, time, or date data to take, aid in the take or attempted take of big game.

   (c) The prohibition on the use of trail cameras does not apply to:
      (i) private landowners monitoring or protecting their property from trespass;
      (ii) monitoring active agricultural operations;
      (iii) to aid in the take of bear and cougar depredating livestock; and
      (iv) municipalities participating in the Urban Deer Program.

R657-5-10. Muzzleloaders.

(1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided:
   (a) [can be has both the powder and bullet loaded only] from the muzzle;
   (b) has open sights, peep sights, or a variable or fixed power scope, including a magnifying scope;
   (c) has a single barrel;
   (d) has a minimum barrel length of 18 inches;
   (e) is capable of being fired only once without reloading;
   (f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;
   (g) is loaded with black powder or black powder substitute, which must not contain smokeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

       (b) A bullet 130 grains or heavier, or a sabot 170 grains or heavier, must be used for taking deer and pronghorn.

       (c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.

       (d) Any person who has obtained a muzzleloader permit for a big game hunt may:
           (i) use only muzzleloader equipment authorized in this Subsections (1) and (2) to take the species authorized in the permit; and
           (ii) not possess or be in control of a rifle or shotgun while in the field during the muzzleloader hunt.

       (e) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter’s established campsite or the interior of a fully enclosed automobile or truck.


(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:
   (a) the minimum bow pull is 30 pounds at the draw or the peak, whichever comes first;
   (b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;
   (c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded, and
   (d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock.

(2) The following equipment or devices may not be used to take big game:
   (a) a crossbow, except as provided in Subsection (5) and Rule R657-12;
   (b) arrows with chemically treated or explosive arrowheads;
   (c) a mechanical device for holding the bow at any increment of draw, except as provided in Subsection (5) and Rule R657-12;
   (d) a release aid that is not hand held or that supports the draw weight of the bow, except as provided in Subsection (5) and Rule R657-12;
   (e) a bow with a magnifying aiming device; or
   (f) an airgun, except as provided in Subsection (5).

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit for a big game hunt may:

           (i) only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit; and
           (ii) not possess or be in control of a crossbow, draw lock, rifle, shotgun or muzzleloader while in the field during an archery hunt.

           (b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter’s established campsite or the interior of a fully enclosed automobile or truck.

NOTICES OF PROPOSED RULES

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NOTICES OF PROPOSED RULES

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(c) The provisions of Subsection (a) do not apply to:

(i) a person lawfully hunting upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt, provided the person is in compliance with the regulations of that hunt and possesses only the weapons authorized for that hunt;

(iii) livestock owners protecting their livestock;

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife;

(v) a person possessing a crossbow or draw-lock under a certificate of registration issued pursuant to R657-12.

(5) A person who has obtained an any weapon permit for a big game hunt may use archery equipment authorized in this section to take the species authorized in the permit, and may also use a crossbow, draw-lock, or airgun satisfying the minimum requirements of this rule.

(6)(a) A person hunting an archery-only season on a once-in-a-lifetime hunt may:

(ii) only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit.

(b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

R657-5-12. Areas With Special Restrictions.

(1)(a) Hunting of wildlife is allowed within the boundaries of all park areas, except for those areas and hunts specifically closed by the Division of Parks and Recreation in Section R651-614-4.

(b) State laws regarding the possession and discharge of dangerous weapons apply in state park areas open to hunting.

(2) Hunting is closed within the boundaries of all national parks unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

(5) In Salt Lake County, a person may:

(a) only use archery equipment to take buck deer and bull elk south of I-80 and east of I-15;

(b) only use archery equipment to take big game in Emigration Township;

(c) not hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Subsection 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the guidebook of the Wildlife Board for taking big game.

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(9) A person may not hunt big game in National Wildlife Refuges unless declared open by the managing authority.

(10) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Scott M. Matheson Wetland Preserve.

(14011) A person may not discharge a firearm, except a shotgun or muzzleloader firing shot size not to exceed T(.20), from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.


(1) To hunt antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using the weapon type, within the area, and during season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt antlerless elk on an elk cooperative wildlife management unit unless that person obtains an antlerless elk permit for that specific cooperative wildlife management unit.

(c) Antlerless elk control permits are not valid on cooperative wildlife management units.

(3)(a) A person may obtain three elk permits each year, in combination as follows:

(i) a maximum of one bull elk permit;

(ii) a maximum of one antlerless elk permit issued through the division's antlerless big game drawing; and

(iii) a maximum of two antlerless elk permits acquired over the counter or on-line after the antlerless big game drawing is finalized, including antlerless elk:

(A) control permits, as described in Subsection (5);

(B) depredation permits, as described in Section R657-44-8;

(C) mitigation permit vouchers, as defined in Subsection R657-44-2(2); and

(D) private lands only permits, as described in Subsection (6).

(b) Antlerless elk mitigation permits obtained by a landowner or lessee under Section R657-44-3 do not count towards the annual three elk permit limitation prescribed in this subsection.

(i) "Mitigation permit" has the same meaning as defined in Subsection R657-44-2(2).

(c) For the purposes of obtaining multiple elk permits, a hunter's choice elk permit is considered a bull elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the applicable permits listed in Subsection (b), provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used, if hunting antlerless elk during an archery season or hunt; and

(iii) the appropriate muzzleloader hunt equipment is used, if hunting antlerless elk during a muzzleloader season or hunt.

(b)(i) General buck deer for archery, muzzleloader, any legal weapon, or dedicated hunter;

(ii) General bull elk for archery, muzzleloader, any legal weapon, or multi-season;

(iii) Premium limited entry buck deer for archery, muzzleloader, any legal weapon, or multi-season;

(iv) Limited entry buck deer for archery, muzzleloader, any legal weapon, or multi-season;
(v) Limited entry bull elk for archery, muzzleloader or any legal weapon, or multi-season[;]
and
(vi) Antlerless deer or elk, excluding antlerless elk control permits.

(c) A person that possess an unfilled antlerless elk permit and harvests an animal under authority of a permit listed in Subsection (b), may continue hunting antlerless elk as prescribed in Subsections (a) and (b) during the remaining portions of the Subsection (b) permit season.

(5)(a) To obtain an antlerless elk control permit, a person must first obtain a big game buck, bull, or[;] a once-in-a-lifetime permit. 

(b) An antlerless elk control permit allows a person to take one antlerless elk using the same weapon type, during the same season dates, and within areas of overlap between the boundary of the buck, bull, or once-in-a-lifetime permit and the boundary of the antlerless elk control permit, as provided in the Antlerless guidebook by the Wildlife Board.

(e) Antlerless elk control permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) A person that possess an unfilled antlerless elk control permit and harvests an animal under the buck, bull, or once-in-a-lifetime permit referenced in Subsection (b), may continue hunting antlerless elk as prescribed in Subsection (b) during the remaining portions of the buck, bull, or once-in-a-lifetime permit season.

(6)(a) A private lands only permit allows a person to take one antlerless elk on private land within a prescribed unit using any weapon during the season dates and area provided in the Big Game guidebook by the Wildlife Board.

(b) No boundary extension or buffer zones on public land will be applied to private lands only permits.

(c) Private lands only permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) "Private lands" means, for purposes of this subsection, any land owned in fee by an individual or legal entity, excluding:

(i) land owned by the state or federal government;
(ii) land owned by a county or municipality;
(iii) land owned by an Indian tribe;
(iv) land enrolled in a Cooperative Wildlife Management Unit under Rule R657-37; and
(v) land where public access for big game hunting has been secured.


(1)(a) To hunt doe pronghorn, a hunter must obtain a doe pronghorn permit.

(b) A person may obtain only one doe pronghorn permit or a two-doe pronghorn permit through the division's antlerless big game drawing.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn using the weapon type, within the area, and during the season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A two-doe pronghorn permit allows a person to take two doe pronghorn using the weapon type, within the area, and during the season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(c) A person may not hunt doe pronghorn on any pronghorn cooperative wildlife management unit unless that person obtains [an antlerless]a doe pronghorn permit for that specific cooperative wildlife management unit.

(d) A person that possess an unfilled antlerless elk permit and harvests an animal under authority of a permit listed in Subsection (b), may continue hunting antlerless elk as prescribed in Subsections (a) and (b) during the remaining portions of the Subsection (b) permit season.

(5)(a) To obtain an antlerless elk control permit, a person must first obtain a big game buck, bull, or[;] a once-in-a-lifetime permit.

(b) An antlerless elk control permit allows a person to take one antlerless elk using the same weapon type, during the same season dates, and within areas of overlap between the boundary of the buck, bull, or once-in-a-lifetime permit and the boundary of the antlerless elk control permit, as provided in the Antlerless guidebook by the Wildlife Board.

(e) Antlerless elk control permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) A person that possess an unfilled antlerless elk control permit and harvests an animal under the buck, bull, or once-in-a-lifetime permit referenced in Subsection (b), may continue hunting antlerless elk as prescribed in Subsection (b) during the remaining portions of the buck, bull, or once-in-a-lifetime permit season.

(6)(a) A private lands only permit allows a person to take one antlerless elk on private land within a prescribed unit using any weapon during the season dates and area provided in the Big Game guidebook by the Wildlife Board.

(b) No boundary extension or buffer zones on public land will be applied to private lands only permits.

(c) Private lands only permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) "Private lands" means, for purposes of this subsection, any land owned in fee by an individual or legal entity, excluding:

(i) land owned by the state or federal government;
(ii) land owned by a county or municipality;
(iii) land owned by an Indian tribe;
(iv) land enrolled in a Cooperative Wildlife Management Unit under Rule R657-37; and
(v) land where public access for big game hunting has been secured.


(1) To hunt antlerless moose, a hunter must obtain an antlerless moose permit.

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt antlerless moose on a moose cooperative wildlife management unit unless that person obtains an antlerless moose permit for that specific cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt moose during any other moose hunt or obtain any other moose permits for that hunt year.


(1) To hunt bison, a hunter must obtain a bison permit.

(2) Except as provided in Subsection (7), a person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) A hunter's choice bison permit allows a person to take a bison of either sex within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(4)(a) Must review a shot placement article provided by the Division

(b) An orientation course is required for bison hunters who draw an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(c) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) A cow bison permit allows a person to take one cow bison within the area, during the seasons, and using the weapon types as specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(6) An orientation course is required for bison hunters who draw cow bison permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a management bison permit may obtain a management bison permit in subsequent years.

(b) Management bison units may be established by the Wildlife Board in areas where management objectives are for zero bison.

(c) Management bison permits may be made available over the counter at a division office.

(d) A person must successfully complete an online orientation course before obtaining a Management Bison permit.

(e) A person who obtains a management bison permit forfeits any bison bonus points accrued under Section R657-62-8 and incurs the associated waiting period identified in Subsection R657-62-18(6)(d) but remains eligible to acquire a management bison permit in subsequent years.

(f) A person may only obtain one bison permit and harvest one bison in a single hunt year.

(8)(a) A person who has obtained a bison permit must report the acquisition information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.
(b) Bison permit holders must report hunt information by telephone, or through the division's internet address.
(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus point, or obtain any management bison permit, in the following year.
(d) Late questionnaires may be accepted pursuant to Subsection R657-42-9(2).

(1) To hunt a ewe desert bighorn sheep or a ewe Rocky Mountain bighorn sheep, a hunter must obtain the respective ewe permit.
(2) A person who has obtained a ewe permit may not hunt desert bighorn or Rocky Mountain bighorn sheep during any other sheep hunt or obtain any other sheep permit during that hunt year.
(3) A Rocky Mountain goat of either sex may be legally taken using any legal weapon within the area and season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.
(4) Late questionnaires may be accepted pursuant to Rule R657-62.

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.
(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.
(3) A Rocky Mountain goat of either sex may be legally taken on a hunter's choice permit.
(4) The goat permit allows a person to take one goat within the area, during the seasons, and using the weapon type specified by the Wildlife Board.
(5) A female-only goat permit allows a person to take one [female] female goat within the area, during the seasons, and using the weapon type specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.
(6) An orientation course is required for Rocky Mountain goat hunters who draw or purchase a female-only [permits] permit or a hunter's choice permit.
(b) The orientation course must be completed online through the division's website.
(c) The orientation course must be completed before the hunter obtains [his or her] their permit.
(7) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.
(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the division's internet address.
(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.
(d) Late questionnaires may be accepted pursuant to Subsection R657-42-9(2).

R657-5-44. Management Buck Elk Hunt.
(1) For the purposes of this section "management buck" means any bull elk with 5 points or less on at least one antler. A point means a projection longer than one inch, measured from its base to its tip.
(b) For purposes of this section "youth" means any person 17 years of age or younger on July 31.
(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck elk archery season published in the guidebook of the Wildlife Board for taking big game.
(2) Management buck elk permits shall be distributed pursuant to Rule R657-62 with [forty percent] 40% to hunters of all ages.
(3) Management buck elk permit holders may take one management buck elk during the season, on the area and with the weapon type specified on the permit. Management buck elk hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.
(4) Late questionnaires may be accepted pursuant to Rule R657-62.

(1) For the purposes of this section "management buck" means any buck deer with 3 points or less on at least one antler above and including the first fork in the antler. A point means a projection longer than one inch, measured from its base to its tip. The eye guard is not counted as a point.
(b) For purposes of this section "youth" means any person 17 years of age or younger on July 31.
(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck deer archery season published in the guidebook of the Wildlife Board for taking big game.
(2) Management buck deer permits shall be distributed pursuant to Rule R657-62.
(3) Management buck deer permit holders may take one management buck deer during the season, in the area and with the weapon type specified on the permit. Management buck deer hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.
(4) Late questionnaires may be accepted pursuant to Rule R657-62.
(5)(a) Management buck deer permit holders who successfully harvest a management buck deer, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of kill.

(6) Management buck deer permit holders may not retain possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1)(a).

(7) A person who has obtained a management buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-27.

R657-5-47. Cactus Buck Deer Hunt.
(1) For the purposes of this section "cactus buck" means a buck deer with velvet covering at least 50% of the antlers during the season dates established by the Wildlife Board for a cactus buck deer hunt.

(2)(a) Cactus buck deer permit holders may take one cactus buck deer during the season, in the area, and with the weapon type specified on the permit.

(b) Cactus buck deer hunting seasons, areas and weapon types are published in the guidebooks of the Wildlife Board for taking big game.

(3)(a) A person who has obtained a cactus buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, regardless of whether the permit holder was successful or unsuccessful in harvesting a cactus buck deer.

(b) Cactus buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(4)(a) Cactus buck deer permit holders who successfully harvest a cactus buck deer, as defined in Subsection (1)(a), must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of harvest.

(5) Cactus buck deer permit holders may not retain possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1).

(6) A person who has obtained a cactus buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-27.

(1) The division may establish Handgun-Archery-Muzzleloader-Shotgun-Only hunts for any big game species.

(2) An individual may only use the following weapons on a Handgun-Archery-Muzzleloader-Shotgun-Only hunt:

(a) a legal handgun for the species being hunted, consistent with Section R657-5-9 and Subsection (5), with no attached scope;

(b) a legal muzzleloader with Section R657-5-10, with no attached scope; or

(c) a legal shotgun with Section R657-5-8, with no attached scope.

(3) A person who has obtained a Handgun-Archery-Muzzleloader-Shotgun-Only permit may take one animal of the big game species identified on the permit.

(4) A person who has obtained a Handgun-Archery-Muzzleloader-Shotgun-Only permit may only hunt under that permit during the season dates and within the boundaries identified on the permit and in the guidebooks of the Wildlife Board for taking big game.

(5) In addition to the requirements in R657-5-9, a handgun used to take a big game animal in a Handgun-Archery-Muzzleloader-Shotgun-Only hunt must:

(a) have no more than a single barrel 15 inches or less in length, including the chamber;

(b) have a single rear handgrip without any form of a:

(i) fixed, detachable, or collapsible buttstock;

(ii) apparatus or extension behind the rear grip capable of being used to steady the handgun against the body while firing; or

(iii) vertical foregrip; and

(c) be no more than 24 inches in overall length.

(6) A Handgun-Archery-Muzzleloader-Shotgun-Only hunt is not a centerfire rifle hunt for purposes of Section 23-20-31 or R657-5-49.

(7) A Handgun-Archery-Muzzleloader-Shotgun-Only permit may not be used on an extended archery hunt.

R657-5-49. Hunter Orange Exceptions.
(1) A person shall wear a minimum of 400 inches of hunter orange material on the head, chest, and back while hunting any species of big game, with the following exceptions:

(a) Hunters participating in a once-in-a-lifetime, statewide conservation, or statewide sportsmen hunt;

(b) Hunters participating in an archery or muzzleloader hunt outside of an area where an any weapon general season buck elk or any weapon general season buck deer hunt is occurring;

(c) Hunters participating in a Handgun-Archery-Muzzleloader-Shotgun-Only hunt outside of an area where an any weapon general season bull elk or any weapon general season buck deer hunt is occurring;

(d) Hunters hunting on a cooperative wildlife management unit unless otherwise required by the operator of the cooperative wildlife management unit;

(e) Hunters participating in a nuisance wildlife removal hunt authorized under a certificate of registration by the division; and

(f) Hunters participating in an archery hunt with unit boundaries and season dates that overlap the unit boundaries and season dates for the youth any bull elk hunt.

KEY: wildlife, game laws, big game seasons
Date of Last Change: 2022 June 22, 2020
Notice of Continuation: September 8, 2020
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
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<tr>
<td>Ref (R no.):</td>
<td>R657-9</td>
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Agency Information

1. Department: Natural Resources

Agency: Wildlife Resources

Room no.: 2110

Building: Wildlife Resources

Street address: 1594 W North Temple
NOTICES OF PROPOSED RULES

City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 146301
City, state and zip: Salt Lake City, UT 84114-6301
Contact person(s):
Name: Staci Coons
Phone: 801-450-3093
Email: Stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
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 regulating the take of waterfowl.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The proposed amendments to this rule: 1) remove white-fronted geese from "Dark geese" definition; 2) define "snipe" and remove "Wilson"; and 3) make technical corrections as needed.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed rule amendments are technical in nature and 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 the 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 are technical in nature and do not require any type of service from local government this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the 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 taking waterfowl on waterfowl management units in the state.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
DWR has determined that this amendment does not create additional costs for those wishing to participate in waterfowl hunting in the state of Utah.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined by DWR that these amendments do not have a fiscal impact on businesses. Brian Steed, Executive Director

6. A) 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            | FY2022 | FY2023 | FY2024 |
| 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     |
(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.

(1)(a) Terms used in this rule are defined in Section 23-13-2.

(b) The terms provided in Subsections 58-79-102(1) through (7) are incorporated by reference.
(2) In addition:
(a) "Bait" means shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that lures, attracts or entices birds.
(b) "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory game birds to, on, or over any areas where hunters are attempting to take them.
(c) "CFR" means the Code of Federal Regulations.
(d) "Daily Bag Limit" means the maximum number of migratory game birds of a single species or combination of, of species permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.
(e) "Dark goose" means the following species: cackling, Canada, [white-fronted] and brant.
(f) "Light goose" means the following species: snow, blue and Ross'.
(g) "Live decoys" means tame or captive ducks, geese or other live birds.
(h) "Off-highway vehicle" means any motor vehicle designed for or capable of travel over unimproved terrain.
(i) "Permanent waterfowl blind" means any waterfowl blind that is left unattended overnight and that is not a portable structure capable of immediate relocation.
(j) "Possession limit" the maximum number of migratory game birds of a single species or a combination of species permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.
(k) "Sinkbox" means any type of low floating device, having a depression, affording the hunter a means of concealment beneath the surface of the water.
(l) "snipe" means the following species: common, Jack, pin-tailed, solitary, Swinhoe's and Wilson's snipe.
(m) "Transport" means to ship, export, import or receive or deliver for shipment.
(n) "Waterfowl" means ducks, mergansers, geese, brant and swans.
(o) "Waterfowl blind" means any manufactured place of concealment, including boats, rafts, tents, excavated pits, or similar structures, which have been designed to partially or completely conceal a person while hunting waterfowl.
(p) "Waterfowl Management Area" means the following properties owned or managed by the division primarily for the...
conservation, production, or recreational harvest of ducks, mergansers, geese, brant, swans, and other waterfowl:

(i) Bicknell Bottoms
(ii) Brown's Park
(iii) Blue Lake
(iv) Clear Lake
(v) Desert Lake
(vi) Farmington Bay
(vii) Fitzgerald
(viii) Howard Slough
(ix) Harold Crane
(x) Locomotive Springs
(xi) Mallard Springs
(xii) Manti Meadows
(xiii) Mills Meadows
(xiv) Ogden Bay
(xv) Powell Slough
(xvi) Redmond Marsh
(xvii) Rock Island
(xviii) Salt Creek
(xix) Stewart Lake
(xx) Timpie Springs
(xxi) Topaz
(xxii) Warm Springs
(xxiii) Willard Spur


(1) Migratory game birds may be taken with a shotgun, crossbow or archery tackle, including a draw lock.

(2) Migratory game birds may not be taken with a trap.

(3) Migratory game birds may not be taken with a trap.

(4) Migratory game birds may not be taken with a trap.


(1) Only nontoxic shot may be in possession or used while hunting waterfowl, [Wilson's] snipe, and coot.

(2) A person may not possess or use lead shot:

(a) while hunting waterfowl or coot in any area of the state;
(b) on federal refuges;
(c) on the following waterfowl management areas:
Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Manti Meadow, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart's Lake, Timpie Springs, Willard Spur; or
(d) on the Scott M. Matheson or Utah Lake wetland preserve.


(1) "Motorized vehicle" for the purposes of this section means a vehicle that is self-propelled or possesses the ability to be self-propelled. This does not include vehicles moved solely by human power, motorized wheelchairs, or an electric personal assisted mobility device.

(2) Motorized vehicle travel is restricted to county roads, improved roads and parking areas.

(3) Off-highway vehicles are not permitted on state waterfowl management areas, except as marked and posted open.

(4) Off-highway vehicles are not permitted on Bear River Migratory Bird Refuge.

(5) Motorized boat use is restricted on waterfowl management areas as specified in the guidebook of the Wildlife Board for taking waterfowl, [Wilson's] snipe and coot.

(6) Electric-assisted bicycles propelled in part by electrical assistance are only permitted on state waterfowl management areas if they meet the Class 1 definition provided in [Utah Code ]Subsections 41-6a-102(8) and (17).


A person may not use recorded or electrically amplified bird calls or sounds except as authorized by the Wildlife Board and specified in the guidebook of the Wildlife Board for taking waterfowl, [Wilson's] snipe and coot.

R657-9-29. Season Dates and Bag and Possession Limits.

(1) Season dates and bag and possession limits are specified in the guidebook of the Wildlife Board for taking waterfowl, [Wilson's] snipe and coot.

(2) A youth duck hunting day may be allowed for any person 17 years of age or younger on July 31st of the year in which the youth hunting day is held, as provided in the guidebook of the Wildlife Board for taking waterfowl, [Wilson's] snipe and coot.

R657-9-30. Rest Areas and No Shooting Areas.

(1) A person may only access and use state waterfowl management areas in accordance with state and federal law, state administrative code, and proclamations of the Wildlife Board.

(2)(a) The division may establish portions of state waterfowl management areas as "rest areas" for wildlife that are closed to the public and trespass of any kind is prohibited.

(b) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, [Wilson's] snipe and coot, the following areas are designated as rest areas:
(i) that portion of Clear Lake Waterfowl Management Area known as Spring Lake;
(ii) that portion of Desert Lake Waterfowl Management Area known as Desert Lake;
(iii) that portion of Public Shooting Grounds Waterfowl Management Area that lies above and adjacent to the Hull Lake Diversion Dike known as Duck Lake;
(iv) that portion of Salt Creek Waterfowl Management Area known as Rest Lake;
(v) that portion of Farmington Bay Waterfowl Management Area that lies in the northwest quarter of unit one; and
(vi) that portion of Ogden Bay Waterfowl Management Area known as North Bachman.

(c) Maps of all rest areas will be available at division offices, on the division's website, and to the extent necessary, marked with signage at each rest area.

(3)(a) The division may establish portions of state waterfowl management areas as "No Shooting Areas" where the discharge of weapons for the purposes of hunting is prohibited.
(b) No Shooting Areas remain open to the public for other lawful activities.

(c) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, [Wilson's] snipe, and coot, the following areas are No Shooting Areas:
   (i) all of Antelope Island, including all areas within 600 feet of the upland vegetative line or other clearly defined high-water mark;
   (ii) within 600 feet of the north and south side of the center line of Antelope Island causeway;
   (iii) within 600 feet of all structures found at Brown's Park Waterfowl Management Area;
   (iv) the following portions of Farmington Bay Waterfowl Management Area:
      (A) within 600 feet of the Headquarters;
      (B) within 600 feet of dikes and roads accessible by motorized vehicles;
      (C) within the area designated as the Learning Center; and
      (D) within the 100 yard buffer around the Farmington Bay Waterfowl Management Area rest area;
   (v) within 600 feet of the headquarters area of Ogden Bay Waterfowl Management Area;
   (vi) within the boundaries of all State Parks except those designated open by appropriate signage as provided in [Rule] Section R651-614-4;
   (vii) within 1/3 of a mile of the Great Salt Lake Marina;
   (viii) below the high-water mark of Gunnison Bend Reservoir and its inflow upstream to the Southerland Bridge, Millard County;
   (ix) [all] any property within the boundary of the Salt Lake International Airport; and
   (x) [all] any property within the boundaries of federal migratory bird refuges, unless hunting waterfowl specifically authorized by the federal government.


R657-9.31. Shooting Hours.
(1) A person may not hunt, pursue, or take wildlife, or discharge any firearm or archery tackle on state-owned lands adjacent to the Great Salt Lake, on division-controlled waterfowl management areas, or on federal refuges between official sunset and one-half hour before official sunrise.

(2) Legal shooting hours for taking or attempting to take waterfowl, [Wilson's] snipe, and coot are provided in the guidebook of the Wildlife Board for taking waterfowl, [Wilson's] snipe and coot.

R657-9.32. Falconry.
(1) Falconers must obtain a valid hunting or combination license, a federal migratory bird stamp and a falconry certificate of registration to hunt waterfowl.

(2) Areas open and bag and possession limits for falconry are specified in the guidebook of the Wildlife Board for taking waterfowl, [Wilson's] snipe and coot.

R657-9.33. Migratory Game Bird Harvest Information Program (HIP).
(1) A person must obtain an annual Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds.
NOTICES OF PROPOSED RULES

General Information

2. Rule or section catchline:
   R657-10. Taking Cougar

3. Purpose of the new rule or reason for the change
   (Why is the agency submitting this filing?):
   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 regulating the take of Cougars.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
   The proposed amendments to this rule: 1) clarify weapon restrictions for the take of cougar; 2) add the definition of “Trail camera”; 3) add restrictions and season dates for the use of trail cameras in the taking of big game or cougar; and 4) make technical corrections as needed.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
   A) State budget:
   The proposed rule amendments allows for the addition of clarifying definitions and weapon requirements, the amendments also regulate the use of trail cameras as directed by H.B. 295 from the 2021 General Session, DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, DWR does not believe that these amendments would create a cost or savings impact to the state budget or the 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 regulate the take of cougar this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the 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 do have the potential to impact small businesses that use trail cameras for the taking of big game or cougar, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

   D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
   The proposed rule amendments do have the potential to impact non-small businesses that use trail cameras for the taking of big game or cougar, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

   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 proposed rule amendments do have the potential to impact other persons that use trail cameras for the taking of big game or cougar, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

   F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
   DWR has determined that this amendment may create additional costs for those individuals who will be removing the trail cameras during the closed season. The cost could include gas expenses, time off work and travel expenses. The restriction of trail cameras was a direct result of H.B. 295 (2021).

   G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
   After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. Brian Steed, Executive Director

6. 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.)

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NOTICES OF PROPOSED RULES

R657. Natural Resources, Wildlife Resources.
R657-10. Taking Cougar.
R657-10-1. Purpose and Authority.
(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking and pursuing cougar.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking cougar.

R657-10-2. Definitions.
(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Canned hunt" means that a cougar is treed, cornered, held at bay or its ability to escape is otherwise restricted to allow a person who was not a member of the initial hunting party to arrive and take the cougar.

(b) "Compensation" means anything of economic value in excess of $100 that is paid, loaned, given, donated, or transferred to a dog handler for or in consideration of pursuing cougar for any purpose.

(c) "Cougar" means Puma concolor, commonly known as mountain lion, lion, puma, panther or catamount.

(d) "Cougar pursuit permit" means a permit that authorizes a person to pursue cougar during designated seasons.

(e) "Dog handler" means the person in the field that is responsible for transporting, releasing, tracking, controlling, managing, training, commanding and retrieving the dogs involved in the pursuit. The owner of the dogs is presumed the dog handler when the owner is in the field during pursuit.

(f) "Evidence of sex" means the sex organs of a cougar, including a penis, scrotum or vulva.

(g) "Green pelt" means the untanned hide or skin of any cougar.

(h) "Harvest objective" means an identified limit on the number of cougars that may be harvested during the season on a particular unit.

(i) "Harvest objective permit" means any permit that can be obtained without entering a drawing and is valid on all units during non-limited entry seasons. A person may use dogs to hunt cougars with this permit.

(j) "Immediate family member" means a livestock owner's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild and grandchild.

(k) "Kitten" means a cougar that has obvious spots on its sides or its back or has obvious leg barring coloration.

(l) "Limited entry season" means any season listed in the hunt tables of the guidebook of the Wildlife Board for taking cougar, which is identified as limited entry and a person must draw a permit to hunt that season.

(m) "Limited entry permit" means any permit obtained for a limited entry season by any means, including conservation permits and sportsman permits. Limited entry permits may only be used on the specific unit they are issued for during the limited entry season. Limited entry permits may be used on any unit open to cougar hunting once the limited entry season for which the permit is valid ends.

(n) "Location of Harvest" means the exact location that the cougar is killed. GPS coordinates are preferred.

(o) "Private lands" means any lands that are not public lands, excluding Indian trust lands.

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B) 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.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 23-14-18  Section 23-14-19

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: J. Shirley, Division Director  Date: 01/13/2022

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03 317
"Public lands" means any lands owned by the state, a political subdivision or independent entity of the state, or the United States, excluding Indian trust lands, that are open to the public for purposes of engaging in pursuit.

"Pursue" means to chase, tree, corner or hold a cougar at bay.

"Spot-and-stalk permit" means a cougar permit available over the counter for seasons and units designated by the Division Director per Statute 23-16-10. A hunter who obtains this permit may not use dogs to take a cougar.

"Predator management unit" means a unit managed under direction of DWR W1AG-4 to reduce cougar densities. This type of unit does not have a limit on the number of cougars that may be harvested during the season.

"Trail Camera" means a device that is not held or manually operated by a person and is used to capture images, video, or location data of wildlife using heat or motion to trigger the device.

"Waiting period" means a specified period of time that a person who has obtained a cougar permit must wait before applying for any other limited entry cougar season.

"Written permission" means written authorization from the owner or person in charge to enter upon private lands and must include:

1. The name and signature of the owner or person in charge;
2. The address and phone number of the owner or person in charge;
3. The name of the dog handler given permission to enter the private lands;
4. A brief description of the pursuit activity authorized;
5. The appropriate dates; and
6. A general description of the property.

Section R657-10-6. Firearms, Archery Equipment, Crossbows, and Airguns.

1. A person may only use weapons identified in Sections R657-5-8 [through R657-5-11.]


1. Cougar may be taken or pursued only during open seasons and using methods prescribed in this rule and the guidebook of the Wildlife Board for taking cougar. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to pursue, possess, capture, kill, injure, drug, rope, trap, snare or in any way harm or transport cougar.

2. A person may not pursue a single cougar in repeated pursuits such that it renders the cougar physically unable to escape.

3. After a cougar has been chased, chased, treed, cornered or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.

4. A person must make reasonable efforts to call dogs off of a cougar that has been cornered or held at bay.

5. A person may not engage in a canned hunt.

6. A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

5. Electronic locating equipment may not be used to locate cougars wearing electronic radio devices.

(b) Engage in the sale or purchase of trail camera or other non-handheld device media, including images, video, location, time, or date data to take, attempt to take, or aid in the take or attempted take of cougar; or

c) Engage in the storage and sale or purchase of stored media, including image, video, location, time or date data to take, attempt to take, or aid in the take or attempted take of cougar.

(d) The prohibition on the use of trail cameras does not apply to:

1. Private landowners monitoring or protecting their property from trespass;
2. Monitoring active agricultural operations;
3. To aid in the take of bear and cougar depredating livestock; and
4. Municipalities participating in the Urban Deer Program.

(e) Trail cameras and other non-handheld devices described in Subsection (6)(a) on private property cannot be used to take, attempt to take, or aid in the take or attempted take of cougar between July 31 and December 31.

KEY: wildlife, cougar, game laws
Date of Last Change: 2022[October 25, 2021]
Notice of Continuation: July 2, 2021
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

NOTICE OF PROPOSED RULE

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<th>Amendment</th>
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Agency Information

1. Department: Natural Resources
2. Agency: Wildlife Resources
3. Room no.: Suite 2110
4. Building: Department of Natural Resources
5. Street address: 1594 W North Temple
6. City, state and zip: Salt Lake City, UT 84116
7. Mailing address: PO Box 146301
8. City, state and zip: Salt Lake City, UT 84114-6301
9. Contact person(s):

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

2. Rule or section catchline:
   R657-33. Taking Bear

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
   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 bear.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
   The proposed amendments to this rule: 1) add the definition of "Spot and Stalk hunt"; 2) add the definition of "Spot and Stalk permit"; 3) add the definition of "Trail Camera"; 4) simplify weapon restrictions for the taking of bear; 5) add restrictions and season dates for the use of trail cameras in the taking of big game or bear; and 6) make technical corrections as needed.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

   A) State budget:
   The proposed rule amendments allow for the addition of "Spot and Stalk hunts and sets the criteria, the amendments also regulate the use of trail cameras as directed by H.B. 295 passed in the 2021 General Session. The DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, DWR does not believe that these amendments would create a cost or savings impact to the state budget or the 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 regulate the taking of bear this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the 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 do have the potential to impact small businesses that use trail cameras for the taking of big game or bear, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
   The proposed rule amendments do have the potential to impact non-small businesses that use trail cameras for the taking of big game or bear, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

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 proposed rule amendments do have the potential to impact other persons that use trail cameras for the taking of big game or bear, as these regulations will require the removal of the trail cameras during the restricted season. This cost may include additional time in the field to retrieve the trail cameras by July 31 and to re-establish them after the season closes on December 31.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
   DWR has determined that this amendment may create additional costs for those individuals who will be removing the trail cameras during the closed season. The cost could include gas expenses, time off work and travel expenses. The restriction of trail cameras was a direct result of H.B. 295 (2021).

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
   After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. Brian Steed, Executive Director

6. A) 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.)

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B) 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.

Agency Authorization Information

| Agency head or designee, and title: | J. Shirley, Division Director | Date: | 01/13/2022 |

R657. Natural Resources, Wildlife Resources.
R657-33. Taking Bear.
R657-33-1. Purpose and Authority.
(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking and pursuing bear.
(2) Specific dates, areas, number of permits, limits and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking and pursuing bear.

(1) Terms used in this rule are defined in Section 23-13-2.
(2) In addition:
   (a) "Accompany" means at a distance within which visual contact and verbal communication are maintained without the assistance of any electronic device.
   (b) "Bait" means any lure containing animal, mineral or plant materials.
   (c) "Baiting" means the placing, exposing, depositing, distributing or scattering of bait to lure, attract or entice bear on or over any area.
   (d) "Bear" means Ursus americanus, commonly known as black bear.
   (e) "Canned hunt" means that a bear is treed, cornered, held at bay or its ability to escape is otherwise restricted for the purpose of allowing a person who was not a member of the initial hunting party to arrive and take the bear.
   (f) "Compensation" means anything of economic value in excess of $100 that is paid, loaned, granted, given, donated, or transferred to a dog handler for or in consideration of pursuing bear for any purpose.
   (g) "Control permit" means a permit issued in response to bear depredation to commercial crops pursuant to Subsection R657-33-23(4).
   (h) "Cub" means a bear less than one year of age.
   (i) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism attached to the device.
   (j) "Dog handler" means the person in the field that is responsible for transporting, releasing, tracking, controlling, managing, training, commanding and retrieving the dogs involved in the pursuit. The owner of the dogs is presumed the dog handler when the owner is in the field during pursuit.
   (k) "Evidence of sex" means the teats, and sex organs of a bear, including a penis, scrotum or vulva.
   (l) "Green pelt" means the untanned hide or skin of a bear.
   (m) "Harvest-objective hunt" means any hunt that is identified as harvest-objective in the hunt table of the guidebook for taking bear.
   (n) "Harvest-objective permit" means any permit valid on harvest-objective units.
NOTICES OF PROPOSED RULES

R657-33. Permits for Taking Bear.
(1)(a) To harvest a bear, a person must first obtain a valid limited entry bear permit, a harvest objective bear permit, a spot-and-stalk permit, or a bear control permit for a specified hunt unit as provided in the guidebook of the Wildlife Board for taking bear.
(b) Any person who obtains a limited entry bear permit or a harvest objective bear permit which allows the use of dogs may pursue bear without a permit while hunting during the season and on the unit for which the take permit is valid, provided the person is the dog handler.
(2)(a) A person may not apply for or obtain more than one bear permit per year, except:
(b) if the person is unsuccessful in the drawing administered by the division under Rule R657-62, the person may purchase a permit available outside of the drawing; and
(c) a person may acquire more than one bear control permit as described in Subsection R657-33-23(4).
(3) Any bear permit purchased after the season opens is not valid until three days after the date of purchase.
(4) Residents and nonresidents may apply for and receive limited entry bear permits, and may purchase harvest objective bear permits and bear pursuit permits.
(5)(a) A person must complete a mandatory orientation course [prior to] before applying for or obtaining a limited entry, harvest objective, or bear pursuit permit.
(b) [A person does not need to complete] The orientation course is not required to receive a bear control permit under Subsection R657-33-23(4).
(c) The orientation course shall include training on hunter ethics.
(6) To obtain a limited entry, harvest objective, spot-and-stalk permit, or bear pursuit permit, a person must possess a valid Utah hunting or combination license.

R657-33.6. Firearms, Archery Equipment, Crossbows, and Airguns.
(1) [For limited entry and harvest objective hunts identified as an "any legal weapon hunt" in the Wildlife Board's guidebook for taking bear, a person may use the following to take bear:]
(a) any firearm not capable of being fired fully automatic, except a firearm using a rimfire cartridge;
(b) archery equipment meeting the following requirements:
(i) the minimum bow pull is 30 pounds at the draw or the peak, whichever comes first;
(ii) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;
(iii) expanding arrowheads cannot pass through a 7/8 inch ring when expanded, and
(iv) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock;
(c) a crossbow meeting the following requirements:
(i) a minimum draw weight of 125 pounds;
(ii) a positive mechanical safety mechanism; and
NOTICES OF PROPOSED RULES

(1) A person may not pursue a single bear in repeated pursuits such that it renders the bear physically unable to escape.

(2) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

(c) A person must make reasonable efforts to call dogs off of a bear that has been cornered or held at bay.

(3) A person may not engage in a canned hunt.

(4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

(5)(a) A person shall not place, maintain, or use any trail camera or non-handheld device capable of capturing image, video, location, time or date data in the field to take, attempt to take, or aid in the take of a bear, or in aid of the take of a bear, between July 31 and December 31.

(b) A person shall not place, maintain, or use any trail camera or non-handheld device capable of capturing image, video, location, time or date data in the field to take, attempt to take, or aid in the take of a bear, or in aid of the take of a bear, between July 31 and December 31.

(c) Engage in the storage and sale or purchase of stored media, including images, video, location, time, or date data to take, attempt to take, or aid in the take or attempted take of bear.

(d) The prohibition on the use of trail cameras does not apply to:

(i) private landowners monitoring or protecting their property from trespass;

(ii) monitoring active agricultural operations;

(iii) to aid in the take of bear and cougar depredating livestock;

(iv) municipalities participating in the Urban Deer Program.

(e) Trail cameras and other non-handheld devices described in Subsection (5)(a) on private property cannot be used to take, attempt to take, or aid in the take or attempted take of a bear between July 31 and December 31.


(1) A certificate of registration for baiting must be obtained before establishing a bait station.

(2) Certificates of registration for bear baiting are issued only to holders of limited entry permits authorizing the use of bait, as provided in the guidebook of the Wildlife Board for taking bear.

(3) A certificate of registration may be obtained from the division office within the region where the bait station will be established by applying on the division website.

(4) A new certificate of registration must be obtained before moving a bait station. All materials used as bait must be removed from the old site before the issuing of a new certificate of registration.

(5) The following information must be provided to obtain a certificate of registration for baiting: a 1:24000 USGS quad map with the bait location marked, or the Universal Transverse Mercator (UTM) or latitude and longitude coordinates of the bait station, including the datum, type of bait used and written permission from the appropriate landowner for private lands.

(6)(a) Any person interested in baiting on lands administered by the Bureau of Land Management must verify that the lands are open to baiting before applying for and receiving a certificate of registration for bear baiting.

(b) Information on areas that are open to baiting on National Forests must be obtained from district offices.

(c) Areas generally closed to baiting stations by these federal agencies include:

(i) designated Wilderness Areas;
(ii) heavily used drainages or recreation areas; and
(iii) critical watersheds.
(d) The division shall send a copy of the certificate of registration to the private landowner or appropriate district office of the land management agency that manages the land on which the bait station will be placed, as identified by the hunter on the application for a certificate of registration.
(e) Issuance of a certificate of registration for baiting does not authorize an individual to bait if it is otherwise unlawful to bait under the regulations of the applicable land management agency.
(7) A handling fee must accompany the application.
(8) Only hunters listed on the certificate of registration may hunt over the bait station and the certificate of registration must be in possession while hunting over the bait station.
(9) Any person tending a bait station must be listed on the certificate of registration.

R657-33-14. Use of Bait.
(1)(a) A person who has obtained a limited entry bear archery permit may use archery tackle only, even when hunting bear away from the bait station.
(b) A person who has obtained a limited entry bear permit for a season and hunt unit that allows baiting may use firearms and archery equipment as provided in Section R657-33-6.
(c) Bear lured to a bait station may only be taken using firearms and archery equipment approved by the Wildlife Board and described in the guidebook for taking bear.
(d) A person may establish or use no more than two bait stations. The bait stations may only be used during periods designated in the guidebook for taking bear.
(e) Bear lured to a bait station may not be taken with dogs.
(f) Bait may not be contained in or include any metal, glass, porcelain, plastic, cardboard, or paper.
(g) The bait station must be marked with a sign provided by the division and posted within 10 feet of the bait.
(h) A dog handler may not intentionally run dogs off of a bait station while pursuing bear.
(i) A bait may be placed only in areas open to hunting and only during the open seasons.
(j) All materials used as bait must be removed within 72 hours after the close of the season or within 72 hours after the [person or persons, who are registered for that] bait station harvest a bear.
(k) A person may use nongame fish as bait, except those listed as prohibited in Rule R657-13 and the guidebook of the Wildlife Board for Taking Fish and Crayfish. No other species of protected wildlife may be used for bait.
(l) Domestic livestock or its parts, including processed meat scraps, may be used as bait.
(m) A person using domestic livestock or their parts for bait must have in possession:
(i) a certificate of brand inspection, bill of sale, or other proof of ownership or legal possession.
(ii) Bait may not be placed within:
(a) 100 yards of water or a public road or designated trail; or
(b) 1/2 mile of any permanent dwelling or campground.

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts in accordance with Section 23-20-8.
(2) The skinned carcase of a bear may be left in the field and does not constitute waste of wildlife[. however, the division recommends that hunters remove the carcase from the field].

NOTICES OF PROPOSED RULES
NOTICES OF PROPOSED RULES

(a) Bear may not be pursued on a restricted pursuit unit unless the dog handler:
(i) possesses a pursuit permit issued for the particular restricted pursuit unit;
(ii) possesses or is accompanied by a person who possesses a limited entry or harvest objective bear permit allowing the use of
dogs, and the pursuit occurs within the area and during the season established by the respective permit; or
(iii) is engaged in pursuit for compensation as provided in
Subsection (2), and pursuit occurs within the area and during the season established for the:
(A) paying client's limited entry or harvest objective bear
permit allowing the use of dogs; or
(B) restricted pursuit unit.
(b) A pursuit permit issued for a restricted pursuit unit
authorizes the holder to pursue bear on:
(i) the particular restricted pursuit unit for which the permit
is issued; and
(ii) any other bear pursuit unit not designated as a restricted
pursuit unit.
(c) Notwithstanding Subsection (6)(a)(i), when two or
more dog owners are in the field pursuing bear together, only one
must possess a restricted pursuit unit permit, provided the dog owners
accompany the person possessing the restricted pursuit unit permit at
times.
(i) A dog handler pursuing bear on a restricted pursuit unit
may leave the pursuit permit holder to retrieve dogs that separate
from the pack, provided the dog handler;
(A) takes reasonable steps to keep the pack together before
and during pursuit;
(B) separates from the pursuit permit holder exclusively to
retrieve stray dogs and does not attempt to actively pursue bear
during the retrieval process; and
(C) immediately releases any bear incidentally treed or
held at bay by the stray dogs.
(ii) Maximum number of dogs in the field and pack sizes
described in Section R657-33-12 remain applicable, even if there are
dog owners in the same hunting party.
(7) Pursuit permits may be obtained at division offices,
through the Internet and at license agents.
(a) The division may distribute pursuit permits for
restricted pursuit units:
(i) through its offices, license agents, or online resources
on a first-come, first-served basis; or
(ii) through a random drawing.
(b) A person may not:
(a) take or pursue a female bear with cubs;
(b) repeatedly pursue, chase, tree, corner or hold at bay the
same bear during the same day;
(c) individually or in combination with another person, use
more than eight dogs in the field to pursue a bear during the summer
pursuit season as established by the Wildlife Board in the guidebook;
or
(d) possess a firearm or any device that could be used to
kill a bear while pursuing bear.
(i) The weapon restrictions set forth in Subsection (d) do
not apply to a person licensed to carry a concealed weapon in
accordance with Title 53, Chapter 5, Part 7. Concealed Firearm Act;
provided the person is not utilizing or attempting to utilize the
concealed weapon to injure or kill bear.

(9) If eligible, a person who has obtained a bear pursuit
permit may also obtain a limited entry or harvest objective bear
permit.
(10) Season dates, closed areas and bear pursuit permit
areas are published in the guidebook of the Wildlife Board for taking
and pursuing bear.

R657-33.1. Harvest Objective Unit Closures.
(1) Before hunting in a harvest objective unit, a
hunter must[ call 1-888-668-5466 or] visit the division's website to
verify that the bear hunting unit is still open. The[ phone line and
website will be updated each day by 12 noon. Updates become
effective the following day [three]30 minutes before official sunrise.
(2) Harvest objective units are open to hunting until:
(a) the bear harvest objective for that harvest objective unit
is met and the division closes the area; or
(b) the end of the hunting season as provided in the
guidebook of the Wildlife Board for taking bear.
(3) Upon closure of a harvest objective unit, a hunter may
not take or pursue bear except as provided in Section R657-33-26.

KEY: wildlife, bear, game laws
Date of Last Change: 2022[June 22, 2020]
Notice of Continuation: November 28, 2017
Authorizing, and Implemented or Interpreted Law: 23-14-18;
23-14-19; 23-13-2

NOTICE OF PROPOSED RULE

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<th>TYPE OF RULE:</th>
<th>Amendment</th>
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<tr>
<td>Ref (R no.):</td>
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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 and zip: Salt Lake City, UT 84116
Mailing address: PO Box 146301
City, state and zip: Salt Lake City, UT 84114-6301

Contact person(s):
Name: Staci Coons
Phone: 801-450-3093
Email: stacicoons@utah.gov

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

General Information

2. Rule or section catchline:
R657-62. Drawing Application Procedures
3. **Purpose of the new rule or reason for the change** (Why is the agency submitting this filing?):

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 Big Game Applications.

4. **Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The proposed amendments to this rule: 1) remove the restrictions that won't allow an applicant to apply for doe pronghorn, antlerless moose, ewe Rocky Mountain bighorn sheep, or ewe desert bighorn sheep permits if they had successfully obtained a buck pronghorn, bull moose, ram Rocky Mountain bighorn sheep or ram desert bighorn sheep permit in the same year; 2) require the swan orientation course to be completed annually in order to apply for a swan permit; and 3) establish waiting periods for the taking of Trumpeter swans.

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

The proposed rule amendments amend the antlerless application process to remove a current restriction. It also requires a swan orientation course to be taken annually and establishes waiting periods for the taking of trumpeter swan. These changes are all in line with current requirements for other programs and waiting periods and therefore, DWR has determined that these amendments do not create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

**B) Local governments:**

Since the proposed amendment provides changes to applicant and hunter requirements, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the 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 wishing to participate in the antlerless application or swan hunting opportunities.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The DWR determines that this amendment will not create additional costs for those participating in hunting in Utah.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined by the Division that these amendments do not have a fiscal impact on businesses. Brian Steed, Executive Director

6. **A) 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**

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**Fiscal Benefits**

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R657. Natural Resources, Wildlife Resources.
R657-62-1. Purpose and Authority.
   (1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for drawing applications and procedures.
   (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 respective guidebooks of the Wildlife Board.

   (1) Permit Applications.
      (a) A person must possess or obtain a valid hunting or combination license [in order] to apply for or obtain an antlerless permit.
      (b) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in [f]Rule R657-5.
      (c) A person may apply in the drawing for and draw the following permits, except as provided in Subsection (d):
         (i) antlerless deer;
         (ii) antlerless elk;
         (iii) doe pronghorn;
         (iv) antlerless moose, if available;
         (v) ewe Rocky Mountain bighorn sheep, if available; and
         (vi) ewe desert bighorn sheep, if available.
      (d)(i) Any person who has obtained a buck pronghorn permit, bull moose permit, ram Rocky Mountain bighorn sheep permit, or a ram desert bighorn sheep permit may not apply in the same year for a doe pronghorn permit, antlerless moose permit, ewe Rocky Mountain bighorn sheep permit, or a ewe desert bighorn sheep permit, respectively, except for permits remaining after the drawing as provided in R657-62-15.
            (ii) A resident may apply for an antlerless moose, ewe Rocky Mountain bighorn sheep, or ewe desert bighorn sheep in the antlerless drawing, but may not apply for more than one of those permits in a given year.
      (iii) A nonresident may apply for all antlerless species in a given year.
      (e) Applicants may select up to five hunt choices when applying for antlerless deer, antlerless elk and antlerless pronghorn.
      (f) Applicants may select up to two hunt choices when applying for antlerless moose.
      (g) Applicants may select up to two hunt choices when applying for ewe bighorn sheep permits.
      (h) Hunt unit choices must be listed in order of preference.
      (i) A person may not submit more than one application in the antlerless drawing per species.
   (2) Youth applications.
      (a) For purposes of this section, “youth” means any person 17 years of age or younger on July 31.
      (b) [Twenty percent]20% of the antlerless deer, elk and doe pronghorn permits are reserved for youth hunters.
      (c) Youth applicants who apply for an antlerless deer, elk, or doe pronghorn permit as provided in this [s]subsection, will automatically be considered in the youth drawing based upon their birth date.
   (3) Drawing Order
      (a) Permits are drawn in the order listed in the guidebook of the Wildlife Board for taking big game.
      (b) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the antlerless drawing.
      (c) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.
   (4) Group Applications
      (a) Up to four hunters can apply together for antlerless deer, antlerless elk and doe pronghorn.
NOTICES OF PROPOSED RULES

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R861-1A-42 Filing ID 54350

Agency Information

1. Department: Tax Commission
2. Agency: Administration
3. Building: Utah State Tax Commission
4. Street address: 210 N 1950 W
5. City, state and zip: Salt Lake City, UT 84134

Contact person(s):

Name: Chantay Asper Phone: 801-297-3901 Email: casper@utah.gov

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

General Information

2. Rule or section catchline:

R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The reason for the amendment is to clarify the circumstances under which a waiver of penalty and interest can be waived for reasonable cause.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This amendment modifies the provision for waiver related to "disaster relief" to include "governmentally declared disasters." The amendment also defines "governmentally declared disasters" to include disasters declared by possessions and territories of the United States.

(b) Group applications are not accepted for antlerless moose or ewe bighorn sheep permits.

(c) Youth hunters who wish to participate in the youth drawing may apply as a group, consistent with the following:

(i) all applicants must qualify as a youth;
(ii) a minimum of two youth must apply to be considered as a group application; and
(iii) no more than four youth may apply in a single group application;
(5) Waiting Periods
(a) Antlerless moose waiting period.
(i) Any person who draws or obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process, may not apply for or receive an antlerless moose permit thereafter for a period of five seasons.
(ii) A waiting period does not apply to:
(A) cooperative wildlife management unit antlerless moose permits obtained through the landowner; or
(B) antlerless moose wildlife expo permits, as provided in Section R657-55-6.
(b) Ewe bighorn sheep waiting period.
(i) Any person who draws or obtains an ewe bighorn sheep permit through the antlerless drawing process may not apply for or receive a permit for the same species of ewe bighorn sheep for a period of five seasons.
(ii) A waiting period does not apply to ewe bighorn sheep wildlife expo permits, as provided in Section R657-55-6.

(1) Permit applications.
(a) A person may obtain only one swan permit each year.
(i) A person may not apply more than once annually.
(b) A person must possess or obtain a valid hunting or combination license [in order] to apply for or obtain a Swan permit.
(c) The division shall issue no more than the number of swan permits authorized by the U.S. Fish and Wildlife Service each year.
(d) A person must complete a [one-time] swan orientation course annually before applying for a swan permit, except as provided under Subsection R657-9-6 (3) (b).
 (i) Remaining swan permits available for sale shall be issued only to persons having previously completed the orientation course.
(2) Youth applications.
(a) For purposes of this section, "youth" means any person 17 years of age or younger on July 31st of the year in which the youth hunting day is held, as provided in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.
(b) [Fifteen percent] 15% of the Swan permits are reserved for youth hunters.
(c) Youth who apply for a swan permit will automatically be considered in the youth permit drawing based on their birth date.
(3) Group applications.
(a) Up to four people may apply together in a Group Application.
(b) Up to four youth may apply together in a Group Application.

(4) [Waiting period does not apply.]Any person who harvest a trumpeter swan may not apply for or receive a swan permit for a period of:
(a) five seasons for adults; or
(b) three seasons for youth.

KEY: wildlife, permits
Date of Last Change: 2022 [May 4, 2021]
Notice of Continuation: April 9, 2019
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

NOTICE OF PROPOSED RULE

Agency Information

1. Department: Tax Commission
2. Agency: Administration
3. Building: Utah State Tax Commission
4. Street address: 210 N 1950 W
5. City, state and zip: Salt Lake City, UT 84134

Contact person(s):

Name: Chantay Asper Phone: 801-297-3901 Email: casper@utah.gov

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

General Information

2. Rule or section catchline:

R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The reason for the amendment is to clarify the circumstances under which a waiver of penalty and interest can be waived for reasonable cause.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This amendment modifies the provision for waiver related to "disaster relief" to include "governmentally declared disasters." The amendment also defines "governmentally declared disasters" to include disasters declared by possessions and territories of the United States.
government and the District of Columbia in addition to federal and state governments.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This amendment is not expected to impact the state budget because it reflects current practice.

B) Local governments:
This amendment is not expected to impact local governments because it reflects current practice.

C) Small businesses ("small business" means a business employing 1-49 persons):
This amendment is not expected to impact small businesses because it reflects current practice.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This amendment is not expected to impact non-small businesses because it reflects current practice.

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 amendment is not expected to impact persons other than small businesses, non-small businesses, state, or local government entities because it reflects current practice.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
This amendment is not expected to impose compliance costs on affected persons because it reflects current practice.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
This amendment is not expected to have a fiscal impact on businesses because it reflects current practice. Rebecca L. Rockwell, Commissioner

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Commissioner of the Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 59-1-401

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022
10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Rebecca L. Rockwell, Commissioner
Date: 01/13/2022

R861. Tax Commission, Administration.
R861-1A. Administrative Procedures.

(1) Procedure.
(a) A taxpayer may request a waiver of penalties or interest for reasonable cause under Section 59-1-401 if the following conditions are met:
(i) the taxpayer provides a signed statement, with appropriate supporting documentation, requesting a waiver;
(ii) the total tax owed for the period has been paid;
(iii) the tax liability is based on a return the taxpayer filed with the commission, and not on an estimate provided by the taxpayer or the commission;
(iv) the taxpayer has not previously received a waiver review for the same period; and
(v) the taxpayer demonstrates that there is reasonable cause for waiver of the penalty or interest.
(b) Upon receipt of a waiver request, the commission shall:
(i) review the request;
(ii) notify the taxpayer if additional documentation is needed to consider the waiver request; and
(iii) review the account history for prior waiver requests, taxpayer deficiencies, and historical support for the reason given.
(c) Each request for waiver is judged on its individual merits.
(d) If the request for waiver of penalty or interest is denied, the taxpayer has a right to appeal. Procedures for filing appeals are found in Title 63G, Chapter 4, Administrative Procedures Act, and commission rules.
(e) If a taxpayer first requests a waiver of penalties or interest in an appeal to the commission, the taxpayer is not required to meet Subsections (1)(a)(i) through (iv).

(2) Reasonable Cause for Waiver of Interest. Grounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, the taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.

(3) Reasonable Cause for Waiver of Penalty. The following clearly documented circumstances may constitute reasonable cause for a waiver of penalty:
(a) Timely Mailing:
(i) The taxpayer mailed the return with payment to the commission by the due date and it was not timely delivered by the post office through no fault of the taxpayer.
(ii) In cases where the taxpayer cannot document a post office error, the penalties may be waived if the taxpayer:
(A) has an excellent history of compliance;
(B) proves that sufficient funds were in the bank as of the date of payment, and the check was written in numerical order; and
(C) presents documentation showing that the return or payment was mailed timely.
(b) Wrong Filing Place: The return or payment was filed on time, but was delivered to the wrong office or agency.
(c) Death or Serious Illness:
(i) The death or serious illness of a taxpayer or a member of the taxpayer's immediate family caused the delay.
(ii) With respect to a business, trust or estate, the death or illness must have been of the individual, or the immediate family of the individual, who had sole authority to file the return.
(iii) The death or illness must have occurred on or immediately prior to the due date of the return.
(d) Unavoidable Absence: The person having sole responsibility to file the return was absent from the state due to circumstances beyond his or her control.
(e) Disaster Relief:
(i) A delay in reporting, filing, or paying was due either to a governmental declared disaster or to a natural disaster, such as fire or accident, that results in the destruction of records or disruption of business.
(ii) For purposes of this Subsection (3)(e), "governmentally declared disaster" means a disaster declared by:
(A) a state;
(B) the District of Columbia;
(C) a possession or territory of the United States; or
(D) the United States government.
(iii) If delinquency or delay is due to a federally declared disaster, federal relief guidelines shall be followed.
(iv) In the absence of federal guidelines, and for other listed disasters, the taxpayer must demonstrate the matter was corrected within a reasonable time, given the circumstances.

(f) Reliance on Erroneous Tax Commission Information:
(i) Underpayments and late filings or payments were attributable to incorrect advice obtained from the commission, unless the taxpayer gave the commission inaccurate or insufficient information.
(ii) Proof of erroneous information may be based on written communication provided by the commission or, if the taxpayer clearly communicated the erroneous information, verbal communication. Clear documentation of verbal communication should include the dates, times, and names of commission employees who provided the erroneous information.
(iii) A failure to comply will also be excused if it is demonstrated that the taxpayer requested the necessary tax forms and instructions timely, and the commission failed to timely provide the forms and instructions requested.

(g) Tax Commission Office Visit: The taxpayer proves that before expiration of the time for filing the return or making the payment, the taxpayer visited a commission office for information or help in preparing the return and a commission employee was not available for consultation.

(h) Unobtainable Records: For reasons beyond the taxpayer's control, the taxpayer was unable to obtain records to determine the amount of tax due.

(i) Reliance on Competent Tax Advisor: The taxpayer:
(i) furnishes all necessary and relevant information to a competent tax advisor, and the tax advisor:
(A) incorrectly advises the taxpayer;
(B) fails to timely file a return on behalf of the taxpayer; or
(C) fails to make a payment on behalf of the taxpayer; and
NOTICES OF PROPOSED RULES

(ii) demonstrates that the taxpayer exercised ordinary business care, prudence, and diligence in determining whether to seek further advice.

(j) First Time Filer:
(i) It is the first return required to be filed and the taxes were filed and paid within a reasonable time after the due date.
(ii) The commission may also consider waiving penalties on the first return after a filing period change if the return is filed and tax is paid within a reasonable time after the due date.

(k) Bank Error:
(i) The taxpayer's bank has made an error in returning a check, making a deposit or transferring money.
(ii) A letter from the bank verifying its error is required.

(l) Compliance History:
(i) The commission will consider the taxpayer's recent history for payment, filing, and delinquencies in determining whether a penalty may be waived.
(ii) The commission will also consider whether other tax returns or reports are overdue (at the time) or on the date the waiver is requested.

(m) Employee Embezzlement: The taxpayer shows that failure to pay was due to employee embezzlement of the tax funds and the taxpayer was unable to obtain replacement funds from any other source.

(n) Recent Tax Law Change: The taxpayer's failure to file and pay was due to a recent change in tax law that the taxpayer could not reasonably be expected to be aware of.

(4) Other Considerations for Determining Reasonable Cause.
(a) The commission allows for equitable considerations in determining whether reasonable cause exists to waive a penalty. Equitable considerations include:
(i) whether the commission had to take legal means to collect the taxes;
(ii) if the error is caught and corrected by the taxpayer;
(iii) the length of time between the event cited and the filing date;
(iv) typographical or other written errors; and
(v) other factors the commission deems appropriate.
(b) Other clearly supported extraordinary and unanticipated reasons for late filing or payment, which demonstrate reasonable cause and the inability to comply, may justify a waiver of the penalty.
(c) In most cases, ignorance of the law, carelessness, or forgetfulness does not constitute reasonable cause for waiver. Nonetheless, other supporting circumstances may indicate that reasonable cause for waiver exists.
(d) Intentional disregard, evasion, or fraud does not constitute reasonable cause for waiver under any circumstance.

KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements

Date of Last Change: [January 14], 2022
Notice of Continuation: November 9, 2021

Authorizing, and Implemented or Interpreted Law:
10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205
through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107

1992 Edition

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R877-23V-14 Filing ID 54349

Agency Information

1. Department: Tax Commission
2. Agency: Motor Vehicle Enforcement
3. Building: Utah State Tax Commission
4. Street address: 210 N 1950 W
5. City, state and zip: Salt Lake City, UT 84134
6. Contact person(s):
   Name: Chantay Asper
   Phone: 801-297-3901
   Email: casper@utah.gov

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

General Information

2. Rule or section catchline:

R877-23V-14. Dealer Identification of Fees Associated with Issuance of Temporary Permits Pursuant to Utah Code Ann. Sections 41-3-301 and 41-3-302

3. Purpose of the new rule or reason for the change

(Why is the agency submitting this filing?):

The reason for the amendment is to clarify the location and content of the dealer documentary service fee disclosure sign in all dealer premises.

4. Summary of the new rule or change

(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The changes clarify that the sign required in each motor vehicle dealership to disclose dealer documentary service fees must be displayed in the sales area of the dealer's premises. The amendment also eliminates the requirement that the sign disclose the profits to the dealer for preparing and processing documents and other services related to the sale or lease of a motor vehicle.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This amendment is not expected to impact the state budget because it only changes the location and content of a sign.

B) Local governments:
This amendment is not expected to impact local governments because it only changes the location and content of a sign.

C) Small businesses ("small business" means a business employing 1-49 persons):
This amendment is not expected to impact small businesses because it only changes the location and content of a sign.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This amendment is not expected to impact non-small businesses because it only changes the location and content of a sign.

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 amendment is not expected to impact persons other than small businesses, non-small businesses, state, or local government entities because it only changes the location and content of a sign.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
This amendment is not expected to impose compliance costs on affected persons because it only changes the location and content of a sign.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
This amendment is not expected to have a fiscal impact on businesses because it only changes the location and content of a sign. Rebecca L. Rockwell, Commissioner

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
<td></td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:
The Commissioner of the Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 41-3-301 | Section 41-3-302

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of
NOTICES OF PROPOSED RULES

Agency Authorization Information

Agency head or designee, and title: Rebecca L. Rockwell, Commissioner  
Date: 01/13/2022

R877-23V. Motor Vehicle Enforcement.  
(1) Only fees required by Title 41, Chapter 1a, may be identified as state-mandated fees.  
(2) A dealer that charges the purchaser or lessee of a motor vehicle a fee for preparing or processing any state-mandated documents or services ("dealer documentary service fees") must, in addition to the requirements set forth in Subsection (1), prominently display a sign in the sales area on the dealer premises in a location that is readily discernable by all purchasers and lessees. The sign shall contain the language set forth in Subsection (2)(a).  
(a) The (dealer documentary service fee) as set forth in your contract represents costs and profit to the dealer for preparing and processing documents and other services related to the sale or lease of your vehicle. These fees are not set or state mandated by state statute or rule.  
(b) The blank in Subsection (2)(a) may be wording selected by the dealer to describe the fee charged for document preparation and processing and other services, but must be, in all cases, the actual wording used in the dealer's contract of sale or lease agreement.

KEY: taxation, motor vehicles  
Date of Last Change: [Jul 9, 2020]2022  
Notice of Continuation: November 9, 2021  
Authorizing, and Implemented or Interpreted Law: 41-1a-712; 41-3-105; 41-3-201; 41-3-202; 41-3-210; 41-3-301; 41-3-302; 41-3-305; 41-3-503; 41-3-505; 41-3-506; 41-3-507

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment  
Utah Admin. Code R909-3  
Filing ID 54318

Agency Information

1. Department: Transportation  
Agency: Motor Carrier  
Room no.: Administrative Suite, 1st floor  
Building: Calvin Rampton  
Street address: 4501 S 2700 W  
City, state and zip: Taylorsville, UT 84129

Mailing address: P.O. Box 148455  
City, state and zip: Salt Lake City, UT 84114-8455

Contact person(s):

Name: Phone: Email:
Linda Hull 801-965-4253 lhull@utah.gov
Becky Lewis 801-965-4026 blewis@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 or section catchline:
R909-3. Standards for Utah School Buses

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Department of Transportation (Department) proposes these changes because of S.B. 113 which passed during the 2021 General Session and transferred responsibility to adopt and enforce Standards for Utah School Buses and Operations to the Department of Public Safety. Section R909-3-2, Adoption of Standards for Utah School Buses and Operations Standards 2020 Edition, no longer belongs in this Department rule.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):  
These proposed changes delete Section R909-3-2 and make grammatical and structural changes necessary because of this deletion. The changed rule only governs advertisement on school buses.

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Department does not anticipate cost or savings to the state budget because this rule change only deletes the section regarding the design and operation of a school bus and limits the rule's focus to govern the standards that apply for advertisement on a school bus under Section 41-6a-1309.

332  UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03
B) Local governments:
The Department does not anticipate cost or savings to local governments because this rule change only deletes the section regarding the design and operation of a school bus and limits the focus of this rule to govern the standards that apply for advertisement on a school bus under Section 41-6a-1309.

C) Small businesses ("small business" means a business employing 1-49 persons):
The Department does not anticipate cost or savings to small businesses because this rule change only deletes the section regarding the design and operation of a school bus and limits the focus of this rule to govern the standards that apply for advertisement on a school bus under Section 41-6a-1309.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Department does not anticipate cost or savings to non-small businesses because this rule change only deletes the section regarding the design and operation of a school bus and limits the focus of this rule to govern the standards that apply for advertisement on a school bus under Section 41-6a-1309.

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 Department does not anticipate cost or savings to persons other than small businesses, non-small businesses, state, or local government because this rule change only deletes the section regarding the design and operation of a school bus and limits the focus of this rule to govern the standards that apply for advertisement on a school bus under Section 41-6a-1309.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The Department does not anticipate any compliance costs for affected persons because this rule change only deletes the section regarding the design and operation of a school bus and limits the focus of this rule to govern the standards that apply for advertisement on a school bus under Section 41-6a-1309, which do not change.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
This proposed rule change will not have a fiscal impact on businesses. Carlos M. Braceras, PE, Executive Director

6. A) 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.):

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<td>Other Persons</td>
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<tr>
<th>Net Fiscal Benefits</th>
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<tr>
<td>$0</td>
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</table>

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 41-6a-1309

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. See Section 63G-3-302 and Rule R15-1 for more information.)
NOTICES OF PROPOSED RULES

A) Comments will be accepted until: 03/03/2022

10. This rule change MAY become effective on: 03/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Carlos M. Braceras, PE, Executive Director | Date: 01/06/2022 |

R909. Transportation, Motor Carrier.
R909-3-1. Authority and Purpose.

This rule is enacted under the authority of Section[s 41-6a-1304 and] 41-6a-1309 [for the purpose of governing the design and operation of school buses and governing]to govern the placement of advertisement[s] on school buses.


(1) In cooperation with the Utah State Board of Education and the Department of Public Safety, the Standards for Utah School Buses and Operations as contained in the 2020 Published Edition, in its entirety, is incorporated by reference.

The Standards for Utah School Buses and Operations are published by the Utah State Board of Education and can be found at https://schools.utah.gov/File/2f934a74-4cbf-4473-ba60-8912a07ae640

(2) These requirements apply to the design and operation of all school buses in this state when:

(a) owned and operated by any Local Education Agency (LEA) as defined in Section 53E-3-401;
(b) privately owned and operated under contract with a LEA;
(c) privately owned for use by a private school.

KEY: school buses, [safety] advertisement

Date of Last Change: 2022[December 30, 2020]

Notice of Continuation: October 29, 2020

Authorizing, and Implemented or Interpreted Law: [41-6a-1304]41-6a-1309

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 March 03, 2022.

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 June 01, 2022, 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 R501-8
Ref (R no.): Filing ID: 54008

Agency Information
1. Department: Human Services
Agency: Administration, Administrative Services, Licensing
Building: MASOB
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84115

Contact person(s):
Name: Phone: Email:
Janice Weinman 385-321-5586 jweinman@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information
2. Rule or section catchline:
R501-8. Outdoor Youth Programs

3. Publication date of previous proposed rule or change in proposed rule:
11/01/2021 (EDITOR’S NOTE: The original proposed repeal and reenactment upon which this change in proposed rule (CPR) was based was published in the November 1, 2021, issue of the Utah State Bulletin, on page 116. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

4. Reason for this change (Why is the agency submitting this filing?):
This change reduces the burdensome requirements that were included in the previous repeal and reenactment.

5. Summary of this change (What does this filing do?):
Public comment garnered significant resistance to the direct care field staff requirement and field requirements sections. The Office of Licensing met with stakeholders, held a public hearing, and are incorporating the suggestions for proposed amendments.

Fiscal Information
6. Aggregate anticipated cost or savings to:
A) State budget:
There is no aggregate anticipated cost or savings to state budget because all legislative changes have been accounted for through a fiscal note to supplement office resources for enforcement of this rule change.

B) Local government:
There is no aggregate anticipated cost or savings to local governments because the proposed change only supports local government requirements but does not impose any additional requirements on them.

C) Small businesses ("small business" means a business employing 1-49 persons):
The cost or savings impact on small businesses is inestimable because licensed programs are allowed to demonstrate rule compliance through policy and procedure development. Any additional costs as a result of the new policies and procedures will be self-imposed.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The cost or savings impact on non-small businesses is inestimable because licensed programs are allowed to demonstrate rule compliance through policy and procedure development and there a number of ways programs may choose to comply.

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 on persons due to the enactment of these proposed rule changes, as the Office of Licensing can only regulate small or non-small businesses meeting the statutory definition for licensure.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There will be no affected persons other than small or non-small businesses meeting the statutory definition for licensure.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

7. A) 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

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### B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

### Citation Information

8. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-2-106 | Section 62A-2-101

### 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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/03/2022

### 11. This rule change MAY become effective on:

| Date: | 03/10/2022 |

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

### Agency Authorization Information

| Agency head or designee, and title: | Tracy Gruber, Executive Director | Date: | 01/14/2022 |

**R501. Human Services, Administration, Administrative Services, Licensing.**

**R501-8. Outdoor Youth Programs.**

**R501-8-1. Authority, Purpose, and Scope.**

(1) This rule is authorized by Section 62A-2-106 and establishes standards for the licensure of outdoor youth programs. This rule is intended to supplement the general provisions required of each human services program in Rule R501-1.

(2) In the event of conflict, this rule shall supersede other rules under Title R501.

**R501-8-2. Definitions.**

(1) The terms used in this rule are defined in Sections 62A-2-101 and R501-1.3.

(2) "Essential equipment" means:

(a) food;

(b) potable water;

(c) sunscreen;

(d) insect repellant;

(e) personal hygiene items;

(f) sleeping bags rated for the current seasonal conditions;

(g) an additional shelter and ground pad for colder months when the average nighttime temperature is 39 degrees F. or lower; and

(h) basic clothing list and protective gear to ensure client protection against seasonal change in the environment.

(3) "Field" means geographic area in which program hiking, camping and related client services occur.

(4) "Field Office" means the office where coordination of field operations take place.

**R501-8-3. Administration.**

(1) Each outdoor youth program shall provide an educational component as determined by the Utah State Board of Education for clients 18 years of age or younger who have been removed from their educational opportunities for more than one month. The administrators of the program shall meet and document cooperation with the State Board of Education in accordance with Section 62A-2-108.1.

(2) Each outdoor youth program that advertises as providing educational credit to clients shall be approved by the Utah State Board of Education.

(3) Each outdoor youth program shall have a written policy for ensuring that any staff member involved in a suspected incident of child abuse or code of conduct violation does not work directly with the youth involved or any other youth in the program until the...
investigation is completed or formal charges have been filed and adjudicated,

**R501-8-4. Program Requirements.**

(1) Each program that operates in Utah and another state shall meet the requirements for licensure as established by each state.

(2) The program field director, program executive director, and governing body for each expedition group shall develop and approve a written plan which may not expose clients to unreasonable risks.

(3) Each outdoor youth program shall provide the office with each outdoor youth program training plan governing consequences for client and staff conduct, and the office shall review and approve the plan before implementation.

(4) Each outdoor youth program shall ensure that each client has clothing and equipment to protect the client from the environment. This equipment may never be removed, denied, or made unavailable.

(5) During an expedition, if a client refuses or cannot hike or to carry the client's equipment, the group shall cease hiking. Each program shall establish, document, and resolve the reasons for the client's refusal or inability to continue before hiking continues.

(6) Each outdoor youth program shall ensure that deprivation of essential equipment or items shall not be used as a consequence.

(7) Each outdoor youth program shall conduct an individual assessment of each client's recommended backpack weight. Each backpack weight guideline may not exceed 20% of the client's body weight. If a client is required to carry other items, the total weight carried shall not exceed 30% of the client's body weight unless individually documented with parental permission to exceed this ratio.

(8) Each outdoor youth program shall provide clients with clean clothing at least weekly and shall provide a means for each client to bathe or otherwise clean the client's body at least twice weekly.

(9) Hiking shall not exceed the physical capability of the weakest member of the group. Hiking shall be prohibited at temperatures above 90 degrees F. or at temperatures below ten degrees F.

(10) A field staff in each group shall carry a means to accurately measure and display the current temperature.

(11) Each expedition plan including map routes, anticipated schedules, and times shall be carried by the field staff and recorded in the field office.

(12) A field staff in each group shall maintain a signed daily log or dictate a recorded log to be transcribed and signed immediately following termination of the activity to contain the following information:

(a) each critical incident;
(b) prescription compliance;
(c) each medical concern;
(d) each behavioral concern or refusal to hike and how the concern is addressed;
(e) each unusual occurrence; and
(f) each log entry shall be recorded in an un-editable format and remain available to the office upon request.

(13) Each program staff shall be required to carry an accurate, reliable time piece accurately reflecting the time of day and for documentation purposes in log notes and incident reports.

(14) Program administration is responsible to train each staff regarding the standards of this section and to regularly monitor and ensure compliance.

**R501-8-5. Staff, Interns, and Volunteers.**

(1) Each outdoor youth program shall have a governing body and an executive director who shall have responsibility and authority over the policies and activities of the program and shall coordinate office and support services and training. The executive director shall have the following qualifications:

(a) be at least 25 years of age;
(b) have a bachelor's degree or equal training and experience in a related field;
(c) have at least two years of outdoor youth program administrative experience;
(d) have at least 30 credit hours education in recreational therapy or related experience or one-year outdoor youth program field experience;
(e) demonstrate knowledge and understanding of relevant licensing rules; and
(f) have completed each required staff training.

(2) Each outdoor youth program shall have a direct care field director who has primary responsibility for coordinating field operations, managing field staff, operating the field office, and supervising emergency response procedures.

(3) A field director or a qualified designee shall:

(a) be trained as a direct care staff in accordance with Section R501-1-14;
(b) be at least 25 years of age;
(c) have a bachelor's degree or equal training and experience in a related field;
(d) have at least two years of outdoor youth program field experience;
(e) document each field visit, including:
(i) the condition of each client;
(ii) interactions with clients and staff;
(iii) incidents and interventions to be reported to each client's guardian and the office;
(f) each report of compliance with Subsection 62A-2-123(6) regarding weekly confidential communication with family; and
(g) staff compliance with each policy and rule.

(4) Each outdoor youth program shall have field support staff to be responsible for delivering supplies and mail to the field, communication with each client in the field, and first aid support.

(5) Each outdoor youth program group shall have direct care senior field staff working directly with the client who shall meet the following qualifications:

(a) be trained as a direct care staff in accordance with Section R501-1-14;
(b) be at least 21 years of age;
(c) have an associate's degree or high school diploma with 30 credit hours of education and training or comparable experience and training in a related field; and
(d) have six months outdoor youth program field experience or comparable experience which shall be documented in the individual's personnel file.

(6) Each outdoor youth program shall have [a.] direct care field staff working directly with the clients who shall meet the following qualifications:
(a) be at least 20 years of age;
(b) have a high school diploma or equivalent;
(c) have 48 field-days of outdoor youth program experience or comparable experience which shall be documented in the individual's personnel file; and
(d) exhibit skilled leadership.

(7) Each outdoor youth program shall have [at least three ] direct care assistant field staff as required to meet or exceed staff to client ratios. Assistant field staff shall meet the following qualifications:
   (a) be at least 19 years of age;
   (b) have a high school diploma or equivalent;
   (c) have 24 field-days of outdoor youth programs experience; and
   (d) exhibit skilled leadership.

(8) Each outdoor youth program shall have a licensed physician and mental health professional accessible to each client.

(9) Each outdoor youth program may have interns or volunteers who are learning the program practices while completing educational requirements.

(a) Each intern shall be at least 19 years of age.
(b) Each volunteer shall be at least 18 years of age.
(c) Staff training shall be completed by each incoming staff including interns and volunteers regardless of background experience.
(d) Each volunteer and intern shall be supervised by the clinical director, program administration, or senior direct care staff.
(e) Each intern and volunteer shall never directly supervise a client.

R501-8-6. Client Supervision.

(1) Each youth group shall be directly supervised by at least [two] direct care staff, one of which must be a direct care senior field staff.
(2) Each field group may not exceed 16 people with a ratio of at least one staff per four clients. Staff shall count towards the field group size.
(3) Each volunteer shall be counted as a client in figuring staff to client ratios.
(4) Field group size may not exceed the number specified by federal, state, or local agencies in whose jurisdiction the program is operated.

R501-8-7. Staff Training.

(1) An outdoor youth program shall provide at least 80 hours initial staff training.
(2) Initial staff training may not be considered completed until the staff have demonstrated to the field director proficiency in each of the following areas:
   (a) counseling, teaching and supervisory skills;
   (b) water, food, and shelter procurement, preparation, and conservation;
   (c) low impact wilderness expedition and environmental conservation skills and procedures;
   (d) client management, including containment, control, safety, conflict resolution, and behavior management;
   (e) instruction in safety procedures and safe equipment use, fuel, fire, life protection, and related tools;
   (f) instruction in emergency procedure, medical treatment, evacuation, weather, signaling, fire, and dealing with runaway and lost clients;
   (g) sanitation procedures, water, trash, human waste, food handling;
   (h) wilderness medicine, including health issues related to acclimation, exposure to the environment, and anaphylaxis;
   (i) CPR, standard first aid, first aid kit contents and use, and the program's medication management policy and procedure;
   (j) navigation skills, including map and compass use and contour and celestial navigation;
   (k) local environmental precautions, including terrain, weather, spiders, ticks, scorpions, snakes, insects, predatory animals, poisonous plants, giardia, frostbite, hypothermia, heat exhaustion, dehydration, responses to adverse situations, and emergency evacuation;
   (l) leadership and judgment;
   (m) report writing, including required development and maintenance of logs; and
   (n) federal, state, and local regulations.
(3) At least 80 hours of initial staff training shall be completed, documented, and maintained in each staff personnel file.
(4) The field director or equally qualified designee shall document in each personnel file how the field director or qualified designee determined that each staff has demonstrated proficiency in each of the required topic areas as listed in [Section Subsection ] of this section.
(5) Each initial staff training and demonstration of proficiency must be completed and documented before the staff may count in the staff client ratio.
(6) Each program shall provide and document on-going staff training to improve proficiency in knowledge and skills and to maintain certifications.

R501-8-8. Staff Health Requirements.

(1) [Prior to ]Before engaging in any field activity, each staff shall adhere to the following:
   (a) each field staff, intern, and volunteer shall have an annual physical examination and health history signed by a licensed medical professional;
   (b) a recognized physical stress assessment shall be completed as part of the physical examination of each staff;
   (c) the physical examination of each staff shall be reviewed and maintained by the provider in the staff personnel file; and
   (d) each program staff, intern, and volunteer shall submit to drug and alcohol screening upon request.


(1) Each client shall be no younger than 13 years of age and no older than 17 years of age and shall have a current health history report which includes notation of client physical limitations and prescriptive medications.
(2) The health history report shall be completed, submitted, and verified by each client's parent or guardian as part of the intake screening or assessment in accordance with Sections R501-1-18 and R501-1-23 and [prior to ] before entry into the field.
(3) An admissions assessment shall be conducted by a treatment professional before each client enters into the field and shall include the following:
   (a) a review of each client's social and psychological history with the client's parent or legal guardian [prior to ] before enrollment; and
   (b) an interview with the client [prior to ] before entrance into the field program.
NOTICES OF CHANGES IN PROPOSED RULES

(4) [Prior to] before entry into the field and within 15 days of admission to the program, the following requirements must be met:
   (a) a licensed medical professional must review each client's health history report and conduct a physical examination; and
   (b) the program shall provide a physical examination form to a licensed medical professional that clearly states a description of the physical demands and environment of the program, and requires the following information before a client may enter the field:
      (i) a urinalysis drug screen;
      (ii) a complete blood count (CBC) unless waived in writing by the client's parent or guardian;
      (iii) a complete metabolic profile (CMP) unless waived in writing by the client's parent or guardian;
      (iv) a urinalysis for possible infections;
      (v) a pregnancy test;
      (vi) a physical stress assessment;
      (vii) a determination by the physician if detoxification is indicated for client [prior to] before entrance into field portion of the program;
      (viii) any other tests as necessary to assess fitness for the field portion of the program; and
      (ix) a medical professional shall review current and historical medical data and approve the client to enter the field with recommendations for any medical monitoring.

(5) A copy of each client's medical forms and approvals shall be maintained at the field office and another copy shall be carried by staff members in a waterproof container throughout the field expedition.

(6) Each program must clinically review each client's psychological history and conduct an additional psychological assessment as clinically necessary before the client's entry into the field [prior to] before entrance into field portion of the program; [Before each client with a history of chronic psychological disorders may be placed in the program, the client must have a psychological evaluation].

(7) Upon admission and for a period of no fewer than three days in the field, direct care field staff shall closely monitor each client for any health problems that may be a result of hiking or living outdoors.

R501-8-10. Water and Nutritional Requirements.

(1) At least six quarts of potable water shall be available per person per day, plus one additional quart per person for each five miles hiked. Although it is not required that the entire amount be hand carried, water shall always be accessible during hiking.

(2) In temperatures above 90 degrees F., staff shall make sure each client's fluid intake is at least three quarts of water per day.

(3) Each field group in the field shall always have electrolyte replacement available.

(4) In temperatures above 80 degrees F., water shall be available for coating each client's body, and other techniques shall be available for cooling as needed.

(5) Potable water shall be available at each campsite. Water cache location information shall be verified with field staff before the group leaves camp each day.

(6) No expedition group shall depend on aerial drops for water. Aerial water drops shall be used for emergency situations only.

(7) Water from natural sources shall be made safe to drink through boiling, filtering, or disinfection in accordance with the center for disease control guidance.

(8) Each outdoor youth program shall have a written menu describing food supplied to the client which shall provide at least 3,000 calories per day while in the field. There must be fresh fruit and vegetables available at least twice a week. Food shall never be withheld from a client for any reason. If no fire is available, other food of equal caloric value, which does not require cooking, shall be available.

(a) The menu shall be adjusted to increase minimum dietary needs as energy expenditure, including exercise and climate conditions, dictate.

(b) Food shall be from a balance of the food groups.

(c) Forage items may not count toward the determination of caloric intake.

(d) Multiple vitamin supplements shall be offered daily.


(1) Each outdoor youth program shall provide first aid treatment promptly.

(2) When a client has an illness or physical complaint that does not respond to or cannot be treated by standard first aid, the program shall immediately arrange for the client to be seen and treated as indicated by a licensed medical professional.

(3) Each client's physical condition shall be assessed at least every 14 days by a qualified medical professional. Blood pressure, heart rate, allergies, and general physical condition shall be checked and documented. Any assessment concerns shall be documented, and the client shall be taken to the appropriate medical professional for treatment. There may be no consequences issued to a client for requesting to see a health care professional for or anything said to a health care professional.

(4) Each prescription and over the counter medication shall be kept in the secure possession of designated staff and provided to clients in accordance with labels or prescription directions.

(5) Staff shall be trained for medication administration in accordance with Rule R501-1 and shall communicate with the field director and document reason and plan for any lost or missing prescription medication.

(6) A foot check will be conducted at least twice daily and documented.


(1) Each first aid kits shall include sufficient supplies for the activity, location, and environment as approved by the program's medical professional. First aid kit supplies shall be available during each field activity.

(2) Each outdoor youth program shall have a support system that meets the following criteria:

(a) reliable daily two-way radio communications between groups and with support staff, with additional charged battery packs and a reliable backup system of contact in the event the radio system fails;

(b) the support vehicles and field office shall be equipped with first aid equipment;

(c) the support and field staff shall have access to contact information including telephone numbers, locations, contact personnel, maps, medical forms, and procedures for an emergency evacuation or field incident; and

(d) daily morning and evening contacts shall be completed between field staff, support staff, and the field office and contacts shall be documented in the field office log daily.


(1) Each program shall maintain a field office.

(2) Communication systems between the field and the field office shall be monitored 24 hours a day when clients are in the field.
(3) Support staff shall respond immediately to any emergency situation.
(4) Support staff on duty shall be within one hour of any field group.
(5) When staff are not present in the field office a contact telephone number shall be posted on the field office door and the field director shall designate responsible on-call staff who shall continually monitor communications and remain available and able to access all necessary equipment and files within 15 minutes [will always be within 15 minutes travel time of the field office].
(6) Field office staff shall adhere to the following:
(a) maintain current staff and client records in accordance with Rule R501-1;
(b) maintain a master map of each activity area;
(c) maintain copies of each expeditionary route with its schedule and itinerary to be immediately available to the office and emergency medical services, law enforcement or search and rescue agencies as needed;
(d) maintain a log of daily communications;
(e) be responsible for training and orientation, management of field personnel, related files, and records; and
(f) be responsible for maintaining communications, inspecting equipment, and overseeing medical incidents.

(1) Each outdoor youth program shall adhere to land use agency requirements including sanitation and low impact camping.
(2) Each client shall be continuously supervised in the observance of low impact camping requirements.
(3) Personal hygiene supplies shall be of biodegradable materials or packed out and properly disposed of.

(1) Following the wilderness experience, each client shall receive a debriefing to include a written summary of the client's participation and the progress the client achieved.
(2) Each guardian, client, or other involved individuals shall be provided the opportunity and be encouraged to submit a written evaluation of the wilderness experience, which shall be retained by the program in the client file record.

R501-8-16. Individual Experiences.
(1) If an outdoor youth program conducts an individual component for clients as part of the program, the program shall have and follow written policies and procedures, which shall include the following:
(a) an assessment of each client's ability to safely participate in the experience;
(b) a description of the individual component to ensure that each client is not exposed to an unreasonable risk;
(c) guardian permission for the youth to participate in the experience;
(d) a policy that individual experiences are not required and must be entered voluntarily by the client or only as clinically indicated;
(e) a policy of providing preparatory instruction and guidance to the client [prior to] before an individual experience;
(f) an individual assessment of client readiness;
(g) a description of the maximum duration of each individual experience;
(h) a policy explaining that a solo experience may not be used as a punishment or general practice;
(i) a policy that each staff shall be familiar with the area chosen to conduct individual experiences;
(j) a supervision plan for each individual event with a frequent check-in to allow each client to rescind voluntary participation and go back to the group;
(k) documentation of the duration of each individual event;
(l) a plan for managing emergencies; and
(m) documentation of how each individual program component is not used as seclusion or in violation of Section 62A-2-123.

R501-8-17. Stationary Camp Sites.
(1) A program offering a stationary camp that does not provide a 24-hour outdoor group living environment may require residential treatment licensure.
(2) An outdoor youth program that maintains a designated building to serve a client shall be subject to fire, health, and safety standards.
(a) A stationary outdoor youth program camp shall be inspected by a certified fire inspector before being occupied and on an annual basis thereafter. A copy of the inspection shall be maintained at the outdoor youth program camp.
(b) At least one 2-A-10BC type fire extinguisher shall be in a group of tents within a 75-foot travel distance.
(c) Flammable liquids may not be used to start fires, be stored in structures that house clients, or be stored near ignition sources. If generators are used, they will only be refueled by staff when the generator is not running and cool to the touch.
(d) A stationary outdoor youth program camp shall be inspected by the local health department before being occupied and on an annual basis thereafter. A copy of the inspection shall be maintained at the site of the camp.
(e) Food shall be stored, prepared, and served in a manner that is protected from contamination.
(f) Each water supply shall be from a source that is accepted by the local health authority according to Rule R392-300, Recreation Camp Sanitation, at the time of application and for annual renewal of such licenses.
(g) Sewage shall be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority, according to Rule R392-300, Recreation Camp Sanitation.

KEY: licensing, human services, youth
Date of Last Change: 2022[2021]
Notice of Continuation: October 4, 2017
Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

End of the Notices of Changes in Proposed Rules Section
FIVE-YEAR NOTICES OF REVIEW
AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a Proposed Rule; continue the rule as it is by filing a Five-Year Notice of Review and Statement of Continuation (Review); or amend the rule by filing a Proposed Rule and by filing a Review. By filing a Review, the agency indicates that the rule is still necessary.

A Review is not followed by the rule text. The rule text that is being continued may be found in the online edition of the Utah Administrative Code available at adminrules.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

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Agency Information

1. Department: Government Operations
Agency: Debt Collection
Room no.: Third Floor
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W
City, state and zip: Taylorsville, UT 84129-2128
Mailing address: PO Box 141031
City, state and zip: 84114-1031
Contact person(s):
Name: Allyson Branch
Phone: 801-597-3523
Email: abranch@utah.gov

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

General Information

2. Rule catchline:
R21-2. Office of State Debt Collection Administrative Procedures

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The purpose of this rule is to establish the form of adjudicative proceeding, provide procedures, and standards for the conduct of informal hearings, and provide procedures, and standards for orders resulting from administrative process. It is required by Section 63A-4-202 and Section 63G-4-203 of the Utah Administrative Procedures 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 written 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:
It is necessary to keep this rule, so the Office of State Debt Collections can provide procedures, and standards to conduct informal hearings, if needed to collect debts. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Janica Gines, Director
Date: 01/04/2022
Utah Admin. Code Ref (R no.): R23-1  Filing ID: 53611
Effective Date: 01/10/2022

Agency Information
1. Department: Government Operations
Agency: Facilities Construction and Management
Room no.: 3626
Building: Taylorsville State Office Building, 3rd Floor
Street address: 4315 S 2700 W
City, state and zip: Taylorsville, UT 84129-2128
Mailing address: PO Box 141160
City, state and zip: Salt Lake City, UT 84114-1160

Contact person(s):
Name: Phone: Email:
Mike Kelley 801-957-7239 mkelley@agutah.gov
Michelle Adams 801-857-7240 michelleadams@agutah.gov
Jim Russell 801-957-7191 jimrussell@utah.gov

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

General Information
2. Rule catchline:
R23-1. Procurement Rules with Numbering Related to the Procurement Code

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 63A-5b-305(2)(c) authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for the division or director to perform DFCM's or the director of DFCM's duties. Rule R23-1 is necessary for DFCM and the director of DFCM to fulfill their statutory obligations under Title 63G, Chapter 6a, Utah Procurement Code. Therefore, this rule should be continued.

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 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:
Subsection 63A-5b-305(2)(c) authorizes the director of DFCM to make rules necessary for the division or director to perform DFCM's or the director of DFCM's duties. Rule R23-1 is necessary for DFCM and the director of DFCM to fulfill their statutory obligations under Title 63G, Chapter 6a, Utah Procurement Code. Therefore, this rule should be continued.
General Information

2. Rule catchline:
R23-19. Facility Use Rules

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 63A-5b-305(2)(c) authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for the division or director to perform DFCM's or the director of DFCM's duties. Rule R23-19 is necessary for DFCM and the director of DFCM to perform DFCM's or the director of DFCM's duties.

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 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:
Subsection 63A-5b-305(2)(c) authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for the division or director to perform DFCM's or the director of DFCM's duties. Rule R23-19 is necessary for DFCM and the director of DFCM to fulfill their statutory obligations under Title 63A, Chapter 5b, Administration of State Facilities. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: James R. Russell, Director DFCM Date: 01/10/2022

Contact person(s):

Name: Mike Kelley Phone: 801-957-7239 Email: mkelley@agutah.gov

Name: Michelle Adams Phone: 801-857-7240 Email: micheleadams@agutah.gov

Name: Jim Russell Phone: 801-957-7191 Email: jimrussell@utah.gov

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

General Information

2. Rule catchline:
R23-20. Free Speech Activities

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 63A-5b-305(2)(c) authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for the division or director to perform DFCM's or the director of DFCM's duties.

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 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:
Subsection 63A-5b-305(2)(c) authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for the division or director to perform DFCM's or the director of DFCM's duties. Rule R23-20 is necessary for DFCM and the director of DFCM to fulfill their statutory obligations under Title 63A, Chapter 5b, Administration of State Facilities. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: James R. Russell, Director DFCM Date: 01/10/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R23-20 Filing ID: 53623
Effective Date: 01/10/2022

Agency Information

1. Department: Government Operations

Agency: Facilities Construction and Management

Room no.: 3626

Building: Taylorsville State Office Building, 3rd Floor

Street address: 4315 S 2700 W

City, state and zip: Taylorsville, UT 84129-2128

Mailing address: PO Box 141160

City, state and zip: Salt Lake City, UT 84114-1160

Contact person(s):

Name: Mike Kelley Phone: 801-957-7239 Email: mkelley@agutah.gov

Name: Michelle Adams Phone: 801-857-7240 Email: micheleadams@agutah.gov

Name: Jim Russell Phone: 801-957-7191 Email: jimrussell@utah.gov

Please address questions regarding information on this notice to the agency.
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 necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 11a. This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

General Information
2. Rule catchline:
R156-11a. Cosmetology and Associated Professions Licensing Act Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 11a, provides for the licensure and regulation of barber, barber instructor, barber school, cosmetologist/barber, cosmetologist/barber instructor, cosmetologist/barber school, electrologist, electrologist instructor, electrologist school, esthetician, master esthetician, esthetician instructor, esthetics school, hair designer, hair designer instructor, hair design school, nail technologist, nail technology instructor and nail technology school. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Cosmetology and Associated Professions Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 11a, with respect to the profession types noted above.

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:

Since this rule was last reviewed in January 2017, the rule has been amended five times. The Division has received no written comments with respect to this rule.
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 55, provides for the licensure and regulation of burglar alarm companies and burglar alarm company agents. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) and Subsection 58-55-201(5)(a) provides that the Alarm System Security and Licensing Board’s duties, functions, and responsibilities includes recommending to the director and Construction Services Commission appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to burglar alarm companies and burglar alarm company agents.

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:

Since this rule was last reviewed in January 2017, the Division has received no written comments with respect to 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 necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 55, with regards to burglar alarm companies and burglar alarm company agents. This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.
Since this rule was last reviewed in January 2017, the Division has received no written comments with respect to 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 necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 64. This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

---

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

Utah Admin. Code Ref (R no.): R156-64
Filing ID: 50295
Effective Date: 01/03/2022

Agency Information

1. **Department:** Commerce
2. **Agency:** Occupational and Professional Licensing
3. **Building:** Heber M. Wells Building
4. **Street address:** 160 E 300 S
5. **City, state and zip:** Salt Lake City, UT 84111-2316
6. **Street address:** PO Box 146741
7. **City, state and zip:** Salt Lake City, UT 84114-6741
8. **Contact person(s):**
   - **Name:** Jana Johansen
   - **Phone:** 801-530-6621
   - **Email:** janajohansen@utah.gov

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

---

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

Utah Admin. Code Ref (R no.): R156-78B
Filing ID: 50320
Effective Date: 01/03/2022

Agency Information

1. **Department:** Commerce
2. **Agency:** Occupational and Professional Licensing
3. **Building:** Heber M. Wells Building
4. **Street address:** 160 E 300 S
5. **City, state and zip:** Salt Lake City, UT 84111-2316
6. **Street address:** PO Box 146741
7. **City, state and zip:** Salt Lake City, UT 84114-6741
8. **Contact person(s):**
   - **Name:** KoriAnn Fausett
   - **Phone:** 801-530-6990
   - **Email:** kfausett@utah.gov

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

---

**General Information**

2. **Rule catchline:**
   - R156-64. Deception Detection Examiners Licensing Act Rule

3. **A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

   Title 58, Chapter 64, provides for the licensure and regulation of deception detection examiner, deception detection intern and deception detection examination administrator. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. This rule was enacted to clarify the provisions of Title 58, Chapter 64, with respect to deception detection examiners, deception detection interns, and deception detection examination administrators.

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:**

---
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 78B, Chapter 3, Part 4, provides that the Division of Occupational and Professional Licensing (Division) shall be responsible for a medical liability prelitigation program. Subsection 78B-3-416(1)(b) provides the Division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care and provides the Division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-426. This rule was enacted to clarify the provisions of Title 78B, Chapter 3, Part 4, with respect to the medical liability prelitigation program.

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:

Since this rule was last reviewed in January 2017, the rule has been amended once in December 2018. The Division has received no written comments with regards to 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 should be continued as it provides a mechanism to inform persons of the Division's requirements with respect to the medical liability prelitigation program as provided in Title 78B, Chapter 3, Part 4.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark B. Steinagel, Director</td>
<td>10/04/2021</td>
</tr>
</tbody>
</table>

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

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<tr>
<th>Utah Admin. Code Ref (R no.):</th>
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<tr>
<td>R277-406</td>
<td>53024</td>
</tr>
</tbody>
</table>

Effective Date: 01/13/2022

**Agency Information**

1. Department: Education
2. Agency: Administration
3. Building: Board of Education
4. Street address: 250 E 500 S
5. City, state and zip: Salt Lake City, UT 84111
6. Mailing address: PO Box 144200

**City, state and zip:** Salt Lake City, UT 84114-4200

**Contact person(s):**

<table>
<thead>
<tr>
<th>Name:</th>
<th>Phone:</th>
<th>Email:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angie Stallings</td>
<td>801-538-7630</td>
<td><a href="mailto:angie.stallings@schools.utah.gov">angie.stallings@schools.utah.gov</a></td>
</tr>
</tbody>
</table>

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

**General Information**

2. Rule catchline:

R277-406. Early Learning Program and Benchmark Assessments

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 the 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; Subsection 53F-2-503(14)(a) which directs the Board to develop rules for implementing the Early Learning Program; Section 53E-3-521 which requires the board to define the components of the early mathematics plan and establish a state-wide target using data from the mathematics benchmark assessment; Section 53E-4-307 which requires the Board to approve a benchmark assessment for statewide use to assess the reading competency of students in grades one, two, and three; and Section 53E-4-307.5 which requires the Board to approve a benchmark assessment statewide for use to assess the mathematics competency of students in grades one, two, and three.

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.

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 outlines the responsibilities of the Superintendent and local education agencies (LEAs) for implementation of Section 53F-2-503 and the Board's administration of Early Learning in the state, including to set expectations for LEA Early Learning Plans; establish timelines for LEA Early Learning Plans; provide definitions and designate assessments required in Sections 53E-4-307 and 53E-4-307.5; provide testing reporting windows, and timelines; and require LEAs to submit student reading and mathematics assessment data to the Board. Therefore, this rule should be continued.
Agency Authorization Information

Agency head or designee, and title: Angie Stallings, Deputy Superintendent of Policy
Date: 01/13/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R277-489
Filing ID: 52779
Effective Date: 01/13/2022

Agency Information

1. Department: Education
Agency: Administration
Building: Board of Education
Street address: 250 E 500 S
City, state and zip: Salt Lake City, UT 84111
Mailing address: PO Box 144200
City, state and zip: Salt Lake City, UT 84114-4200

Contact person(s):
Name: Angie Stallings
Phone: 801-538-7830
Email: angie.stallings@schools.utah.gov

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

General Information

2. Rule catchline:
R277-489. Kindergarten Entry and Exit Assessment - Enhanced Kindergarten Program

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 the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4) which permits the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law; and Section 53F-2-507 which directs the Board to distribute funds appropriated for the enhanced kindergarten program to local education agencies (LEAs) that apply for the funds.

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.

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 requires LEAs to administer a kindergarten entry and exit assessment and establish criteria and procedures to administer the enhanced kindergarten program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Angie Stallings, Deputy Superintendent of Policy
Date: 01/13/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R277-622
Filing ID: 53228
Effective Date: 01/13/2022

Agency Information

1. Department: Education
Agency: Administration
Building: Board of Education
Street address: 250 E 500 S
City, state and zip: Salt Lake City, UT 84111
Mailing address: PO Box 144200
City, state and zip: Salt Lake City, UT 84114-4200

Contact person(s):
Name: Angie Stallings
Phone: 801-538-7830
Email: angie.stallings@schools.utah.gov

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

General Information

2. Rule catchline:
R277-622. School-based Mental Health Qualified Grant Program

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 the 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-2-415 which
requires the Board to make rules that establish procedures for submitting a plan for the School-based Mental Health Qualified Grant Program; a distribution formula the Board will use to distribute funds to an LEA; and annual reporting requirements for a local education agency (LEA) that receives funds pursuant to the School-based Mental Health Qualified Grant Program.

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.

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 establishes the procedures for an LEA to receive a School-based Mental Health Qualified Grant including: plan submission process, format, and requirements; funding distribution methods; and additional requirements including reporting and accountability. Therefore, this rule should be continued.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Angie Stallings, Deputy Superintendent of Policy</th>
</tr>
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<tbody>
<tr>
<td>Date:</td>
<td>01/13/2022</td>
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</tbody>
</table>

**General Information**

2. Rule catchline:
R277-717. High School Course Grading Requirements

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 the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the 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.

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.

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 establishes requirements for awarding credit when a student repeats a course or takes a comparable course and earns a higher grade. Therefore, this rule should be continued.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Angie Stallings, Deputy Superintendent of Policy</th>
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<tbody>
<tr>
<td>Date:</td>
<td>01/13/2022</td>
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</tbody>
</table>

**Agency Information**

1. Department: Education
Agency: Administration
Building: Board of Education
Street address: 250 E 500 S
City, state and zip: Salt Lake City, UT 84111
Mailing address: PO Box 144200
City, state and zip: Salt Lake City, UT 84114-4200
Contact person(s):
Name: Angie Stallings
Phone: 801-538-7830
Email: angie.stallings@schools.utah.gov

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

2. Rule catchline:
R277-726. Statewide Online Education Program

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 the Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; Section 53F-4-514 which requires the Board to make rules: providing for the administration of the applicable statewide assessments to students enrolled in online courses; that establish a course credit acknowledgment form and procedures for completing and submitting the form to the Board; and that establish protocols for an online course provider to obtain approval to become a certified online course provider; 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:
No written comments were 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 defines necessary terms; provides and describes a program registration agreement; and provides other requirements for a local education agency (LEA), the Superintendent, a parent and a student, and a provider for program implementation and accountability. Therefore, this rule should be continued.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Angie Stallings, Deputy Superintendent of Policy</th>
<th>Date:</th>
<th>01/13/2022</th>
</tr>
</thead>
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>R277-733</th>
<th>Filing ID:</th>
<th>54134</th>
</tr>
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</table>

Effective Date: 01/13/2022

Agency Information

1. Department: Education

Agency: Administration
Building: Board of Education
Street address: 250 E 500 S
City, state and zip: Salt Lake City, UT 84111
Mailing address: PO Box 144200
City, state and zip: Salt Lake City, UT 84114-4200

Contact person(s):
| Name: | Angie Stallings | Phone: | 801-538-7830 | Email: | angie.stallings@schools.utah.gov |

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

General Information

2. Rule catchline:
R277-733. Adult Education Programs

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 the 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; Section 53E-10-202 which vests general control and supervision over adult education in the Board; Subsection 53E-3-501(1) which allows the Board to adopt minimum standards for programs; and Section 53F-2-401 which vests the Board with responsibility to provide education to persons in the custody of the Utah Department of Corrections.

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.

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 describes curriculum, program standards, allocation formulas, and operation procedures for the adult education program for adult education students both in and out of state custody. Therefore, this rule should be continued.
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Agency Authorization Information
Agency head or designee, and title: Angie Stallings, Deputy Superintendent of Policy
Date: 01/13/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R277-916
Filing ID: 50559
Effective Date: 01/13/2022

Agency Information
1. Department: Education
Agency: Administration
Building: Board of Education
Street address: 250 E 500 S
City, state and zip: Salt Lake City, UT 84111
Mailing address: PO Box 144200
City, state and zip: Salt Lake City, UT 84114-4200
Contact person(s):
Name: Angie Stallings
Phone: 801-538-7830
Email: angie.stallings@schools.utah.gov

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

General Information
2. Rule catchline:
R277-916. College and Career Awareness

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 the 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; Section 53E-3-507 which allows the Board to establish minimum standards for career and technical education programs in the public education system; and Section 53F-2-311 which directs the Board to distribute specific funds to 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:
No written comments were 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 establishes standards and procedures for LEAs seeking to qualify for College and Career Awareness Program funds administered by the Board. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Angie Stallings, Deputy Superintendent of Policy
Date: 01/13/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R317-12
Filing ID: 50780
Effective Date: 01/03/2022

Agency Information
1. Department: Environmental Quality
Agency: Water Quality
Room no.: DEQ Third Floor
Building: Multi Agency State Office Building (MASOB)
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144870
City, state and zip: Salt Lake City, UT 84114-4870
Contact person(s):
Name: Judy Etherington
Phone: 801-536-4344
Email: jetherington@utah.gov
Name: Skyler Davies
Phone: 801-536-4359
Email: sdavies@utah.gov

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

General Information
2. Rule catchline:
R317-12. Certification of Water Pollution Control Facility or Freestanding Pollution Control Property
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The statutory provisions under which the rule is enacted are Title 19, Chapter 12. Specifically, Section 19-12-305 establishes rulemaking authority. Additionally, Sections 19-12-201,19-12-202, and 19-12-203 require this rule because they allow for tax relief to industries that have obtained a certification for a pollution control facility from a state agency. Rule R317-12 is the mechanism for how the Utah Division of Water Quality determines whether a pollution control facility is eligible for certification.

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 by the Utah Division of Water Quality since Rule R317-12 was amended August 27, 2014.

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 necessary because it provides guidance to companies as to whether their pollution control facility is eligible for certification from the Utah Division of Water Quality. Therefore, this rule should be continued. Rule R317-12 will be revised to incorporate the Utah Code revision after the five-year review is completed.

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<thead>
<tr>
<th>Agency Authorization Information</th>
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<tbody>
<tr>
<td>Agency head or designee, and title: Erica Brown Gaddis, Director</td>
</tr>
</tbody>
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<th>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</th>
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<td>Utah Admin. Code Ref (R no.): R343-1</td>
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<td>Effective Date: 01/05/2022</td>
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<th>Agency Information</th>
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<tbody>
<tr>
<td>1. Department: Financial Institutions</td>
</tr>
<tr>
<td>Agency: Nondepository Lenders</td>
</tr>
<tr>
<td>Room no.: 201</td>
</tr>
<tr>
<td>Street address: 324 S State St</td>
</tr>
<tr>
<td>City, state and zip: Salt Lake City, UT 84111-2393</td>
</tr>
<tr>
<td>Mailing address: PO Box 146800</td>
</tr>
<tr>
<td>City, state and zip: Salt Lake City, UT 84114-6800</td>
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<tr>
<th>Contact person(s):</th>
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</thead>
<tbody>
<tr>
<td>Name: Paul Allred</td>
</tr>
<tr>
<td>Phone: 801-538-8761</td>
</tr>
<tr>
<td>Email: <a href="mailto:pallred@utah.gov">pallred@utah.gov</a></td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>General Information</th>
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<tbody>
<tr>
<td>2. Rule catchline: R343-1. Rule Governing Form of Disclosures For Title Lenders, Who Are Under the Jurisdiction of the Department of Financial Institutions</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Agency Authorization Information</th>
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<tbody>
<tr>
<td>Agency head or designee, and title: G. Edward Leary, Commissioner</td>
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<thead>
<tr>
<th>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</th>
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<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.): R450-1</td>
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<tr>
<td>Effective Date: 01/06/2022</td>
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<tr>
<th>Agency Information</th>
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<tbody>
<tr>
<td>1. Department: Cultural and Community Engagement</td>
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<tr>
<td>Agency: Administration</td>
</tr>
</tbody>
</table>
General Information

2. Rule catchline:


3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The Government Records Access and Management Act (GRAMA), Sections 63G-2-204 and 63A-12-104, directs the Department of Cultural and Community Engagement to write rules establishing procedures for the access of government records.

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.

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 necessary in order to comply with GRAMA and to allow for access of government records. Therefore, this rule should be continued.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Jill Love, Executive Director</th>
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</thead>
</table>
| Date:                              | 01/06/2022                   

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code R455-1 Filing ID: 51137

City, state and zip: Salt Lake City, UT 84106

Contact person(s):

Name: Kristin Mead
Phone: 218-393-2995
Email: kristinmead@utah.gov

General Information

2. Rule catchline:

R455-1. Adjudicative Proceedings

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 enacted in compliance with the Utah Administrative Procedures Act (Act), Section 63G-4-102 et seq., and applies only to actions which are governed by the 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 written comments were 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 necessary in order to ensure that proper adjudicative procedures are followed in compliance with the Act. Therefore, this rule should be continued.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Jill Love, Executive Director</th>
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</thead>
</table>
| Date:                              | 01/10/2022                   

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code R455-12 Filing ID: 51134

City, state and zip: Salt Lake City, UT 84106

Contact person(s):

Name: Alycia Rowley
Phone: 801-245-7226
Email: aaldrich@utah.gov

General Information

2. Rule catchline:

R455-1. Adjudicative Proceedings

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 enacted in compliance with the Utah Administrative Procedures Act (Act), Section 63G-4-102 et seq., and applies only to actions which are governed by the 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 written comments were 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 necessary in order to ensure that proper adjudicative procedures are followed in compliance with the Act. Therefore, this rule should be continued.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Jill Love, Executive Director</th>
</tr>
</thead>
</table>
| Date:                              | 01/10/2022                   

Agency Information

1. Department: Cultural and Community Engagement

Agency: History

Street address: 3760 S Highland Drive
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

City, state and zip: Salt Lake City, UT 84106
Contact person(s):
Name: Phone: Email:
Kristin Mead 218-393-2995 kristinmead@utah.gov
Alycia Rowley 801-245-7226 aaldrich@utah.gov
Please address questions regarding information on this notice to the agency.

General Information
2. Rule catchline:
R455-12. Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds

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 provides grants to assist cemeteries, computerize their records, and to develop a centralized database of names, dates of death, burial locations, and other information. This database will include data on individuals interred in cemeteries and burial locations where a previous record exists regarding the burial in accordance with Subsection 9-8-203(3)(c).

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.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R455-12 is necessary to ensure State History's cemetery program has authority to assist cemeteries in their efforts to computerize their records, and to develop a centralized database of names, dates of deaths, burial locations, and other information. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Jill Love, Executive Director Date: 01/10/2022

Effective Date: 01/14/2022
Agency Information
1. Department: Human Services
Agency: Administration
Street address: 515 E 100 S
City, state and zip: Salt Lake City, UT 84102-4211
Mailing address: PO Box 45033
City, state and zip: Salt Lake City, UT 84145-0033
Contact person(s):
Name: Phone: Email:
Casey Cole 801-741-7523 cacole@utah.gov
Jonah Shaw 801-538-4225 jshaw@utah.gov
Please address questions regarding information on this notice to the agency.

General Information
2. Rule catchline:
R495-884. Kinship Locate

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 needed because it defines the requirement for making a kinship locate request. It also describes the types of locate information that may be provided from the Office of Recovery Services (ORS) when a kinship locate is received. Section 62A-11-107 gives the ORS the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. 45 CFR 302.35 provides the requirements for ORS to maintain a state parent locator service to provide locate information about authorized persons for authorized purposes. The requirements for safeguarding confidential information and the disclosure of confidential information are found in 45 CFR 303.21. 45 CFR 303.70 further provides the procedures for submitting requests to the state or federal parent locator service for the purpose of locating parents, putative fathers, or children for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations; and for the purposes of enforcing any federal or state law with respect to the unlawful taking or restraint of a child or making or enforcing a child custody or visitation determination, or for the purpose of assisting State agencies to carry out their responsibilities under title IV-A, IV-B, IV-D, and IV-E programs. Finally, 42 USC 653(c)(4) defines an "authorized person".

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code R495-884 Ref (R no.): 54103 Filing ID: 54103
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 comments received since its enactment.

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 necessary because of the laws that require ORS to maintain a state parent locator service for use in locating authorized persons. This rule also provides the procedures required by law to submit requests to the federal and state parent locator service for the purpose of locating parents, putative fathers, or children for the purpose of assisting State agencies to carry out their responsibilities. This rule also provides procedures required by law for releasing information obtained from the Federal or State parent locator service, including information that may be safeguarded. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director  
Date: 01/14/2022

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

General Information

2. Rule catchline: R527-255. Substantial Change in Circumstances

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The Office of Recovery Services (ORS) is authorized to adopt rules as necessary by Section 62A-11-107. Utah child support calculation and adjustment guidelines apply to situations where there has been a substantial change of circumstances or an adjustment is made upon petition of a parent, legal guardian, or ORS when the support order has not been issued or modified within the previous three years. Under either situation, the law specifies the minimum percentage of change required between the ordered amount and amount that would be required under the guidelines and that the changes cannot be temporary in nature. Sections 62A-11-320.5 and 62A-11-320.6 deal specifically with review and adjustment of child support orders in and outside of the three-year cycle and also state that the change cannot be of a temporary nature. This rule provides the information about when a parent can request a review of the child support amount when a support order is less than three years old, as well as to identify what information must be included for a request for review to be completed by ORS. This rule also provides the definition of what “temporary” means and makes it clear that the current support order may not be modified if the change in circumstances is temporary. Finally, this rule specifies that changes over 12 months are to be considered long term or permanent and therefore warrant adjustment under the guidelines statutes.

Agency Information

1. Department: Human Services
   Agency: Recovery Services
   Street address: 515 E 100 S
   City, state and zip: Salt Lake City, UT 84102-4211
   Mailing address: PO Box 45033
   City, state and zip: Salt Lake City, UT 84145-0033

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 comments received during or 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 is necessary because it remains clear what is meant by a temporary change in circumstances and a permanent change in circumstances, as well as when the proceedings for an adjustment of a support award must be initiated. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director  
Date: 01/14/2022
This rule addresses specific circumstances under which income withholding should be terminated.

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 comments received during or 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:

All of the statutes under which this rule is enacted are still in effect. This rule continues to provide necessary clarification and detail for carrying out income withholding in IV-D cases. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director Date: 01/14/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R527-330 Filing ID: 54108
Effective Date: 01/14/2022

Agency Information

1. Department: Human Services
Agency: Recovery Services
Street address: 515 E 100 S
City, state and zip: Salt Lake City, UT 84102-4211
Mailing address: PO Box 45033
City, state and zip: Salt Lake City, UT 84145-0033
Contact person(s):
Name: Phone: Email:
Scott Weight 801-741-7435 sweigh2@utah.gov
Casey Cole 801-741-7523 cacole@utah.gov
Jonah Shaw 385-310-2389 jshaw@utah.gov

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

General Information

2. Rule catchline:
R527-300. Income Withholding

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The Office of Recovery Services (ORS) is authorized to adopt rules as necessary by Section 62A-11-107. The IV-D program operated by ORS is mandated pursuant to Part 4 of Section 62A, Chapter 11 to issue income withholding as a means of collecting child support. This rule clarifies Section 62A-11-405 by explaining how an obligee can request income withholding in cases where the obligor is not delinquent on an order issued prior to October 13, 1990. If the order is issued after October 13, 1990, Section 62A-11-404 allows for income withholding, regardless of whether or not a delinquency occurs, unless there is a finding of good cause by the court or administrative body that issued the order or a written agreement that income withholding is not required has been entered in the order. This rule explains the verified statement of affidavit referred to in that section. Section 62A-11-406 refers to a limitation on the amount of income that may be withheld under the Consumer Credit Protection Act. Termination of income withholding is addressed in Section 62A-11-408.
### FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

#### General Information

2. **Rule catchline:**

R527-330. Posting Priority of Payments Received

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 enacted under Section 62A-11-107, which authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules necessary to appropriately carry out its duties. This rule enables ORS to establish a system for posting payments received when the non-custodial parent has not given instructions or made arrangements for the posting of his/her payments when more than one case is involved. This rule also clarifies that ORS must first apply support payments to current support obligations before applying them to past-due support debts.

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 comments received during or 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 requires an organized approach to dealing with support payments paid to ORS and makes distribution to current support the first priority so that when payments are made, families not receiving IV-A cash assistance from the state can expect to receive financial support for their current family needs. This rule also allows an obligor with more than one case to indicate an intention to credit a payment to a particular case. Finally, this rule allows the state to recover money that has been expended in IV-A cash assistance to families and specifies that arrears owed to the family will be paid before arrears owed to the state. Therefore, this rule should be continued.

#### Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title</th>
<th>Tracy Gruber, Executive Director</th>
<th>Date</th>
<th>01/14/2022</th>
</tr>
</thead>
</table>

#### Agency Information

1. **Department:** Human Services

2. **Agency:** Recovery Services

3. **Street address:** 515 E 100 S

4. **City, state and zip:** Salt Lake City, UT 84102-4211

5. **Mailing address:** PO Box 45033

6. **City, state and zip:** Salt Lake City, UT 84145-0033

7. **Contact person(s):**

   - **Name:** Scott Weight
     - **Phone:** 801-741-7435
     - **Email:** sweigh2@utah.gov

   - **Name:** Casey Cole
     - **Phone:** 801-741-7523
     - **Email:** cacole@utah.gov

   - **Name:** Jonah Shaw
     - **Phone:** 385-310-2389
     - **Email:** jshaw@utah.gov

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

#### General Information

2. **Rule catchline:**

R527-412. Intercept of Unemployment Compensation

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 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. This rule is enacted under Subsection 35A-4-103(5) which authorizes the Department of Workforce Services (DWS) to deduct and withhold money from an individual's unemployment compensation benefits when that individual owes child support obligations. This rule outlines the criteria used to determine if unemployment compensation is subject to income withholding and clarifies that such withholding is subject to Section 303(b) of the Consumer Credit Protection Act (15 U.S.C. Section 1643), which provides the exceptions to withholding 25% of the obligor's income and specifies the maximum percentage of income that may be withheld.

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 comments received during or since the last five-year review of this rule.

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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

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<thead>
<tr>
<th>Utah Admin. Code</th>
<th>54107</th>
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<tr>
<td><strong>Ref (R no.):</strong></td>
<td>R527-412</td>
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</table>
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 necessary because the laws authorizing income withholding to collect child support from unemployment compensation benefits are still in effect, as are the laws defining the limits of what can be withheld from such benefits. Therefore, this rule should be continued.

### Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Tracy Gruber, Executive Director</th>
<th>Date:</th>
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>Filing ID: 53857</th>
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<tbody>
<tr>
<td>R590-70</td>
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</table>

**Effective Date:** 01/05/2022

### Agency Information

1. **Department:** Insurance
2. **Agency:** Administration
3. **Room no.:** Suite 2300
4. **Building:** Taylorsville State Office Building
5. **Street address:** 4315 S 2700 W
6. **City, state and zip:** Taylorsville, UT 84129
7. **Mailing address:** PO Box 146901
8. **City, state and zip:** Salt Lake City, UT 84114-6901

### Contact person(s):

**Name:** Steve Gooch  
**Phone:** 801-957-9322  
**Email:** sgooch@utah.gov

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

### General Information

2. **Rule catchline:** R590-70. Insurance Holding Companies

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-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-16-116 authorizes the insurance commissioner to write rules to implement Title 31A, Chapter 16, Insurance Holding Companies. This rule provides guidance regarding the registration of an insurance holding company, forms to be used, and filings to be made with the Department of Insurance (Department), as noted in Section 31A-16-105.

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 received no written comments regarding this rule during the past five years.

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 contains detailed instructions for the registration and filings of domestic insurers in a holding company corporate structure. Without this rule, the statute itself is not adequate to prescribe uniformity, completeness, and accuracy in compliance with the same. Without this rule, there would be little or no guidance for insurers and no linkage to the Department's policies, procedures, and forms. Therefore, this rule should be continued.

### Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Steve Gooch, Public Information Officer</th>
<th>Date:</th>
<th>01/05/2022</th>
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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<tr>
<th>Utah Admin. Code Ref (R no.):</th>
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</table>

**Effective Date:** 01/05/2022

### Agency Information

1. **Department:** Insurance
2. **Agency:** Administration
3. **Room no.:** Suite 2300
4. **Building:** Taylorsville State Office Building
5. **Street address:** 4315 S 2700 W
6. **City, state and zip:** Taylorsville, UT 84129
7. **Mailing address:** PO Box 146901
8. **City, state and zip:** Salt Lake City, UT 84114-6901

### Contact person(s):

**Name:** Steve Gooch  
**Phone:** 801-957-9322  
**Email:** sgooch@utah.gov
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

General Information
2. Rule catchline:

R590-95. Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables

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-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-22-408 authorizes the writing of a rule to set the cash surrender values and paid-up nonforfeiture benefits provided by an plan and computed by a method consistent with the principles of the Standard Nonforfeiture Law for Life Insurance. This rule provides the same cash surrender values and paid-up nonforfeiture benefits to both men and women.

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 Insurance has received no written comments regarding this rule during the past five years.

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 was adopted as a result of the 1983 US Supreme Court Case of Arizona Governing Committee v. Norris. The court ruled that the use of gender-based actuarial tables in an annuity for an employer's pension plan violates the federal Civil Rights Act of 1964. As a result, the National Association of Insurance Commissioners (NAIC) created regulations that recognize mortality tables utilizing gender-blended nonforfeiture standards for men and women. Most states, including Utah, adopted the rule. It allows insurance companies that issue annuity contracts to employer-clients to comply with the Norris decision. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Steve Gooch, Public Information Officer  Date: 01/05/2022

Agency Information
1. Department: Insurance
Agency: Administration
Room no.: Suite 2300
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W
City, state and zip: Taylorsville, UT 84129
Mailing address: PO Box 146901
City, state and zip: Salt Lake City, UT 84114-6901

Contact person(s):
Name: Steve Gooch  Phone: 801-957-9322  Email: sgooch@utah.gov

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

General Information
2. Rule catchline:

R590-114. Letters of Credit

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-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-17-404 authorizes the insurance commissioner to write a rule to determine the form that a letter of credit must take to be used as a security to protect a ceding insurer in a transaction of reinsurance. This rule sets the standards and form for a letter of credit.

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 Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Without this rule, a letter of credit may not be of adequate quality to ensure the effectiveness of certain reinsurance agreements. This rule protects the ceding insurer's security interest in reinsurance ceded by means of the letter of credit. This rule may also affect other areas of statutory accounting, such as credit for reinsurance ceded. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Steve Gooch, Public Information Officer  Date: 01/05/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R590-114  Filing ID: 53929
Effective Date: 01/05/2022

UTAH STATE BULLETIN, February 01, 2022, Vol. 2022, No. 03 361
Agency Authorization Information

| Agency head or designee, and title: | Steve Gooch, Public Information Officer | Date: | 01/05/2022 |

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R592-14  Filing ID: 54101
Effective Date: 01/13/2022

Agency Information

1. Department: Insurance
Agency: Title and Escrow Commission
Room no.: Suite 2300
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W
City, state and zip: Taylorsville, UT 84129
Mailing address: PO Box 146901
City, state and zip: Salt Lake City, UT 84114-6901
Contact person(s):
Name: Phone: Email:
Steve Gooch 801-957-9322 sgooch@utah.gov

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

General Information

2. Rule catchline:
R592-14. Unfair or Deceptive Acts or Practices Affecting Title to Real Property

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 31A-2-404(2) authorizes the Title and Escrow Commission to write rules related to rating standards and methods, licensing requirements, continuing education requirements, examination procedures, and standards for conduct for a title licensee. This rule relates to standards of conduct in the recording of documents and insuring of properties.

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 Insurance has received no written comments regarding this rule during the past five years.

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 identifies the intentional delay, neglect, or refusal by an insurer, agency, or producer to record certain documentation as an unfair or deceptive act or practice that is detrimental to free competition in the business of insurance and is injurious to the public. Without this rule, intentional delay, neglect, or refusal to record documents related to a real property transaction would not be prohibited. Therefore, this rule should be continued.

The Title and Escrow Commission, which has rulemaking authority over rules in Title R592, Title and Escrow Commission, voted at its January 10, 2022, meeting to continue this rule by a vote of 5 to 0.

Agency Authorization Information

| Agency head or designee, and title: | Steve Gooch, Public Information Officer | Date: | 01/13/2022 |

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R704-3  Filing ID: 51862
Effective Date: 01/11/2022

Agency Information

1. Department: Public Safety
Agency: Emergency Management
Room no.: 2200
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W, 2nd Floor
City, state and zip: Taylorsville, UT 84129
Contact person(s):
Name: Phone: Email:
Kim Gibb 801-556-8198 kgibb@utah.gov
Tara Behunin 801-783-9284 tarabehunin@utah.gov

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

General Information

2. Rule catchline:
R704-3. Local Government Emergency Response Loan Program
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 Section 53-2a-609, which requires the Division of Public Safety to make rules to administer the loan program to provide loans to local government entities for costs incurred for providing emergency disaster services as defined in Section 53-2a-602.

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:

This rule is required under Section 53-2a-609, and is necessary for the administration of the loan program to establish forms, content, and procedures for loan and grant applications; criteria and procedures for prioritizing loan and grant applications; requirements and procedures for securing loans and grants; procedures for making loans; procedures for administering and ensuring repayment of loans including late payment penalties, and procedures for recovering on defaulted loans. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Kris Hamlet, Director
Date: 01/11/2022

Contact person(s):

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kim Gibb</td>
<td>801-556-8198</td>
<td><a href="mailto:kgibb@utah.gov">kgibb@utah.gov</a></td>
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<tr>
<td>Tara Zamora</td>
<td>801-964-4483</td>
<td><a href="mailto:tarazamora@utah.gov">tarazamora@utah.gov</a></td>
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<tr>
<td>Britani Flores</td>
<td>801-884-8313</td>
<td><a href="mailto:bflores@utah.gov">bflores@utah.gov</a></td>
</tr>
</tbody>
</table>

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

General Information

2. Rule catchline:
R708-21. Third-Party Testing

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 Section 53-3-407.1 which requires the Division of Driver License to make rules establishing minimum standards for a commercial driver license third party tester or third party examiner license, procedures for an applicant to apply for a commercial driver license third party tester or third party examiner license, minimum standards for the commercial driver license skills test, and procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer or process a commercial driver license skills test for an applicant to receive a commercial driver license.

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 not been any written comments received 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:

The statute cited in the current version of the rule is not correct and will be changed from Section 53-3-104 to Section 53-3-407.1 in a subsequent amendment filing. This rule is required under Section 53-3-407.1, and is necessary to establish minimum standards for a commercial driver license third party tester or third party examiner license, procedures for an applicant to apply for a commercial driver license third party tester or third party examiner license, minimum standards for the commercial driver license skills test, and procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer or process a commercial driver license skills test for an applicant to receive a commercial driver license.
Agency Authorization Information

Agency head or designee, and title: Christopher Caras, Director
Date: 01/14/2022

FIVE-YEAR NOTICES OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R708-39
Filing ID: 51882
Effective Date: 01/14/2022

Agency Information

1. Department: Public Safety
Agency: Driver License
Street address: 4501 S 2700 W
City, state and zip: Salt Lake City, UT 84129
Mailing address: PO Box 144501
City, state and zip: Salt Lake City, UT 84114-4501
Contact person(s):
Name: Phone: Email:
Kim Gibb 801-556-8198 kgibb@utah.gov
Tara Zamora 801-964-4483 tarazamora@utah.gov
Britani Flores 801-884-8313 bflores@utah.gov

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

General Information

2. Rule catchline:
R708-39. Physical and Mental Fitness Testing

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 Section 53-3-104, which requires the Division of Driver License to make rules for examining applicants for a license, as necessary for the safety and welfare of the traveling public.

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 not been any written comments received 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:
The statute cited in the current version of this rule is not correct and will be updated from Section 53-3-206 to Section 53-3-104 in a subsequent amendment filing. This rule is required under Section 53-3-104 and is necessary to establish standards for examining applicants for a license, as necessary for the safety and welfare of the traveling public. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Christopher Caras, Director
Date: 01/14/2022

FIVE-YEAR NOTICES OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R850-90
Filing ID: 53571
Effective Date: 01/06/2022

Agency Information

1. Department: School and Institutional Trust Lands
Agency: Administration
Room no.: Suite 500
Street address: 675 E 500 S
City, state and zip: Salt Lake City, UT 84102-2818
Contact person(s):
Name: Phone: Email:
Mike Johnson 801-538-5180 mjohanson@utah.gov
Lisa Wells 801-538-5154 lisawells@utah.gov

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

General Information

2. Rule catchline:
R850-90. Land Exchange
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsections 53C-1-302(l)(a)(ii) and 53C-4-101(1) authorize the Director of the School and Institutional Trust Lands Administration (Agency) to make rules for the day-to-day administration of the agency and to specify the application and review criteria used for the exchange of trust lands.

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 by the Agency concerning this rule 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:

There continues to be a need for the Agency to consider exchanging trust lands for other lands and/or resources. Land exchanges are typically very complicated transactions that require a lot of preliminary review and evaluation. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: David Ure, Director
Date: 01/05/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R850-120
Filing ID: 52047
Effective Date: 01/10/2022

Agency Information
1. Department: School and Institutional Trust Lands
Agency: Administration
Room no.: Suite 500
Street address: 675 E 500 S
City, state and zip: Salt Lake City, UT 84102-2818

Contact person(s):
Name: Phone: Email:
Mike Johnson 801-538-5180 mjohnson@utah.gov
Lisa Wells 801-538-5154 lisawells@utah.gov

--

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsections 53C-1-302(l)(a)(ii) and 53C-4-101(1) authorize the Director of the School and Institutional Trust Lands Administration (Agency) to make rules for the day-to-day administration of the agency and to specify the application and review criteria used for the exchange of trust lands.

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 by the Agency concerning this rule 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:

This rule allows for in-kind use by the trust beneficiaries of their respective institutional trust lands administered by the Agency, for a direct economic benefit. The procedures and criteria outlined in this rule allow for the agency to respond to beneficiary requests for non-compensated use of their respective lands without having to use the same standards that apply to members of the general public or other governmental entities. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: David Ure, Director
Date: 01/05/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R914-3
Filing ID: 52106
Effective Date: 01/06/2022

Agency Information
1. Department: Transportation
Agency: Operations, Aeronautics
### Room no.: Administrative Suite, 1st Floor
**Building:** Calvin Rampton
**Street address:** 4501 S 2700 W
**City, state and zip:** Taylorsville, UT 84114-8455
**Mailing address:** PO Box 148455
**City, state and zip:** Salt Lake City, UT 84114-8455
**Contact person(s):**

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
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</thead>
<tbody>
<tr>
<td>Linda Hull</td>
<td>801-965-4253</td>
<td><a href="mailto:lhull@utah.gov">lhull@utah.gov</a></td>
</tr>
<tr>
<td>Becky Lewis</td>
<td>801-965-4026</td>
<td><a href="mailto:blewis@utah.gov">blewis@utah.gov</a></td>
</tr>
<tr>
<td>James Palmer</td>
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</tr>
<tr>
<td>Lori Edwards</td>
<td>801-965-4048</td>
<td><a href="mailto:loriedwards@agutah.gov">loriedwards@agutah.gov</a></td>
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### General Information

2. **Rule catchline:**

R914-3. Aircraft Registration Enforcement

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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 72-10-112(3)(b) authorizes the Department of Transportation (Department) to make rules establishing procedures for the enforcement of state aircraft registration laws and the administration of penalties described in the Uniform Aeronautical Regulatory Act. This rule satisfies those requirements.

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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.

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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 Uniform Aeronautical Regulatory Act is still effective. This rule establishes procedures for the enforcement of state aircraft registration laws and the administration of penalties described in the Uniform Aeronautical Regulatory Act. Therefore, this rule should be continued.

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Agency Authorization Information

| Agency head or designee, and title: | Carlos M. Braceras, PE, Executive Director | Date: | 01/06/2022 |

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End of the Five-Year Notices of Review and Statements of Continuation Section
NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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<td>Animal Industry</td>
<td>R54114</td>
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<td>Environmental Quality</td>
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Government Operations
Fleet Operations
No. 53959 (Amendment) R27-4: Vehicle Replacement and Expansion of State Fleet
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Effective: 01/03/2022

No. 53964 (Repeal) R27-9: Dispensing Compressed Natural Gas to the Public
Published: 11/15/2021
Effective: 01/03/2022

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Colorado River Authority of Utah
No. 53861 (New Rule) R354-1: General Procurement Provisions
Published: 10/01/2021
Effective: 12/28/2021

No. 53862 (New Rule) R354-2: Small and Professional Services
Published: 10/01/2021
Effective: 12/28/2021

No. 53863 (New Rule) R354-3: Bidding
Published: 10/01/2021
Effective: 12/28/2021

No. 53864 (New Rule) R354-4: Request for Proposals
Published: 10/01/2021
Effective: 12/28/2021

No. 53865 (New Rule) R354-5: Procurement Requirements
Published: 10/01/2021
Effective: 12/28/2021

No. 53866 (New Rule) R354-6: Cancellations Rejections and Debarments
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Effective: 12/28/2021

No. 53867 (New Rule) R354-7: Preferences
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Published: 10/01/2021
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No. 53869 (New Rule) R354-9: Protests
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No. 53870 (New Rule) R354-10: Procurement Appeals Panel
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Effective: 12/28/2021

No. 53871 (New Rule) R354-11: Appeals to the Court and Court Proceedings
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Effective: 12/28/2021

No. 53872 (New Rule) R354-12: General Provisions Related to Protests or Appeal
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No. 53873 (New Rule) R354-13: Records
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No. 53874 (New Rule) R354-14: Interaction with Public Sector Entities
Published: 10/01/2021
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No. 53875 (New Rule) R354-15: Prohibited Conduct and Penalties
Published: 10/01/2021
Effective: 12/28/2021

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Disease Control and Prevention, Environmental Services
No. 54030 (Amendment) R392-102: Food Truck Sanitation
Published: 11/01/2021
Effective: 01/03/2022

No. 54013 (Repeal and Reenact) R392-104: Feeding Disadvantaged Groups
Published: 11/01/2021
Effective: 01/03/2022

No. 54031 (Repeal and Reenact) R392-303: Public Geothermal Pools and Bathing Places
Published: 11/01/2021
Effective: 01/03/2022

Health Care Financing, Coverage and Reimbursement Policy
No. 54080 (Repeal and Reenact) R414-516: Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program
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No. 54079 (New Rule) R414-523: Extraordinary Care Definition for Spousal Caregiver Compensation
Published: 11/15/2021
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No. 54119 (Amendment) R765-611: Veterans Tuition Gap Program
Published: 12/01/2021
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No. 54120 (Amendment) R765-800: Free Expression on Campus  
Published: 12/01/2021  
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No. 54121 (Amendment) R765-801: Student Due Process  
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No. 54122 (Amendment) R765-802: Weapons on Campus  
Published: 12/01/2021  
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No. 54094 (Amendment) R495-883: Children in Care Support Services  
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No. 54103 (Amendment) R495-884: Kinship Locate  
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Administration, Administrative Services, Licensing  
No. 54007 (Repeal and Reenact) R501-1: General Provisions for Licensing  
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No. 54009 (Repeal and Reenact) R501-15: Therapeutic Schools  
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Effective: 01/06/2022

No. 54010 (Repeal and Reenact) R501-19: Residential Treatment Programs  
Published: 11/01/2021  
Effective: 01/06/2022

No. 54011 (Repeal and Reenact) R501-22: Residential Support Programs  
Published: 11/01/2021  
Effective: 01/06/2022

Recovery Services  
No. 54113 (Amendment) R527-36: Collection of Child Support After a Termination of Parental Rights or Adoption  
Published: 12/01/2021  
Effective: 01/10/2022

No. 54109 (Amendment) R527-38: Unenforceable Cases  
Published: 12/01/2021  
Effective: 01/10/2022

No. 54169 (Amendment) R527-40: Retained Support  
Published: 12/15/2021  
Effective: 01/24/2022

No. 54102 (Amendment) R527-275: Passport Release  
Published: 12/01/2021  
Effective: 01/10/2022

No. 54111 (Amendment) R527-300: Income Withholding  
Published: 12/15/2021  
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No. 54167 (Amendment) R527-301: Non-IV-D Income Withholding  
Published: 12/15/2021  
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No. 54108 (Amendment) R527-330: Posting Priority of Payments Received  
Published: 12/01/2021  
Effective: 01/11/2022

No. 54104 (Amendment) R527-332: Unreimbursed Assistance Calculation  
Published: 12/01/2021  
Effective: 01/10/2022

No. 54110 (Amendment) R527-394: Posting Bond or Security  
Published: 12/01/2021  
Effective: 01/10/2022

No. 54170 (Amendment) R527-430: Administrative Notice of Lien-Levy Procedures  
Published: 12/15/2021  
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No. 54171 (Amendment) R527-450: Federal Tax Refund Intercept  
Published: 12/15/2021  
Effective: 01/24/2022

No. 54106 (Amendment) R527-601: Establishing or Modifying an Administrative Award for Child Support  
Published: 12/01/2021  
Effective: 01/10/2022

No. 54168 (Amendment) R527-920: Mandatory Disbursement to Obligee Through Electronic Funds Transfer  
Published: 12/15/2021  
Effective: 01/24/2022
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Published: 12/01/2021
Effective: 01/10/2022

No. 54097 (Amendment) R590-147: Annual and Quarterly Statement Filing Instructions
Published: 12/01/2021
Effective: 01/10/2022

No. 54098 (Amendment) R590-149: Americans with Disabilities Act Grievance Procedures
Published: 12/01/2021
Effective: 01/10/2022

No. 54099 (Amendment) R590-150: Commissioner’s Acceptance of Examination Reports
Published: 12/01/2021
Effective: 01/10/2022

No. 54100 (Amendment) R590-154: Unfair Marketing Practices Rule; Misleading Names
Published: 12/01/2021
Effective: 01/10/2022

No. 54101 (Amendment) R592-14: Unfair or Deceptive Acts or Practices Affecting Title to Real Property
Published: 12/01/2021
Effective: 01/10/2022

Industrial Accidents
No. 54141 (Amendment) R612-400-5: Premium Rates for the Uninsured Employers’ Fund and the Employers’ Reinsurance Fund
Published: 12/15/2021
Effective: 01/24/2022

Natural Resources Administration
No. 54116 (Amendment) R634-3-3: Sage Grouse Definition Amendment
Published: 12/01/2021
Effective: 01/10/2022

Public Service Commission Administration
No. 54064 (Amendment) R746-8: Utah Universal Public Telecommunications Service Support Fund (UUSF)
Published: 11/15/2021
Effective: 01/01/2022

Tax Commission Administration
Published: 12/01/2021
Effective: 01/13/2022

Transportation Motor Carrier
No. 54056 (Amendment) R909-1: Safety Regulations for Motor Carriers
Published: 11/15/2021
Effective: 01/05/2022

End of the Notices of Rule Effective Dates Section