

UTAH STATE BULLETIN

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

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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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 August 02, 2023, 12:00 a.m., and August 15, 2023, 11:59 p.m. are included in this, the September 01, 2023, issue of the *Utah State Bulletin*.

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

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 Rules being repealed are completely struck out.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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least October 02, 2023. 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 January 02, 2024, 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 FILING: Amendment		
Rule or Section Number:	R35-1	Filing ID: 55612

Agency Information

1. Department:	Government Operations	
Agency:	Records Committee	
Street address:	346 S Rio Grande St	
City, state and zip:	Salt Lake City, UT 84101	
Contact persons:		
Name:	Phone:	Email:
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R35-1. State Records Committee Appeal Hearing Procedures
3. Purpose of the new rule or reason for the change:
S.B. 231 from the 2023 General Session added Section 63G-2-209. This new section created an additional mandate for the State Records Committee.
The bill also required rules to be created for these new hearings, what is generally referred to as "vexatious requester hearings". These changes are in anticipation of those hearings, along with some grammatical updates to be compliant with the Rulewriting Manual for Utah.
4. Summary of the new rule or change:
The catchline for Rule R35-1 is changed for both appeal and vexatious hearings.
A specific change is that all parties at a hearing are sworn in, and the time to present at the hearing is set.
What happens when the Records Committee (Committee) votes in a tie is explained.
The Committee may vote to compel a third-party to attend a hearing.
Various types of motions and orders the Committee may issue are added.
Two new sections are added: R35-1-3, Burden of Proof, and R35-1-4, Vexatious Requester Hearing Procedures. This requires the rest of the sections in Rule R35-1 to be renumbered.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no substantive changes being made regarding the fiscal impact of this rule.
The changes in this rule are created to come into compliance with Section 63G-2-209.
All other changes are to clarify current practice.
B) Local governments:
There are no substantive changes being made regarding the fiscal impact of this rule.
The changes in this rule are created to come into compliance with Section 63G-2-209.
All other changes are to clarify current practice.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are no substantive changes being made regarding the fiscal impact of this rule.
The changes in this rule are created to come into compliance with Section 63G-2-209.
All other changes are to clarify current practice.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no substantive changes being made regarding the fiscal impact of this rule.
The changes in this rule are created to come into compliance with Section 63G-2-209.
All other changes are to clarify 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):
There are no substantive changes being made regarding the fiscal impact of this rule.
The changes in this rule are created to come into compliance with Section 63G-2-209.
All other changes are to clarify current practice.
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 substantive changes being made regarding the fiscal impact of this rule.

The changes in this rule are created to come into compliance with Section 63G-2-209.

All other changes are to clarify current practice.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 63G-2-209(12)		
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director and State Archivist	Date:	05/08/2023
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R35. Government Operations, Records Committee.

R35-1. State Records Committee ~~[Appeal]~~ Hearing Procedures.

R35-1-1. Scheduling Committee Meetings.

(1) The Executive Secretary shall respond in writing to the notice of appeal within seven business days.

(2) Two weeks ~~[prior to]~~ before the Committee meeting or appeal hearing, the Executive Secretary shall post a notice of the meeting on the Utah Public Notice Website.

(3) The Executive Secretary sets the agenda for the meeting. If the Committee Chair determines necessary, the Executive Secretary may postpone appeals to the next available meeting.

~~[(3) One week prior to the Committee meeting or appeal hearing, the Executive Secretary shall post a notice of the meeting, indicating the agenda, date, time, and place of the meeting at the building where the meeting is to be held and at the Utah State Archives.]~~

R35-1-2. Procedures for Appeal Hearings.

(1) The meeting shall be called to order by the Committee Chair.

(2) The Committee Chair shall swear in the parties.

(3) The petitioner and respondent are allowed up to 15 minutes to present their case. Either party may request more time from the Chair at the hearing.

(a) The petitioner's and governmental entity's cases may consist of testimony, argument, relevant evidence, and any relevant witnesses.

~~[(2) Testimony shall be presented by the petitioner and the governmental entity. Presentations shall be limited to records access issues and alleged unreasonable denials of requests for fee waivers. Each party shall be allowed twenty minutes to present testimony and evidence, to call witnesses, and to respond to questions from Committee members.]~~

(b) ~~[(3)]~~ Witnesses providing testimony shall be sworn in by the Committee Chair.

(c)(4) Questioning of the witnesses and parties by Committee members is permitted.

(4)(a)(5) If the appeal involves proper classification of a record, the [The] governmental entity must bring the disputed records to the hearing to allow the Committee to view records in camera if it deems an in camera inspection necessary pursuant to Subsection 63G-2-403(9).

(b)(a) ~~If the records withheld are voluminous or the governmental entity contends they have not been identified with reasonable specificity, the governmental entity shall notify the Committee via the Executive Secretary [and the adverse party] at least seven[two] days before the hearing and obtain approval from the Committee Chair to bring a representative sample of the potentially responsive records to the hearing, if it is possible to do so.~~

(c)(b) ~~Records provided by the governmental entity for in camera review by the Committee remain in the custody of the governmental entity. Records for in camera review are retained by the Committee for only the period of in camera review and [all records] are returned to the governmental entity or destroyed, provided they are not the record copy, at the conclusion of the in camera review.~~

(5)(6) Third party presentations may be permitted. No later than three days before [Prior to] the hearing, the third party shall notify the Executive Secretary of their intent to present. Third party presentations are [shall be] limited to three[five] minutes, and will [must] be presented [prior to] before closing arguments.

(6)(7) Closing arguments may be presented by the petitioner and the governmental entity. Each party shall be allowed up to five minutes to present a closing argument and make rebuttal statements.

(7)(a)(8) After the conclusion of the closing arguments [presentation of the evidence], the Committee shall [commence] start deliberations. A Committee Member shall make a motion described in the list under Subsection R35-1-5(1). [to grant or to deny the petitioner's request in whole or in part. Following discussion of the motion, the Committee Chair shall call for the question. The motion shall serve as the basis for the Committee Decision and Order.] The Committee shall vote and make public the decision of the Committee during the hearing.

(b) In the event of a tie vote, the Committee Chair shall ask if the Committee wishes to continue deliberation. If so, deliberation continues and another motion may be made. If a tie vote occurs a second time, the Chair shall withdraw their vote to break the tie.

(8)(9) At any time, the [The] Committee may adjourn, reschedule, continue, or reopen a hearing on the motion of a member.

(9)(10) Except as expressly authorized by law, there shall be no communication between the parties and the members of the Committee concerning the subject matter of the appeal before the hearing or [prior to] before the issuance of an [final Decision And] Order. Any other oral or written communication from the parties to the members of the Committee, or from the members of the Committee to the parties, shall be directed to the Executive Secretary for transmittal.

(10)(11) The following provisions govern any meeting at which one or more members of the Committee or a party appears telephonically or electronically, pursuant to Section 52-4-207.

(a) The anchor location is the physical location from which the electronic meeting originates as indicated on the public notice. [or from which the participants are connected. The anchor location, unless otherwise designated in the notice, shall be at the offices of the Division of State Archives, Salt Lake City, Utah.]

(b) Public notices of the meeting shall show if [4] one or more Committee members or parties may be participating electronically or telephonically [public notices of the meeting shall so indicate]. In addition, the notice shall specify the anchor location where the members of the Committee not participating electronically or telephonically will be meeting and where interested persons and the public may attend and monitor the open portions of the meeting.

(c) When notice is given of the possibility of a member of the Committee appearing electronically or telephonically, any member of the Committee may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Committee. At the commencement of the meeting, or at such time as any member of the Committee initially appears electronically or telephonically, the Committee Chair shall identify for the record each of those who are appearing telephonically or electronically. [Votes by members of the Committee who are not at the physical location of the meeting shall be confirmed by the Committee Chair.] When conducting a meeting with any Board members participating telephonically or electronically, the Committee Chair will take votes by roll call.

(11)(12)(a) Pursuant to Subsection 63G-2-401(5)(c) a petitioner may request a postponement of a hearing, with the consensus of the governmental entity. If the petitioner wishes to postpone the hearing or withdraw the appeal, the petitioner shall notify the Committee via the Executive Secretary and the governmental entity in writing no later than five days [prior to] before the scheduled hearing date.

(b) The Committee Chair has the discretion to grant or deny a petitioner's request to postpone a hearing based upon: (i) the reasons given by the petitioner in [his or her] the request, (ii) the timeliness of the request, (iii) whether petitioner has previously requested and received a postponement, (iv) any other factor determined to protect the equitable interests of the parties. If the request is granted, the Chair shall instruct the Executive Secretary to schedule the appeal for the next available hearing date pursuant to Subsection 63G-2-403(4)(a).

(c) The Chair will ordinarily deny a governmental entity's request to postpone the hearing, unless the governmental entity has obtained the petitioner's prior consent to reschedule the hearing date.

(12) If the Committee determines at any time before, or during a hearing, that a necessary third party must either be added as a party to the appeal or otherwise be present or testify, the Committee may vote to continue the hearing to a later date, if necessary, and compel the third party's attendance by way of a subpoena.

(13) Nothing in this section precludes the Committee Chair from taking appropriate measures necessary to maintain the order and integrity of the hearing.

R35-1-3. Burden of Proof.

(1) In cases where the appeal concerns whether the governmental entity possesses or maintains the requested records, the governmental entity must show by a preponderance of the evidence that its search for the requested records was reasonable.

(a) Upon the governmental entity establishing by a preponderance of the evidence that its search was reasonable, the burden of proof shifts to the petitioner who must show by a preponderance of the evidence that the search effort lacked good faith.

(2) In hearings concerning whether a person is a vexatious requester, the Committee shall examine the totality of the circumstances in determining that the person is a vexatious requester as outlined in Subsection 63G-2-209(9).

R35-1-4. Vexatious Requester Hearing Procedures.

(1) When hearing a petition to declare a person a vexatious requester, the Committee shall hold the hearing in accordance with Section R35-1-2.

(2) If at any time the Committee determines that the matter being heard involves issues outlined in Subsection 52-4-205(1), then the Committee may move to close the hearing to the public.

R35-1-5[3]. Issuing the Committee Decision and Order.

(1) The Committee may issue the following Orders:

(a) grant the petitioner's appeal in whole or in part;

(b) deny the petitioner's appeal in whole or in part;

(c) continue the hearing to a later date;

(d) deny or allow a vexatious requester hearing;

(e) declare a person a vexatious requester;

(f) require a governmental entity to make redactions in the record, unredact information, or take other action necessary to effectuate the Decision and Order.

(2) The Committee may collaboratively draft its Order privately after the hearing.

(a) In its collaborative private drafting, the Committee may refine its reasoning to include legal authority, analysis, relevant facts, and other considerations not actually voiced in public deliberation.

([1]3) The Decision and Order must[shall] be signed by the Committee Chair and distributed by the Executive Secretary within seven business days after the hearing. Copies of each Decision and Order shall be distributed to the petitioner, the governmental entity and other interested parties. The original [e]Order shall be maintained by the Executive Secretary. A copy of the Decision and [e]Order shall be made available for public access at the Utah State Archives website.

(4) Before either party appeals an Order pursuant to Section 63G-2-404, the Committee may withdraw its Order by delivering notice to the parties of the withdrawal. Upon the withdrawal, the Executive Secretary shall add the withdrawn Order to the agenda of the next regularly scheduled public Committee meeting.

R35-1-6[4]. Committee Minutes.

(1) Purpose. Section 52-4-203 requires any public body to establish and implement procedures for the public body's approval of the written minutes of each meeting. This rule establishes procedures for the State Records Committee to approve the written minutes of each meeting.

(2) Authority. This rule is enacted under the authority of Sections 52-4-203, 63G-3-201, and 63A-12 Division of Archives and Records Service.

(3) Meetings of the Committee shall be recorded. The recording of the open meeting shall be made available to the public within three business days. Access to the audio recordings shall be provided by the Executive Secretary on the Utah Public Notice Website.

(4)(a) Approved written minutes shall be the official record of the meetings and appeal hearings and shall be maintained by the Executive Secretary.

(b)[(e)] Written minutes shall be read by members before[prior to] the next scheduled meeting, including electronic meetings.

(c)[(b)] Written minutes from meetings shall be made available no later than one week before[prior to] the date of the next regularly scheduled Committee meeting.

(d)[(e)] When minutes are complete but awaiting official approval, they are a public record and must be marked as "Draft."

(e)[(d)] At the next meeting, at the direction of the Committee Chair, minutes shall be amended ~~[and]~~ or approved with individual votes recorded in the minutes. The minutes shall be then marked as "Approved."

(f)[(e)] When the minutes are "Approved" they will be [se] noted in the printed and online versions. A copy of the approved minutes shall be made available for public access on the Utah Public Notice Website.

KEY: government documents, state records committee, records appeal hearings, vexatious requester hearings

Date of Last Change: [September 8, 2021]2023

Notice of Continuation: June 3, 2019

Authorizing, and Implemented or Interpreted Law: 63G-2-401(5)(c); 63G-2-403(9); 63G-2-403(4)(a); 63G-2-201; 63A-12-101; 52-4-203

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R68-25	Filing ID: 55653
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Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information**2. Rule or section catchline:**

R68-25. Industrial Hemp Program - Cannabinoid Product Processors

3. Purpose of the new rule or reason for the change:
Changes are needed to clarify the allowances of a Tier Four processing licensee to ensure product safety.
4. Summary of the new rule or change:
Rule R68-25 is updated to clarify that a Tier Four licensee may only sell finished product to a retailer.

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 Department of Agriculture and Food (Department). The changes make this rule consistent with current Department practice and are clarifying only.
B) Local governments:
Local governments are not licensed under the industrial hemp program and will not be impacted by the changes.
C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses should not be impacted by this change because the changes are clarifying licensing requirements and the costs to participate in the program should not change.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses should not be impacted by this change because the changes are clarifying licensing requirements and the costs to participate in the program should not change.
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):
Other persons should not be impacted by this change because the changes are clarifying licensing requirements and the costs to participate in the program should not change.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Compliance costs should not change. Fees charged by the Department and compliance requirements will not be impacted.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there

are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Utah Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 4-41-103(4)

Public Notice Information

8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Butters, Commissioner	Date:	08/14/2023
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R68. Agriculture and Food, Plant Industry.

R68-25. Industrial Hemp Program - Cannabinoid Product Processors.

R68-25-1. Authority and Purpose.

Pursuant to Subsection 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Program for the processing and handling of cannabinoid products.

R68-25-2. Definitions.

(1)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(2) "Bulk cannabinoid Product" means cannabinoid product that has been prepped and is ready for final packaging.

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

(4) "Cannabinoid" means any:

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

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

(5) "Cannabinoid concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(6) "Cannabinoid product" means a product that:

(a) contains one or more cannabinoids;

(b) contains less than the cannabinoid product THC level by dry weight; ~~and~~

(c) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content; and

(d) does not exceed a total of THC and any THC analog that is greater than:

(i) 5 milligrams per serving; and

(ii) 150 milligrams per package.

(7) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

(8) "Community location" " means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(9) "Department" means the Utah Department of Agriculture and Food.

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

(11) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(12) "Industrial hemp material" means raw concentrate, raw plant material, or materials made from raw plant material or raw concentrates that are not in a final packaged form.

(13) "Key participant" means any of the following:

(a) a licensee;

(b) an operations manager;

(c) a site manager; or

(d) an employee who has access to any industrial hemp material with a THC concentration above 0.3%.

(14) "Handle" or "Handling" means possessing, transporting, or storing industrial hemp for any period.

(15) "Processing" means any action taken to prepare industrial hemp, or material derived from industrial hemp, for market.

(16) "Processor" means a person licensed by the department to process industrial hemp or a material derived from industrial hemp.

(17) "Manufacturing" means storing, preparing, packaging, or labeling of industrial hemp, industrial hemp material, or cannabinoid products.

(18) "Non-compliant material" means:

(a) a hemp plant or plant material that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

(19) "Raw plant material" or "Raw concentrate" means industrial hemp plant material or concentrate that is not in final product form.

(20) "Tetrahydrocannabinol" or "THC" means delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS #1972-08-3.

(21) "Third-party laboratory" means a laboratory that has no direct interest in a grower or processor of industrial hemp or cannabinoid products that is capable of performing mandated testing utilizing validated methods.

R68-25-3. Cannabinoid Product Processor Licenses.

(1) The department shall issue the following cannabinoid product processor licenses:

(a) a Tier One license, which allows a licensee to receive, store, extract, transport, and sell industrial hemp material and manufacture finished cannabinoid product;

(b) a Tier Two license, which allows a licensee to receive raw plant material and extract it into raw concentrate to store, sell, or transport;

(c) a Tier Three license, which allows a licensee to receive bulk cannabinoid product and store, package, and label finished cannabinoid product; and

(d) a Tier Four license, which allows a licensee to receive, store, transport, or sell raw concentrate [~~under 0.3% THC concentration, industrial hemp~~], raw plant material, or sell finished cannabinoid product [~~to act as a broker, distributor, or wholesaler~~] to a retailer, and perform minimal processing for storage only.

(2) A Tier One processor may accept raw concentrate with greater than 0.3% THC concentration from another Tier One processor or a Tier Two processor.

R68-25-4. Application Requirements.

(1) The applicant shall be a minimum of 18 years old.

(2) The applicant is not eligible to receive a license if they have been convicted of a drug-related felony or its equivalent.

(3) An applicant seeking an industrial hemp processing license shall submit the following to the department:

(a) a complete application form provided by the department;

(b) a physical description of the processing facility;

(c) a plan review of the building, facilities, and equipment;

(d) a street address for each building or site where industrial hemp or cannabinoid products will be processed, handled, or stored;

(e) the planned source of industrial hemp material; and

(f) a statement of the intended end use or disposal for each part of the industrial hemp plant and hemp material.

(4) An applicant and any key participants shall submit a nationwide criminal history from the FBI completed within three months of their application.

(5) The applicant shall submit a fee as approved by the Legislature in the fee schedule.

(6) The department shall deny any applicant who does not submit the required information.

(7) Each applicant for a Tier one, Tier Two, or Tier Three license shall be required to register as a food establishment under Section 4-5-301 pursuant to the requirements of Section R68-25-7.

R68-25-5. Processing Facility Restrictions.

(1) A licensee shall not process or store raw plant material or raw concentrate from industrial hemp in any structure that is used for residential purposes.

(2) A licensee shall not process or store industrial hemp within 1,000 feet of a community location.

(3) A licensee shall not process or handle industrial hemp or hemp material from any person who is not licensed by the department or the United States Department of Agriculture (USDA) or from a person outside the state who is not authorized by the laws of that state.

(4) A licensee shall not permit a person under the age of 18 to access industrial hemp or cannabinoid products.

(5) A licensee shall submit a nationwide criminal history from the FBI to the department for each employee with access to material which contains, or may contain, over 0.3% THC within the first month of employment.

(6) The licensee shall notify the department if a key participant separates from the licensee within two weeks following the separation.

R68-25-6. Extraction Methods.

(1) In addition to the requirements of Section R68-25-4, an applicant seeking to engage in the extraction of cannabinoid concentrate from industrial hemp shall submit to the department a detailed description of the proposed extraction method.

(2) The applicant shall describe the proposed process for the removal of any solvents added during the extraction process, if applicable.

(3) The applicant shall describe the safety measures proposed to protect the public and employees from dangers associated with extraction methods.

(4) The department may deny a license for methods that pose a significant risk to public health and safety.

(5) Each licensee shall adhere to the following extraction guidelines:

(a) ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity;

(b) use a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present;

(c) ensure that any carbon dioxide (CO₂) gas extraction system uses a professional grade closed loop CO₂ gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO₂ shall be at least 99% purity;

(d) ensure that closed loop hydrocarbon, alcohol, or CO₂ extraction systems are commercially manufactured and bear a permanently affixed and visible serial number; and

(e) upon request, provide the department with documentation showing that the system is:

(i) safe for its intended use; and

(ii) commercially manufactured.

(6) The applicant shall state whether they will be using derivative or synthetic cannabinoids and how they will produce or procure them.

R68-25-7. Processing Practices.

(1) The department incorporates by reference 21 CFR 111, 2007 version, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements for a licensee engaged in processing a cannabinoid product intended for human consumption.

(2) The department incorporates by reference 21 CFR 507, 2015 version, Current Good Manufacturing Practice, Hazard analysis, and Risk-Based Preventive Controls for Food for Animals for a licensee engaged in processing cannabinoid products for animal consumption.

(3) A licensee that manufactures cannabinoid products for human consumption shall be registered with the Division of Regulatory Services within the department.

(4) A licensee shall use a standardized scale that is registered with the department when industrial hemp or cannabinoid products are:

(a) packaged for sale by weight; or

(b) bought and sold by weight.

(5) A licensee that also is a holder of a medical cannabis processing license shall adhere to the separation requirements of Section R68-28-5 to ensure physical separation of medical cannabis and industrial hemp in their facility.

(6) A licensee that manufactures cannabinoid products shall ensure that the facility meets basic cleanliness standards, including:

- (a) buildings are of suitable size, design, and construction to permit unobstructed placement of equipment, orderly storage of materials, sanitary operation, and proper cleaning and maintenance;
- (b) floors, walls, and ceilings are constructed of smooth, easily cleanable surfaces and are kept clean and in good repair;
- (c) fixtures, ducts, and pipes are installed in such a manner that drip or condensate does not contaminate materials, utensils, contact surfaces of equipment, or finished products in bulk;
- (d) lighting and ventilation are sufficient for the intended operation and comfort of personnel;
- (e) water supply, washing and toilet facilities, floor drainage, and sewage system are adequate for sanitary operation and cleaning of facilities, equipment, and utensils, as well as to satisfy employee needs and facilitate personal cleanliness; and
- (f) adequate filth and pest controls are in place.

R68-25-8. Required Reports.

- (1) A licensee shall submit a completed Production Report on a form provided by the department by December 31st.
- (2) The failure to submit a timely completed form may result in the denial of a renewal license.

R68-25-9. Additional Records.

- (1) The licensee shall keep records of receipt for any industrial hemp material obtained including:
 - (a) the date of receipt;
 - (b) quantity received;
 - (c) an identifying lot number created by the licensee; and
 - (d) the seller's information including:
 - (i) the seller's department license number;
 - (ii) seller's contact information; and
 - (iii) the address of the facility or growing area from which the industrial hemp material was shipped.
- (2) The licensee shall keep records that include the following information for each batch of industrial hemp material processed:
 - (a) the date of processing;
 - (b) the lot number of the material;
 - (c) the amount processed;
 - (d) the type of processing; and
 - (e) any lab test conducted on the industrial hemp material or product during the processing.
- (3) The licensee shall keep records of any derivative or synthetic cannabinoids procured or produced and the products they are used for.
- (4) The licensee shall keep records of any tests conducted with the identifying lot number.
- (5) A licensee processing a cannabinoid product for human consumption shall keep records required by 21 CFR 111 including:
 - (a) written procedures for preventing microbial contamination;
 - (b) documentation of training of employees;
 - (c) cleaning logs of equipment;
 - (d) procedures for cleaning the physical facility;
 - (e) documentation of your qualification of supplier; and
 - (f) documentation of calibration of machinery.
- (6) A licensee processing a cannabinoid product for animals shall keep records as required by 21 CFR 507 including:

- (a) written procedures for preventing microbial contamination;
- (b) documentation of training of employees;
- (c) cleaning logs of equipment;
- (d) procedures for cleaning the physical facility; and
- (e) documentation of calibration of machinery.
- (7) The licensee shall keep records of any products they have manufactured and the disposition of any cannabinoid material that leaves the facility.
- (8) Records shall be maintained for a minimum of three years.
- (9) Records are subject to review by department officials at the time of inspection or upon request.

R68-25-10. Testing.

- (1) Cannabinoid products shall be tested for the following before being made available for retail sale:
 - (a) cannabinoid profile;
 - (b) solvents;
 - (c) pesticides;
 - (d) microbials;
 - (e) heavy metals; and
 - (f) foreign matter.
- (2) The testing shall be completed by a third-party laboratory.
- (3) The department shall conduct random testing of cannabinoid products and materials.
- (4) The sample taken by the department shall be the official sample.

R68-25-11. Inspections and Sampling.

- (1) The department shall have complete and unrestricted access to industrial hemp plants, seeds, and materials and any land, buildings, and other structures used to process industrial hemp.
- (2) Samples of industrial hemp or cannabinoid product may be randomly taken from the facility by department officials.
- (3) The department may review records kept in accordance with rule requirements.
- (4) The department shall notify a licensee of test results greater than 0.3% THC.
- (5) Any laboratory test with a result greater than 0.3% THC may be considered a violation of the terms of the license and may result in an immediate license revocation.
- (6) Any laboratory test of a final product with a result of 1% THC or greater shall be turned over to the appropriate law enforcement agency and revocation of the processor license shall be immediate.
- (7) The department shall notify the licensee of any solvents, metals, microbials, pesticides, or foreign matter found during testing.
- (8) The presence of deleterious or harmful substances may be considered a violation of the terms of the license and may result in a license revocation.

R68-25-12. Storage of Industrial Hemp Material and Cannabinoid Products.

- (1) A licensee may store industrial hemp material and cannabinoid products at their licensed facility provided:
 - (a) the licensee informs the department of the type and amount of the product being stored in the storage facility;
 - (b) the storage facility is outside of the public view; and

(c) the storage facility is secured with physical containment such as walls, fences, locks, and with an alarm system to provide maximum reasonable security.

(2) A Tier One or Tier Two licensee may store a raw concentrate that exceeds 0.3% THC provided:

(a) the concentrate is kept in a secure room;

(b) the concentrate is kept separate from other hemp and cannabinoid products;

(c) access to the concentrate is limited; and

(d) a record is kept of the amount of concentrate being stored and when it is being moved.

(3) Storage facilities shall be maintained in accordance with the practice adopted in Section R68-25-7.

(4) Storage facilities and records are subject to random inspection by department officials.

R68-25-13. Transportation of Industrial Hemp Material.

(1) Each movement of industrial hemp material shall include a transport manifest that includes the following information:

(a) a copy of the COA for each batch included in the shipment;

(b) the location of the sending and receiving parties;

(c) proof of registration or licensure for the sending and receiving parties; and

(d) a bill of lading for the transported material.

R68-25-14. Restriction on the Sale and Transfer of Industrial Hemp Material.

(1) A licensee shall not sell or transfer living plants, viable plants, viable seed, industrial hemp material to any person not licensed by the department or the USDA.

(2) A licensee may sell stripped stalks, fiber, and nonviable seed to the general public provided the material's THC level is less than 0.3%.

R68-25-15. Renewal.

(1) A licensee shall resubmit the documents required in Section R68-25-4, with updated information, before December 31st of the current year.

(2) The department may deny a renewal for an incomplete application.

(3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

R68-25-16. Violation.

(1) It is a violation to process industrial hemp or industrial hemp material on a site not approved by the department.

(2) It is a violation to process industrial hemp or industrial hemp material on a site within 1,000 feet of a community location.

(3) It is a violation to process industrial hemp or industrial hemp material from a source that is not approved by the department.

(4) A licensee shall not allow unsupervised public access to hemp processing facilities.

(5) It is a violation to employ a person under the age of 18 in the processing or handling of industrial hemp or cannabinoid products.

(6) It is a violation to sell a cannabinoid product to the general public or another licensee in violation of this section or state laws governing the final product.

(7) It is a violation to process raw concentrate without the appropriate industrial hemp processor license.

(8) It is a violation to fail to keep records required by this rule or to fail to adhere to the notification requirements of this rule.

(9) It is a violation to use artificially derived cannabinoids in cannabinoid products without notifying the department.

(10) It is a violation for a licensee to allow an employee that has been convicted of a drug-related felony or its equivalent access to industrial hemp material or cannabinoid product that contains over 0.3% THC or has the potential to contain over 0.3% THC.

(11) It is a violation to have cannabinoid concentrate without a cannabinoid product processing license.

(12) It is a violation to store cannabinoid concentrate with greater than 0.3% THC concentration without following the requirements of Subsection R68-25-12(2).

(13) It is a violation to store industrial hemp material without a processor license from the department or a cultivator license from the USDA.

(14) It is a violation to have non-compliant material.

(15) It is a violation for a licensee to engage in practices outside of the scope of their license.

(16) It is a violation to use an extraction method that is not authorized by Section R68-25-6.

(17) It is a violation to employ a key participant without a background check for longer than 30 days.

(18) It is a violation to operate a facility that does not meet current Good Manufacturing Practice requirements.

(19) For holders of industrial hemp and medical cannabis processing licenses, it is a violation to operate a facility that does not adhere to the separation requirements of Section R68-28-5.

(20) It is a violation to sell a cannabinoid product that has not been tested as required by Section R68-25-10.

(21) It is a violation to deny the department the ability to take a sample of a cannabinoid product during an inspection or as part of an investigation.

(22) It is a violation to deny the department access to a cannabinoid product processing facility or cannabinoid product processing facility records during regular business hours.

KEY: cannabidiol, hemp products, hemp extraction, hemp oil

Date of Last Change: ~~July 31, 2023~~ 2023

Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R68-26	Filing ID: 55652
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Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB, South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R68-26. Cannabinoid Product Registration and Labeling
3. Purpose of the new rule or reason for the change:
Clarity is needed in labeling requirements for registered cannabinoid products due to feedback the Department of Agriculture and Food (Department) has received from licensees regarding difficulty of including all cannabinoids on the label and questions regarding the need for this information.
4. Summary of the new rule or change:
The changes add clarifying text to Section R68-26-5, requiring that products must only be labeled with the amounts of any advertised and primary cannabinoids and THC or THC analogs identified in the Certificate of Analysis.
A definition is also added to Section R68-26-2 for the term "primary cannabinoid", which is defined as the top three cannabinoids present in a product if the percentage of that cannabinoid is 0.5% or higher.

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 Department. This change clarifies labeling requirements but does not add any additional cost to the department to review labels or change the fee revenue that comes into the department.
B) Local governments:
This rule changes does not impact local governments because they are not licensed under the industrial hemp program or administer the program.

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

This rule change will not impact small businesses. The labeling changes are very small and will not lead to more expense. Label requirements should be less stringent overall.

The Department also allows flexibility to let licensees use existing labels if necessary.

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

This rule change will not impact non small businesses. The labeling changes are very small and will not lead to more expense.

Label requirements should be less stringent overall.

The Department also allows flexibility to let licensees use existing labels if necessary.

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

This rule change will not impact other persons. The labeling changes are very small and will not lead to more expense. Label requirements should be less stringent overall.

The Department also allows flexibility to let licensees use existing labels if necessary.

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

Compliance costs for affected persons will not change. Requirements for product labels will be less stringent and changes required will be small overall.

Fees charged by the Department will not change.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Utah Department of Agriculture and Food, Craig W Butters, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 4-41-103(4)	Subsection 4-41-403(1)	

Public Notice Information

8. 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:	10/02/2023
9. This rule change MAY become effective on:	
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Butters, Commissioner	Date:	08/14/2023
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R68. Agriculture and Food, Plant Industry.

R68-26. Cannabinoid Product Registration and Labeling.

R68-26-1. Authority and Purpose.

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

R68-26-2. Definitions.

(1) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(6).

(2) "Cannabinoid product class" means group of cannabinoid products:

- (a) that have all ingredients in common; and
- (b) are produced by or for the same company.

(3) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

(4) "CBD" or "Cannabidiol" means the cannabinoid identified as CAS# 13956-29-1.

(5) "Certificate of Analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.

(6) "Conventional Food" means:

(a) an article used for food or drink for human consumption or the components of the article; or

(b) chewing gum or chewing gum components.

(7) "Department" means the Utah Department of Agriculture and Food.

(8) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(9) "Label" means the display of each written, printed, or graphic matter upon the immediate container or statement accompanying a cannabinoid product.

(10) "Non-compliant material" means:

(a) a hemp plant that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

(11) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.

(12) "Primary cannabinoid" means the three cannabinoids contained in the greatest quantity in the product that are each present above 0.5%.

(1[2]3) "Registrant" means a person who manufactures, packages, or distributes cannabinoid product and assumes responsibility for the compliance of the product registration.

(1[3]4) "THC" or "Tetrahydrocannabinol" means delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS # 1972-08-3.

(1[4]5)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(iv) cannabidivanol (CBDV), the cannabinoid identified as CAS# 24274-48-4; cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

(1)[5]6 "Third-party laboratory" means a laboratory with no direct interest in a grower or processor of industrial hemp or cannabinoid products that is capable of performing mandated testing utilizing validated methods.

R68-26-3. Product Registration.

(1) Each cannabinoid product distributed or available for distribution in Utah shall be officially registered annually with the department.

(2) Application for registration shall be made to the department on a form provided by the department including the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

(b) the name of the product;

(c) the type and use of the product;

(d) a complete copy of the label as it will appear on the product in a legible format; and

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

(3) The application shall include a certificate of analysis from a third-party laboratory for the product in compliance with Section R68-26-4. The certificate of analysis shall show the cannabinoid profile of the product by percentage of mass.

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

(5) The department may deny registration for an incomplete application.

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

(a) any change in the cannabinoid product ingredients;

(b) any change to the directions for use; and

(c) any change of name for the product.

(7) Other changes may not require a new registration but the registrant shall submit copies of each label change to the department as soon as they are effective.

(8) The registrant is responsible for the accuracy and completeness of information submitted.

(9) A registration is good for one calendar year from the date of registration and shall be renewed through payment of an annual renewal fee before expiration.

(10) A cannabinoid product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

(11) A late fee shall be assessed for a renewal of a cannabinoid product registration submitted after the day of expiration and shall be paid before the registration renewal is issued.

(12) The department may not register a cannabinoid product if the product:

(a) uses the cannabinoid as a food additive; or

(b) is represented for use as a conventional food, with the exception of:

(i) a gummy if the gummy is shaped as a gelatinous cube or gelatinous rectangular cuboid or in another basic geometric shape and not in a shape that could be considered appealing to children such as a star shape, fruit, or animal shape; or

(ii) a liquid suspension under two ounces.

R68-26-4. Certificate of Analysis.

(1) Testing shall be conducted on the product in its final form for:

(a) the cannabinoid profile by percentage of mass, performed by the Department's analytical laboratory;

(b) solvents;

(c) pesticides;

(d) microbials;

(e) heavy metals; and

(f) mycotoxins.

(2) The test results required in Subsection R68-26-4(1) shall be reported in accordance with the requirements for a cannabinoid product in Rule R68-37 including the specified units of measure.

(3) The certificate of analysis shall include the following information:

(a) the batch identification number;

(b) the date received;

(c) the date of completion;

(d) the method of analysis for each test conducted; and

(e) proof that the certificate of analysis is connected to the product.

R68-26-5. Label Requirements.

(1) The label of a cannabinoid product shall contain the following information, legibly displayed:

(a) product name or common name, on the front of the label;

(b) brand name, on the front of the label;

(c) the size of the container or net count of individual items, on the front of the label;

(d) net weight;

(e) the suggested use of the product, including serving size if the product is intended for consumption;

(f) list of ingredients, including:

(i) the amount of any advertised cannabinoid listed as present on the COA [listed in milligrams per gram];

(ii) the amount of any primary cannabinoid listed as present on the COA; and

(iii) the amount of any THC or any THC analog listed as present on the COA;

(g) list of allergens;
(h) manufacturer, packer, or distributor name and address;
and

(i) batch number.

(2) A fact panel may be included on the product label if it is not identified as a Drug Fact Panel or Nutritional Fact Panel.

(3) The label of each product intended for human consumption or intended to be vaporized for inhalation shall include the following text, prominently displayed: "This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

(4) Cannabinoid products containing a cannabinoid other than CBD produced for absorption by humans shall contain the following text, prominently displayed: "Warning - The safety of this product has not been determined."

(5) Notwithstanding Subsection R68-26-5(1) a cannabinoid product produced for human use that has a National Drug Code issued shall be labeled in accordance with 21 CFR 201.66.

(6) In addition to the requirements of Subsections R68-26-5(1) through R68-26-5(5) a cannabinoid product shall have on the label a scannable barcode, QR code, or web address with an easily located certificate of analysis for the batch identified, containing the information required in Section R68-26-4.

(7) Cannabinoid products may not contain medical claims on the label unless the product has been registered with the FDA and is labeled in accordance with Subsection R68-26-5(5).

(8) Cannabinoid product labeling shall clearly show that the product contains material derived from industrial hemp and not cannabis or medical cannabis.

(9) Cannabinoid product labeling may not:

(a) have any likeness bearing resemblance to a cartoon character or fictional character; or

(b) appear to imitate a food or other product that is typically marketed toward or appealing to children.

(10) A cannabinoid product that is designed to be inhaled shall include a warning on the label regarding the possible health effects of inhaling cannabinoid products.

(11) The label of cannabinoid products intended for oral consumption by animals shall include the amount of cannabinoids per serving determined by weight of the animal.

(12) The label of cannabinoid products intended for consumption by animal may not:

(a) contain any feed claims;

(b) be labeled as food; or

(c) contain any Food and Drug Administration evaluation statement.

(13) A cannabinoid product is considered misbranded if its label is false or misleading in any way.

R68-26-6. Inspection and Testing.

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

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

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

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

R68-26-7. Violation.

(1) Each improperly labeled cannabinoid product shall be a separate violation of this rule.

(2) Cannabinoid products not meeting the labeling requirements shall be considered misbranded.

(3) Cannabinoid products shall be considered falsely advertised if they do not meet the labeling requirements of this rule.

(4) It is a violation to distribute or market a cannabinoid product that is not registered with the department.

(5) It is a violation to distribute or market industrial hemp flower as a final product.

(6) It is a violation to distribute or market a cannabinoid product that contains greater than 0.3% THC.

(7) It is a violation to distribute or market a cannabinoid product that has not been tested as required by Rule R68-29.

(8) It is a violation to distribute or market a cannabinoid product as a conventional food product, unless the product is exempted under Subsection R68-26-3(12)(b).

(9) It is a violation to distribute or market a cannabinoid product as a food additive.

(10) It is a violation to distribute or market a cannabinoid product that is marketed toward or is appealing to children.

(11) It is a violation to market a cannabinoid product as cannabis or medical cannabis.

(12) It is a violation to submit a fraudulent COA to the department.

R68-26-8. Violation Categories.

(1) Public Safety Violations: Each person shall be fined \$3,000-\$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

(a) industrial hemp sold to an unlicensed source;

(b) industrial hemp purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with labeling requirements;

(e) failure to comply with testing requirements;

(f) possessing, manufacturing, or distributing a cannabinoid product that a person knows or should know appeals to children;

(g) marketing a cannabinoid product that makes a medical claim; or

(h) engaging in or permitting a violation of the Title 4, Chapter 41, Hemp and Cannabinoid Act that amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: Each person shall be fined \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules under Title R68 including:

(a) failure to register a cannabinoid product;

(b) failure to provide a certificate of analysis as required by Section R68-26-4;

(c) failure to keep and maintain records; or

(d) engaging in or permitting a violation of Title 4, Chapter 41a, Hemp and Cannabinoid Act or this rule that amounts to a regulatory violation as described in this subsection.

(3) Licensing Violations: Each person shall be fined \$500-\$5,000 per violation. This category is for violations involving licensing requirements including:

(a) engaging in or permitting a violation of this rule, other applicable rules under Title R68, or Title 4, Chapter 41, Hemp and Cannabinoid Act, that amounts to a licensing violation; or

(b) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

(5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: CBD labeling, CBD products, cannabinoid product registration

Date of Last Change: ~~July 11,~~ 2023

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

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R156-28	Filing ID: 55594
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Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Lisa Martin	801-530-7632	lmartin@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R156-28. Veterinary Practice Act Rule
3. Purpose of the new rule or reason for the change:
The Division of Professional Licensing (Division) in collaboration with the Veterinary Licensing Board is filing these proposed amendments to update this rule and clarify existing continuing education requirements.
4. Summary of the new rule or change:

The proposed amendments to Section R156-28-304a clarify the continuing education requirements to obtain one hour of communication-specific continuing education.

The remaining amendments are clerical in nature to update this rule to conform to the Rulewriting Manual for Utah.

Public hearing Information

The hearing will be 09/05/2023 at 9 AM at the Heber M Wells Bldg, 160 E 300 S, in Conference Room 474, Salt Lake City, UT, or Google Meet per the information below.

Google Meeting link:

meet.google.com/ugu-zhub-wwy

Or Join by phone:

(US) +1 208-820-4330

PIN: 676547280

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 because the proposed amendments only update and clarify existing continuing education requirements and will not impact any state agency practices or procedures.

B) Local governments:

There is no anticipated cost or savings to local governments because the proposed amendments only clarify existing continuing education requirements and will not impact any local government practices or procedures.

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

There are approximately 231 small businesses in Utah owned by individuals in the veterinary industry (NAICS 541940). As described below for other persons, small businesses are not expected to be impacted by this filing because the proposed amendments only update and clarify existing continuing education requirements.

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

There are approximately five non-small businesses in Utah owned by individuals in the veterinary industry (NAICS 541940). As described below for other persons, non-small businesses are not expected to be impacted by this filing because the proposed amendments only update and clarify existing continuing education requirements.

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 approximately 1,148 licensed veterinarians and 232 state certified veterinary technicians who will be impacted by these proposed amendments, but they are not expected to experience any cost or savings from the proposed amendments because the amendments only update and clarify existing continuing education requirements.

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

As described above for other persons in Box 5E, no compliance costs are anticipated for any affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

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

Comments: The Division proposes amendments to update Rule R156-28. The proposed amendments are to clarify the continuing education requirements to obtain one hour of communication-specific continuing education. The remaining amendments are clerical. The Division has made formatting changes throughout this rule to conform this rule to the Rulewriting Manual for Utah in accordance with Executive Orders No. 2021-1 and 2021-12.

Small Businesses (less than 50 employees):

The Division does not foresee any foreseeable impact on small businesses since these amendments are made to make the rule comport to the Office of Administrative Rules Rule Writing Manual. There are approximately 231 small businesses in Utah performing veterinary services (NAICS 541940). There are no substantial changes to this rule beyond clarification to language.

Regulatory Impact to Non-Small Businesses (50 or more employees):

There are approximately five non-small businesses in Utah performing veterinary services (NAICS 541940). These amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

6. 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 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-28-101
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Public Notice Information

8. 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: 10/02/2023

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

Date:	Time:	Place (physical address or URL):
09/05/2023	9:00 AM	See information in Box 4 above.

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	08/08/2023
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R156. Commerce, ~~Occupational and~~ Professional Licensing. **R156-28. Veterinary Practice Act Rule.**

R156-28-101. Title - Authority - Organization and Relationship to Rule R156-1.

(1) This rule is known as the "Veterinary Practice Act Rule."

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 28, Veterinary Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-28-102. Definitions.

~~The following definitions supplement~~ In addition to the definitions in Title 58, Chapter 1, Division of ~~Occupational and~~ Professional Licensing Act, and Title 58, Chapter 28, Veterinary Practice Act:

(1) "In association with licensed veterinarians[~~;~~]" as used in Subsection 58-28-307(6), means an out of state licensed veterinarian who performs veterinarian services in this state at the request of a Utah licensed veterinarian regarding a specific client or patient, and the services provided by the out of state licensed veterinarian are limited to that specific request.

(2) "NBEC" means the National Board Examination Committee of the American Veterinary Medical Association.

(3) "Patient" means any animal receiving veterinarian services.

(4) "Practice of veterinary medicine, surgery, and dentistry" as defined in Subsection 58-28-102(11) does not include implanting an electronic device to establish and maintain positive identification of animals.

(5) "Unprofessional conduct," as defined in Title 58, Chapter 1, Division of ~~Occupational and~~ Professional Licensing Act, and Title 58, Chapter 28, Veterinary Practice Act, is further defined in accordance with Subsection 58-1-203(1)(e), in Section R156-28-502.

(6) "Working under[~~;~~]" as used in Subsection 58-28-102(17)[~~;~~] means:

(a) unlicensed assistive personnel perform the delegated tasks in Utah, while supervised by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;

(b) the manner and means of performance of the delegated tasks are subject to the right of control of, or are controlled by, the supervising veterinarian; and

(c) the delegated tasks are recorded in the supervising veterinarian's medical records.[

R156-28-103. Authority - Purpose.

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 28 Veterinary Practice Act.~~

R156-28-104. Organization - Relationship to Rule R156-1.

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.]~~

R156-28-302b. Qualifications for Licensure - Experience Requirements.

Under Subsection 58-1-203(1), the experience requirements for licensure in Subsection 58-28-302(1) are defined, clarified, or established as follows:

(1)(a) Each applicant for licensure as a veterinarian shall complete 1,000 hours of experience while licensed as a veterinarian intern under the supervision of a licensed veterinarian.

(b) Experience shall be earned in not less than six months and completed within two years of the date of the application.

(c) Experience in the following settings may not fulfill this experience requirement:

(i) temporary employment experiences of less than eight weeks in duration;

(ii) part-time experience of fewer than 20 hours per week; or

(iii) experience completed while employed as unlicensed assistive personnel.

(d) If the experience is completed in a jurisdiction outside of Utah that does not issue veterinarian, veterinarian intern, or comparable licenses, or completed in a setting that does not require licensure, the applicant shall demonstrate that the experience was:

(i) lawfully obtained;

(ii) obtained after the applicant met the education requirement in Subsection 58-28-302(1)(b);

(iii) supervised by a licensed veterinarian, or by a person who was exempted from licensure but possessed substantially equivalent qualifications; and

(iv) comparable to experience that would be obtained in a standard veterinarian practice setting in Utah.

(e) Supervision may be obtained by [~~"]~~indirect supervision[~~"]~~ as defined in Section 58-28-102, if the supervisor supplements the indirect supervision with routine face to face contact as the supervisor considers appropriate in the supervisor's professional judgment.

(f) Each applicant shall demonstrate completion of the experience required by submitting a verification of experience signed by the applicant and by the applicant's supervisor on forms approved by the Division.

(g) If a supervisor is unavailable or refuses to provide a verification of experience, the applicant shall:

(i) submit a complete explanation of why the supervisor is unavailable; and

(ii) submit verification of the experience by alternative means acceptable to the Board, which shall demonstrate that the experience was:

(A) profession-related work;

(B) competently performed; and

(C) sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety, or welfare.

(2) Under Subsection 58-37-6(1)(a), a veterinary intern is not eligible to obtain a controlled substance license during the internship.

R156-28-304a. Continuing Education - Veterinarian.

Under Section 58-28-306, there is created a continuing education requirement as a condition for renewal or reinstatement of

licenses issued under Title 58, Chapter 28, Veterinary Practice Act. Continuing education shall comply with the following criteria:

(1)(a) During each two-year period commencing on September 30 of each even-numbered year, a licensee shall complete at least 24 hours of qualified continuing education directly related to the licensee's professional practice.

(b) At least one hour of the 24 hours shall be specifically related to recognizing opioid use and dependency in office staff, clients, and co[-]workers.

(c)~~(i)~~ At least one hour of the 24 hours shall be devoted to topics that improve ~~[diversity, equity, and inclusion in the veterinary workplace for clients, employees, and recruitment]~~

~~(ii) Topics may relate to race, ethnicity, religion, gender, gender identity, sexual orientation, and disability, and may include issues such as:~~

~~(A) unconscious bias;~~

~~(B) cross-cultural communication; and~~

~~(C) access and legal aspects of anti-discrimination.]communication in the veterinary workplace for clients, employees, or recruitment, such as for example:~~

~~(i) clinician-patient relationships;~~

~~(ii) employee engagement and team building;~~

~~(iii) diversity, equity, and inclusion, such as topics relating to culture, race, ethnicity, religion, gender, gender identity, sexual orientation, disability, or issues such as unconscious bias, cross-culture communication, or access and legal aspects of anti-discrimination;~~

~~(iv) business writing or other professional communication;~~
or

~~(v) communication skills training, such as topics relating to active listening, non-verbal communication, or communication styles.~~

(2) If a licensee is initially licensed during the two-year period, the licensee's required number of continuing education hours shall be decreased proportionately according to the date of licensure.

(3) Continuing education shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a veterinarian;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) have a competent method of registration of individuals who ~~[actually]~~ completed the professional education program, with records of that registration and completion available for review.

(4) The Division shall recognize continuing education as follows:

(a) unlimited hours for continuing education as a student or presenter, completed in blocks of time of not less than one hour in formally established classroom courses, seminars, lectures, wet labs, or specific veterinary conferences approved or sponsored by one or more of the following:

(i) the American Veterinary Medical Association;

(ii) the Utah Veterinary Medical Association;

(iii) the American Animal Hospital Association;

(iv) the American Association of Equine Practitioners;

(v) the American Association of Bovine Practitioners;

(vi) certifying boards recognized by the AVMA;

(vii) other state veterinary medical associations or state licensing boards; or

(viii) the Registry of Continuing Education (RACE) of the AASVB;

(b) up to five continuing education hours for being the primary author of an article published in a peer reviewed scientific journal, and up to two continuing education hours for being a secondary author;

(c) up to six continuing education hours in practice management courses; and

(d) if the course has no instructor or the instructor is not physically present, such as for internet, audio and visual recordings, broadcast seminars, mail, or other correspondence courses, the course shall assure the licensee's participation and acquisition of the knowledge and skills intended by an examination.

(5) A licensee shall maintain documentation sufficient to prove compliance with this section for ~~[a period of]~~ two years after the end of the two-year renewal cycle ~~[that]~~ for which the continuing education is due.

(6) A licensee who cannot complete the continuing education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing education is not available, may be excused from the requirement for ~~[a period of]~~ up to three years under Section R156-1-308d.

R156-28-304b. Continuing Education - State Certified Veterinary Technician.

Under Section 58-28-310, there is created a continuing education requirement as a condition for renewal or reinstatement of a state certification issued under Title 58, Chapter 28, Veterinary Practice Act. Continuing education shall comply with the following criteria:

(1)(a) During each two-year period commencing on September 30 of each even-numbered year, a state certified veterinary technician shall complete at least 12 hours of qualified continuing education directly related to their professional practice.

(b) At least nine of the 12 continuing education hours shall be specific to medical practices.

(2) The Division shall recognize continuing education as outlined in Subsection R156-28-304a(4).

(3) A state certified veterinary technician shall maintain documentation sufficient to prove compliance with this section for two years after the end of the two-year renewal cycle for which the continuing education is due.

(4) A state certified veterinary technician who cannot complete the continuing education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing education is not available, may be excused from the requirement for up to three years under Section R156-1-308d.

R156-28-502. Unprofessional Conduct.

(1) Unprofessional conduct includes:

~~(1)~~(a) deviating from the minimum standards of veterinary practice ~~[set forth]~~ in Section R156-28-503;

~~(2)~~(b) permitting unlicensed assistive personnel to perform duties that the individual is not competent by education, training, or experience to perform; ~~[and]~~ or

~~(3)~~(c) failing to conform to the generally accepted and recognized standards and ethics of the profession, including[;

~~(a)~~ the Principles of Veterinary Medical Ethics of the American Veterinarian Medical Association (AVMA), as approved by the AVMA Executive Board, revised August 2019, which are ~~hereby~~ incorporated by reference ([²]Principles[²])~~[-and]~~.

(b) If a licensee fails to establish the veterinarian-client-patient relationship as required in Section II of the Principles, ~~such~~ the failure ~~shall~~ may not excuse the veterinarian from complying with other duties that would be imposed on the veterinarian if the veterinarian had properly established the veterinarian-client-patient relationship.

R156-28-503. Minimum Standards of Practice.

~~In accordance with~~ Under Subsection 58-28-102(18) and Section 58-28-603, a veterinarian shall comply with the following minimum standards of practice in addition to the generally recognized standards and ethics of the profession:

(1) A veterinarian shall compile and maintain records on each patient ~~[to minimally include]~~ that include at least the following information:

(a) client's name, address, and phone number, if telephone is available;

(b) patient's identification, such as name, number, tag, species, age, and gender, except for herds, flocks, or other large groups of animals, ~~that~~ which may be more generally defined;

(c) veterinarian's diagnosis or evaluation of the patient;

(d) treatments ~~rendered~~ provided, including drugs used and dosages; and

(e) date of service.

(2) A veterinarian shall:

(a) maintain veterinary medical records under Subsection (1) so that any veterinarian coming into a veterinary practice may, by reading the veterinary medical record of a particular animal, be able to proceed with the proper care and treatment of the animal; and

(b) maintain veterinary medical records under Subsection (1) for at least five years from the date that the veterinarian last treated the animal.

(3) A veterinarian shall maintain a sanitary environment to avoid sources and transmission of infection, including:

(a) proper routine disposal of waste materials; and

(b) proper sterilization or sanitation of equipment used in diagnosis and treatment.

(4) A veterinarian who holds a controlled substance license shall comply with Title 58, Chapter 37, Utah Controlled Substances Act, and Rule R156-37, Utah Controlled Substances Act Rule.

KEY: veterinary medicine, licensing, veterinarian

Date of Last Change: ~~February 9, 2022~~ 2023

Notice of Continuation: June 22, 2021

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-28-101

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R251-107	Filing ID: 55547
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Agency Information

1. Department:	Corrections
Agency:	Administration

Street address:	14727 Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact persons:		
Name:	Phone:	Email:
Matt Anderson	801-556-8199	mattanderson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R251-107. Executions

3. Purpose of the new rule or reason for the change:

The prison relocated to Salt Lake City from Draper. The Department of Corrections internally identified that rules would need to be changed to reflect this move.

4. Summary of the new rule or change:

This rule change corrects the previous naming of the prison, South Point, to the current naming, Utah State Correctional Facility.

Nonsubstantive style and formatting changes were also made to this rule to conform with the Rulewriting Manual for Utah per EO No. 2021-12.

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 change to the state budget, as this rule provides policy guidelines for the state facility vehicle direction stations and does not have a fiscal impact.

B) Local governments:

There is no anticipated cost or savings change to the local governments, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to small businesses, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to non-small businesses, as this rule does not apply to this group.

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 change to other persons, as this rule does not apply to this group.

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, as this does not apply to this group and this rule has no fiscal impact regardless.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Corrections, Brian Redd, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 63G-3-201	Section 64-13-10	Section 77-19-10
Section 77-19-11		

Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	Date:	07/05/2023
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R251. Corrections, Administration.

R251-107. Executions.

R251-107-1. Authority and Purpose.

(1) This rule is authorized by Sections 63G-3-201, 64-13-10, 77-19-10, and 77-19-11, ~~[of the Utah Code,]~~ in which the Department shall adopt and enforce rules governing procedures for the execution of judgments of death and attendance of persons at the execution.

(2) The purpose of this rule is to address public safety and security within prison facilities ~~[prior to]~~ before, during and immediately following an execution.

R251-107-2. Definitions.

(1) "Department" means Utah Department of Corrections.

(2) "DPO" means Division of Prison Operations.

(3) "[news]News media" includes persons engaged in news gathering for newspapers, news magazines, radio, television, online news sources, excluding personal blogs, or other news services.

(4) "[news]News media members" means persons over the age of ~~[eighteen]~~18 who are primarily employed in the business of gathering or reporting news for newspapers, news magazines, national or international news services, radio or television stations licensed by the Federal Communications Commission or other recognized news services, such as online media.

(5) "[~~newspaper~~]Newspaper" means a publication that circulates among the general public, and contains information of general interest to the public regarding political, commercial, religious or social affairs.

(6) "[~~press~~]Press" means the print media, news media, or both.

(7) "[~~USP~~]USCF" means Utah State [~~Prison~~]Correctional Facility.

R251-107-3. Crowd Control.

(1) Persons arriving at or driving past the [~~USP~~]USCF shall be routed and controlled in a manner which does not compromise or inhibit:

- (a) security;
- (b) official escort or movement;
- (c) the functions necessary to carry out the execution; or
- (d) safety.

(2) Persons routed and controlled~~[controlled/handled]~~ through this process shall be ~~[handled]~~routed and controlled in a manner with no more restriction than is necessary to carry out the legitimate interests of the Department.

(3) Procedures for crowd control shall be consistent with federal, state and local laws.

(4) Only persons specifically authorized shall be permitted on [~~USP~~]USCF property, except those persons congregating at a designated demonstration~~[-public]~~ area.

(5) Persons entering [~~USP~~]USCF property without authorization shall be ordered to leave and may be arrested if:

- (a) the trespass was intentional;
- (b) the individual failed to immediately leave the

[~~USP~~]USCF property following a warning;

(c) the trespass jeopardized safety or security [~~(or)~~]or interfered with the lawful business of the Department or its staff or agents; or

(d) it involves entry onto areas clearly posted with signs prohibiting access or trespass.

R251-107-4. Location and Procedures.

(1) The [~~executive director~~]Executive Director of the Department of Corrections or [~~his~~]their designee shall ensure that the method of judgment of death specified in the warrant is carried out at a secure correctional facility operated by the [~~d~~]Department and at an hour determined by the [~~department~~]Department on the date specified in the warrant.

(2) When the judgment of death is to be carried out by lethal intravenous injection, the [~~executive director~~]Executive Director of the [~~d~~]Department or [~~his~~]their designee shall select two or more persons trained in accordance with accepted medical practices to administer intravenous injections, who shall each administer a continuous intravenous injection, one of which shall be of a lethal quantity of sodium thiopental or other equally or more effective substance to cause death.

(3) If the judgment of death is to be carried out by firing squad under Subsection 77-18-5.5(3) or (4), [~~of the Utah Code,~~]the [~~executive director~~]Executive Director or [~~his~~]their designee shall select a five-person firing squad of peace officers.

(4) Death shall be certified by a physician.

R251-107-5. Demonstration and Public Access.

(1) The Executive Director may permit limited access to a designated portion of state property ~~[on Minuteman Drive at or near~~

~~the Fred House Academy]~~for the public to gather or demonstrate during an execution event.

(2) No person may violate the intent of clearly marked signs, fences, doors or other [~~indicate~~]indicators relative to prohibitions against entering any prison property or facility for which permission to enter may not be marked.

(3) The Department neither recognizes, nor is bound by, the policies, allowances or arrangements which may have occurred at prior executions, events or on prior occasions, and by this rule any arrangement provided for public access at previous executions or demonstrations is invalidated.

(4) The Executive Director or Warden may at any time withdraw permission without notice in the event of riot, disturbance, or other factors that in the opinion of the Warden~~[f]~~ or their designee or Executive Director~~[f]~~ or their designee jeopardizes the security, peace, order or any function of the prison.

R251-107-6. Witnesses.

(1) The Department will implement the standards and procedures for inmate witnesses outlined in Section 77-19-11~~[-of the Utah Code]~~.

(2) As a condition to attending the execution, each designated witness shall be required by the Department to sign an agreement setting forth their willingness to conduct themselves while on prison property in a manner consistent with the legitimate ~~[penological]~~penological, security and safety concerns as delineated by the Department.

(3) Witnesses shall be searched ~~[prior to]~~before being allowed to witness the execution.

R251-107-7. News Media.

(1) The Department shall permit press access to the execution and information concerning the execution consistent with the requirements of the constitutions and laws of the United States and State of Utah.

(2) The Department and the Utah Code recognize the need for the public to be informed concerning executions. The Department will cooperate with the news media to inform the public concerning the execution in a timely manner.

~~[(a) The Department will participate and cooperate with the news media to inform the public concerning the execution; and~~

~~[(b) information should be provided in a timely manner.]~~

(3) The Executive Director shall be responsible for selecting the members of the news media who will be permitted to witness the execution.

(a) After the court sets a date for the execution of the death penalty, news directors or editors ~~[desirous]~~who wish to have a staff member witness the execution may submit, in writing, such request for no more than one news media staff member. The request shall be addressed to the Executive Director and received at least 30 days ~~[prior to]~~before the execution.

(b) When administrative convenience or fairness to the news media dictates, the Department, in its discretion, may extend the request deadline.

(c) Requests for consideration may be granted by the Executive Director provided they contain the following:

(i) a statement setting forth facts showing that the requesting individual falls within the definition of member of the "press" and "news media" as set forth in this rule;

(ii) an agreement to act as a pool representative for other news gathering agencies desiring information on the execution; and

(iii) an agreement that the media member will abide by ~~all of the~~any condition~~s, rules and regulations~~ while in attendance at the execution.

(d) Upon receipt of a news director's or editor's request for permission for news media witnesses to attend the execution, the Executive Director may take the steps necessary to verify the statements made in the request. After verifying the information in the request, selection of witnesses shall be made by the Executive Director.

(e) As a condition to attending the execution, each designated media witness shall be required by the ~~[department]~~Department to execute an agreement setting forth their willingness to conduct themselves while on prison property in a manner consistent with the legitimate penological, security and safety concerns as delineated by the ~~[department]~~Department.

(f) Media witnesses shall be searched ~~[prior to]~~before being allowed to witness the execution.

(g) The Department shall arrange for pre-execution briefings, distribution of media briefing packages, briefings throughout the execution event, and post-execution briefings by the news media who witnessed the execution.

(4) Persons representing the news media witnessing the execution shall be required to sign a statement or release absolving the institution or any of its staff from any legal recourse resulting from the exercise of search requirements or other provisions of the witness agreement.

(5) News media representatives shall, after being returned from the execution to the staging area, act as pool representatives for other media representatives covering the event.

(a) The pool representatives shall meet at the designated media center and provide an account of the execution and shall freely answer all questions put to them by other media members and ~~[shall]~~may not be permitted to report their coverage of the execution back to their respective news organizations until after the non-attending media members have had the benefit of the pool representatives' account of the execution.

(b) News media members attending the post-execution briefing shall agree to remain in the briefing room and not leave nor communicate with persons outside the briefing room until the briefing is over.

(c) The briefing shall end when the attending news media members are through asking questions or after 60 minutes, whichever comes first.

(d) Any film~~[/]~~or videotape obtained by a pool photographer ~~[shall]~~may not be used in any news or other broadcast until made available to all agencies participating in the pool. All agencies receiving the film~~[/]~~or videotape will be permitted to use them in news coverage and to retain the film~~[/]~~or videotape for file footage.

(6) The Department may alter these processes to impose additional conditions, restrictions, and limitations on media coverage of the execution when requirements become necessary for the preservation of prison security, personal safety or other legitimate interests which may be in jeopardy.

(7) If extraordinary circumstances develop, additional conditions and restrictions shall be no more restrictive than required to meet the exigent circumstances.

R251-107-8. Authority of Executive Director.

The Executive Director~~[/]~~or their designee shall be authorized to make changes in policies and procedures that are necessary to ensure the interest of security, safety, and

professionalism is maintained during the planning, training, and administering of the execution order.

KEY: corrections, executions, prisons

Date of Last Change: ~~[April 9, 2012]~~2023

Notice of Continuation: February 24, 2022

Authorizing, and Implemented or Interpreted Law: 77-19-10; 77-19-11

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R251-108	Filing ID: 55546
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Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14727 Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact persons:		
Name:	Phone:	Email:
Matt Anderson	801-556-8199	mattanderson@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R251-108. Adjudicative Proceedings

3. Purpose of the new rule or reason for the change:

The purpose of this filing is to establish a procedure by which informal adjudicative proceedings shall be conducted.

Changes to this rule were made to accommodate the prison relocation from Draper to Salt Lake City and to identify the new prison name.

4. Summary of the new rule or change:

The Department of Corrections made nonsubstantive style and formatting changes to this rule to conform with the Rulewriting Manual for Utah per EO No. 2021-12.

Changes to this rule will not cause any negative impacts.

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 change to the state budget, as this rule provides policy guidelines for the procedure of holding informal adjudicative proceedings.			
B) Local governments:			
There is no anticipated cost or savings change to the local governments, as this rule does not apply to this group.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings change to small businesses, as this rule does not apply to this group.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings change to non-small businesses, as this rule does not apply to this group.			
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 change to other persons, as this rule does not apply to this group.			
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, as this does not apply to this group and this rule has no fiscal impact regardless.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Corrections, Brian Redd, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 63G-3-201	Section 63G-4-202	Section 63G-4-203
Section 64-13-10		

Public Notice Information

8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
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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.

Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	Date:	08/01/2023
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R251. Corrections, Administration.

R251-108. Adjudicative Proceedings.

R251-108-1. Purpose and Authority.

(1) The purpose of this rule is to establish a procedure by which informal adjudicative proceedings shall be conducted as a result of a notice of agency action, or a request by a person for agency action regarding Department of Corrections rules, orders, policies, or procedures. This rule ~~shall~~ may not apply to internal personnel actions conducted within the Department.

(2) This rule is authorized by Sections 63G-3-201, 63G-4-202, 63G-4-203, and 64-13-10~~2~~, ~~of the Utah Code.~~

R251-108-2. Definitions.

(1) "Adjudicative proceeding" means a departmental action or proceeding.

(2) "Department" means Department of Corrections.

(3) "Hearing" means an adjudicative proceeding ~~which~~ that may include not only a face-to-face meeting, but also a proceeding~~ing~~ or meeting conducted by telephone, television, or other electronic means.

(4) "Person" means an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization or entity ~~of any character~~, or another agency.

(5) "Personnel actions" means any administrative hearings, grievance proceedings and dispositions, staff disciplinary process, promotions, demotions, transfers, or terminations within the ~~Department~~ department.

(6) "Presiding officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding; if fairness to the parties is not compromised, an agency may substitute one presiding officer for another during any proceeding.

(7) "Petition" means a request for the ~~Department~~ department to determine the legality of agency action or the applicability of policies, procedures, rules, or ~~federal~~ regulations relating to agency actions associated with the governing of persons or entities outside the Department.

R251-108-3. Policy.

~~It is the policy of the Department that:~~

(1) ~~all~~ All adjudicative proceedings not exempted under ~~the provisions of~~ Section 63G-4-202~~, of the Utah Code,~~ shall be informal~~ing~~.

(2) ~~upon~~ Upon receipt of a petition, the Department shall conduct an informal hearing regarding its actions or the applicability of Department policies, rules, orders, or procedures that relate to particular actions~~ing~~.

(3) ~~the~~ The Department shall provide forms and instructions for persons or entities who request a hearing~~ing~~.

(4) ~~hearings~~ Hearings shall be held in accordance with procedures outlined in Section 63G-4-203~~, of the Utah Code.~~

(5) ~~the~~ The provisions of this rule do not affect any legal remedies otherwise available to a person or an entity to:

(a) compel the Department to take action; or

(b) challenge a rule of the Department;

(6) ~~the~~ The provisions of this rule do not preclude the Department, or the presiding officer, ~~prior to~~ before or during an adjudicative proceeding, from requesting or ordering conferences with parties and interested persons to:

(a) encourage settlement;

(b) clarify the issues;

(c) simplify the evidence;

(d) expedite the proceedings; or

(e) grant summary judgment or a timely motion to dismiss~~ing~~.

(7) ~~a~~ A presiding officer may lengthen or shorten any time period prescribed in this rule, with the exception of those time periods established in Title 63G, Chapter 4, ~~of the Utah Code~~ Administrative Procedures Act, applicable to this rule~~ing~~.

(8) ~~the~~ The Executive Director~~ing~~ or their designee shall appoint a presiding officer to consider a petition within five working days after its receipt~~ing~~.

(9) ~~the~~ The presiding officer shall conduct a hearing regarding allegations contained in the petition within 30 working days after notification by the Executive Director~~ing~~.

(10) ~~the~~ The presiding officer shall issue a ruling subject to the final approval of the Executive Director within 15 working days following the hearing and forward a copy ~~of same~~ of the ruling by certified mail to the petitioner~~ing~~.

(11) ~~the~~ The petition and a copy of the ruling shall be retained in the Department's records for a minimum of two years~~ing~~.

(12) ~~the~~ The ruling issued by the presiding officer terminates the informal adjudicative proceeding process~~ing~~ and

(13) ~~appeals~~ Appeals shall be submitted to a court of competent jurisdiction as outlined in Sections 63G-4-401 and 63G-4-402.

KEY: corrections, administrative procedures

Date of Last Change: 2023~~April 9, 2012~~

Notice of Continuation: July 13, 2021

Authorizing, and Implemented or Interpreted Law: 63G-3-201; 63G-4-202; 63G-4-203

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number: R251-705

Filing ID: 55544

Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14727 Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact persons:		
Name:	Phone:	Email:
Matt Anderson	801-556-8199	mattanderson@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R251-705. Inmate Mail Procedures

3. Purpose of the new rule or reason for the change:

The purpose for making changes to this rule are to provide updated building names following the prison move from Draper to Salt Lake City.

Topics were changed to sentence form and many semicolons were changed to periods.

4. Summary of the new rule or change:

The Department of Corrections made nonsubstantive style and formatting changes to this rule to conform with the Rulewriting Manual for Utah per EO No. 2021-12.

Changes include building name changes to accommodate the prison move from Draper to Salt Lake City.

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 change to the state budget, as this rule provides policy guidelines for the procedure handling inmate mail.

B) Local governments:

There is no anticipated cost or savings change to the local governments, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to small businesses, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to non-small businesses, as this rule does not apply to this group.

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 change to other persons, as this rule does not apply to this group.

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, as this does not apply to this group and this rule has no fiscal impact regardless.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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
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Fiscal Benefits	FY2024	FY2025	FY2026
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
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Net Fiscal Benefits	\$0	\$0	\$0
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H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Corrections, Brian Redd, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 63G-3-201	Subsection 64-13-17(4)	Section 64-13-10
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Public Notice Information**8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
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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.

Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	Date:	08/01/2023
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R251. Corrections, Administration.

R251-705. Inmate Mail Procedures.

R251-705-1. Authority and Purpose.

(1) This rule is authorized by Sections 63G-3-201[;] and 64-13-10 and Subsection 64-13-17(4), [of the Utah Code,] which allows the Department to adopt standards and rules in accordance with its responsibilities.

(2) The purpose of this section is to establish the [UDC's]department's policies and procedures for processing mail received in the DPO Mail Unit.

R251-705-2. Definitions.

(1) "Catalog" means a systematized list whose sole purpose is to feature descriptions of items for sale.

(2) "Department" means the Department of Corrections.

(3) "DPO" means Division of Prison Operations.

(4) "Inspect" means open and examine a letter, correspondence, or other material with the primary objective to detect false labeling, contraband, currency, or negotiable instruments.

(5) "Inter-department mail" means mail sent between departments within the state.

(6) "Inter-[department]office mail" means mail sent from office to office within a department.

(7) "Mail" means written material sent or received by inmates through the United States Postal Service.

(8) "Money instruments" means currency, coin, personal checks, money orders and cashier's, or non-personal checks.

(9) "Nuisance contraband" means items that may include[; but are not limited to,] paper fasteners, hair, ribbons, pins, rubber bands, pressed leaves [and/]or flowers, promotional gimmicks, gum, stickers, computer disks, maps, calendars, balloons, and other such items having no intrinsic value, or not approved by the department administration to be in the possession of the inmates.

(10) "Privileged mail" means correspondence with a person identified by this chapter [relating to the official capacity of that person, which]that has been properly labeled to claim privileged status.

(11) "Publisher-only rule" means a rule limiting books, audio media, magazines, or newspapers[; etc.] to those sent directly from the publisher, a book or tape club or a licensed book-store.[All media shall be new and audio shall be factory sealed and the return address should be commercially printed or stamped.]

(12) "Reasonable cause" means information that could prompt a reasonable person to believe or suspect that there is or might

be a threat to the safety, security, or management of the [UDC]department facility or that could be harmful to persons.

(13) [~~"UDC"~~]means Utah Department of Corrections.

(14) [~~"USP"~~]means either the Utah State [Prison]Correctional Facility in Salt Lake City or the Central Utah Correctional Facility in Gunnison.

R251-705-3. Standards and Procedures.

[~~It is the policy of the Department that:~~]

(1) [~~inmate~~]Inmate mail procedures shall comply with:

(a) the Constitution;

(b) the [and]Laws of the United States[;];

(c) the Constitution;

(d) the [and L]aws of the state[State of Utah]; and

(e) the authorized written policies and procedures of the [UDC]Department.

(2) [~~inmates~~]Inmates shall be permitted to send and receive mail while in custody of the [UDC]Department in the manner defined by this rule.

(3) [~~nothing in this rule should be interpreted as creating a greater entitlement for inmates or those with whom they correspond than that currently required by law.~~]

(4) [~~inmate~~]Inmate mail regulations shall[;] further the legitimate interests of UDC and balance UDC's interest with those of the general public and inmates.

[~~—(a) further the legitimate interests of the UDC; while~~]

[~~—(b) balancing the UDC's interests with those of the general public and inmates.~~]

([5]4) [mail]Mail received for inmates at the USP shall be delivered to the USP Mail Unit for processing and:

(a) shall be opened and inspected;

(b) may be read at the discretion of the Department;

(c) may be photocopied when such copying is reasonably related to the furtherance of a legitimate Department interest;

(d) may be refused, denied, or confiscated where reasonable cause exists to believe the contents may adversely impact the safety, security, order, or treatment goals of the Department;

(e) may be used as evidence in criminal, civil, or administrative trials or hearings;

(f) is entitled to no expectation of privacy;

(g) all forms of nuisance contraband shall be confiscated and disposed of without notice or opportunity for appeal; and

(h) shall be delivered to inmates without unreasonable delay[;].

([6]5) [~~catalog~~]Catalog purchases other than through the DPO Commissary catalog are not authorized and catalogs [shall]may not be accepted through the mail, except when sent 1st or 2nd class or from a legal, school, religious, or government printing office.

([7]6) [~~staff~~]Staff-to-inmate mail [shall]may not be sent in "Inter[;] or Intra-department Delivery" envelopes, but in regular mailing envelopes[;].

([8]7) [~~outgoing~~]Outgoing inmate mail and inmate inter[;] or intra-department mail shall be deposited in the housing units' outgoing mail depository, picked up by USP Mail Unit staff, and delivered to the USP Mail Unit for processing[;].

([9]8) [~~an~~]An inmate [shall]may not direct nor establish a new business through the mail unless authorized by the Warden of the facility[;].

([10]9) [~~an~~]An inmate who corresponds concerning a legitimately held business, shall correspond through [his]their attorney or a party holding a power of attorney[;].

([11]10) ~~an~~An inmate is not authorized to establish credit transactions through the mail while confined unless authorized by the Warden of the facility[;].

([12]11) ~~fund~~Fund raising by inmates for personal gain is prohibited[;].

([13]12) ~~envelopes~~Envelopes received by the USP Mail Unit displaying threatening, negative gestures or comments, extraneous materials, or grossly offensive sexual comments, shall be confiscated, declared contraband, placed into evidence, and the inmate shall receive disciplinary action[;].

([14]13) ~~the~~The publisher-only rule shall govern the receipt of all incoming books, audio media, magazines, and newspapers[;].

([15]14) ~~certain~~Certain types of mail are entitled to constitutionally protected confidentiality, ~~{~~or privilege[;]; accordingly, this privilege prohibits qualifying correspondence material from being read without cause by staff[;].

([16]15) ~~incoming~~Incoming privileged mail:

(a) shall be inspected, but only in the presence of the inmate addressee;

(b) ~~shall~~may not be perused;

(c) ~~shall~~may not be photocopied; and

(d) may be denied only for reasonable cause and upon instruction of the DPO Director~~[/]~~or their designee[;].

([17]16) ~~outgoing~~Outgoing privileged mail:

(a) shall be inspected only when there is reasonable cause to believe that the correspondence:

(i) contains material ~~[which]~~that would significantly endanger the security or safety of the Institution; or

(ii) is misrepresented as legal material[;].

(b) shall only be inspected in the presence of the inmate sender;

(c) shall not be perused;

(d) shall not be photocopied;

(e) may only be denied for a reasonable cause, and upon instruction of the DPO Director~~[/]~~or their designee; and

(f) from an inmate that cannot be identified, shall be forwarded to the deputy warden who supervises the mail unit, or ~~[his or her]~~their designee, who will make a determination of the disposition.

([18]17) ~~all~~All inmate inter~~[/]~~or intra-departmental mail shall be processed through the USP Mail Unit[;].

([19]18) ~~inmate~~Inmate-to-inmate correspondence ~~shall~~may not be permitted, unless:

(a) there is a compelling justification for an exception;

(b) there is no alternate means of accomplishing that compelling need; and

(c) the inmates present a minimal risk, according to ~~UDC~~Department standards, to security, order, ~~and~~or safety[;].

([20]19) ~~inmates~~Inmates have no entitlement to inmate-to-inmate correspondence created by the constitutions of the United States or the state~~[State of Utah;]~~.

([21]20) ~~personal~~Personal mail written in a language other than English may be delayed for purposes of translation[;].

([22]21) ~~the~~The USP Mail Unit ~~shall~~may not accept postage-due mail unless payment is waived by the deliverer[;].

([23]22) ~~the~~The USP Mail Unit ~~shall~~may not accept letters, cards, money instruments, or property items for which there is reasonable cause to believe the items are contaminated, defaced, or handled in such a way as to be offensive.

([24]23) ~~items~~Items received that cannot be searched without destruction or alteration, ~~such as~~[-e.g.,] electronic greeting cards, multilayered cards, ~~and~~and polaroid photographs~~[-etc-]~~ shall be denied and returned to the sender[;].

([25]24) ~~inmates~~Inmates are prohibited from receiving currency or personal checks~~[-and]~~.

([26]25) ~~to~~To be identified as incoming privileged mail, the correspondence shall be from an attorney or other sender qualified for privileged correspondence, be properly labeled as claiming privileged status, and have a return address clearly indicating a judicial agency, law firm, individual attorney, or other approved agency or person.

(26) All publisher-only media shall be new and audio shall be factory sealed and the return address should be commercially printed or stamped.

(27) Nothing in this rule should be interpreted as creating a greater entitlement for inmates or those with whom they correspond than that currently required by law.

KEY: corrections, prisons

Date of Last Change: 2023~~April 9, 2012~~

Notice of Continuation: February 28, 2022

Authorizing, and Implemented or Interpreted Law: 64-13-10; 64-13-17(3)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R251-707	Filing ID: 55549
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Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14727 Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact persons:		
Name:	Phone:	Email:
Matt Anderson	801-556-8199	mattanderson@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R251-707. Legal Access

3. Purpose of the new rule or reason for the change:

Since the prison relocated to Salt Lake City from Draper, the agency internally identified that rules would need to be changed to reflect this move.

4. Summary of the new rule or change:

This rule change corrects the previous naming of the prison buildings to the current naming, Utah State Correctional Facility.

Nonsubstantive style and formatting changes were also made to this rule to conform with the Rulewriting Manual for Utah per EO No. 2021-12.

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 change to the state budget, as this rule provides policy guidelines legal access and does not have a fiscal impact.

B) Local governments:

There is no anticipated cost or savings change to the local governments, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to small businesses, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to non-small businesses, as this rule does not apply to this group.

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 change to other persons, as this rule does not apply to this group.

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, as this does not apply to this group and this rule has no fiscal impact regardless.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Corrections, Brian Redd, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 63G-3-201	Section 64-13-10	Section 64-13-17
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Public Notice Information**8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	Date:	06/05/2023
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R251. Corrections, Administration.**R251-707. Legal Access.****R251-707-1. Authority and Purpose.**

(1) This rule is authorized by Sections 63G-3-201, 64-13-7, 64-13-10 and 64-13-17, ~~[of the Utah Code,]~~ which allow the Department to adopt procedures in accordance with its responsibilities.

(2) The purpose of this rule is to provide the policy and procedures for inmates under the control of Division of Prison Operations regarding access to courts and counsel.

R251-707-2. Definitions.

(1) "Attorney" means a member of the legal profession who has been licensed by a state and who has a current and valid license or bar card allowing him to practice law; lawyer; counsel; esquire[;].

(2) "Attorney Representatives" means paralegals, law clerks, investigators and other attorneys who are acting under the authority and supervision of the attorney of record[;].

(3) "CUCF" means Central Utah Correctional Facility located in Gunnison[;].

(4) "DPO" means Division of Prison Operations[;].

~~[(5) "Draper Site" means collectively, Timpanogos, Lone Peak, Promontory, Olympus, Oquirrh, Wasatch, Uinta, and SSD facilities;]~~

~~[(6)]~~ (5) "Out-Count Status" means any inmate under legal supervision or confinement of the Utah Department of Corrections who is housed at any location other than the ~~[Draper]~~ Salt Lake or Gunnison sites[;].

~~[(7)]~~ (6) "Prison" means the ~~[Utah State Prison in Draper]~~ Utah State Correctional Facility in Salt Lake City and ~~[CUCF]~~ Central Utah Correctional Facility in Gunnison[;].

~~[(8)]~~ (7) "Probable Cause" means sufficient knowledge of articulable facts or circumstances to lead a reasonable person to conclude that another person has committed, is committing, or is about to commit a crime or a violation of a legally enforceable policy or rule[;].

~~[(9)]~~ (8) "Service of Process" means the service of writs, summonses, warrants and subpoenas to inmate or UDC members[;]. ~~and]~~

~~[(10)]~~ (9) "UDC" means the Utah Department of Corrections.

(10) "USCF" means the Utah State Correctional Facility in Salt Lake City.

R251-707-3. Policy.

~~It is the policy of the Department that:~~

(1) ~~[legal]~~ UDC shall provide legal assistance ~~[shall be provided]~~ to ~~[assist]~~ inmates in preparing and filing of an initial pleading in habeas corpus and civil rights suits challenging conditions of confinement arising from incarceration at the prison[;].

(2) ~~[i]~~ Inmates incarcerated at UDC facilities shall be allowed reasonable access to courts and counsel regarding any type of legal matter[;].

(3) ~~[access]~~ Inmates in out-count status shall have extended access to courts and counsel. ~~[shall be extended to those inmates in out-count status;]~~

(4) ~~[the]~~ UDC shall pay for and provide the primary means of access to legal services, ~~[shall be provided by contract attorneys paid by the Department,]~~ though inmates may secure legal counsel at their own expense if they prefer not to use the contracted legal firm or they may choose to represent themselves[;].

(5) ~~[inmate]~~ Inmate writ writers may represent themselves but may not represent other inmates[;].

(6) ~~[a]~~ A law library ~~[shall]~~ may not be provided, except that law books may be included among the books in the general inmate library system[;].

(7) ~~[before]~~ Attorneys shall present a current state bar card and photo ID before being admitted to the prison. ~~[, attorneys shall present a current state bar card and photo I.D.;]~~

(8) ~~[before]~~ Attorney representatives shall present a letter of introduction from the attorney of record and photo ID before being admitted to the prison. ~~[, attorney representatives shall present a letter of introduction from the attorney of record and a photo I.D.;]~~

(9) ~~[attorneys]~~ Attorneys and their representatives ~~[shall]~~ may not interfere with the safety, security or orderly operation of the prison[;].

(10) ~~[attorneys]~~ Attorneys and their representatives shall be cleared through the Bureau of Criminal Identification ~~[prior to]~~ before being approved for visitation; individuals with a criminal record shall be allowed to visit only with the approval of the Director of Prison Operations ~~[,]~~ or designee[;].

(11) ~~[attorneys]~~ Attorneys may elect to have an attorney representative visit an inmate client instead of visiting personally[;].

(12) ~~[attorney]~~ Attorney representatives:

(a) have no standing on their own; their standing to visit is granted only in their role as representatives of the attorney of record;

(b) may be cleared for visits ~~[, if]~~ for the attorneys they represent:

(i) submit a request, in writing, to the warden of the facility where the inmate is housed;

(ii) provide the name and title of the person assigned to represent the attorney of record; and

(iii) provide the name of the inmate to be visited[;].

(c) who have been cleared shall be ~~[afforded]~~ given the same basic rights and privileges as those extended to the attorney of record[;].

(13) ~~[attorneys]~~ Attorneys ~~[,]~~ or their representatives should not be denied visits, nor face inordinate delays when visits are prescheduled within the hours designated by the institution[;].

(14) ~~[in]~~ In the event of exigent circumstances requiring an attorney ~~[,]~~ or their representative visit before appropriate screening can be completed, temporary approval for a visit may be approved by the DPO Director ~~[of Prison Operations,]~~ or their designee[;].

(15) ~~[inmate]~~ Inmate attorney ~~[,]~~ or their representative telephone calls shall originate from inside the institution and ~~[should]~~ may not exceed ~~[thirty]~~ 30 minutes in duration[;].

(16) ~~[attorneys]~~ Attorneys ~~[,]~~ or their representatives may leave telephone messages requesting return calls[;].

(17) ~~[visits]~~ Visits between inmates and counsel ~~[shall]~~ may not be monitored and shall occur in facilities which permit privacy; however, privacy requirements ~~[shall]~~ may not prohibit visual observation[;].

(18) ~~[attorneys]~~Attorneys~~[/]~~ or their representatives should schedule on-site visits in advance, when possible~~[;]~~.

(19) ~~[attorneys]~~Attorneys~~[/]~~ or their representatives may schedule appointments with their inmate clients:

(a) at ~~[Draper Site]~~USCF and CUCF, Monday through Friday, ~~[0800 to 1100 hours and 1300 to 1500 hours]~~8 a.m. to 11 a.m. and 1 p.m. to 3 p.m.;

(b) on weekends, holidays, and evenings with prior written clearance from the ~~DPO Director~~~~[/]~~ or their designee~~[-of Prison Operations]~~;

(c) at county jails as requested;

(d) in out-of-state institutions, consistent with receiving agencies' policies and procedures; and

(e) during non-visiting hours without prior approval in exigent circumstances if authorized by DPO Director~~[/]~~ or their designee~~[;]~~.

(20) ~~[attorneys]~~Attorneys~~[/]~~ or their representatives shall:

(a) follow ~~[Department]~~UDC and prison rules during visits to the institution;

(b) conduct themselves in a manner consistent with safety and security requirements; and

(c) comply with instructions of staff members while in the institution~~[;]~~.

(21) ~~[physical]~~Physical inspections shall be made of all material brought into and out of any facility by any attorney~~[/]~~ or their representative and shall be performed only in the presence of the attorney~~[/]~~ or their representative~~[;]~~.

(22) ~~[if]~~If any written material is declared privileged, it ~~[shall]~~may not be read; however, the attorney~~[/]~~ or their representative may be required to leaf through these materials in the presence of staff, to assist in inspecting for contraband~~[;]~~.

(23) ~~[if]~~If a reasonable suspicion exists to believe an attorney~~[/]~~ or their representative possesses contraband, a rub search may be required before permitting the visit and an incident report shall be filed documenting the reasonable suspicion and incident~~[;]~~.

(24) ~~[refusal]~~Refusal to submit to search may result in the visit being denied and the attorney~~[/]~~ or their representative being asked to leave the premises~~[;]~~.

(25) ~~[strip]~~Strip searches of attorneys~~[/]~~ or their representatives shall be conducted only if there is reasonable suspicion of a particularized nature; an incident report shall be filed documenting the reasonable suspicion, incident and reason a strip search was necessary under the circumstances~~[;]~~.

(26) ~~[if]~~If a warden~~[/]~~ or their designee determines that a safety, security, control or management problem could result by allowing an attorney~~[/]~~ or their representative access to a facility, the warden~~[/]~~ or their designee may place reasonable restrictions upon access or deny access when necessary; an incident report shall be filed articulating the justification for denying access and documenting the incident~~[;]~~.

(27) ~~[an]~~An attorney~~[/]~~ or their representative may request a hearing before the Executive Director if ~~[he]~~they believe~~[s]~~ the denial of access for ~~[him]~~them or ~~[his]~~their legal representative was arbitrary, capricious, unreasonable or in violation of law or ~~[Department]~~UDC policy~~[;]~~.

(28) ~~[any]~~Any attorney~~[/]~~ or their representative who violates any ~~[Department]~~UDC policy or rule or who provides false information may be denied access to the facility~~[;]~~.~~[-and]~~

(29) ~~[staff]~~Staff members authorized to accept service of process shall ensure that the requirements of proper service are appropriately satisfied at the DPO.

KEY: corrections, prisons, legal aid

Date of Last Change: ~~2023~~~~[October 12, 2011]~~

Notice of Continuation: February 24, 2022

Authorizing, and Implemented or Interpreted Law: 63-46a-3; 64-13-7; 64-13-10; 64-13-17

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R251-708	Filing ID: 55545
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Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14727 Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact persons:		
Name:	Phone:	Email:
Matt Anderson	801-556-8199	mattanderson@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R251-708. Perimeter Patrol

3. Purpose of the new rule or reason for the change:

The purpose of this filing is to establish a procedure for perimeter patrol of the prison facilities.

The changes are to facilitate the Draper prison move to Salt Lake and identify it by its new name.

4. Summary of the new rule or change:

The Department of Corrections made nonsubstantive style and formatting changes to this rule to conform with the Rulewriting Manual for Utah per EO No. 2021-12.

The changes are to facilitate the Draper prison move to Salt Lake and identify it by its new name..

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 change to the state budget, as this rule provides policy guidelines for the procedure for perimeter patrol of the prison facilities.

B) Local governments:

There is no anticipated cost or savings change to the local governments, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to small businesses, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to non-small businesses, as this rule does not apply to this group.

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 change to other persons, as this rule does not apply to this group.

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, as this does not apply to this group and this rule has no fiscal impact regardless.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Corrections, Brian Redd, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 63G-3-201	Section 64-13-10	Section 64-13-14
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Public Notice Information**8. 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:	10/02/2023
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9. This rule change MAY become effective on:

10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	Date:	08/01/2023
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R251. Corrections, Administration.**R251-708. Perimeter Patrol.****R251-708-1. Authority and Purpose.**

(1) This rule is authorized under Sections 63G-3-201, 64-13-10 and 64-13-14, ~~of the Utah Code.~~

(2) The purpose of this rule is to provide the Department's policies and procedures for perimeter patrol of prison facilities.

R251-708-2. Definitions.

"Contraband" means any material, substance, or other item not approved by the Department administration to be in the possession of inmates.

"Department" means the Department of Corrections.

"Perimeter patrols" means correctional officers assigned to observe and maintain security around the boundary of the prison.

"Prison" means the Utah State ~~Prison at Draper~~ Correctional Facility in Salt Lake City, Utah and the Central Utah Correctional Facility ~~at~~ in Gunnison, Utah.

R251-708-3. Policy.

(1) The Department shall maintain perimeter patrols to:

- (a) provide security;
- (b) prevent escape;
- (c) restrict access to Prison property;
- (d) control visitor traffic;
- (e) provide escape pursuit when necessary;
- (f) maintain order; and
- (g) prevent introduction of contraband.

(2) Perimeter patrols shall assist the facilitation of traffic through the secure perimeter at various access points by verifying the identity of persons at those points.

(3) Perimeter patrols shall:

(a) respond to all persons including hunters, walkers, joggers, off-road vehicle riders, and other vehicles on prison property or immediately adjacent areas;

(b) investigate any suspicious person or circumstance; and

(c) arrest or cite violators when required.

(4) Perimeter patrols ~~shall~~ may not allow non-prison personnel to wait in vehicles, in parking lots, or other areas of prison property.

(5) Perimeter patrols shall investigate unoccupied vehicles on or near the prison perimeter and may impound any vehicle which appears to present a security risk to the prison.

KEY: corrections, prisons, security measures

Date of Last Change: 2023 ~~January 21, 1997~~

Notice of Continuation: November 20, 2020

Authorizing, and Implemented or Interpreted Law: 64-13-10; 64-13-14

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R251-711	Filing ID: 55597
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Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14727 Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact persons:		
Name:	Phone:	Email:
Matt Anderson	801-556-8199	mattanderson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R251-711. Admission and Intake

3. Purpose of the new rule or reason for the change:

The prison relocated to Salt Lake City from Draper. The Department of Corrections internally identified that rules would need to be changed to reflect this move.

4. Summary of the new rule or change:

This rule change corrects the previous naming of the prison, South Point, to the current naming, Utah State Correctional Facility.

The Department of Corrections also made nonsubstantive style and formatting changes to this rule to conform with the Rulewriting Manual for Utah per EO No. 2021-12.

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 change to the state budget, as this rule provides policy guidelines for the state facility inmate admissions and intake and does not have a fiscal impact.

B) Local governments:

There is no anticipated cost or savings change to the local governments, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to small businesses, as this rule does not apply to this group.

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

There is no anticipated cost or savings change to non-small businesses, as this rule does not apply to this group.

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 change to other persons, as this rule does not apply to this group.

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, as this does not apply to this group and this rule has no fiscal impact regardless.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Corrections, Brian Redd, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 63G-3-201	Section 64-13-10	Section 64-13-15
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	Date:	07/05/2023
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R251. Corrections, Administration.

R251-711. Admission and Intake.

R251-711-1. Authority and Purpose.

(1) This rule is authorized under Sections 63G-3-201, 64-13-10, 64-13-14, and 64-13-15[~~of the Utah Code~~].

(2) The purpose of this rule is to provide admission and intake policies applying to individuals committed to ~~the~~ Utah State Correctional Facilities[~~Prison~~].

R251-711-2. Policy.

~~It is the policy of the Department that:~~

(1) ~~persons~~Persons committed for incarceration in a state correctional facility~~to the Utah State Prison~~ should be received at the ~~Draper facility~~Utah State Correctional Facility or Central Utah Correctional Facility during normal business hours, designated by the facility. If exigent circumstances exist, prisoner intakes can be determined by the shift commander.~~during the hours of 0700-1730 Monday through Friday, if possible;~~

~~(2) if it is not possible to deliver inmates to the Draper facility during the normal receiving hours, or if exigent circumstances are present, the Draper facility shall receive them at any time;~~

~~(3) for central and southern Utah commitments, male inmates should be received at the Central Utah Correctional facility during the hours of 0800-1700 Monday through Friday, if possible;~~

~~(4) if it is not possible to deliver male inmates to the Central Utah Correctional facility during the normal receiving hours, they may be taken to the Draper facility as described in (1) and (2) above;~~

~~(5)~~~~2~~ ~~money~~Money and personal property ~~shall~~should be inventoried and receipted by the receiving and transporting officers in the presence of the inmate~~;~~.

~~(6)~~~~3~~ ~~inmates~~Inmates may release property for personal pickup by a relative or friend, or they may mail the property at their own expense.~~;~~ and

~~(7)~~~~4~~ ~~if~~If property has not been mailed out or picked up within 30 days, it shall be donated to a charitable organization.

KEY: corrections, prisons

Date of Last Change: ~~October 18, 1996~~ 2023

Notice of Continuation: November 20, 2020

Authorizing, and Implemented or Interpreted Law: 64-13-10; 64-13-14; 64-13-15

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-303	Filing ID: 55654
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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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R277-303. Educator Preparation Programs
3. Purpose of the new rule or reason for the change:
This rule is being amended to incorporate new educator preparation program standards and related definitions.
4. Summary of the new rule or change:
These amendments add definitions and the new Educator Preparation Program standards.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have fiscal impact on state government revenues or expenditures.
The changes to incorporate new educator preparation program standards do not add staff time or costs for the Utah State Board of Education (USBE).

Higher education institutions may need to make adjustments to meet the educator preparation standards; however, USBE estimates that the institutions can implement changes with existing resources and is unable to quantify any additional costs for higher education institutions.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. Local Education Agencies (LEAs) will not be impacted by changes to standards for higher education educator preparation programs.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and higher education institutions.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

Educators in educator preparation programs are not likely to see increased costs due to the rule change. This affects the educator preparation programs themselves.

The USBE is unaware of any further impacts to individuals or other 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. The changes affect higher education educator preparation programs.

The USBE is unable to quantify any additional costs for the programs or educators due to the changes.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. 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:

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-6-201(3)(a)
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.

R277-303. Educator Preparation Programs.

R277-303-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-6-201(3)(a), which directs the Board to establish the criteria for obtaining licenses; and

(d) Section 53E-6-302, which requires the Board to establish standards for approval of educator preparation programs.

(2) The purpose of this rule is to establish flexible criteria for demonstration of competency in educator preparation programs in[~~the State of~~] Utah.

R277-303-2. Definitions.

(1) "Candidate" means an individual enrolled in an approved educator preparation program who is working toward completing the requirements for a Utah professional educator license.

(2) "Clinical experience" means a structured opportunity in which:

(a) a licensed educator mentors a program candidate;

(b) a school or district administrator or university preparation program faculty member with appropriate training evaluates program candidates; and

(c) a program candidate develops and demonstrates competency in the skills and knowledge necessary to be an effective educator.

(3) "Competency" means evidence of successful application of knowledge and skills shown through demonstration in a higher education or prek-12 classroom setting.

(4) "Completer" means a candidate who has completed licensure requirements and been endorsed for licensure by an approved educator preparation program.

(1) "Educator preparation program" means a comprehensive program administered by an entity that is intended to prepare individuals to meet the requirements for a Utah professional license or license area of concentration.

(b) "Educator preparation program" may include a program developed by or associated with an institution of higher education, individual LEA, a consortium of LEAs, or the Board.

(2) "Flexibility," for alternative preparation programs, means the process by which a program exercises local decision-making to design and implement focused options to meet program and applicant licensing needs, without adding additional requirements beyond those outlined in Board rule, and allowing a teacher to demonstrate competency where reasonably possible in lieu of coursework or other requirements, consistent with the purpose of Board licensing rules.

(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "License area" has the same meaning as set forth in Subsection R277-301-2(5)(a).

(9) "Mentor" means an educator with a professional license with training that may include how to advise, coach, consult, and guide the development of a new educator.

(10) "Professional license" means the educator license described in Section R277-301-6.

R277-303-3. Utah Educator Preparation Program Standards.

An approved Utah Educator Preparation Program shall meet the following standards:

(1) Program completer competency:

(a) a completer can effectively demonstrate the educator preparation competencies established in Board rule;

(b) a completer has the experience, knowledge, and skills needed to serve students with a variety of educational needs; and

(c) a completer establishes goals for their own professional growth and engages in self-assessment, goal setting, and reflection.

(2) Systems of support for candidate competency:

(a) a program provides high quality learning experiences aligned to Utah competencies and standards while offering multiple opportunities for a candidate to demonstrate that the candidate has the knowledge and skills to serve all students;

(b) a program seeks out and supports high quality clinical experiences for a candidate where the candidate has opportunities to practice and receive feedback on their knowledge and skills;

(c) a program develops and supports high quality mentors who support program candidates in demonstrating competencies in Board rule; and

(d) a program prioritizes capacity to support candidates as reflected in staffing and institutional resources.

(3) Program continuous improvement and impact:

(a) a program engages in thoughtful continuous improvement practices by reviewing program performance data and seeking opportunities for innovations and enhancement; and

(b) a program seeks partnerships with stakeholders to strengthen the Utah education system.

R277-303-3.4. Educator Preparation Program Review and Approval.

(1) The Superintendent shall establish uniform procedures for initial approval and review of educator preparation programs to ensure compliance with this rule.

(2) The Superintendent shall approve an educator preparation program that meets the requirements of this rule and the standards for program approval established in:

(a) Rule R277-304;

(b) Rule R277-305;

(c) Rule R277-306; and

(d) all other applicable Board rules.

(3)(a) The Superintendent shall conduct an ongoing review of approved educator preparation programs and shall renew or deny approval for a program at least every seven years.

(b) The review described in Subsection (3)(a) shall include monitoring whether:

(i) an educational preparation program is in compliance with Board rules; and

(ii) an alternative preparation program has reasonable flexibility for candidates to demonstrate required competencies.

(4) The Superintendent may grant preliminary approval to a new educator preparation program within a Utah public college or university pending approval by the Utah Board of Higher Education.

(5) The Superintendent shall make a report to the Board when an educator preparation program's initial application for approval is granted or denied.

(6) The Superintendent may place an approved educator preparation program on probation for:

(a) failure to meet program requirements detailed in applicable Board rules; or

(b) failure to submit complete and accurate information in a report required under this rule.

(7) The Board may revoke the approval of a probationary program that fails to meet probationary requirements with at least one year's notice to the educator preparation program.

(8) The Superintendent may require a program or subset of programs to submit reports to inform the annual report to the Board required in Section R277-301-10.

(9) The Superintendent shall accept an approved educator preparation program's recommendations for a professional license or license area if the prospective licensee meets all other requirements of Board rule.

R277-303-4.5. Educator Preparation Programs.

(1) An educator preparation program that applies for approval by the Superintendent shall demonstrate how it will ensure that participants:

(a) are prepared to meet the Utah Effective Educator Standards established in Rule R277-~~530~~330;

(b) successfully complete or are prepared to complete the pedagogical performance assessment required in Rule R277-301;

(c) have met the competencies required in all applicable Board rules;

(d) have sufficiently demonstrated the ability to work in the applicable license area and subject area; and

(e) successfully completed or are prepared to complete a pedagogical performance assessment meeting standards established by the Superintendent and approved by the Board for all new students enrolled in the program after January 1, 2020 and recommended for a Utah educator license after September 1, 2021 in all license areas for which such an assessment is available.

(2) In addition to the requirements of Subsection (1), an educator preparation program that is not also a Utah LEA shall:

(a) have a physical location in ~~the state of~~ Utah where participants attend classes; or

(b) if the program provides only online instruction:
 (i) have the program's primary headquarters located in Utah; and
 (ii) be licensed to do business through the Utah Department of Commerce; and
 (c) establish entry requirements that are designed to ensure that only high quality individuals enter the preparation program, which include measures of:
 (i) previous academic success;
 (ii) disposition for employment in an educational setting; and
 (iii) basic skills in reading, writing, and mathematics; and
 (d) include a pedagogical performance assessment meeting standards established by the Superintendent and approved by the Board for all new students enrolled in the program after January 1, 2020 and recommended for a Utah educator license after August 1, 2021 in all license areas for which such an assessment is available.

(3)(a) If the Superintendent denies an application from an educator preparation program, the proposed educator preparation program may appeal the Superintendent's decision to the Board by submitting a written appeal to the Board Secretary.

(b) The Board shall assign an appeal under Subsection (3)(a) to a standing committee to make a recommendation to the full Board for final action.

(4) An approved educator preparation program may recommend an individual that completed the program for a professional license or license area for up to five years after the individual completed the program, as long as all current license requirements have been met.

(5) If five years have passed since an individual completed an approved educator preparation program, the program may recommend the individual for a professional license or license area if the program:

(a) reviews the individual's program; and
 (b) requires the individual to complete any additional necessary requirements to meet current programs standards before making a licensing recommendation.

(6)(a) An approved educator preparation program may recommend an individual who began the program before January 1, 2020 for a professional license or license area without meeting the pedagogical performance assessment requirement in Rule R277-301, but must present documentation showing that the individual met the appropriate license requirements in effect before that date.

(b) Subsection (6)(a) supersedes Subsections (4) and (5).

R277-303-[5]6. Superintendent Responsibilities.

(1) The Superintendent shall provide support to educator preparation programs and potential licensees to the extent that funding allows by:

(a) maintaining a website to:
 (i) facilitate collaboration between educator preparation programs;
 (ii) facilitate communication between potential educators and approved programs; and
 (iii) provide access to up-to-date research on educator preparation and education practices;
 (b) reviewing third-party preparation materials for alignment with the Utah Effective Educator Standards in Rule R277-[530]330;
 (c) working with potential licensed educators to help them become licensed educators; and

(d) ensuring that alternative preparation program applicants be grandfathered from new program requirements added after an applicant's acceptance into the program.

(2) The Superintendent shall design and maintain a model educator preparation program that:

(a) meets all requirements of all applicable Board rules;
 (b) may be adopted by an LEA or an accredited private school, subject to Section R277-303-[4]5; and
 (c) is overseen by staff distinct from the staff responsible for ensuring educator preparation program compliance with all applicable Board rules.

KEY: educator preparation program, pedagogical assessment, professional competency, programs

Date of Last Change: [April 7,] 2023

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201(3)(a)

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:	R277-330	Filing ID: 55655
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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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R277-330. Utah Effective Educator Standards
3. Purpose of the new rule or reason for the change:
This rule is being created to replace Rule R277-530, which is being repealed. (EDITOR'S NOTE: The proposed repeal of Rule R277-530 is under ID 55660 in this issue, September 1, 2023, of the Bulletin.)

4. Summary of the new rule or change:

This new rule updates standards for teachers and administrators and incorporate relevant standards for other license areas.

Fiscal Information

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

A) State budget:

This proposed rule is not expected to have fiscal impact on state government revenues or expenditures.

This proposed rule updates standards for teachers and administrators. It does not add any costs to the Utah State Board of Education (USBE) or other state entities as it generally affects Local Education Agencies (LEAs) and educators.

B) Local governments:

This proposed rule is not expected to have fiscal impact on local governments' revenues or expenditures.

Some LEAs may need to update their policies; however, this is within the scope of their budgets and will not necessarily add costs to the LEA.

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

This proposed rule is not expected to have fiscal impact on small businesses' revenues or expenditures.

The educator standards only affect the USBE, LEAs, and educators.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed new rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This proposed rule is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

Teachers and administrators may wish to review the updated standards, but there are no additional costs for USBE, LEAs, or educators. The standards outline expected behavior and performance.

The USBE is unaware of any impacts to other individuals or 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. Affected educators have no quantifiable costs associated with complying with the updated standards for conduct.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information**6. 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-3-501(1)(a)
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Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds, updates, or removes the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	NASW Standards for School Social Work Services
Publisher	National Association of Social Workers
Issue Date	2012

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

Official Title of Materials Incorporated (from title page)	ASCA School Counselor Professional Standards & Competencies
Publisher	American School Counselor Association
Issue Date	2019

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

Official Title of Materials Incorporated (from title page)	Standards and Implementation Procedures for the Certificate of Clinical Competence in Audiology
Publisher	American Speech-Language-Hearing Association
Issue Date	2020

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

Official Title of Materials Incorporated (from title page)	The Professional Standards of the National Association of School Psychologists
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Publisher	National Association of School Psychologists
Issue Date	2020

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

Official Title of Materials Incorporated (from title page)	Standards and Implementation Procedures for the Certificate of Clinical Competence in Speech-Language Pathology
Publisher	American Speech-Language-Hearing Association
Issue Date	2020

Public Notice Information

8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
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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.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.**R277-330. Utah Effective Educator Standards.****R277-330-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-3-501(1)(a), which requires the Board to establish rules and minimum standards for the qualification and certification educators and for required school administrative and supervisory services.

(2) The purpose of this rule is to establish statewide effective educational standards for:

(a) teachers;

(b) administrators;

(c) school counselors;

(d) school psychologists;

(e) speech-language pathologists;

(f) speech-language technicians;

- (g) audiologists; and
- (h) school social workers.

R277-330-2. Definitions.

- (1) "Administrator" has the same meaning as defined in Subsection 53G-11-501(1).
- (2) "Educator" has the same meaning as defined in Subsection 53G-11-501(6).
- (3) "Utah Effective Educator Standards means:
 - (a) the Effective Teaching Standards described in Section R277-330-6;
 - (b) the Educational Leadership Standards described in Section R277-330-7;
 - (c) the Speech-Language Technician standards described in Subsection R277-306-5(1)(c);
 - (d) the 2019 American School Counselors Association Professional Standards and Competencies;
 - (e) the 2020 National Association of School Psychologists Professional Standards;
 - (f) the 2020 American Speech-Language-Hearing Association Standards and Implementation Procedures for the Certificate of Clinical Competence in Speech-Language Pathology;
 - (g) the 2020 American Speech-Language-Hearing Association Standards and Implementation Procedures for the Certificate of Clinical Competence in Audiology; and
 - (h) the 2012 National Association of Social Workers Standards for School Social Work Services.

R277-330-3. Incorporation by Reference.

- (1) This rule incorporates by reference:
 - (a) the 2019 American School Counselor Association Professional Standards and Competencies;
 - (b) the 2020 National Association of School Psychologists Professional Standards;
 - (c) the 2020 American Speech-Language-Hearing Association Standards and Implementation Procedures for the Certificate of Clinical Competence in Speech-Language Pathology;
 - (d) the 2020 American Speech-Language-Hearing Association Standards and Implementation Procedures for the Certificate of Clinical Competence in Audiology; and
 - (e) the 2012 National Association of Social Workers Standards for School Work Services.
- (2) A copy of these resources can be located at the offices of the Utah State Board of Education, <https://schools.utah.gov/administrativerules/documentsincorporated>, and:
 - (a) for Subsection (1)(a), <https://www.schoolcounselor.org/getmedia/a8d59c2c-51de-4ec3-a565-a3235f3b93c3/SC-Competencies.pdf>;
 - (b) for Subsection (1)(b), <https://www.nasponline.org/standards-and-certification/nasp-2020-professional-standards-adopted>;
 - (c) for Subsection (1)(c), <https://www.asha.org/certification/2020-slp-certification-standards/>;
 - (d) for Subsection (1)(d), <https://www.asha.org/certification/2020-audiology-certification-standards/>; and
 - (e) for Subsection (1)(e), <https://www.socialworkers.org/LinkClick.aspx?fileticket=1Ze4-9-Os7E%3D&portalid=0>.

R277-330-4. Establishment of Standards.

- (1) The Board hereby establishes the Utah Effective Educator Standards as the foundation of educator development, which includes:

- (a) alignment of teacher and school administrator programs;
- (b) expectations for licensure; and
- (c) screening, hiring, induction, and mentoring of beginning educators in all license areas.
- (2) The Utah Effective Educator Standards:
 - (a) ensure implementation of Utah's core standards; and
 - (b) serve as the basis for evaluation.
- (3) The Superintendent shall:
 - (a) base the model educator assessment system described in Subsection R277-323-8(1) on the Utah Effective Educator Standards; and
 - (b) provide resources, including professional learning opportunities, which assist LEAs in integrating the Utah Effective Educator Standards into educator practices.

R277-330-5. LEA Responsibilities.

- (1) An LEA shall develop policies to support teachers, school administrators, and other licensees in implementation of the Utah Effective Educator Standards.
- (2) An LEA shall develop and support professional learning experiences in connection with an educator's professional learning plan for re-licensure using the Effective Educator Standards to assess educator progress toward implementation of the standards.
- (3) An LEA shall adopt educator assessment systems aligned with the Utah Effective Educator Standards and consistent with Rule R277-323.
- (4) An LEA shall use the Utah Effective Educator Standards as a basis for the development of a collaborative professional culture to facilitate student learning.
- (5) An LEA shall implement induction and mentoring activities for beginning educators that support implementation of the Utah Effective Educator Standards.

R277-330-6. Effective Teaching Standards.

- (1) The Effective Teaching Standards described in this Section:
 - (a) describe the knowledge, skills, and dispositions that are the hallmark of effective instruction; and
 - (b) highlight practices associated with effective teaching.
- (2) A Utah educator shall demonstrate a commitment to ongoing growth and development of instructional competency within the following areas:
 - (a) Learners and Learning -- demonstrating attention to the impact of unique learner characteristics on development and growth;
 - (b) Instructional Design Clarity:
 - (i) previewing classroom content;
 - (ii) demonstrating clarity in organizing and sequencing instruction; and
 - (iii) effective planning for learning and student engagement.
 - (c) Instructional Practice:
 - (i) engaging in high quality instructional practices that are data informed;
 - (ii) exhibiting a collaborative approach to teaching and learning; and
 - (iii) meeting the learning needs of each student.
 - (d) Classroom Climate -- creating academic, physical, social, and emotional conditions with emphasis on academic performance; and

(e) Professional Responsibility -- demonstrating an awareness of and adherence to professional and ethical standards within their school and with families and communities, as required in Rule R277-217, Educator Standards and LEA Reporting.

R277-330-7. Educational Leadership Standards.

(1) The Educational Leadership Standards described in this Section describe expectations for school administrators, including:

- (a) meeting the Effective Teaching standards;
- (b) having the knowledge and skills to guide and supervise the work of educators;
- (c) leading the school learning community; and
- (d) managing the school's learning environment in order to provide effective, high quality instruction to all Utah students.

(2) In addition to meeting the Effective Teaching Standards, a school administrator shall demonstrate the traits, skills, and work functions designated in the following areas:

(a) Visionary Leadership -- promoting the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is largely shared and supported by stakeholders;

(b) Teaching and Learning - promoting the success of every student by advocating, nurturing, and sustaining a school focused on teaching and learning conducive to student, faculty, and staff growth;

(c) Management for Learning -- promoting the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment;

(d) Community Collaboration:
(i) promoting the success of every student by collaborating with faculty, staff, parents, and community members;

(ii) responding to diverse community interests; and

(iii) mobilizing community resources;

(e) Ethical Leadership -- promoting the success of every student by acting with, and ensuring a system of, integrity, fairness, equity, and ethical behavior; and

(f) Systems Leadership -- promoting the success of every student by understanding, responding to, and influencing the interrelated systems of political, social, economic, legal, and policy contexts affecting education.

KEY: effective, standards

Date of Last Change: 2023

Authorizing, and Implemented or Interpreted Law: Article X, Section 3; 53E-3-401(4); 53E-3-501(1)(a)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Rule or Section Number:	R277-433	Filing ID: 55656
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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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R277-433. Disposal of Textbooks in the Public Schools

3. Purpose of the new rule or reason for the change:

This rule is being repealed due to the passage of H.B. 494 in the 2023 General Session, which removed the requirement that Local Education Agencies (LEAs) notify all other local education agencies before disposing of undamaged textbooks.

4. Summary of the new rule or change:

This rule is repealed in its entirety.

Fiscal Information

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

A) State budget:

This proposed repeal is not expected to have fiscal impact on state government revenues or expenditures.

There are no further impacts outside what was captured in the fiscal note to H.B. 494 (2023).

B) Local governments:

This proposed repeal is not expected to have fiscal impact on local governments' revenues or expenditures. There are no further impacts outside what was captured in the fiscal note to H.B. 494 (2023).

LEAs can continue to notify other LEAs of textbook disposal but are not required to do so.

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

This proposed repeal is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This proposed repeal is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only impacts LEAs.

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. This only impacts LEAs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. 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:

Article X, Section 3	Subsection 53E-3-401(4)	Section 53G-7-606
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.

~~R277 433. Disposal of Textbooks in the Public Schools.~~

~~R277 433 1. Authority and Purpose.~~

~~(1) This rule is authorized by:~~
~~(a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;~~
~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~

~~(c) Section 53G-7-606, which requires the Board to make rules providing for the disposal or reuse of useable textbooks in the public schools.~~

~~(2) The purpose of this rule is to provide procedures for LEA policies for the reuse or disposal of textbooks in the public schools.~~

R277-433-2. Definitions.

~~(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~(2)(a) "Textbook" has the same meaning as described in Subsection 53G-7-601(5).~~

~~(b) Textbook includes any printed book that is required for participation in a course of instruction.~~

R277-433-3. LEA Policies on Disposal of Textbooks.

~~(1) Each LEA shall develop policies regarding the reuse or disposal of textbooks consistent with Section 53G-7-606.~~

~~(2) An LEA's policies shall provide procedures for notification to other LEAs of available textbooks and timelines for disposal of textbooks.~~

~~(3) An LEA's policies shall provide procedures for negotiating the exchange of the textbooks.~~

KEY: textbooks

Date of Last Change: June 7, 2022

Notice of Continuation: April 15, 2022

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-7-606]

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-465	Filing ID: 55657
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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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-465. CPR in Schools

3. Purpose of the new rule or reason for the change:

This rule is being amended to allow schools to have more flexibility when they apply and then reimburse through the Utah State Board of Education's Utah Grants Management system, beginning in September 2023.

4. Summary of the new rule or change:

These amendments make specific updates to the requirements that allow schools to use funds to pay an existing teacher or staff a stipend for ongoing training.

Fiscal Information

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

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. Local Education Agencies (LEAs) are given additional flexibility to use the CPR Training Grants funds.

There are no changes to the Utah State Board of Education (USBE) budgets for staff or other costs.

B) Local governments:

This rule change is not expected to have major fiscal impact on local governments' revenues or expenditures. LEAs are afforded to additional flexibility to compensate staff for training students outside their normal duties with the CPR Training grant funds.

There are no changes to the amounts for student.

Some LEAs may now qualify for additional funds. The exact amount is not known at this time.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects LEAs and USBE.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to

have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects LEAs and USBE.

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. This only affects LEAs and USBE.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0

Net Benefits	\$0	\$0	\$0
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H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. 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:

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53G-10-408(2)
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.

R277-465. CPR in Schools.

R277-465-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53G-10-408(2), which requires the Board to make rules to develop and implement cardiopulmonary resuscitation (CPR) training as part of the core curriculum standards for instruction in health.

(2) The purpose of this rule is to provide:

(a) the requirements for the teaching of CPR in the health standards; and

(b) the criteria and distribution method for CPR training grants.

R277-465-2. Definitions.

(1) "Cardiopulmonary resuscitation" or "CPR" means the same as the term is defined in Subsection 53G-10-408(1)(b).

(2) "Psychomotor skills" means the same as the term is defined Subsection 53G-10-408(1)(e).

(3) "Specific material" means any material used by an LEA to comply with the Health Education Core Standards related to CPR.

R277-465-3. CPR Health Standards Requirements.

(1) An LEA shall provide the CPR instruction consistent with the Health Education Core Standards and as required in Subsection 53G-10-408(5):

(a) using a certified CPR instructor;

(b) following a current Emergency Cardiovascular Care (ECC) guidelines for CPR; and

(c) using cognitive and psychomotor skills training.

(2) An LEA shall provide the CPR instruction using the following ratios as closely as possible:

(a) a student to instructor ratio of no greater than 15:1; and

(b) a mannequin to student ratio no greater than 1:6.

(3) An LEA shall provide the CPR instruction at least once to each student between grades 9 through 12 except as provided for in Subsection 53G-10-408(7).

(4) An LEA is not required to provide the psychomotor skills instruction if the student is in an online-only educational experience.

R277-465-4. CPR Training Grant Program.

(1) An LEA may apply to receive CPR training grant funds.

(2) If an LEA chooses to apply for grant funds the LEA shall submit the following information as part of the LEA's application:

(a) LEA name;

(b) point of contact to oversee the use of the funds;

(c) the number of students the LEA will provide training;

(d) the total amount of requested funds; and

(e) which of the allowable uses of funding as described in Subsection (4) of this ~~part~~ section the LEA plans to utilize.

(3) Except as provided for in Subsection (6), an LEA may not receive more than \$6 per student as the LEA's total award under this grant program.

(4) An LEA may only use awarded funds for the following purposes:

(a) to contract with the local emergency management system for a certified instructor;

(b) to certify an LEA employee as an instructor;~~[-or]~~

(c) compensate certified staff for training students in hands-on, high-quality CPR and AED training that is outside of their normal duties; or

~~[(c)]~~(d) to contract with a third party or group who specializes in CPR and AED instruction to provide the instruction.

(5) Subject to legislative appropriation, an LEA may also apply to receive funds to replace or purchase specific materials or equipment for the CPR instruction.

(6) The Superintendent shall distribute the funds described in Subsection (5) to an LEA in an amount proportionate to the LEA's number of students compared to the total number of students of all LEAs applying for specific materials or equipment grant.

(7) The Superintendent may adjust the amount an LEA receives for a specific materials or equipment grant if the LEA demonstrates greater need through:

(i) lack of enough necessary materials or equipment;

(ii) low quality or deteriorated materials or equipment; and

(iii) an extended period since the last update or purchase of materials or equipment.

KEY: health standards; CPR; cardiopulmonary resuscitation

Date of Last Change: 2023~~July 22, 2022~~

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-10-408(2)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number: **R277-469**

Filing ID: **55658**

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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-469. Instructional Materials Commission Operating Procedures
3. Purpose of the new rule or reason for the change:
This rule is being amended due to the passage of H.B. 427 in the 2023 General Session.
4. Summary of the new rule or change:
These amendments include a reference to Section 53G-10-206 and update terms used that pertain to digital resources.

Fiscal Information

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

This rule change is not expected to have fiscal impact on state government revenues or expenditures. There are no additional costs beyond what was captured in the fiscal note to H.B. 427 (2023).

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. There are no additional costs beyond what was captured in the fiscal note to H.B. 427 (2023).

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. There are no additional costs beyond what was captured in the fiscal note to H.B. 427 (2023).

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. There are no additional costs beyond what was captured in the fiscal note to H.B. 427 (2023).

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. There are no additional costs beyond what was captured in the fiscal note to H.B. 427 (2023).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information**6. 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:**

Article X, Section 3	Section 53E-4-402	Section 53E-4-408
Subsection 53E-3-401(4)		

Public Notice Information

8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.

R277-469. Instructional Materials Commission Operating Procedures.

R277-469-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitutional Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Section 53E-4-402, which directs the Board to appoint an Instructional Materials Commission and directs the Commission to evaluate instructional materials for recommendation by the Board; and
 - (d) Section 53E-4-408, which directs the Board to make rules that establish the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials and requirements for the detailed summary of the evaluation.
- (2) The purpose of this rule is to:
 - (a) provide definitions, operating procedures and criteria for recommending instructional materials for use in Utah public schools;
 - (b) provide for mapping and alignment of primary instructional materials to the Core consistent with Utah law; and
 - (c) provide rules for purchase and distribution of instructional materials within the state.

R277-469-2. Definitions.

- (1) "Commission" means the Instructional Materials Commission established in accordance with Section 53E-4-402.
- (2) "Core" means the core standards adopted by the Board in Rule R277-700.
- (3) "Curriculum alignment" means the assurance that the material taught in a course or grade level matches the standards, and assessments set by the state for specific courses or grade levels.
- (4) "Depository" means a business dedicated to storing and distributing resources or materials in sufficient quantities to insure rapid and efficient delivery to LEAs.
- (5)(a) "Instructional materials" means systematically arranged content in text, digital, Braille and large print, or audio format which may be used within the state curriculum framework for courses of study by students in public schools.
- (b) "Instructional materials" include:
 - (i) textbooks;

- (ii) workbooks;
- (iii) ~~computer software~~ digital resources;
- (iv) online ~~or internet~~ courses;
- (v) CDs or DVDs; and
- (vi) multiple forms of communication media.
- (c) "Instructional materials" may be used by students or teachers or both as principal sources of study to cover any portion of a course.
 - (d) "Instructional materials":
 - (i) are designed for student use;
 - (ii) may be accompanied by or contain teaching guides and study helps;
 - (iii) shall include all textbooks, workbooks, student materials, supplements, and online and digital materials necessary for a student to fully participate in coursework;
 - (iv) shall be high quality, research-based materials for supporting student learning; and
 - (v) may not be sensitive materials as defined by Subsection 53G-10-103(1)(g).
 - (6) "Independent party" means an entity that is not part of or related to:
 - (a) the Board;
 - (b) Board staff;
 - (c) an employee or governing board member of an LEA;
 - (d) the creator or publisher of instructional materials under review; or
 - (e) anyone with a financial interest, however minimal, in instructional materials under review.
 - (7) "Instructional Materials Commission" or "Commission" means the commission appointed by the Board in accordance with Section 53E-4-402.
 - (8) "Integrated instructional program" means any combination of instructional materials for students, including:
 - (a) textbooks;
 - (b) workbooks;
 - (c) ~~software~~ digital resources;
 - (d) videos;
 - (e) electronic devices; or
 - (f) similar resources.
 - (9) "Instructional materials provider" means a publisher or author and self-publisher who sells or provides instructional materials for use in Utah public schools.
 - (10) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
 - (11) "Mapping" means creating a visual representation listing topics in instructional materials in correlation to the standards of the Utah Core.
 - (12) "National Instructional Materials Access Center" or "NIMAC" means the same as that term is defined in Subsection R277-800-2(14).
 - (13) "National Instructional Materials Accessibility Standard" or "NIMAS" means the same as that term is defined in Subsection R277-800-2(15).
 - (14) "Not sampled" means instructional materials that were included in a publisher bid for evaluation by the Instructional Materials Commission, but which were not sampled to the Superintendent or the Commission.
 - (15) "Primary instructional material" means a comprehensive basal or Core textbook or integrated instructional program for which a publisher seeks a recommendation for Core subjects designated in Sections R277-700-4 through R277-700-6.

(16) "Recommended instructional materials" or "RIMs" means the recommended instructional materials searchable database provided as a free service by the Board for the posting of evaluations and alignments to the Core of instructional materials submitted by publishers for review by the Commission and approval of the Board.

(17) "Recommended limited" means instructional materials that are in limited alignment with the Core requirements or are narrow or restricted in their scope and sequence.

(18) "Recommended primary" means instructional materials that:

(a) are in alignment with content, philosophy, and instructional strategies of the Core;

(b) have been mapped and aligned to the Core, consistent with Section 53E-4-408;

(c) are appropriate for use by students as principal sources of study; and

(d) support Core requirements.

(19) "Recommended student resource" means instructional materials aligned to the Core that are developmentally appropriate, but not intended to be the primary instructional resource, which may provide valuable content information for students.

(20) "Recommended teacher resource" means instructional materials that are appropriate as resource materials for use by teachers.

(21) "Reviewed, but not recommended" means instructional materials that an LEA is strongly cautioned against using because the materials:

(a) do not align with the Core;

(b) are inaccurate in content;

(c) include misleading connotations;

(d) contain undesirable presentation; or

(e) are in conflict with existing law or rule.

(22) "Utah State Instructional Materials Access Center" or "USIMAC" means the same as that term is defined in Subsection R277-800-2(21).

R277-469-3. Use of State Funds for Instructional Materials.

(1) An LEA may use state funds for any primary supplemental or supportive instructional materials that support Core requirements.

(2) An LEA shall select and approve instructional materials consistent with:

(a) established local board procedures and timelines;

(b) Utah Code and Board rule, including Section 53G-10-103;

(c) Subsection 53G-10-402(1)(c)(iii); and

(d) Subsection 53E-4-403(4).

(3) A school or school district that uses any funding source to purchase materials that have not been recommended or selected consistent with state law, may have funds withheld to the extent of the actual costs of those materials pursuant to Subsection 53E-3-401(8)(a)(ii).

(3)(a) An LEA may use free instructional materials that are used as primary instructional materials or that are part of primary integrated instructional programs subject to the same independent party evaluation and Core mapping as basal or Core material.

(b) If an LEA receives free materials, the LEA may use the materials as student instructional materials only consistent with the law and this rule.

(4) An LEA shall include a requirement in all publisher contracts for instructional materials that the publisher shall:

(a) prepare and provide electronic files of all instructional materials in the NIMAS format to NIMAC on or before delivery of print instructional materials; or

(b) provide instructional materials that are produced in, or may be made in, specialized formats; and

(c) provide materials consistent with the Utah Code and administrative rules.

(5)(a) An LEA shall provide timely notice to all publishers with whom the LEA contracts for instructional materials that all materials shall be provided consistent with Subsection (4).

(b) An LEA's notice shall include a copy of this rule.

R277-469-4. Instructional Materials Commission Members Terms of Service.

(1) The Board shall appoint members of the Instructional Materials Commission in accordance with Section 53E-4-402.

(2)(a) A member appointed in accordance with Subsection (1) shall serve four year terms, staggered to ensure continuity in the efficient operation of the Commission.

(b) A member may apply for reappointment to one additional term.

(3) The Commission may establish subcommittees as needed.

R277-469-5. Commission Review of Materials.

(1) The Instructional Materials Commission shall primarily focus on reviewing materials used in subjects aligned with Core requirements to include reading, language arts, mathematics through geometry, science, in kindergarten through 12th grade, effectiveness of written expression, and other Core subject areas as assigned by the Board.

(2) The Commission shall determine subject areas and timelines for review based on school district and charter school needs and requests, using forms and procedures provided by the Superintendent.

(3) The Commission shall meet to review materials at least semi-annually.

(4) Following its evaluation of a submitted item, the Commission shall recommend that the Board classify materials in one of the following categories:

(a) Recommended primary;

(b) Recommended limited;

(c) Recommended teacher resource;

(d) Recommended student resource;

(e) Reviewed, but not recommended; or

(f) Not sampled.

R277-469-6. Criteria for Recommendation of Instructional Materials Following Mid-Party Evaluation of Core Curriculum.

(1) The Instructional Materials Commission and the Board, in reviewing whether to recommend instructional materials, may consider whether the instructional materials:

(a) are consistent with Core requirements;

(b) are mapped and aligned to the Core and state adopted assessments if planned for use as primary materials;

(c) are high quality, research-based, and proven to be effective in supporting student learning;

(d) provide an objective and balanced viewpoint on issues;

(e) include enrichment and extension possibilities;

(f) are appropriate to varying levels of learning;

(g) are accurate and factual;

(h) are arranged chronologically or systematically, or both;
 (i) reflect the pluralistic character and culture of the American people and provide accurate representation of diverse ethnic groups;

(j) are not sensitive materials as defined in Subsection 53G-10-103(1)(g);

(k) are consistent with the principles of individual freedom as defined in Section 53G-10-206; and

~~[(l) are free from sexual, ethnic, age, gender or disability bias and stereotyping; and]~~

(l) are of acceptable technical quality.

(2) A publisher, when submitting new primary material to be evaluated by the Superintendent, shall submit an electronic version of that material in NIMAS file format to NIMAC for use in conversion into Braille, large print, and other formats for students with print disabilities.

(3) The Superintendent may require an LEA to provide a report of instructional materials purchased by the LEA or a school in the previous five years.

(4) The Superintendent may initiate a formal or informal audit of instructional materials purchased to determine purchase or use of instructional materials consistent with the law or this rule.

R277-469-7. Agreements and Procedures for LEAs.

(1) A local board shall establish a policy for selection and purchase of instructional materials.

(2) As part of any materials adoption process or procurement contract for purchasing instructional materials, an LEA shall provide instructional materials to all students, including blind students and other students with disabilities, in a timely manner.

(a) A publisher shall provide materials in electronic files to NIMAC to make materials available to eligible students.

(b) An LEA shall include NIMAS contract language in all contracts with publishers for Core materials.

(c) An LEA may purchase instructional materials from the publisher that are produced in, or may be in, specialized formats for eligible students.

(3) An LEA shall require a detailed Core curriculum alignment before the purchase of primary instructional materials.

R277-469-8. Qualifications for Core Curriculum Alignment Independent Parties.

(1) A primary instructional materials provider shall contract with an independent party in accordance with Subsection 53E-4-408(1)(a).

(2) An independent party may only employ or contract with a reviewer who has a degree or an endorsement specific to the subject area of the primary instructional materials.

(3) A publisher shall provide proof of an independent party's credentials to the Superintendent upon request.

R277-469-9. Detailed Summary Requirements.

(1) An independent party shall submit a summary required under Subsection 53E-4-408(1)(b) in a searchable, ~~[software]~~digital resource database format designated by the Superintendent.

(2) A summary required under Subsection 53E-4-408(1)(b) shall:

(a) include detailed alignment information that includes, at a minimum:

- (i) the title of the material;
- (ii) the ISBN number;
- (iii) the publisher's name;

(iv) the name and grade of the Core document used to align the material;

(v) the overall percentage of coverage of the Core;

(vi) the overall percentage of coverage in ancillary resources of the material to the Core;

(vii) the percentage of coverage of the Core in the material for each standard, objective and indicator in the Core with corresponding page numbers;

(viii) percentage of coverage of the Core not covered in the material but covered in the ancillary resources for each standard; and

(ix) objective and indicator in the Core with corresponding page numbers or URLs; and

(b) provide the detailed alignment information listed in Subsection (a)(iv) for the student text for all editions of the text that are used in Utah public schools;

(c) provide the detailed alignment information listed in Subsection (a)(iv) for a teacher edition of text, if a teacher edition is used in Utah public schools; and

(d) provide an assurance, including a personal signature, that the work was completed personally and as required by the licensed and endorsed reviewer.

R277-469-10. Agreements and Procedures for Publishers.

(1) A publisher desiring to sell primary instructional materials to Utah school districts shall comply with the requirements of Section 53E-4-408 and this rule.

(2)(a) A publisher seeking to sell recommended materials to Utah schools or school districts shall ~~[have ten books and tangible adopted materials or such other amount as required by a depository based on anticipated need on deposit within the state at an instructional materials depository in the business of selling instructional materials to schools or school districts in Utah]~~maintain on deposit the number of books necessary to meet the anticipated needs within the state at an instructional materials depository in the business of selling instructional materials to schools or school districts in Utah.

(b) A publisher shall submit verification of compliance with Subsection (2)(a) to the Superintendent through the publisher's contracted depository prior to the Superintendent posting a review of the materials on RIMs.

(3) A publisher may make a depository agreement with one or more depository.

(4) Notwithstanding Subsection (2), a publisher may sell instructional materials to schools or school districts in Utah directly or through means other than a designated depository.

(5) A publisher need not store digital and online resources within the state, but shall guarantee timely resource availability of a placed order and shall provide digital and online resource orders without shipping charges.

(6) If a revised edition of recommended materials retains the original title and authorship, the publisher may request its substitution for the edition currently recommended providing that:

(a) the original contract price and contract date do not change and the original contract price applies for the substituted materials;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the Superintendent for examination purposes; and

(d) the publisher submits a revised electronic edition in NIMAS file format to the NIMAC if the Superintendent approves the substitution request.

(7) The Commission shall make the final determination about the substitution of a new edition for a previously recommended edition with assistance from the Superintendent.

(8) A publisher's contract price for materials recommended by the Commission and the Board shall apply for five years from the contract date.

R277-469-11. Request for Reconsideration of Recommendation.

(1) The Superintendent shall provide a school district, school, or publisher with the evaluations and recommendations resulting from the initial review of the Commission.

(2) A school district, school, or publisher may, within 30 days of the Commission's initial recommendation, request to have materials reviewed again during the Commission's next review cycle.

(3)(a) During the period of the reconsideration request, the Superintendent shall classify materials only tentatively.

(b) The Superintendent shall not post tentatively classified materials to RIMs until recommended through the official Commission process.

(4) A school district, school, or publisher may be asked to send a second set of sample materials to the Superintendent as part of a reconsideration request.

(5) Any written information provided by a school district, school, or publisher shall be available to the advisory committees during the second review.

(6) After the second review by the subject area advisory committee, the Commission shall vote on the advisory committee's recommendation at the next scheduled meeting.

(7) If the Commission votes to change the recommendation, the Superintendent shall notify the Board of the action at the next scheduled Board meeting.

(8) The Superintendent shall send a school district, school, or publisher written notification of the final recommendation and new evaluation.

(9) If the Commission and Board approve materials following a request for reconsideration, the Superintendent shall post the evaluation to RIMs.

KEY: instructional materials

Date of Last Change: ~~February 8,~~ 2023

Notice of Continuation: September 15, 2022

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-4-402; 53E-4-408; 53E-3-401(4)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-494	Filing ID: 55659
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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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R277-494. Charter, Online, Home, and Private School Student Participation in Extracurricular and Co-curricular School Activities

3. Purpose of the new rule or reason for the change:

This rule is being amended due to the passage of H.B. 209 in the 2023 General Session.

4. Summary of the new rule or change:

These amendments make updates so that this rule is consistent with changes adopted by the Legislature in H.B. 209 (2023), specifically regarding where students can participate in extracurricular activities.

Fiscal Information

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

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. There are no changes to the Utah State Board of Education (USBE) budgets due to the changes required by H.B. 209 (2023).

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. There are no further impacts to Local Education Agencies (LEAs) from the rule change outside the fiscal note to H.B. 209 (2023).

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This rule change only affects LEAs and the USBE.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule change only affects the USBE and LEAs.

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. This rule change only affects the USBE and LEAs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. 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:

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53G-6-704(5)
Subsection 53G-6-705(6)		

Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.

R277-494. Charter, Online, Home, and Private School Student Participation in Extracurricular or Co-curricular School Activities.

R277-494-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities;

(c) Subsection 53G-6-704(~~[6]~~~~7~~)(~~a~~), which directs the Board to make rules establishing fees for a charter school student's participation in extracurricular or co-curricular activities at certain public schools; and

(d) Subsection 53G-6-705(6), which directs the Board to make rules establishing fees for an online student's participation in extracurricular or co-curricular activities at certain public schools.

(2) The purpose of this rule is to inform school districts, charter ~~schools~~, ~~and~~ online schools, private schools, and parents of:

(a) school participation fees; and

(b) state-determined requirements for a charter school, ~~a~~ ~~public~~ online school, or private school student to participate in an extracurricular activity at ~~a student's boundary~~ another public school.

R277-494-2. Definitions.

(1) "Activity fee" means a fee that:

(a) is approved by a local school board or public school;

(b) is charged to all students to participate in an extracurricular or co-curricular activity sponsored by or through the public school; and

(c) entitles a public school student to:

(i) participate in a school activity;

(ii) try out for an extracurricular or co-curricular school activity;

(iii) receive transportation to an activity; and

(iv) attend a regularly scheduled public school activity.

(2) "Association" has the same meaning as defined in Section 53G-7-1101.

(~~2~~)(3) "Co-curricular activity" means the same as that term is defined in Section 53G-7-501.

(~~3~~)(4) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.

(~~4~~)(5) "Online school" means a formally constituted public school that offers full-time education delivered primarily over the internet.

(~~5~~)(6) "Qualifying school" means:

(a) for purposes of a charter school student, a school described in Subsection 53G-6-704(~~1~~)(2);

(b) for purposes of an online school student, a school described in Subsection 53G-6-705(2); and

(c) for purposes of a private or home school student, a school described in Subsection 53G-6-703(2)(c).

(~~6~~)(7) "School of enrollment" means the public school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(~~7~~)(8) "School participation fee" means the fee paid by a charter or online school to a qualifying school consistent with Subsection[s] R277-494-3(2) or R277-494-4(2) for the charter or online school student's participation in an extracurricular or co-curricular activity.

(~~8~~)(9) "Student activity specific fee" means the activity fee charged to all participating students by a qualifying school for a designated extracurricular or co-curricular activity consistent with Rule R277-407.

R277-494-3. Charter and Online School Student Participation in Extracurricular Activities at Another Public School.

(1) A charter or online school student may participate in an extracurricular activity at a qualifying school if:

(a) the extracurricular activity is not offered by the student's charter or online school;

(b) the student satisfies:

(i) for a charter school student, the requirements of ~~Subsection~~ Section 53G-6-704(~~3~~);

(ii) for an online school student, the requirements of ~~Subsection~~ Section 53G-6-705(~~3~~);

(iii) any participation requirements established by an association for a sanctioned interscholastic activity; and

(~~iii~~)(iv) the requirements of this rule;

(c) the student meets the qualifying school's standards and requirements; and

(d) the student's parent agrees to provide the student transportation to the qualifying school for the extracurricular activity.

(2)(a) A charter or online school student's school of enrollment shall pay a one-time annual school participation fee of \$75~~[-400]~~ per student to the qualifying school at which the charter or online school student desires to participate.

(b) Upon annual payment of the school participation fee, the student may participate in all extracurricular or co-curricular school activities at the school during the school year for which the student is qualified and eligible.

(3) The school participation fee described in Subsection (2)(a) is in addition to:

(a) a student activity specific fee for a specific extracurricular activity; and

(b) the activity fee charged to all students in a qualifying school to supplement a school activity as assessed by the school consistent with this rule.

(4) Except as provided in Subsection (7), a charter or online school student who participates in an extracurricular activity at a qualifying school shall pay all required student activity specific fees to the qualifying school in accordance with deadlines set by the qualifying school.

(5) All fees, including school participation fees and student activity specific fees shall be paid prior to a charter or online school student's participation in an activity at the qualifying school.

(6) A charter or online school of enrollment shall cooperate fully with all qualifying schools:

(a) regarding students' participation in try-outs, practices, pep rallies, team fund raising efforts, scheduled games, and required travel; and

(b) by providing complete and prompt reports of student academic and citizenship progress or grades, upon request.

(7)(a) If a participating charter or online school student qualifies for a fee waiver, in accordance with Rule R277-407, the charter or online student's school of enrollment shall pay the school participation fee described in Subsection (2)(a) and any waived student activity specific fees to the qualifying school.

(b) A charter or online school that is required to pay a fee waiver student's participation fee or student activity specific fee as described in Subsection (7)(a) shall pay the student participation fee and any student activity specific fees to the qualifying school before the charter or online school student may begin to participate in the extracurricular activity at the qualifying school.

R277-494-4. Charter or Online School Student Participation in Co-Curricular Activities.

(1)(a) A charter or online school student may participate in a co-curricular activity at a qualifying school if:

(i) the co-curricular activity is not offered by the student's charter or online school;

(ii) the student satisfies:

(A) for a charter school student, the requirements of ~~[Subsection]Section 53G-6-704[(3)]~~;

(B) for an online school student, the requirements of ~~[Subsection]Section 53G-6-705[(3)]~~;

~~(C) any participation requirements established by an association for a sanctioned interscholastic activity; and~~

~~([C]D) the requirements of this rule;~~

(iii) the student meets the qualifying school's standards and requirements; and

(iv) the student's parent agrees to provide the student transportation to the qualifying school for the co-curricular activity.

(b) A charter or online school may negotiate with a public school other than a school described in Subsection (1) to participate in a co-curricular activity at the other public school, including:

(i) a debate, drama, or choral program;

(ii) a specialized course or program offered during the regular school day; and

(iii) a school's sponsored enrichment program or activity.

(c) A student who participates in a co-curricular activity described in Subsection (1)(b) shall meet:

(i) the same attendance, discipline, and course requirements expected of the public school's full-time students;

(ii) for a charter school student, the requirements of ~~[Subsection]Section 53G-6-704[(3)]~~; and

(iii) for an online school student, the requirements of ~~[Subsection]Section 53G-6-705[(3)]~~.

(2)(a) A charter or online school of enrollment shall determine if the school will allow students to participate in co-curricular school activities at qualifying schools.

(b) If a charter or online school allows one student to participate in a co-curricular activity at a qualifying school, the charter or online school shall allow all interested students to participate.

(3)(a) A charter or online school student's school of enrollment shall pay a one-time annual school participation fee of \$75~~[-00]~~ per student to the qualifying school at which the charter or online school student desires to participate.

(b) If a charter or online school of enrollment pays a \$75~~[-00]~~ school participation fee to a qualifying school as described in Subsection R277-494-3(2)(a), the charter or online school of enrollment is not required to pay an additional \$75~~[-00]~~ school participation fee described in Subsection (3)(a) to the qualifying school in the same year.

(4) A charter or online school student participating under this rule shall:

(a) pay the required student activity specific fees for each co-curricular activity; and

(b) meet all eligibility requirements and timelines of the public school.

(5)(a) If a participating charter or online school student qualifies for a fee waiver, in accordance with Rule R277-407, the charter or online student's school of enrollment shall pay any waived student activity specific fees to the qualifying school.

(b) A charter or online school that is required to pay a fee waiver student's activity specific fees as described in Subsection (5)(a), shall pay the student activity specific fees to the qualifying school before the charter or online school student may begin to participate in the co-curricular activity at the qualifying school.

R277-494-5. Private or Home School Student Participation in Extracurricular Activities.

(1) In accordance with Section 53G-6-703, a private or home school student may participate in an extracurricular activity at a qualifying school if:

(a) for a private school student, the extracurricular activity is not offered by the student's private school;

(b) the student satisfies the requirements of:

(i) Section 53G-6-703;~~[-and]~~

~~(ii) any participation requirements established by an association for a sanctioned interscholastic activity; and~~

~~([#]iii) this rule; and~~

(c) the student meets the qualifying school's standards and requirements.

(2) Except as provided in Subsection (3), a private or home school student shall pay the required student activity specific fees for each extracurricular activity to the qualifying school:

(a) before the student may participate in the extracurricular activity at the qualifying school; and

(b) in accordance with deadlines set by the qualifying school.

(3) If a private or home school student qualifies for a fee waiver in accordance with Rule R277-407, the qualifying school shall waive any required student activity specific fees in accordance with the requirements of Rule R277-407, School Fees.

R277-494-6. Private or Home School Student Participation in Co-curricular Activities.

A private or home school student may participate in a co-curricular activity at a public school in accordance with the dual enrollment provisions of ~~[#]Rule~~ R277-438.

KEY: extracurricular, co-curricular, activities, student participation

Date of Last Change: ~~2023[December 16, 2020]~~

Notice of Continuation: October 15, 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-704(5); 53G-6-705(6)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Rule or Section Number:	R277-530	Filing ID: 55660
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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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-530. Utah Effective Educator Standards
3. Purpose of the new rule or reason for the change:
This rule is being repealed because it will be superseded by Rule R277-330, the updated Effective Educator Standards rule. (EDITOR'S NOTE: The proposed new Rule R277-330 is under ID 55655 in this issue, September 1, 2023, of the Bulletin.)
4. Summary of the new rule or change:
This rule is repealed in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have fiscal impact on state government revenues or expenditures. There are no changes to the Utah State Board of Education (USBE) budgets associated with the repeal of Rule R277-530 and change to Rule R277-330.
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. There are no changes to Local Education Agency (LEA) budgets associated with the update of educator standards.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects the USBE, LEAs, and educators.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are

not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects USBE, LEAs, and educators.

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. There are no costs for educators or LEAs associated with Rule R277-530 being superseded by Rule R277-330. The educator standards outline acceptable conduct by teachers and administrators.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. 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:

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-3-501(1)(a)(i)
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.

[R277-530. Utah Effective Educator Standards.

R277-530 1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Subsections 53E-3-501(1)(a)(i) and (ii), which require the Board to establish rules and minimum standards for the qualification and certification of educators and for required school administrative and supervisory services.
- (2) The purpose of this rule is to establish:
- (a) statewide effective teaching standards for Utah public education teachers;

(b) statewide educational leadership standards for Utah public education administrators; and

(c) statewide educational school counselor standards for Utah public education school counselors.

R277-530 2. Definitions.

(1) "Educator" means an individual licensed by the Board under Section 53E-6-102(8).

(2) "School administrator" means an educator serving in a position that requires a Utah Educator License with an Educator Leadership license area of concentration and who supervises Level 2 educators.

(3) "The Utah Effective Educator Standards" means:

(a) the Effective Teaching Standards described in R277-530-5;

(b) the Educational Leadership Standards described in R277-530-6; and

(c) the Educational School Counselor Standards described in R277-530-7.

R277-530 3. Board Expectations for Effective Teaching, Educational Leadership, and Educational School Counselor Standards.

(1) The Board hereby establishes the Effective Educator Standards as the foundation of educator development, which includes:

(a) alignment of teacher and school administrator preparation programs;

(b) expectations for licensure; and

(c) the screening, hiring, induction, and mentoring of beginning teachers, school administrators, and other licensed educators.

(2) The Board uses the Effective Educator Standards to direct and ensure the implementation of Utah's Core Standards.

(3) The Board relies on the Effective Educator Standards as the basis for an evaluation system and tiered licensing system.

(4) The Board's model educator assessment system, for use by LEAs, is based on the Effective Educator Standards.

(5) The Board provides resources, including professional learning, which assist LEAs in integrating the Effective Educator Standards into educator practices.

R277-530 4. LEA Responsibilities for Effective Educator Standards.

(1) An LEA shall develop policies to support educators, school administrators, and school counselors in implementation of the Effective Educator Standards.

(2) An LEA shall develop professional learning experiences and professional learning plans for relicensure using the Effective Educator Standards to assess educator progress toward implementation of the standards.

(3) An LEA shall adopt formative and summative educator assessment systems based on the Effective Educator Standards to facilitate educator growth toward expert practice.

(4) An LEA shall use the Effective Educator Standards as a basis for the development of a collaborative professional culture to facilitate student learning.

(5) An LEA shall implement induction and mentoring activities for beginning teachers and school administrators that support implementation of the Effective Educator Standards.

~~R277-530-5. Effective Teaching Standards.~~

~~(1) The Effective Teaching Standards focus on the high-leverage concepts of:~~

- ~~(a) personalized learning for diverse learners;~~
- ~~(b) a strong focus on application of knowledge and skills;~~
- ~~(c) improved assessment literacy;~~
- ~~(d) a collaborative professional culture; and~~
- ~~(e) leadership roles for teachers.~~

~~(2) Utah educators shall demonstrate the following skills and work functions designated in the following ten standards:~~

~~(a) Learner Development—An educator understands cognitive, linguistic, social, emotional, and physical areas of student development;~~

~~(b) Learning Differences—An educator understands individual learner differences and cultural and linguistic diversity;~~

~~(c) Learning Environments—An educator works with learners to create environments that support individual and collaborative learning, encouraging positive social interaction, active engagement in learning, and self motivation;~~

~~(d) Content Knowledge—An educator understands the central concepts, tools of inquiry, and structures of the discipline;~~

~~(e) Assessment—An educator uses multiple methods of assessment to engage learners in their own growth, monitor learner progress, guide planning and instruction, and determine whether the outcomes described in content standards have been met;~~

~~(f) Instructional Planning—An educator plans instruction to support students in meeting rigorous learning goals by drawing upon knowledge of content areas, core curriculum standards, instructional best practices, and the community context;~~

~~(g) Instructional Strategies—An educator uses various instructional strategies to ensure that all learners develop a deep understanding of content areas and their connections, and build skills to apply and extend knowledge in meaningful ways;~~

~~(h) Reflection and Continuous Growth—An educator is a reflective practitioner who uses evidence to continually evaluate and adapt practice to meet the needs of each learner;~~

~~(i) Leadership and Collaboration—An educator is a leader who engages collaboratively with learners, families, colleagues, and community members to build a shared vision and supportive professional culture focused on student growth and success; and~~

~~(j) Professional and Ethical Behavior—An educator demonstrates the highest standards of legal, moral, and ethical conduct as required in the Utah Educator Professional Standards described in Rule R277-217.~~

~~R277-530-6. Educational Leadership Standards.~~

~~(1)(a) The Board expects that school administrators shall meet the standards of effective teaching and have the knowledge and skills to guide and supervise the work of educators, lead the school learning community, and manage the school's learning environment in order to provide effective, high quality instruction to all of Utah's students.~~

~~(b) The Educational Leadership Standards focus on:~~

- ~~(i) visionary leadership;~~
- ~~(ii) advocacy for high levels of student learning;~~
- ~~(iii) leading professional learning communities; and~~
- ~~(iv) the facilitation of school and community collaboration.~~

~~(2) In addition to meeting the standards of an effective teacher, school administrators shall demonstrate the following traits, skills, and work functions designated in the following six standards:~~

~~(a) Visionary Leadership—A school administrator promotes the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is largely shared and supported by stakeholders;~~

~~(b) Teaching and Learning—A school administrator promotes the success of every student by advocating, nurturing and sustaining a school focused on teaching and learning conducive to student, faculty, and staff growth;~~

~~(c) Management for Learning—A school administrator promotes the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment;~~

~~(d) Community Collaboration—A school administrator promotes the success of every student by collaborating with faculty, staff, parents, and community members, responding to diverse community interests and needs and mobilizing community resources;~~

~~(e) Ethical Leadership—A school administrator promotes the success of every student by acting with, and ensuring a system of, integrity, fairness, equity, and ethical behavior; and~~

~~(f) Systems Leadership—A school administrator promotes the success of every student by understanding, responding to, and influencing the interrelated systems of political, social, economic, legal, policy, and cultural contexts affecting education.~~

~~R277-530-7. Educational School Counselor Standards.~~

~~In addition to meeting the Effective Teaching Standards described in Section R277-530-5 and the Educational Leadership Standards described in Section R277-530-6, an educational school counselor shall demonstrate the following traits, skills, and work functions designated in the following seven standards:~~

~~(1) Collaboration, Leadership and Advocacy—An educational school counselor is a leader who engages collaboratively with learners, families, colleagues, and community members to build a shared vision and supportive professional culture focused on student growth and success;~~

~~(2) Collaborative Classroom Instruction—An educational school counselor delivers a developmental and sequential guidance curriculum prioritized according to the results of the school needs assessment;~~

~~(3) The Plan for College and Career Readiness Process—An educational school counselor implements the individual planning component by guiding individuals and groups of students and their parents or guardians through the development of educational and career plans;~~

~~(4) Systemic Approach to Dropout Prevention with Social and Emotional Supports—An educational school counselor provides responsive services through the effective use of individual and small-group counseling, consultation and referral skills and implements programs for student support in dropout prevention;~~

~~(5) Data-Driven Accountability and Program Evaluation—An educational school counselor collects and analyzes data to guide program direction and emphasis;~~

~~(6) Systemic School Counseling Program Management—An educational school counselor is involved in management activities that establish, maintain and enhance the total school counseling program; and~~

~~(7) Professional and Ethical Behavior—An educational school counselor demonstrates the highest standard of legal, moral and ethical conduct, as required in the Utah Educator Professional Standards described in R277-217.~~

~~KEY: educators, effectiveness, leadership, standards~~
~~Date of Last Change: October 11, 2016~~
~~Notice of Continuation: June 4, 2021~~
~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a)(i) and (ii); 53E-3-401(4)]~~

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-550	Filing ID: 55661
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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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-550. Charter Schools - Definitions
3. Purpose of the new rule or reason for the change:
This rule is being amended due to recent amendments to related charter school rules.
4. Summary of the new rule or change:
These rule amendments add definitions for large and small expansions.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The rule change differentiates charter school expansions as "small" and "large" and may save a small amount of administrative time for the Utah State Board of Education (USBE) and the State Charter School Board. The USBE is unable to quantify the administrative savings at this time.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. Expanding charter schools may see a small savings in administrative time.

There are no added costs for expanding charter schools or other Local Education Agencies (LEAs).

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and expanding charter schools.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects USBE and expanding charter schools.

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. This only affects USBE and expanding charter schools.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.			

Citation Information

6. 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:		
Article X, Section 3	Section 53E-3-401	Section 53G-5-205

Public Notice Information

8. 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:	10/02/2023

9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.

R277-550. Charter Schools - Definitions.

R277-550-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools.

(2) The purpose of this rule is to establish definitions for rules governing charter schools.

(3) The definitions contained in this rule apply to Rules R277-550 through R277-555.

R277-550-2. Definitions.

(1) "Amendment" means a change or addition to a charter agreement.

(2) "Authorizer" means an entity approved to authorize the establishment of a charter school under Sections 53G-5-304 through 53G-5-306.

(3) "Charter school" means a public school created in accordance with the provisions of Title 53G, Chapter 5, Charter Schools.

(4)(a) "Charter school agreement" or "Charter agreement" means a written agreement between a charter school and its authorizer containing the terms and conditions for the operation of a charter school.

(b) The charter school agreement maintained by a charter school's authorizer is the final, official, and complete agreement.

(5) "Charter school deficiency" means:

(a) failure of a charter school to comply with its charter agreement, including governance, financial, academic, or operational obligations;

(b) failure of a charter school to comply with the requirements of state or federal law or board rule;

(c) failure of a charter school to meet terms established by the school's authorizer as part of a remediation process; or

(d) fraud or misuse of funds by charter school governing board members or employees.

(6) "Charter school governing board" means the local board that governs a charter school.

(7) "Expansion" means:

(a) an increase in the number of grade levels offered by a charter school identified by a single school number; or

(b) an increase in the number of students for which a charter school identified by a single school number is authorized to receive funding.

(8) "Large expansion" means a charter school's request for expansion if the expansion request:

(a) is for more than 100 students;

(b) would necessitate significant school remodel; or

(c) is for more than one additional grade level.

(9) "Market analysis" means a qualitative and quantitative analysis of the educational market near a proposed charter school, including:

(a) the school's target demographics;

(b) population and development trends in the area;

(c) nearby competing public schools;

(d) the proposed school's own forecasts, along with supporting data; and

(e) any risks, barriers, or regulations that may impact a proposed school's success.

([8]10) "Mentor" means an individual or organization with expertise or demonstrated competence, approved by the State Charter School Board to advise charter schools in the Mentoring Program.

([9]11) "Mentoring program" means the State Charter School Board mentoring program.

([10]12) "New school" means any school receiving a new school number, including a new charter school, or a new satellite school.

([11]13) "Net lease adjusted debt burden ratio" means a school's cumulative annual debt service payments, inclusive of loans and facility lease payments, divided by the school's unrestricted annual operating revenue.

([12]14) "Non-operating charter school" means a charter school that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as a charter school in a start-up period.

([13]15) "Operating charter school" means a charter school that has received minimum school program funds or federal funds and is providing educational services during a fiscal year.

([14]16) "Probation" means a written formal action and notification through which a school is required to demonstrate the school's compliance with the authorizer's probationary requirements.

([15]17) "Restricted revenue" means the same as the term is defined in Section 63J-1-102.

([16]18) "Satellite school" means a charter school affiliated with an existing charter school physically located within [the state of] Utah that:

(a) has the same governing board as the existing charter school;

(b) has the same authorizer as the existing charter school;

(c) may have a similar or different program of instruction or grades served from the existing charter school;

(d) is located at a different site or in a different geographical area than the existing charter school; and

(e) has a separate school number than the existing charter school.

([17]19) "School number" means a number assigned by the Superintendent in accordance with National Center for Education Statistics criteria that identifies a distinct school within an LEA.

(20) "Significant school remodel" means new construction or a renovation that requires a project number from the Board as described in Rule R277-471.

(21) "Small expansion" means a charter school's request for expansion if the expansion request:

(a) is for 50-100 students;

(b) would not necessitate a significant school remodel; and

(c) is for no more than one additional grade.

([18]22) "State Charter School Board" means the board established in Section 53G-5-201.

([19]23) "Unrestricted revenue" means revenue that is:

(a) not restricted revenue; or

(b) restricted revenue that may be used for purposes of paying for annual debt service payments, including loans and facility lease payments.

([20]24) "Utah Consolidated Application" or "UCA" means the web-based grants management tool employed by the Superintendent through which LEAs submit plans and budgets for approval by the Superintendent or Board.

([21]25) "Utah eTranscript and Record Exchange" or "UTREx" has the same meaning as described in Subsection R277-484-2([11]17).

KEY: education, charter schools

Date of Last Change: 2023[February 9, 2021]

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R277-554

Filing ID:
55662

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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R277-554. State Charter School Board Grants and Mentoring Program

3. Purpose of the new rule or reason for the change:

This rule is being amended due to recent amendments to related charter school rules.

4. Summary of the new rule or change:

The amendments update language for the Start-up grant and broadens the allowable uses of charter school start-up and implementation grant funds.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The rule change broadens uses for the charter school start-up and implementation grant funds.

It does not add any costs for the Utah State Board of Education (USBE) or other state entities.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. Small and large expanding charter schools can now qualify for charter school startup and implementation grants.

Previously, expanding charter schools would need to use fund balances or other financing to fund expansions. There may be a savings to expanding charter schools, but USBE is unable to quantify the savings as it occurs on a case-by-case basis.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects Local Education Agencies (LEAs) and USBE.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects LEAs and USBE.

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. This only affects LEAs and USBE.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. 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:

Article X, Section 3	Section 53E-3-401	Section 53G-5-205
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Public Notice Information

8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
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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.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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R277. Education, Administration.**R277-554. State Charter School Board Grants and Mentoring Program.****R277-554-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools; and

(d) Section 53F-2-705, which requires the Board to make rules regarding start-up and implementation grants and a mentoring program.

(2) The purpose of this rule is to establish rules for the State Charter School Board to operate:

(a) a start-up and implementation grant for charter schools; and

(b) a mentoring program for charter schools.

R277-554-2. Charter School Start-up and Implementation Grants.

(1) A charter school that desires to receive State Charter School Board start-up and implementation grant funds shall comply with the requirements of this [S]section[~~R277-554-2~~].

(2) To receive a State Charter School Board start-up or implementation grant, a charter school may be eligible if the charter school:

(a) meets the requirements of Section 53G-5-404;

(b) has a finalized charter agreement with the school's authorizer;

(c) submits an application for the grant within six months of approval by the school's authorizer; and

(d) demonstrates a plan to use the funds within the next two full school years.

(3) New, ~~[replication,]~~ large and small expansions, and satellite schools may be eligible for start-up and implementation grant funds.

~~[(4) A charter school may not receive start-up and implementation grant funds for school expansion.]~~

[(5)4] Only schools that have not received state start-up or implementation grant funds in prior years are eligible.

[(6)5] The State Charter School Board shall determine amounts and conditions for distribution of state start-up or implementation grant funds.

[(7)6] Grant funds may only be used for allowable expenditures as established by the State Charter School Board annual application form.

[(8)7] Grant recipients shall participate in monitoring activities and shall provide monitoring information to the Superintendent, as directed.

[(9)8](a) A charter school shall repay grant funds to the State Charter School Board if recipients change to non-charter status within ten years of receiving grant funds.

(b) The State Charter School Board may grant an exception to the requirements of Subsection (9)(a) for a school that converts status, due to either federal or state law requirements, for academic purposes.

R277-554-3. Charter School Mentoring Program.

(1) The State Charter School Board shall identify critical mentoring needs of charter schools and, through an appropriate procurement process, allocate mentoring funds to one or more qualified individuals or organizations to meet identified needs.

(2) Mentoring program participants shall provide information to the State Charter School Board as requested.

(3) A participating mentor shall submit an annual program report to the State Charter School Board.

(4) The State Charter School Board shall evaluate the mentoring program annually.

KEY: charter schools, startup, implementation, mentoring

Date of Last Change: 2023[January 9, 2019]

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R381-60	Filing ID:
		55615

Agency Information

1. Department:	Health and Human Services
Agency:	Child Care Center Licensing
Building:	Multi-Agency State Office Building (MASOB)
Street address:	195 N 1950 W

City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Simon Bolivar	801-803-4618	sbolivar@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R381-60. Hourly Child Care Centers
3. Purpose of the new rule or reason for the change:
<p>The purpose of this amendment is to update language, clarify processes, and update citations following the consolidation and recodification of the Department of Health and Human Services' statute in 2023 General Session.</p> <p>Additionally, this amendment incorporates changes based on the input and approval of the Child Care Licensing Committee.</p>
4. Summary of the new rule or change:
<p>The amendment adds clarifying language compliant with the Rulewriting Manual for Utah.</p> <p>Additionally, this aligns terminology and processes with current enforcement standards. It also updates citations following the recodification and consolidation of the Department of Health and Human Services' statute.</p> <p>Substantive changes include new language to comply with S.B. 123 retitling "Childcare Licensing Committee" to "Childcare Licensing Provider Committee".</p>

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
<p>State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys.</p> <p>No change to the state budget is expected because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.</p>

<p>Substantive changes add clarification with no fiscal impact to enforcement or state government.</p>																
B) Local governments:																
<p>The Child Care Center Licensing (Agency) 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.</p>																
C) Small businesses ("small business" means a business employing 1-49 persons):																
<p>The Agency does not expect any costs or savings to small businesses caused by the proposed rule amendments because they are mostly changes that will facilitate and clarify the current process.</p>																
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																
<p>The Agency 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.</p>																
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):																
<p>The Agency 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.</p>																
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):																
<p>There will be no costs generated by the proposed rule changes because they are mostly changes that will facilitate and clarify the current process.</p>																
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																
Regulatory Impact Table																
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2024</th> <th>FY2025</th> <th>FY2026</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2024	FY2025	FY2026	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0
Fiscal Cost	FY2024	FY2025	FY2026													
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Small Businesses	\$0	\$0	\$0													

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 26B-2-402		

Public Notice Information

8. 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:	10/02/2023

9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/09/2023
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R381. Health and Human Services, 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 ~~[Title 26, Chapter 39, Utah Child Care Licensing Act.]~~ Section 26B-2-402.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in hourly child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.

R381-60-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.

(2) "Background Finding" means information in a background check that Child Care Licensing uses to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Barrier" means an enclosing structure ~~[such as]~~ including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.

(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(5) "Business Days and Hours" means the days of the week and times the facility is open for business.

(6) "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.

(7) "Capacity" means the maximum number of children 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 under the Office of Licensing that is delegated with the responsibility to enforce the ~~[Utah Child Care Licensing Act.]~~ rules under Titles R381 and R430.

(10) "Child Care" means continuous care and supervision of ~~[five]~~ one 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) "Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.]~~

(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 any laws or administrative 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 and Human Services.

(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 there were no findings in a covered individual's background check that [e]would prohibit that covered individual from being involved with child care.

(21) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, [such as]including 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 the provider assigns to one or more caregivers for their care and supervision.~~[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]including 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]including in a locked room, cupboard, or drawer;
- (b) secured with a child safety device, [such as]including 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]~~the~~ department.

(35) "LIS Supported Finding" means a supported finding of child abuse or neglect ~~[background check information from]~~ in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the [Utah D]department~~[of Human Services]~~.

(36) "Older Toddler" means a child age 18 through 23 months old.

(37) "Over-the-Counter Medication" means medication that an individual can purchase ~~[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" is defined in Subsection R512-80-2(25) and also 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]including 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 or certification from [Child Care Licensing]~~the~~ department.

(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, step-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:

(a) ~~i~~ⁱⁱ If a large room is divided into smaller rooms or areas with barriers ~~[such as]~~ including furniture or with half walls, the room or area is considered:

(~~a~~)ⁱ ~~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~~)ⁱⁱ ~~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~~[-];~~

(~~e~~)ⁱⁱⁱ ~~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]~~ including with a child safety gate, including ~~[- This also applies to -]~~ a diaper changing station that is located behind a closed gate~~[-];~~

(~~d~~)^{iv} ~~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]~~ including with a child safety gate~~[-]; or~~ ~~[- 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.]~~

(v) 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;

(b) ~~i~~ⁱⁱ If two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(~~e~~)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~~[-]~~ ~~One~~, otherwise the department shall consider this to be two rooms~~[-]; or~~

(~~f~~)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~~[-]; and~~

(c) ~~i~~ⁱⁱ If in outdoor areas separated by interior fences, the department considers it:

(~~g~~)ⁱ ~~One~~ area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening~~[-];~~

(~~h~~)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~~

(~~j~~)^{iv} ~~Two~~ areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(49) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(50) "School-Age Child" means a child age five through 12 years old.

(51) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also 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.

(52) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

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

(54) "Stationary Play Equipment" means equipment ~~[such as]~~ including 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.

(55) "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]~~ including:

(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]~~ including 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.

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

(57) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

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

(5~~9~~)⁸ "Working Days" means the days of the week the department is open for business.

(~~60~~)⁵⁹ "Younger Toddler" means a child age 12 through 17 months old.

R381-60-3. License Required.

(1) A person shall ~~[be licensed as]~~ obtain a license for an hourly child care center from the department if they provide care:

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

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

(c) for five or more unrelated children;

(d) for four or more hours per day, and no child is cared for on a regular schedule;

(f) for each individual child for less than 24 hours a day;

(f) on an ongoing basis for four or more weeks in a year;

and

(g) for direct or indirect compensation.

(2) A person who ~~[is not required to be licensed]~~ does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) ~~[A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.]~~ The department may license a provider to provide child care in a facility that the department 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 separate from the other building services.

R381-60-4. License Application, Renewal, Changes, and Variances.

- (1) Each applicant for a new child care license shall:
- (a) submit 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 R381-60-7;
 - (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]~~that 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)(a) Each applicant for a new license shall [have] complete the licensing process within six months from the time any portion of the application is submitted to the department.~~[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 to be licensed.]~~

(b) If successful licensure is not achieved by the applicant within six months, the applicant shall reapply.

(c) Any resubmission shall include the required documentation and payment of licensing fees.

(d) The department shall conduct a new inspection of the facility before issuing a license.

(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 department revokes the license~~[was previously revoked by the department.]~~ or the provider voluntarily closes the license~~[d 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 any applicable rules and has paid the 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)(a) 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~~)b) The department may:

(~~a~~)i) require additional information before acting on ~~the~~a variance request; and

(~~b~~)ii) impose health and safety requirements as a condition of granting a variance.

(~~17~~)c) Each provider shall comply with the existing ~~rules~~Rule R381-40 ~~until—unless the department approves a variance.~~~~[-is approved by the department.]~~

(~~18~~)d) If ~~a~~the department approves a variance~~[-is approved]~~, the provider shall keep a copy of the written approval on-site for review by parents and the department.

(~~19~~)e) The department may grant variances for up to 12 months.

(~~20~~)f) The department may revoke a variance if:

(~~a~~)i) the provider is not meeting the intent of the rule as stated in their approved variance;

(~~b~~)ii) the provider fails to comply with the conditions of the variance; or

(~~e~~)iii) a change in statute, rule, or case law affects the basis for the variance.

R381-60-5. Rule ~~Violations~~Noncompliance, Penalties, and ~~Appeals~~Agency Action Reviews.

(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~~any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;

(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 DHHS 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.~~(9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:

(a) stop providing child care that requires a license; or

(b) 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 ~~26-39-604~~26B-2-409.

(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 an agency review for~~hearing to appeal~~ any department decision within ~~15~~ten 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]~~is 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 or an exemption for foster children and children who are homeless.

(12) The provider shall ensure that the admission and health assessment form is:

(a) signed by the parent; and

(b) kept on-site for review by the department.

(13) The provider shall ensure that each child's information is ~~[kept]~~confidential and not released without written parental permission except to the department.

R381-60-7. Personnel and Training Requirements.

(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:

(a) meet the needs of the children as required by rule; and

(b) be in compliance with licensing 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) 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;]~~if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the department;

(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 R381-60; and

(f) completes at least ~~[+0]~~ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.

(4) The provider shall ensure that each new director has one of the following educational credentials:

(a) any bachelor's or higher education degree, and at least 60 clock hours of ~~[approved Utah Early Childhood Career Ladder courses]~~coursework 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]~~including 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]~~an associate degree in early childhood development or related field; or

(e) a National Administrator Credential ~~[(NAC)]~~and at least 60 clock hours of ~~[approved Utah Early Childhood Career Ladder courses]~~course work in child development, social and emotional development, and the child care environment~~[;]~~, or 60 clock hours of equivalent training as approved by the department.

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

(6) The provider shall ensure that the director designee:

(a) is at least 18 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]~~if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the department before beginning job duties;

(d) knows and follows any applicable laws and requirements under Rule R381-60;

(e) completes at least ~~[+0]~~ten 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)~~certification.

(7) The provider shall ensure that the director or the director designee is present at the facility when the center is open for care.

(8) The provider shall have on-site for review by the department documentation of having employees who are on call and, when needed, can arrive at the facility within 20 minutes.

(9) The provider shall ensure that caregivers:

- (a) are at least 16 years old;
- (b) 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]~~complete the 2-1/2 hour preservice training offered by the department before caring for children;
- (d) know and follow any applicable laws and requirements under Rule R381-60;
- (e) ~~are introduced to other program staff and to the caregiver's assigned group of children;~~
- (f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and
- (~~e~~)g) complete at least [40]ten 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.

(10) The provider shall ensure that any other staff ~~[such as]~~including 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]~~complete the 2-1/2 hour preservice training offered by the department before beginning job duties; and
- (c) know and follow any applicable laws and requirements under Rule R381-60.

(11) The provider shall ensure that volunteers are ~~[considered]~~eligible by a CCL background check before becoming involved with child care.

(12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag.

(1~~4~~)3) The provider shall ensure that household members who are:

- (a) 12 to 17 years old are considered eligible by a CCL background check; and
- (b) 18 years old or older are ~~[considered]~~eligible by a CCL background check that includes fingerprints.

(1~~5~~)4) The provider shall ensure that individuals who provide Individualized Educational Plan (~~IEP~~)—or Individualized Family Service plan (~~IFSP~~)—services ~~[such as]~~including 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~~6~~)5) 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.

~~[(17) The provider shall ensure that preservice training includes at least the following topics:~~

- ~~_____ (a) job description and duties;~~
- ~~_____ (b) current department rule Sections R381-60-7 through R381-60-24;~~
- ~~_____ (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) 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.](16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by the department that includes at least the following topics:~~
- ~~_____ (a) applicable laws and requirements under Rule R381-60;~~
- ~~_____ (b) children whose special needs may include disabilities;~~
- ~~_____ (c) recognizing the signs of homelessness and available assistance;~~
- ~~_____ (d) building and physical premises safety;~~
- ~~_____ (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
- ~~_____ (f) pediatric first aid and CPR;~~
- ~~_____ (g) emergency preparedness, response, and recovery plan;~~
- ~~_____ (h) prevention of and response to emergencies due to food and allergy reactions;~~
- ~~_____ (i) safe handling and disposal of hazardous materials and bio contaminants;~~
- ~~_____ (j) prevention and control of infectious diseases including immunizations;~~
- ~~_____ (k) administration of medication;~~
- ~~_____ (l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
- ~~_____ (m) precautions in transporting children;~~
- ~~_____ (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
- ~~_____ (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~

~~[(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.]~~

(1~~9~~)7) 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; and
- ~~_____ (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.~~
~~(b) each topic listed in Subsections R381-60-7(16)(a) through (o).~~

(18) 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.

(19) 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.

(20) The provider shall ensure that CPR certification includes hands-on testing.

(21) 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 is eligible; and~~
- ~~(b) associate that individual with their facility if the covered individual appears in the search.]~~

(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:

- (a) associate that individual with their facility; or
- (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

(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~~ require the individual to 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 is eligible.

(3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new

background check form, fingerprints, and fees if the covered individual has~~[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~~[-]~~, except ~~[if]~~ when the 18-year-old has previously submitted fingerprints for a CCL background check, then 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 a covered individual submits 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 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) for any of the reasons listed under Subsection R381-60-8(8).

(8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:

- (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 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, 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 background check finding is resolved.

(12) ~~If the department denies a covered individual [is denied] a license or employment by the provider 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, 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.~~

(1[5]4) The Executive Director of the department, or their designee may overturn a CCL background check decision if they ~~[Executive Director]~~ determine[s] that the nature of the background finding or mitigating circumstances do not pose a risk to children.

R381-60-9. Facility.

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

(2) The department may include 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 and staff lockers;
- (c) hallways;
- (d) lobbies and entryways;
- (e) kitchens; and
- (f) staff offices.

~~_____ (4) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.]~~

([5]4) 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]5) 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]6) 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]7) 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]8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

~~([10]9)~~ The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(1[+]0) The provider shall ensure that there is at least one working handwashing sink used exclusively for handwashing that is accessible to the children.

(1[2]1) 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.

(1[3]2) The provider shall ensure that there is a bathroom that provides privacy available for use by school-age children.

(1[4]3) If there is an outdoor area used by the children in care, the provider shall ensure that the area:

- (a) is safely accessible to children;
- (b) has at least 40 square feet of space for each child using the area at one time; and

(c) is enclosed within a fence, wall, or solid natural barrier that is at least four feet high and that has no gap five by five inches or greater in or under.

(1[5]4) 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.

(1[6]5) If there is a swimming pool on the premises that the provider does ~~[is]~~ not empty~~[ied]~~ 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.

(1[7]6) 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.

(1[8]7) 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.

(1[9]8) 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 any group of children, the provider shall:

- (a) maintain at least the number of caregivers and not exceed the number of children in the caregiver-to-child ratio; and
- (b) not exceed the group sizes.

TABLE 1		
Caregiver-to-Child Ratios		
Number of caregivers	Number of Children	Limits for Mixed Ages
1	4 per group	No more than 4 children younger than 2 years old
1	12 per group	No children younger than 2 years old
1	8 per group	2 children younger than 2 years old
1	6 in the facility	3 children younger than 2 years old
2	24 per group	No children younger than 2 years old
2	16 per group	4 Children younger than 2 years old

(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, the provider shall ensure that:
- (a) there are no more than four children with one caregiver; and

(b) children are cared for in an area that is physically separated from older children.

(4) If there is only one caregiver in the facility and no children younger than two years old are present, the provider can be temporarily out of ratio if:

- (a) a second caregiver arrives within 20 minutes from when the 13th child arrived^[7]; and
- (b) the total number of children present does not exceed 16.

(5) The provider shall include the provider's and employees' children age four years old or older in care:

- (a) in the group size when the parent of the child is working at the facility; and
- (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

(6) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.

(7) The provider shall ensure that guests do not count in caregiver-to-child ratios.

R381-60-11. Child Supervision and Security.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:

- (a) for children younger than five years old, a caregiver is physically present in the room or area with the children;

(b) for school-age children, a caregiver can hear the children and is close enough to intervene;

(c) caregivers know the number of children in their care at any time;

(d) caregivers' attention is focused on the children and not on caregivers' personal interests;

(e) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and

(f) caregivers position themselves so each child in their assigned group is actively supervised.

(2) The provider shall ensure that 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~~ including 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 in accordance with this section;

(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~~ including 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.

R381-60-12. Child Guidance and Interaction.

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

(2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

- (a) any form of corporal punishment or any action that produces physical pain or discomfort ~~[such as]~~ including hitting, spanking, shaking, biting, or pinching;
 - (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
 - (c) shouting at children;
 - (d) any form of emotional abuse;
 - (e) forcing or withholding food, rest, or toileting; or
 - (f) confining a child in a closet, locked room, or other enclosure ~~[such as]~~ including a box, cupboard, or cage.
- (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in ~~[state law]~~ Section 80-2-602.

R381-60-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that children and staff use [that] the building, outdoor area, toys, and equipment safely and as intended by the manufacturer to prevent injury to children ~~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]~~ including 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]~~ including 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]~~ including 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 any state or federal law, the provider shall ensure that firearms ~~[such as]~~ including 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]~~ including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, ~~[such as]~~ including 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]~~ including 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 Title 26, Chapter 38, ~~[the]~~ Utah Indoor Clean Air Act, are not used:

- (a) in the facility or any other building when a child is in care;
- (b) in any vehicle that is being used to transport a child in care;
- (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or
- (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

R381-60-14. Emergency Preparedness, Response, and Recovery.

(1) The provider shall ~~have~~develop and follow 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) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;

(~~e~~d) is available for review by parents, staff, and the department during business hours; and

(~~d~~e) 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]~~including 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]~~when fire and other disaster drills are held.

(9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the department.

(10) The provider shall:

- (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;
- (b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and

(c) if school-age children sign themselves out of the center, send a copy of the report to the parent on the day following the occurrence.

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

(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

- (a) call emergency personnel immediately;
- (b) contact the parent after emergency personnel are called; and

(c) if the parent cannot be reached, try to contact the child's emergency contact individual.

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(a) submit a completed accident report form to the department within the next business day of the incident; or

(b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.

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

R381-60-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

- (a) walls and flooring clean and free of spills, dirt, and grime;
- (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;
- (c) surfaces free of rotting food or a build-up of food;
- (d) the building and grounds free of a build-up of litter, trash, and garbage;
- (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and
- (f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

- (a) at least once a week or more often if needed;
- (b) after being put in a child's mouth and before another child plays with the toy; and
- (c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items ~~[such as]~~including 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 each staff follow 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]~~including 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 the ~~[at]~~ prompt change of 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]~~including 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]~~including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
- (g) wash their hands after cleaning up the body fluid.

(20) The provider may 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 provider discovers 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 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]~~including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

R381-60-16. Food and Nutrition.

~~[If food service is provided:]~~

(1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

(2) If the provider supplies 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 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]~~including a cracker, ~~[which]~~that 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) are labeled with the child's full name;
- (b) are stored~~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 no staff administer the medication to any child ~~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 scheduled medication dosage ~~time a medication needs to be given~~ to a child if the provider chooses not to administer medication as instructed by the parent.

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

R381-60-18. Activities.

(1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.

(2) If an approved outdoor area is available, the provider shall ensure that daily activities include outdoor play as weather and air quality allow.

(3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.

(4) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(5) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media ~~such as~~ including television, cell phones, tablets, and computers is:

- (a) not allowed for children zero to 17 months old;
- (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and

(c) planned to address the needs of children five to 12 years old.

(6) If the provider offers swimming activities ~~are offered~~ or if wading pools are used, the provider shall ensure that:

(a) the parent gives permission before their child in care uses the pool;

(b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;

(c) diapered children wear swim diapers when they are in the pool;

(d) wading pools are emptied and sanitized after use by each group of children;

(e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

(f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.

(7) If the provider offers swimming ~~offsite~~ activities ~~are offered~~ or if wading pools are used, the provider shall ensure that:

- (a) the parent gives written consent before each activity;
- (b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;

(c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;

(d) children wear or carry with them the name and phone number of the center;

(e) children's names are not used on nametags, t-shirts, or in other visible ways; and

(f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

(8) The provider shall ensure a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:

- (a) the child's name;
- (b) the parent's name and phone number;

- (c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;
- (d) the names of people authorized by the parents to pick up the child; and
- (e) current emergency medical treatment and emergency medical transportation releases.

R381-60-19. Play Equipment.

(1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.

(2) The provider shall ensure that the highest designated play surface on stationary play equipment used by infants or toddlers does not exceed three feet in height.

(3) The provider shall ensure that swings used by infants or toddlers have enclosed seats.

(4) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of swings, stationary play equipment that is:

- (a) used by infants or toddlers has at least a three-foot use zone if any designated play surface is higher than 18 inches;
- (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]~~ including 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 at least six feet in any direction from its outermost edge.

(9) The provider shall ensure that the use zone for a spring rocker extends:

- (a) at least three feet from the outermost edge of the rocker when at rest; or
- (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.

(10) The provider shall ensure that the following use zones do not overlap the use zone of any other piece of play equipment:

- (a) the use zone in front of a slide;
- (b) the use zone in the front and rear of any single-axis swing, including a single-axis enclosed swing;
- (c) the use zone of a multi-axis swing; and
- (d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.

(11) Unless prohibited in Subsection R381-60-19(10), the provider shall ensure that the use zones of play equipment only overlap when:

(a) the equipment is used by infants or toddlers, and there is at least three feet between the pieces of equipment; or

(b) the equipment is used by preschoolers or school-age children and there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.

(12) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface ~~[such as]~~ including 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 the provider uses sand, gravel, or shredded tires ~~[are used]~~ as protective cushioning, the provider shall:

- (a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 2 if compacted;
- (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and
- (c) ensure that the depth of the material meets the guidelines in Table 2.

TABLE 2					
Depths of Protective Cushioning Required for sand, Gravel, and Shredded Tires and Rubber Products					
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

(15) If the provider uses sand, gravel, or shredded ~~[wood products]~~ tires ~~[are used]~~ as protective cushioning, the provider shall:

- (a) keep on-site for review by the department documentation from the manufacturer that the wood product is protective cushioning;
- (b) ensure there is adequate drainage under the material; and
- (c) ensure the depth of the shredded wood meets the guidelines in Table 3.

TABLE 3			
Depths of Protective Cushioning Required for Shredded Wood Products			
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

(16) If ~~the provider uses~~ 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 ~~the provider uses~~ 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]~~including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

R381-60-20. Transportation.

~~[If transportation services are offered:]~~

(1) For each child ~~that the licensee transports~~~~being transported~~, the provider shall ~~[have]~~obtain a transportation permission form:

(a) signed by the parent; and

(b) on-site for review by the department.

(2) The provider shall ensure that each vehicle used for transporting children:

(a) is enclosed with a roof or top;

(b) is equipped with safety restraints;

(c) has a current vehicle registration;

(d) is maintained in a safe and clean condition; and

(e) contains first aid supplies, including at least antiseptic, band-aids, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

(a) appropriate for the age and size of each child who is transported, as required by Utah law;

(b) properly installed; and

(c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

(a) is at least 18 years old;

(b) has and carries with them a current, valid driver's license for the type of vehicle being driven;

(c) has with them the~~[-written]~~ emergency contact information for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leaves a child in the vehicle unattended by an adult;

(g) ensures that children stay seated while the vehicle is moving;

(h) never leaves the keys in the ignition when not in the driver's seat; and

(i) ensures that the vehicle is locked during transport.

(5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent;

(b) a caregiver goes with the children and actively supervises the children;

(c) the caregiver-to-child ratio is maintained; and

(d) a caregiver with the children has~~[-written]~~ emergency contact information and releases for the children being transported.

(6) The provider shall:

(a) have transport liability insurance; or

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

R381-60-21. Animals.

(1) The provider shall inform parents of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

(a) is naturally aggressive;

(b) has a history of dangerous, attacking, or aggressive behavior; or

(c) has a history of biting even one individual.

(3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.

(4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.

(5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.

(7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.

(8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.

(9) The provider shall keep current animal vaccination records on-site for review by the department.

R381-60-22. Rest and Sleep.

~~[If sleeping equipment is used for rest and sleep time:]~~

(1) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.

(2) The provider shall ensure that each crib:

(a) has a tight-fitting mattress;

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

(c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;

(d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and

(e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.

(3) When in use, the provider shall place sleeping equipment ~~[such as]~~including cribs, cots, and mats at least two feet apart.

(4) The provider shall ensure that sleeping equipment does not block exits.

(5) The provider shall clean and sanitize sleeping equipment before each use.

R381-60-23. Diapering.

~~[If the provider accepts children who wear diapers:]~~

(1) This section applies only to a provider that accepts children who wear diapers.

~~[(1)2]~~ The provider shall post diapering procedures at each diapering station and ensure that each staff member follows those procedures.~~[they are followed.]~~

~~[(2)3]~~ The provider shall ensure that each child's diaper is:

(a) checked at least once every two hours;

(b) promptly changed if wet or soiled; and

(c) checked as soon as a sleeping child awakens.

~~[(3)4]~~ The provider shall ensure that caregivers change children's diapers at a diapering station and not on surfaces used for any other purpose.

~~[(4)5]~~ The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.

~~[(5)6]~~ The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.

~~[(6)7]~~ The provider shall ensure that caregivers do not leave children unattended on the diapering surface.

~~[(7)8]~~ The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.

~~[(8)9]~~ The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.

~~[(9)10]~~ The provider shall ensure that caregivers place wet and soiled disposable diapers:

(a) in a container that has a disposable plastic lining and a tight-fitting lid;

(b) directly in an outdoor garbage container that has a tight-fitting lid; or

(c) in a container that is inaccessible to children.

~~[(10)11]~~ Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.

~~[(11)12]~~ If cloth diapers are used, the provider shall:

(a) not rinse cloth diapers at the facility; and

(b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or

(c) place the cloth diapers in a leakproof diapering service container.

R381-60-24. Infant and Toddler Care.

If the provider cares for infants or toddlers:

(1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 20 minutes.

(2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.

(3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions ~~[such as]~~including 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 may not confine an awake infant or toddler in any piece of equipment, ~~[such as]~~including 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]~~including 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 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.]~~

[(11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each 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]~~including 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.

(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 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: 2023~~[June 1, 2022]~~

Notice of Continuation: April 14, 2020

Authorizing, and Implemented or Interpreted Law: ~~[26-39-203(1)(a)]~~26B-2-402

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R381-100	Filing ID: 55614
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Agency Information

1. Department:	Health and Human Services		
Agency:	Child Care Center Licensing		
Building:	Multi-Agency State Office Building (MASOB)		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Contact persons:			
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R381-100. Child Care Centers

3. Purpose of the new rule or reason for the change:

The purpose of this amendment is to update language, clarify processes, and update citations following the consolidation and recodification of the Department of Health and Human Services' statute in 2023 General Session.

Additionally, this amendment incorporates changes based on the input and approval of the Child Care Licensing Committee

4. Summary of the new rule or change:

The amendment adds clarifying language compliant with the Rulewriting Manual for Utah.

Additionally, this aligns terminology and processes with current enforcement standards. It also updates citations following the recodification and consolidation of the Department of Health and Human Services' statute.

Substantive changes include new language to comply with S.B. 123 from the 2023 General Session retitling "Childcare Licensing Committee" to "Childcare Provider Licensing Committee".

Fiscal Information

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

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

Substantive changes add clarification with no fiscal impact to enforcement or state government.

B) Local governments:

The Child Care Licensing Committee (Agency) 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):

The Agency 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 Agency 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 Agency 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) 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 26B-2-402		
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/10/2023
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R381. Health and Human Services, 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 ~~[Title 26, Chapter 39, Utah Child Care Licensing Act.]~~ Section 26B-1-414.

(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]~~ the department.

(2) "Background Finding" means information in a background check that ~~[Child Care Licensing]~~ the department uses to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Barrier" means an enclosing structure ~~[such as]~~including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.

(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(5) "Business Days and Hours" means the days of the week and times the facility is open for business.

(6) "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.

(7) "Capacity" means the maximum number of children allowable for 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 under the Office of Licensing that is delegated with the responsibility to enforce the ~~[Utah Child Care Licensing Act]~~ rules under Titles R381 and R430.

(10) "Child Care" means continuous care and supervision of ~~[five]~~one 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.]~~

(1) [21] "Child Care Program" means a person or business that offers child care.

(12) "Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.

(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 laws or administrative rules ~~[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 and Human Services.

(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 there were no findings in a covered individual's background check that ~~[e]~~would prohibit that covered individual from being involved with child care.

(21) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, ~~[such as]~~including 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 the provider assigns to one or more caregivers for their care and supervision. ~~[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]~~including 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]~~including in a locked room, cupboard, or drawer;

(b) secured with a child safety device, ~~[such as]~~including 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 the department ~~[Child Care Licensing].~~

(35) "LIS Supported Finding" means a supported finding of child abuse or neglect [background check information from] in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the [Utah D] department [of Human Services].

(36) "Older Toddler" means a child age 18 through 23 months old.

(37) "Over-the-Counter Medication" means medication that an individual can purchase [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" is defined in Subsection R512-80-2(25) and also 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~~ including 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 or certification from ~~[Child Care Licensing] the department.~~

(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, step-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:

(a) ~~[F]~~ [F] if a large room is divided into smaller rooms or areas with barriers ~~[such as]~~ including furniture or with half walls, the room or area is considered:

(i) ~~[O]~~ [O] one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable[-];

(ii) ~~[O]~~ [O] 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[-];

(iii) ~~[F]~~ [F] 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]~~ including with a child safety gate, including ~~[- This also applies to -]~~ a diaper changing station that is located behind a closed gate[-];

(iv) ~~[F]~~ [F] 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]~~ including with a child safety gate[-]; or ~~[- 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.]~~

(v) 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;

(i) ~~[F]~~ [F] if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(ii) ~~[O]~~ [O] 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~~[-O]~~, otherwise the department shall consider this to be two rooms[-]; or

(iii) ~~[F]~~ [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[-];

(c) ~~[F]~~ [F] if in outdoor areas separated by interior fences, the department considers it:

(i) ~~[O]~~ [O] one area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening[-];

(ii) ~~[O]~~ [O] 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) ~~[F]~~ [F] two areas if the interior fence is higher than 24 inches and there is no opening[-]; or

(iv) ~~[F]~~ [F] two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(49) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(50) "School-Age Child" means a child age five through 12 years old.

(51) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also 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.

(52) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

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

(54) "Stationary Play Equipment" means equipment ~~such as~~ including 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.

(55) "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]~~ including:

(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]~~ including 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.

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

(57) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

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

(5)~~[9]~~⁸ "Working Days" means the days of the week the department is open for business.

(~~60~~)⁵⁹ "Younger Toddler" means a child age 12 through 17 months old.

R381-100-3. License Required.

(1) A person shall ~~[be licensed as]~~ obtain a license for a child care center from the department if they provide care:

- (a) in the absence of the child's parent;
- (b) in a place other than the provider's home or the child's home;
- (c) for five or more unrelated children;
- (d) for each individual child for less than 24 hours a day;
- (e) on an ongoing basis for four or more weeks in a year; and
- (f) for direct or indirect compensation.

(2) A person who ~~[is not required to be licensed]~~ does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) ~~[A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.]~~ The department may license a provider to provide child care in a facility that the department 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 separate from the other building services.

R381-100-4. License Application, Renewal, Changes, and Variances.

(1) Each applicant for a new child care license shall:

- (a) submit 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 R381-100-7;
- (f) complete CCL background checks for covered individuals as required in Section R381-100-8;
- (g) complete CCL new provider training no more than six months before becoming licensed; and
- (h) pay any required fees, which are nonrefundable.

(2) Each applicant shall pass a department's inspection of the facility before the department issues 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)~~(a)~~ Each applicant for a new license shall ~~[have]~~ complete the licensing process within six months from the time any portion of the application is submitted to the department. ~~[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 to be licensed.]~~

(b) If the applicant cannot achieve successful licensure within six months, the applicant shall reapply.

(c) Any resubmission shall include the required documentation and payment of licensing fees.

(d) The department shall conduct a new inspection of the facility before issuing a license.

(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 department revokes the license [was previously revoked by the department,] or the provider voluntarily closes the license[d 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 any applicable rules and has paid the 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)(a) If an applicant or provider cannot comply with [a rule]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.

([14]b) The department may:

([a]i) require additional information before acting on [the]a variance request; and

([b]ii) impose health and safety requirements as a condition of granting a variance.

([17]c) Each provider shall comply with the existing [rules]Rule R381-40 [until]unless the department approves a variance.[is approved by the department.]

([18]d) If the department approves a variance[is approved], the provider shall keep a copy of the written approval on-site for review by parents and the department.

([19]e) The department may grant variances for up to 12 months.

([20]f) The department may revoke a variance if:

([a]i) the provider is not meeting the intent of the rule as stated in their approved variance;

([b]ii) the provider fails to comply with the conditions of the variance; or

([e]iii) a change in statute, rule, or case law affects the basis for the variance.

R381-100-5. Rule [Violations]Noncompliance, Penalties, and [Appeals]Agency Action Reviews.

(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]any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;

(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 DHHS 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.](9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:~~

- ~~(a) stop providing child care that requires a license; or~~
- ~~(b) 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 ~~[26-39-604]~~ 26B-2-409.

(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 an agency review for ~~[hearing to appeal]~~ any department decision within ~~[15]~~ ten 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) 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 R381-100-6(1).

(3) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, ~~[morals,~~]welfare, and safety of the public.

(4) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.

(5) The provider shall comply with licensing rules any time a child in care is present.

(6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.

(7) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours.

(8) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.

(9) The provider shall:

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

(10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.

(11) The provider shall ensure that each child's admission and health assessment form includes the following information:

- (a) child's name;
- (b) child's date of birth;
- (c) parent's name, address, and phone number, including a daytime phone number;
- (d) names of individuals authorized by the parent to sign the child out from the facility;

(e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;

(f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;

(g) parent's permission for emergency transportation and emergency medical treatment;

- (h) any known allergies of the child;
- (i) any known food sensitivities of the child;
- (j) any chronic medical conditions that the child may have;
- (k) instructions for special or nonroutine daily health care of the child;

(l) current ongoing medications that the child may be taking; and

(m) any other special health instructions for the caregiver.

(12) The provider shall ensure that the admission and health assessment form is:

- (a) reviewed, updated, and signed or initialed by the parent at least annually; and
- (b) kept on-site for review by the department.

(13) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:

- (a) current immunizations;
- (b) a medical schedule to receive required immunizations;
- (c) a legal exemption; or
- (d) a 90-day exemption for foster children and children who are homeless.

(14) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.

(15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health and Human Services by the date specified by the department.

(16) The provider shall ensure that each child's information is ~~[kept]~~ confidential and not released without written parental permission except to the department.

R381-100-7. Personnel and Training Requirements.

(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:

(a) meet the needs of the children as required by rule; and
 (b) be in compliance with licensing 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) 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;]~~ if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the department;

(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 R381-100; 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]~~ coursework 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]~~ including 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]~~ an associate degree in early childhood development or related field; or

(e) a National Administrator Credential ~~[(NAC)]~~ and at least 60 clock hours of ~~[approved Utah Early Childhood Career Ladder courses]~~ course work 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 18 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]~~ if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the department before beginning job duties;

(d) knows and follows any applicable laws and requirements under Rule R381-100;

(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; and

(f) has current first aid and cardio pulmonary resuscitation (CPR) certification.

(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]~~ complete the 2-1/2 hour preservice training offered by the department before caring for children;

(d) know and follow any applicable laws and requirements under Rule R381-100; ~~and]~~

~~(e) are introduced to other program staff and to the caregiver's assigned group of children;~~

~~(f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and~~

~~(f)g~~ 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 staff ~~[such as]~~ including 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]~~ complete the 2-1/2 hour preservice training offered by the department before beginning job duties; and

(c) know and follow any applicable laws and requirements under Rule R381-100.

(11) The provider shall ensure that volunteers are ~~[considered]~~ eligible by a CCL background check before becoming involved with child care.

(12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag.

(13) The provider shall ensure that household members who are:

(a) 12 to 17 years old are considered eligible by a CCL background check; and

(b) 18 years old or older are ~~[considered]~~ eligible by a CCL background check that includes fingerprints.

(14) The provider shall ensure that individuals who provide Individualized Educational Plan ~~[(IEP)]~~ or Individualized Family Service plan ~~[(IFSP)]~~ services ~~[such as]~~ including 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.

(15) 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.

~~[(16) 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;~~
~~(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.](16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by the department that includes at least the following topics:~~
~~(a) applicable laws and requirements under Rule R381-100;~~
~~(b) children whose special needs may include a disability;~~
~~(c) recognizing the signs of homelessness and available assistance;~~
~~(d) building and physical premises safety;~~
~~(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
~~(f) pediatric first aid and CPR;~~
~~(g) emergency preparedness, response, and recovery plan;~~
~~(h) prevention of and response to emergencies due to food and allergy reactions;~~
~~(i) safe handling and disposal of hazardous materials and bio contaminants;~~
~~(j) prevention and control of infectious diseases including immunizations;~~
~~(k) administration of medication;~~
~~(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
~~(m) precautions in transporting children;~~
~~(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
~~(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
~~[(17) 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.]~~
~~(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; and~~
~~(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.](b) each topic listed in Subsections R381-100-7(16)(a) through (o).~~

~~(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.~~

~~(20) 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.~~

~~(21) The provider shall ensure that CPR certification includes hands-on testing.~~

~~(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.~~

R381-100-8. 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 is eligible; and~~
- ~~(b) associate that individual with their facility if the covered individual appears in the search.]~~

~~(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:~~

- ~~(a) associate that individual with their facility; or~~
- ~~(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~

~~(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 require the individual to 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 is eligible.

(3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new background check form, fingerprints, and fees if the covered individual has~~[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~~[-]~~, except ~~[If]~~when the 18-year-old has previously submitted fingerprints for a CCL background check, then 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 a covered individual submits 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 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) for any of the reasons listed under Subsection R381-100-8(8).

(8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:

(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 firearms to a minor;

or

(h) 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, 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 background check finding is resolved.

(12) If the department denies a covered individual ~~[is denied]~~a license or employment by the provider 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, 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.

~~(1[5]4)~~ The Executive Director or designee of the department may overturn a CCL background check decision if ~~they~~the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

R381-100-9. Facility.

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

(2) The department may include 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 and staff lockers;

(c) hallways;

(d) lobbies and entryways;

(e) kitchens; and

(f) staff offices.

~~[(4)]~~ ~~The department may limit the maximum allowed capacity for a child care facility based on local ordinances.]~~

~~([5]4)~~ 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]5)~~ The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test ~~[is tested]~~ for lead. If there is lead-based paint at the facility ~~[is found]~~, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(1[7]6) 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.

(1[8]7) 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.

(1[9]8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.~~[-being conducted-]~~

(1[4]9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(1[4]10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(1[2]11) 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.

(1[3]12) 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.

(1[4]13) 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.

(1[5]14) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

(1[6]15) The provider shall ensure that there is an outdoor area that is safely accessible to children.

(1[7]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.

(1[8]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.

(1[9]18) The provider shall ensure that a fence encloses the outdoor area~~[-is enclosed within a fence-]~~, wall, or solid natural barrier that is at least four feet high.

(1[20]19) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(2[4]10) The provider shall ensure that children are in an enclosed area when children are outdoors, except during offsite activities.

(2[2]11) 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.

(2[3]12) If there is a swimming pool on the premises that the provider does ~~[-is-]~~ not empty~~[-ied-]~~ 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.

(2[4]13) 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.

(2[5]14) 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.

(2[6]15) 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		
Age Group	Caregiver-to-Child ratio	Maximum Group Size
0-11 Months - Infant	1:4	8
12-17 Months -- Younger Toddler	1:4	8
18-23 Months -- Older Toddler	1:5	10
2 Years - Twos	1:7	14
3 Years - Threes	1:12	24
4 Years - Fours	1:15	30
5 Years and older -- School-age	1:20	40

(2) For any mixed-age groups of children, the provider shall:

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

(b) not exceed the number of children in the caregiver-to-child ratio;

(c) not exceed the maximum group sizes; and

(d) separate any single-age group that reaches their maximum group size from the mix.

(3) For mixed-age groups of children including infants and toddlers, the provider shall ensure that:

(a) infants are only mixed with toddlers, unless:

(i) the group has eight or fewer children;

(ii) there are no more than three children younger than two years old in the group with one caregiver; and

(iii) there are at least two caregivers with the group if more than two children who are younger than 18 months old are present and the group has more than four children;

(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; and

(c) ~~Older~~ 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.

(9) The provider shall ensure that guests do not count in caregiver-to-child ratios.

(10) The department may exempt a center from maximum group sizes if:

(a) the center has been constructed, licensed, and continuously operated since January 1, 2004;

(b) the caregiver-to-child ratio is maintained; and

(c) the required square footage for each group of children is maintained.

R381-100-11. Child Supervision and Security.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:

(a) for children younger than five years old, a caregiver is physically present in the room or area with the children;

(b) for school-age children, a caregiver can hear the children and is close enough to intervene;

(c) caregivers know the number of children in their care at any time;

(d) caregivers' attention is focused on the children and not on caregivers' personal interests;

(e) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and

(f) caregivers position themselves so each child in their assigned group is actively supervised.

(2) The provider shall ensure that 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~~ not assign 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~~ including 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 in accordance with this section;

(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~~ including 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.

R381-100-12. Child Guidance and Interaction.

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

(2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort ~~[such as]~~ including hitting, spanking, shaking, biting, or pinching;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;

(c) shouting at children;

(d) any form of emotional abuse;

(e) forcing or withholding food, rest, or toileting; or

(f) confining a child in a closet, locked room, or other enclosure ~~[such as]~~ including a box, cupboard, or cage.

(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in ~~[state law]~~ Section 80-2-602.

R381-100-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that children and staff use [that] the building, outdoor area, toys, and equipment safely and as intended by the manufacturer to prevent injury to children ~~[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]~~ including 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]~~ including 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]~~ including 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 any state or federal law, the provider shall ensure that firearms ~~[such as]~~ including 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]~~ including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, ~~[such as]~~ including 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]~~ including 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 Title 26, Chapter 38, [the] Utah Indoor Clean Air Act, are not used:

(a) in the facility or any other building when a child is in care;

(b) in any vehicle that is being used to transport a child in care;

(c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or

(d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

R381-100-14. Emergency Preparedness, Response, and Recovery.

(1) The provider shall ~~have~~develop and follow 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) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;

~~(e)d~~ is available for review by parents, staff, and the department during business hours; and

~~(e)e~~ 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~~including earthquake, flood, prolonged power or water outage, or tornado;

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the individual supervising the drill; and

(e) any problems encountered and remediation.

(8) The provider shall vary the days and times on which fire and other disaster drills are held.

(9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the department.

(10) The provider shall:

(a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;

(b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and

(c) if school-age children sign themselves out of the center, send a copy of the report to the parent on the day following the occurrence.

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

(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

(a) call emergency personnel immediately;

(b) contact the parent after emergency personnel are called; and

(c) if the parent cannot be reached, try to contact the child's emergency contact individual.

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(a) submit a completed accident report form to the department within the next business day of the incident; or

(b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.

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

R381-100-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

(a) walls and flooring clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;

(c) surfaces free of rotting food or a build-up of food;

(d) the building and grounds free of a build-up of litter, trash, and garbage;

(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and

(f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

(a) at least once a week or more often if needed;

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

(c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items ~~such as~~including 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 each staff follow 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]~~including 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 the ~~[at]~~ prompt change of 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]~~including 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]~~including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

(g) wash their hands after cleaning up the body fluid.

(20) The provider may 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 provider discovers 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 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]~~including 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 the provider supplies 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]~~including 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) are labeled with the child's full name;
- (b) are stored ~~[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 no staff administer the medication to any child ~~[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 scheduled medication dosage ~~[-time a medication needs to be given]~~ to a child if the provider chooses not to administer medication as instructed by the parent.

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

R381-100-18. Activities.

(1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.

(2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.

(3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.

(4) For each preschool and school-age group, the provider shall post a daily schedule that includes:

(a) activities that support children's healthy development; and

(b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.

(5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media ~~[such as]~~ including television, cell phones, tablets, and computers is:

- (a) not allowed for children zero to 17 months old;
- (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
- (c) planned to address the needs of children five to 12 years old.

(7) If the provider offers swimming activities, ~~[are offered]~~ or if wading pools are used, the provider shall ensure that:

- (a) the parent gives permission before their child in care uses the pool;
- (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;

(c) diapered children wear swim diapers when they are in the pool;

(d) wading pools are emptied and sanitized after use by each group of children;

(e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

(f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.

(8) If the provider offers offsite activities ~~[-are offered]~~, the provider shall ensure that:

- (a) the parent gives written consent before each activity;
- (b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;
- (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;

(d) children wear or carry with them the name and phone number of the center;

(e) children's names are not used on nametags, t-shirts, or in other visible ways; and

(f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

(9) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:

- (a) the child's name;
- (b) the parent's name and phone number;
- (c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;
- (d) the names of people authorized by the parents to pick up the child; and
- (e) current emergency medical treatment and emergency medical transportation releases.

R381-100-19. Play Equipment.

(1) The provider shall ensure that children using play equipment use it safely and ~~[in the manner]~~as 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]~~including 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 at least six feet in any direction from its outermost edge.

(9) The provider shall ensure that the use zone for a spring rocker extends:

- (a) at least three feet from the outermost edge of the rocker when at rest; or
- (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.

(10) The provider shall ensure that the following use zones do not overlap the use zone of any other piece of play equipment:

- (a) the use zone in front of a slide;
- (b) the use zone in the front and rear of any single-axis swing, including a single-axis enclosed swing;
- (c) the use zone of a multi-axis swing; and

(d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.

(11) Unless prohibited in Subsection R381-100-19(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]~~including 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 ~~the provider uses~~ sand, gravel, or shredded tires ~~[are used]~~as protective cushioning, the provider shall:

- (a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 2 if compacted;
- (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and
- (c) ensure that the depth of the material meets the guidelines in Table 2.

TABLE 2					
Depths of Protective Cushioning Required for sand, Gravel, and Shredded Tires and Rubber Products					
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

(15) If ~~the provider uses~~ shredded wood products ~~[are used]~~as protective cushioning, the provider shall:

- (a) keep on-site for review by the department documentation from the manufacturer that the wood product is protective cushioning;
- (b) ensure there is adequate drainage under the material; and
- (c) ensure the depth of the shredded wood meets the guidelines in Table 3.

TABLE 3			
Depths of Protective Cushioning Required for Shredded Wood Products			
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

(16) If the provider uses 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]~~ including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

R381-100-20. Transportation.

~~[If transportation services are offered:]~~

(1) For each child ~~that the licensee transports~~~~[being transported]~~, the provider shall ~~[have]~~obtain a transportation permission form:

(a) signed by the parent; and

(b) on-site for review by the department.

(2) The provider shall ensure that each vehicle used for transporting children:

(a) is enclosed with a roof or top;

(b) is equipped with safety restraints;

(c) has a current vehicle registration;

(d) is maintained in a safe and clean condition; and

(e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

(a) appropriate for the age and size of each child who is transported, as required by Utah law;

(b) properly installed; and

(c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

(a) is at least 18 years old;

(b) has and carries with them a current, valid driver's license for the type of vehicle being driven;

(c) has with them the ~~[written]~~ emergency contact information for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leaves a child in the vehicle unattended by an adult;

(g) ensures that children stay seated while the vehicle is moving;

(h) never leaves the keys in the ignition when not in the driver's seat; and

(i) ensures that the vehicle is locked during transport.

(5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent;

(b) a caregiver goes with the children and actively supervises the children;

(c) the caregiver-to-child ratio is maintained; and

(d) a caregiver with the children has ~~[written]~~ emergency contact information and releases for the children being transported.

(6) The provider shall:

(a) have transport liability insurance; or

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

R381-100-21. Animals.

(1) The provider shall inform parents of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

(a) is naturally aggressive;

(b) has a history of dangerous, attacking, or aggressive behavior; or

(c) has a history of biting even one individual.

(3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.

(4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.

(5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.

(7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.

(8) The provider shall ensure that dogs, cats, and ferrets that ~~[are housed at]~~ the facility houses have current rabies vaccinations.

(9) The provider shall keep current animal vaccination records on-site for review by the department.

R381-100-22. Rest and Sleep.

(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.

(2) The provider shall not schedule nap or rest times for more than two hours a day.

(3) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.

(4) The provider shall keep sleeping equipment in good repair, including that mats and mattresses have smooth, waterproof surfaces.

(5) The provider shall ensure that each crib:

(a) has a tight-fitting mattress;

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

(c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;

(d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and

(e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.

(6) When in use, the provider shall place sleeping equipment ~~[such as]~~ including cribs, cots, and mats at least two feet apart.

(7) The provider shall ensure that sleeping equipment does not block exits.

(8) The provider shall make a sheet and blanket or acceptable alternative available to each child 12 months or older during nap time, and ensure that these items are:

(a) clearly assigned to one child;

(b) stored separately from other children's bedding; and

(c) laundered as needed, but at least once a week, and before use by another child.

(9) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.

(10) The provider shall:

(a) store sleeping equipment in a way the surfaces children sleep on do not touch each other; or

(b) clean and sanitize sleeping equipment before each use.

R381-100-23. Diapering.

~~[If the provider accepts children who wear diapers:]~~

(1) This section applies only to a provider that accepts children who wear diapers.

([4]2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows these procedures[they are followed].

~~([2]3)~~ The provider shall ensure that each child's diaper is:

(a) checked at least once every two hours;

(b) promptly changed if wet or soiled; and

(c) checked as soon as a sleeping child awakens.

~~([3]4)~~ The provider shall ensure that caregivers change children's diapers at a diapering station and not on surfaces used for any other purpose.

~~([4]5)~~ The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.

~~([5]6)~~ The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.

~~([6]7)~~ The provider shall ensure that caregivers do not leave children unattended on the diapering surface.

~~([7]8)~~ The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.

~~([8]9)~~ The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.

~~([9]10)~~ The provider shall ensure that caregivers place wet and soiled disposable diapers:

(a) in a container that has a disposable plastic lining and a tight-fitting lid;

(b) directly in an outdoor garbage container that has a tight-fitting lid; or

(c) in a container that is inaccessible to children.

~~(1[0]1)~~ Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.

~~([4]12)~~ If cloth diapers are used, the provider shall:

(a) not rinse cloth diapers at the facility; and

(b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or

(c) place the cloth diapers in a leakproof diapering service container.

R381-100-24. Infant and Toddler Care.

~~[If the provider cares for infants or toddlers:]~~ (1) This section only applies to a provider that accepts infants or toddlers.

~~([4]2)~~ 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]3)~~ 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]4)~~ The provider shall ensure that infant and toddler areas are not used to pass through or access other indoor and outdoor areas.

~~([4]5)~~ The provider shall ensure that infants and toddlers play in the same enclosed outdoor space with older children only when there are eight or fewer children in the group.

~~([5]6)~~ The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions ~~[such as]~~ including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.

~~([6]7)~~ For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.

~~([7]8)~~ The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(~~8~~)9) The provider may not confine an awake infant or toddler in any piece of equipment, [~~such as~~]including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.

(~~9~~)10) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.

(~~10~~)11) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.

(~~11~~)12) The provider shall allow each infant and toddler to eat and sleep on their own schedule.

(~~12~~)13) 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~~]including a jar of baby food;
- (c) kept refrigerated if needed; and
- (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.

[~~———— (13) If an infant 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.]~~

(14) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.

(~~14~~)15) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.

(~~15~~)16) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.

(~~16~~)17) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(~~17~~)18) The provider shall ensure that infants sleep in equipment designed for sleep [~~such as~~]including 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.

(~~18~~)19) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(~~19~~)20) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

(~~20~~)21) The provider shall document each infant's eating and sleeping patterns each day infants are at the facility, and make sure the record:

- (a) is completed within an hour of each feeding or nap; and
- (b) includes the infant's name, the food and beverages eaten, and the times the infant slept.

(~~21~~)22) Within an hour of each infant or toddler's diaper change, the provider shall record:

- (a) the infant or toddler's name;
- (b) the time of the diaper change; and
- (c) whether the diaper was dry, wet, soiled, or both.

(~~22~~)23) 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: 2023[June 1, 2022]

Notice of Continuation: April 14, 2020

Authorizing, and Implemented or Interpreted Law: [~~26-39-203(1)(a)~~]26B-2-402

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R414-522	Filing ID: 55616
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Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R414-522. Electronic Visit Verification Requirements for Personal Care and Home Health Care Services

3. Purpose of the new rule or reason for the change:

The purpose of this change is to correct the effective date of the electronic visit verification (EVV) requirement.

4. Summary of the new rule or change:

This amendment updates the effective date of the EVV requirement and clarifies when providers must submit EVV records.

Fiscal Information

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

A) State budget:			
There is no impact to the state budget as this amendment only clarifies current EVV requirements, and is covered under previous appropriations for EVV compliance.			
B) Local governments:			
There is no impact on local governments as they neither fund nor provide benefits under the Medicaid program.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no impact on small businesses as this amendment only clarifies current EVV requirements, and is covered under previous appropriations for EVV compliance.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no impact on non-small businesses as this amendment only clarifies current EVV requirements, and is covered under previous appropriations for EVV compliance.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no impact to other persons or entities as this amendment only clarifies current EVV requirements, and is covered under previous appropriations for EVV compliance.			
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 to a single person or entity as this amendment only clarifies current EVV requirements, and is covered under previous appropriations for EVV compliance.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis.			
Businesses will see neither costs nor revenue as this amendment only clarifies current EVV requirements, and is covered under previous appropriations for EVV compliance.			

Citation Information

6. 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 26B-1-213	Section 26B-3-108	

Public Notice Information

8. 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:	10/02/2023
9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/09/2023
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R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.**R414-522. Electronic Visit Verification Requirements for Personal Care and Home Health Care Services.****R414-522-1. Introduction and Authority.**

This rule implements the electronic visit verification requirements for personal care services and home health care services in accordance with Section 12006 of the 21st Century Cures Act. Electronic visit verification requirements apply to ~~all~~ personal care services or home health care services provided under the Medicaid State Plan or under a Medicaid waiver~~of the State Plan~~, which require an in-home visit by a provider. ~~This rule is authorized by~~ Section 26B-18(3)-[3]108 authorizes this rule.

R414-522-2. Definitions.

(1) "Electronic visit verification" (EVV) means the use of telephone or computer-based technology to verify the data elements related to the delivery of a Medicaid-covered service.

(2) "EVV system" means the combination of the data collection component and the aggregator component used by a provider to comply with EVV requirements established by the Department.

(3) "Home health care services" (HHCS) means services described in Subsection 1905(a)(7) of the Social Security Act, and provided under the Medicaid State Plan or under a Medicaid 1915(c) waiver~~of the State Plan~~.

(4) "Personal care services" (PCS) means personal care services provided under the Medicaid State Plan or under a Medicaid waiver~~of the State Plan~~.

(5) "EVV technical specifications means the Department's technical specifications located at <https://medicaid.utah.gov/evv/>.

R414-522-3. Electronic Visit Verification Requirements.

An EVV record is required for ~~all~~ personal care services (PCS) effective July 1, 2021. An EVV record is required for HHCS effective January 1, 2023.~~and home health care services effective July 1, 2019.~~ Each PCS and HHCS~~[A]~~ provider must select an EVV service vendor and submit EVV records to accompany each PCS or HHCS claim within three months of submitting the claim or payment.~~have records available for review upon request. While a specific type of software is not mandated,~~ The provider's~~[an]~~ EVV system must comply with the ~~provisions of the~~ 21st Century Cures Act, ~~and~~ meet the standards of privacy set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Health Information Technology for Economic and Clinical Health (HITECH) Act~~[-]~~, and the EVV technical specifications. The 21st Century Cures Act requires ~~[A]~~ an EVV data system ~~[must]~~ to include:

- (1) the type of service performed;
- (2) the individual receiving the service;
- (3) the date of the service;
- (4) the location of service delivery;
- (5) the individual providing the service;
- (6) the time the service begins and ends; and
- (7) the date of creation of the electronic record.

R414-522-4. Corrections to Electronic Visit Verification Records.

Guidance on submission of corrected records can be found at <https://medicaid.utah.gov/evv/>.

R414-522-[4]5. Evaluation of Provider Compliance with Electronic Visit Verification Requirements.

(1) The Department shall conduct annual post-payment reviews of claims requiring EVV for ~~all~~ home health care service and personal care service providers to assess compliance with the requirements.

(2) At random, and for each provider, the Department ~~will~~ selects a calendar month within the previous 12-month period and ~~will~~ includes as part of its audit, ~~all~~ claims for which a provider has service dates and has received reimbursement in the selected month. The Department ~~will~~ also includes in the audit, encounters paid through contracted managed care entities within the selected month.

(3) For any claims and encounters for which an associated EVV record cannot be located, or when the EVV record may not be sufficient to meet the requirements in Section R414-522-3, the Department shall present ~~the findings~~ an audit report to the provider and allow for an opportunity to refute the findings~~or request consideration through the fair hearing process~~.

(4)~~(a)~~ [Claim and encounter disallowances for personal care services, which do not meet EVV requirements, shall become effective January 1, 2020.]~~The Department may issue the provider a corrective action plan and recover funds for claims that do not comply with Section 26B-3-129. Accordingly, the Department may apply the financial penalties established in this subsection.~~

(b) The Department may withhold payments to a provider that misses deadlines for data submission until the provider submits the required data.

(c) The Department may issue an audit finding to a provider found to have performed PCS or HHCS without submitting EVV records by the required date of compliance. The provider is subject to recoupment of up to 25% of paid amounts for services that require EVV records for the month audited as well as up to the two months before the month audited.

(d) The Department may impose, for a provider that fails to remedy an audit finding, a recoupment of up to 100% of paid amounts for services that require EVV records for the month audited as well as up to the two months before the month audited.

(5) ~~[Claim and encounter disallowances for home health care services, which do not meet EVV requirements, shall become effective January 1, 2023.]~~ A provider may request an exemption from penalties if the provider makes a good faith effort, but could not implement an EVV solution in time due to circumstances beyond the provider's control. A provider must submit an exemption request to the EVV email within two weeks of being notified of the finding and recoupment. The Department reviews exemption requests and decides within two weeks of receiving the request whether the request meets exemption requirements. Exemption requests are handled on a case-by case basis.

(6) ~~[The Department shall recover funds for claims that do not comply with the provisions of Section 26-18-20.]~~ A provider may request consideration through the fair hearing process.

KEY: Medicaid

Date of Last Change: 2023~~[July 1, 2019]~~

Authorizing, and Implemented or Interpreted Law: 26B-1-5[2]13; 26B-18[3]-[3]108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R430-8	Filing ID: 55617

Agency Information

1. Department:	Health and Human Services		
Agency:	Residential Child Care Licensing		
Building:	Multi-Agency State Office Building (MASOB)		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Contact persons:			
Name:	Phone:	Email:	
Janice Weinman	385-321-5586	jweinman@utah.gov	
Jonah Shaw	385-310-2389	jshaw@utah.gov	
Simon Bolivar	801-803-4618	sbolivar@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

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:
The purpose of this amendment is to update language, clarify processes, and update citations following the consolidation and recodification of the Department of Health and Human Services' statute in 2023 General Session.
4. Summary of the new rule or change:
The amendment adds clarifying language compliant with the Rulewriting Manual for Utah.
Additionally, this aligns terminology and processes with current enforcement standards.
It also updates citations following the recodification and consolidation of the Department of Health and Human Services' statute.

Fiscal Information

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

A) State budget:
State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys.
No change to the state budget is expected because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.
Substantive changes add clarification with no fiscal impact to enforcement or state government.
B) Local governments:
The Residential Child Care Licensing (Agency) 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):
The Agency 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 Agency 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 Agency 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) 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 26B-2-402		

Public Notice Information

8. 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:	10/02/2023

9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/10/2023
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R430. Health and Human Services, [Family Health and Preparedness, Residential Child Care Licensing.

R430-8. Exemptions From Child Care Licensing.

R430-8-1. Legal Authority and Purpose.

(1) ~~[This rule is enacted and enforced in accordance with Title 26, Chapter 39, Utah Child Care Licensing Act.]~~ Section 26B-2-402 authorizes this rule.

(2) This rule defines what constitutes child care that is excluded from any of the regulatory requirements of the Utah Department of Health and Human Services, Child Care Licensing Program.

R430-8-2. Definitions.

(1) "Background Finding" means information in a background check that Child Care Licensing uses to determine if a covered individual is or is not eligible to be involved with child care.

(2) "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 and Human Services that is delegated with the responsibility to enforce ~~[the Utah Child Care Licensing Act.]~~ rules under Titles R381 and R430.

(5) "Child Care" means continuous care and supervision of ~~[five]~~ one or more qualifying children that is:

(a) in place of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

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

(7) "Covered Individual" means any of the following individuals involved with a child care program:

(a) an owner;

(b) a director;

(c) a member of the governing body;

(d) an employee;

(e) a caregiver;

(f) a volunteer, except a parent of a child enrolled in the child care program;

(g) an individual age 12 years old or older who resides in the facility; and

(h) anyone who has unsupervised contact with a child in care.

(8) "Department" means the Utah Department of Health and Human Services.

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

(10) "Facility" means a child care program or the premises used for child care.

(11) "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 a supported finding of child abuse or neglect ~~[background check information from]~~ in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the ~~[Utah D]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 owned and operated by a religious institution that is registered with the federal government as an 501(c)(3) religious organization;

(d) is not directly funded at public expense;

(e) does not receive:

(i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or

(ii) child care food program funds, directly or indirectly, from the State Office of Education; and

(f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

(14) "Private Education Institution" means an institution that meets the following criteria:

(a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;

(b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;

(c) is not directly funded at public expense;

(d) does not receive:

(i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or

(ii) child care food program funds, directly or indirectly, from the State Office of Education; and

(e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

(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; or

(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, Exemption, 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 a day, or for fewer than ~~[five]~~seven 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;]~~Title 26B, Chapter 2, Part 4 Child Care Licensing; or

(g) care provided at a residential support program that is licensed by the ~~[D]department[of Human Services]~~.

R430-8-4. Exempt Application and Public Notice Required.

(1) The following types of care do not require a child care license or certificate from the department, but do require the provider to meet the application and public notice requirements outlined in this rule:

(a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(c) care provided to a qualifying child at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;

(e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3), ~~[of the]~~ Internal Revenue Code;

(ii) provides care pursuant to a written agreement with:

(A) a municipality that provides oversight for the program;

or

(B) a county that provides oversight for the program; and

(iii) provides care to a child who is over the age of four and under the age of 13;

(f) care provided to a qualifying child at a facility where:

(i) the parent or guardian of the qualifying child is physically present in the building where the care is provided while the child is in care and the parent or guardian is near enough to reach the child within five minutes if needed;

(ii) the duration of the care is less than four hours for an individual qualifying child in any one day~~[7]~~;

(iii) the care is provided on a sporadic basis~~[7]~~;

(iv) the care does not include diapering a qualifying child~~[7]~~; and

(v) the care does not include preparing or serving meals to a qualifying child.

(2) Providers listed in this subsection shall submit to the department, each year the program is open for business, an application for verification of license exempt status on the form provided by the department.

(3) Providers listed in this subsection shall post, in a conspicuous location near the entrance of the provider's facility, a notice prepared by the department that:

(a) states that the facility is exempt from licensure and certification; and

(b) provides the department's contact information for submitting a complaint.

(4) Substantiated complaint allegations against providers listed in this subsection will be available to the public and posted by the department on the Child Care Licensing website.

R430-8-5. Background Check Requirements and ~~[Appeals]~~ Agency Action Reviews.

(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 United States Code, Title 42, Sections 9857-9858r, Child Care and Development Block Grant, ~~[42 U.S.C. Secs. 9857-9858r]~~.

(2) Except as ~~[provided]~~ outlined 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 is eligible; and~~

~~(b) associate that individual with their facility if the covered individual appears in the search.]~~

(4) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and either:

(a) associate that individual with their facility; or

(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

(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 is eligible.

(6) 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 consider a covered individual not eligible 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) for any of the reasons listed under Subsection R430-8-5(10).

(10) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:

(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 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, the department may suspend or deny their license until the reason for the background check finding is resolved.

(13) If a covered individual is deemed not eligible by CCL, 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 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, 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.

(1~~7~~)⁶ The Executive Director or designee of the department may overturn a CCL background check decision if they ~~[Executive Director]~~determine[s] that the nature of the background finding or mitigating circumstances do not pose a risk to children.

(1~~8~~)⁷ An applicant or exempt provider may request an agency review for ~~[appeal]~~any department decision within ~~[45]~~ten working days of being informed in writing of the decision.

R430-8-6. Voluntary Licensure.

~~(1)~~—A child care provider who is not required to be licensed or certified under this rule may voluntarily receive a license and agree to be subject to each of the terms and conditions of the license, except for the following:

~~(a)~~¹ relative care only~~[as defined in Subsection R430-8-2(17)]; and~~or

~~(b)~~² care provided in the home of the provider on a sporadic basis only.

KEY: child care facilities, exemptions from Child Care Licensing
Date of Last Change: 2023~~[June 1, 2022]~~

Notice of Continuation: April 17, 2019

Authorizing, and Implemented or Interpreted Law: ~~[26-39]~~26B-2-402

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R430-50	Filing ID: 55618
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Agency Information

1. Department:	Health and Human Services	
Agency:	Residential Child Care Licensing	
Building:	Multi-Agency State Office Building (MASOB)	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Simon Bolivar	801-803-4618	sbolivar@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R430-50. Residential Certificate Child Care

3. Purpose of the new rule or reason for the change:

The purpose of this amendment is to update language, clarify processes, updates terms and requirements as required by H.B. 15 from the 2022 General Session and updates citations following the consolidation and recodification of the Department of Health and Human Services' statute introduced in S.B. 38 in the 2023 General Session.

This amendment incorporates changes based on the input and approval of the Child Care Provider Licensing Committee.

4. Summary of the new rule or change:

The amendment adds clarifying language compliant with the Rulewriting Manual for Utah.

Additionally, this aligns terminology and processes with current enforcement standards.

It also updates citations following the recodification and consolidation of the Department of Health and Human Services' (Department) statute.

Substantive changes to comply with H.B. 15 (2022) include:

- 1) the definition of child care;
- 2) the Department's authority over municipalities and counties related to requirements for child care providers;

- 3) allowing additional school-age children without requesting an increase in capacity;
- 4) an increase in the number of children an individual can care for without a license;
- 5) removing the limitations on the number children under age two for certified providers; and
- 6) establishing a limit on the total number of children that a person may care for in the person's home without a license or certificate.

Fiscal Information

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

A) State budget:

Increasing the minimum number of children required for a provider to for a residential certificate may result in a fiscal impact for the Department.

Some providers who are currently required to be certified for a lower number of children may decide to relinquish their residential certificate and operate without one. However, there is no way for the Department to calculate the fiscal impact of these changes because there is not a requirement for providers to report, and implementation of these changes is optional for providers.

B) Local governments:

The Residential Child Care Licensing (Agency) does not expect any costs or savings to the local governments caused by the proposed rule amendments because there is no oversight of local governments in these programs.

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

Giving providers the option to add school-age children without requesting a capacity change and increasing the number of children under age two will potentially impact these providers' income. This would be a benefit based on the number of children they add and would not result in a cost to them.

In addition, changing the language for the number of children under age two will give residential certificate providers more options to address the demand of care for infants and toddlers. The benefit amounts are inestimable due to the individualized capacities and preferences of each provider.

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

The Agency does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because residential care providers do not exceed 50 employees in any setting.

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**):

Giving providers the option to add school-age children without requesting a capacity change and increasing the number of children under age two will potentially impact these providers' income. This would be a benefit based on the number of children they add and would not result in a cost to them.

In addition, changing the language for the number of children under age two will give residential certificate providers more options to address the demand of care for infants and toddlers. The benefit amounts are inestimable due to the individualized capacities and preferences of each provider.

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 and do not require action.

The changes do not require action unless the provider chooses to relinquish and provide care without a residential certificate due to no longer meeting the minimum threshold for licensure.

They additionally could add children under age two under the new capacity allowance, but are not required to do so.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 26B-2-402		

Public Notice Information

8. 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:	10/02/2023
9. This rule change MAY become effective on:	
10/10/2023	
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/09/2023
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R430. Health and Human Services, ~~[Family Health and Preparedness]~~ Residential Child Care Licensing.

R430-50. Residential Certificate Child Care.

R430-50-1. Legal Authority and Purpose.

(1) This rule is enacted and enforced in accordance with [Title 26, Chapter 39, Utah Child Care Licensing Act.]Section 26B-2-402.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a residential certificate to provide child care.

R430-50-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a residential certificate from ~~[Child Care Licensing]~~the department.

(2) "Background Finding" means information in a background check that ~~[Child Care Licensing]~~the department uses to determine if a covered individual is or is not eligible ~~[to be]~~for involvement ~~[involved]~~with child care.

(3) "Barrier" means an enclosing structure ~~[such as]~~including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.

(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(5) "Business Days and Hours" means the days of the week and times the facility is open for business.

(6) "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.

(7) "Capacity" means the maximum number of children 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 under the Office of Licensing that is delegated with the responsibility to enforce the ~~[Utah Child Care Licensing Act.]rules under Titles R381 and R430.~~

(10) "Child Care" means continuous care and supervision of ~~[five]~~one 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]~~any laws or administrative 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 and Human Services.

(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 ~~there~~ 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" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, ~~[such as]~~ including 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]~~ including 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]~~ including in a locked room, cupboard, or drawer;

(b) secured with a child safety device, ~~[such as]~~ including 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 a supported finding of child abuse or neglect in ~~[background check information from]~~ the Licensing Information System (LIS) database for child abuse and neglect, maintained by the ~~[Utah D]~~ 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" is defined in Subsection R512-80-2(25) and also 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 on.

(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]~~ the department.

(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" is defined in Subsection R512-80-2(30) and also 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) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(47) "Stationary Play Equipment" means equipment ~~[such as]~~ including 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]~~ an item where a child's clothes or drawstrings could become caught~~[,]~~ or ~~[something in which a child could become]~~ entangled ~~[such as]~~ including:

(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~~] including 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) "Toddler" means a child age 12 through 23 months old.

(50) "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 is considered eligible by CCL [~~has passed a Child Care Licensing background check~~].

(51) "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~~] where a child falling from or exiting the equipment could be expected to land.

[~~—~~ (52) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.]

(5[3]2) "Working Days" means the days of the week the department is open for business.

R430-50-3. Residential Certificate Required.

(1) An individual shall [~~be~~] become certified as a residential child care provider if they provide care:

- (a) in the provider's home [~~where they reside~~];
- (b) in the absence of the child's parent;
- (c) for [~~five to~~] seven or eight unrelated children;
- (d) for four or more hours a day;
- (e) for each individual child for less than 24 hours a day;
- (f) on a regularly scheduled, ongoing basis; and
- (g) for direct or indirect compensation.

(2) An individual shall become certified by the department as a child care provider if they provide child care in the person's home for more than ten children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

([2]3) A person who is not required to become certified may voluntarily become certified, except for care that is for related children only or on a sporadic basis.

R430-50-4. Residential Certificate Application, Renewal, Changes, and Variances.

(1) Each applicant for a new residential certificate shall:

- (a) submit 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) 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~~] that 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~~] maintained at 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~~] shall include the required documentation, payment of certification fees, and a new inspection of the facility to become certified.

(6) The department may deny an application for a residential certificate if, within the five years preceding the application date, the applicant held a license or a residential certificate that was:

- (a) closed under an immediate closure;
 - (b) revoked;
 - (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;
 - (d) voluntarily closed after an inspection of the facility found a rule violation that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or
 - (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.
- (7) Each child care residential certificate expires at midnight on the last day of the month shown on the residential certificate, unless the residential certificate was previously revoked by the department, or voluntarily closed by the provider.
- (8) Within 30 to 90 days before a current residential certificate expires, each provider shall submit for renewal:
- (a) an online renewal request;
 - (b) applicable renewal fees;

- (c) any previous unpaid fees; and
- (d) a copy of a current fire inspection report.

(9) The department may grant a provider who fails to renew their residential certificate by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.

(10) The department may deny renewal of a residential certificate for a provider who is no longer caring for children.

(11) Each provider shall submit a complete application for a new residential certificate at least 30 days before a change of the child care facility's location.

(12) A provider shall submit a complete online changes request to amend an existing residential certificate at least 30 days before any of the following changes:

- (a) an increase or decrease of residential certificate capacity, including any change to the amount of usable indoor space where child care is provided;
- (b) a change in the name of the program;
- (c) a change in the regulation type of the program;
- (d) a change in the name of the provider; or
- (e) a transfer of business ownership.

(13) The department may amend a residential certificate after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended residential certificate remains the same as the previous residential certificate.

(14) Only the department may assign, transfer, or amend a residential certificate.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.

(16) Until the department approves a variance ~~Each provider shall comply with the existing rules~~ ~~[until a variance is approved by the department].~~

(17) If the department approves a variance ~~[is approved]~~, the provider shall keep a copy of the written approval on-site for review by parents and the department.

(18) The department may grant variances for up to 12 months.

(19) The department may revoke a variance if:

- (a) the provider is not meeting the intent of the rule as stated in their approved variance;
- (b) the provider fails to comply with the conditions of the variance; or
- (c) a change in statute, rule, or case law affects the basis for the variance.

R430-50-5. Rule ~~[Violations]~~Noncompliance, Penalties, and ~~[Appeals]~~Agency Action Reviews.

(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]~~ any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;

(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.]~~

(9) An unlicensed person providing care that requires a license or certificate may be charged with a civil money penalty and a class A misdemeanor unless they:

(a) stop providing child care that requires a license or certificate; or

(b) apply for the appropriate license or 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 ~~[26-39-604]~~ 26B-2-409.

(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 residential certificate.

(13) The department may deny an application or revoke 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 an agency review for ~~hearing to appeal~~ any department decision within ~~15~~ten working days of being informed in writing of the decision.

R430-50-6. Administration and Children's Records.

(1) The provider shall:

(a) be at least 18 years old;

(b) be ~~deemed~~considered 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 10 hours of child care training each year, based on the facility's 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~~maintain responsibility 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) contact 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 foster children and 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 and Human Services by the date specified by the department.

(15) The provider shall ensure that each child's information is ~~kept~~ confidential and not released without written parental permission except to the department.

R430-50-7. Personnel and Training Requirements.

(1) The provider shall ~~be~~remain 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 requirements under Rule R430-50.

(4) The provider shall ensure that caregivers:

(a) are at least 16 years old;

(b) are ~~deemed~~considered eligible by a CCL background check before becoming involved with child care;

(c) ~~receive at least 2 1/2 hours of preservice training~~complete the 2-1/2 hour preservice training offered by the department before caring for children;

(d) know and follow any applicable laws and requirements under Rule R430-50; and

(e) complete at least ~~10~~ten hours of child care training each year, based on the facility's residential certificate date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.

(5) The provider shall ensure that any other staff ~~such as~~including drivers, cooks, and clerks:

(a) are ~~deemed~~considered eligible by a CCL background check before becoming involved with child care;

(b) ~~[receive at least 2 1/2 hours of preservice training]~~complete the 2-1/2 hour preservice training offered by the department before beginning job duties;

(c) know and follow any applicable laws and requirements under Rule R430-50[-];

(d) ~~are introduced to other staff and to the caregiver's assigned group; and~~

(e) ~~review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs.~~

(6) The provider shall ensure that volunteers are ~~[deemed]~~considered eligible by a CCL background check before becoming involved with child care.

(7) The provider shall submit a background check as required in Section R430-50-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.

(8) The provider shall ensure that household members who are:

(a) 12 to 17 years old are ~~[deemed]~~considered eligible by a CCL background check; and

(b) 18 years old or older are ~~[deemed]~~considered eligible by a CCL background check that includes fingerprints.

(9) The provider shall ensure that individuals who provide Individualized Educational Plan ~~(IEP)~~ or Individualized Family Service plan (IFSP) services ~~[such as]~~including 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.

(10) 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.

~~[-]~~ (11) ~~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.]~~

(11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour

preservice training offered by the department that includes at least the following topics:

(a) applicable laws and requirements under Rule R430-50;

(b) children whose special needs may include disabilities;

(c) recognizing the signs of homelessness and available assistance;

(d) building and physical premises safety;

(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

(f) pediatric first aid and CPR;

(g) emergency preparedness, response, and recovery plan;

(h) prevention of and response to emergencies due to food and allergy reactions;

(i) safe handling and disposal of hazardous materials and bio contaminants;

(j) prevention and control of infectious diseases including immunizations;

(k) administration of medication;

(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth ;

(m) precautions in transporting children;

(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and

(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.

(12) 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; and

~~[-]~~ ~~(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.]~~

(b) each topic listed in Subsections R430-50-7(11)(a) through (o).

(13) The provider shall ensure that at least half of the required annual training is interactive.

(14) 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.

(15) The provider shall ensure that CPR certification includes hands-on testing.

(16) 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.

R430-50-8. Background Checks.

~~[(1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:~~

- ~~(a) verify that the individual is eligible; and~~
- ~~(b) associate that individual with their facility if the covered individual appears in the search.]~~

(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:

- (a) associate that individual with their facility; or
- (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

(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 is eligible.

(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~~[-]~~, except [if] when the 18-year-old has previously submitted fingerprints for a CCL background check, then 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 the provider submits 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 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) for any of the reasons listed under Subsection R430-50-8(8).

(8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:

- (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 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 CCL finds the provider is ~~[deemed]~~ not eligible, ~~[by CCL,]~~ the department may suspend or deny their license until the reason for the background check finding is resolved.

(11) If CCL finds a covered individual is ~~[deemed]~~ not eligible by CCL, 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 background check finding is resolved.

(12) If CCL denies 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, 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]~~ certificate.

~~(1[5]4)~~ The Executive Director of the department or their designee may overturn a CCL background check decision if they ~~[Executive Director]~~ determine[s] that the nature of the background finding or mitigating circumstances do not pose a risk to children.

R430-50-9. Facility.

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

(2) The department may include 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) lobbies; and
- (e) entryways.

~~[(4) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.]~~

~~[(5)4] 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[-], except when providing after school child care for up to two additional school-age children.~~

~~[(6)5] 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)6] 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)7] 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)8] The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~

~~[(10)9] The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~

~~[(11)10] The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.~~

~~[(12)11] The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.~~

~~[(13)12] If there is a swimming pool on the premises that the provider does not empty after each use, [is not emptied after each use,] the provider shall:~~

- (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;
- (b) maintain the pool in a safe manner; and
- (c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is ~~[kept]~~locked and that separates the pool from any other areas on the premises.

~~[(14)13] 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.

~~[(15)14] The provider shall maintain buildings and outdoor areas in good repair and safe condition including:~~

- (a) ceilings, walls, and floor coverings;
- (b) lighting, bathroom, and other fixtures;
- (c) draperies, blinds, and other window coverings;
- (d) indoor and outdoor play equipment;
- (e) furniture, toys, and materials accessible to the children;

and

(f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.

~~[(16)15] The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.~~

~~[(17)16] If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when the following conditions are met:~~

~~(a) there is a signed rental or lease agreement for the rented area;~~

~~(b) there is a separate mailing address for the rented area;~~

~~(c) there is a separate entrance for the child care program;~~

~~(d) there are no connecting interior doorways that can be used by unauthorized individuals; and~~

~~(e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.~~

~~[(18)17] If there is an outdoor area used by children in care, the provider shall comply with Subsections R430-50-9(19) through R430-50-9(24).~~

~~[(19)18] The provider shall ensure that the outdoor area is safely accessible to children.~~

~~[(20)19] The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.~~

~~[(21)20] The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:~~

~~(a) has a speed of 25 miles per hour or higher; or~~

~~(b) has more than two lanes of traffic.~~

~~[(22)21] The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:~~

~~(a) barbed wire that is within 30 feet of the children's play area;~~

~~(b) livestock on or within 50 yards of the property line;~~

~~(c) dangerous machinery, ~~[such as]~~including farm equipment, on or within 50 yards of the property line;~~

~~(d) a drop-off of more than five feet on or within 50 yards of the property line; and~~

~~(e) a water hazard, ~~[such as]~~including a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.~~

~~[(23)22] The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.~~

~~[(24)23] The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.~~

R430-50-10. Ratios and Group Size.

~~(1) The provider shall maintain at least one caregiver for up to eight children in care.~~

~~(2) ~~[The provider shall ensure that there are no more than two children younger than two years old in care including the provider's and employee's own children.]~~When caring for children younger than two years old, the provider shall ensure that:~~

~~(a) there is at least one caregiver for every three children younger than two years old;~~

(b) each caregiver cares for no more than two children younger than 18 months old; and

(c) there are at least two caregivers if more than three children younger than two years old are present and there are more than six children in care.

(3) The provider shall include the provider's and employees' children age four years old or older in care:

(a) in the group size when the parent of the child is working at the facility; and

(b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

R430-50-11. Child Supervision and Security.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:

(a) a caregiver is inside the home when a child in care is inside the home;

(b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;

(c) caregivers know the number of children in their care at any time; and

(d) caregivers' attention is focused on the children and not on caregivers' personal interests.

(2) The provider 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.

(6) The provider may allow school-age children to ~~[be]~~go 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.

(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.

(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.

(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.

(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-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]~~including 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.

(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.

R430-50-12. Child Guidance and Interaction.

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

(2) The provider shall inform parents, children, and those who interact with the children of the facility's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort ~~[such as]~~including hitting, spanking, shaking, biting, or pinching;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;

(c) shouting at children;

(d) any form of emotional abuse;

(e) forcing or withholding food, rest, or toileting; or

(f) confining a child in a closet, locked room, or other enclosure ~~[such as]~~including a box, cupboard, or cage.

(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in ~~[state law]~~Section 80-2-602.

R430-50-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

(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]~~including 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]~~including 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]~~including 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]~~including 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]~~including 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]~~including 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]~~including furniture, unsecured televisions, and standing ladders.

(17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.

(19) The provider shall ensure that infant walkers with wheels are inaccessible to children.

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, not used:

- (a) in the facility or any other building when a child is in care;
- (b) in any vehicle that is being used to transport a child in care;
- (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or
- (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

R430-50-14. Emergency Preparedness, Response, and Recovery.

(1) The provider shall have an emergency preparedness, response, and recovery plan that:

- (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;
- (b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions; ~~and~~

(c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health; and

~~(e)~~d 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~~when 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 time possible and for less than one business day; and

(c) signs a written background statement before being left alone with the children.

(12) Before leaving for the emergency, the provider shall obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:

(a) has not been convicted of a felony;

(b) has not been convicted of a crime against a person;

(c) is not listed on the state or national sex offender registry; and

(d) is not being investigated for abuse or neglect by any federal, state, or local government agency.

(13) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to the department for review.

R430-50-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

(a) walls and flooring clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;

(c) surfaces free of rotting food or a build-up of food;

(d) the building and grounds free of a build-up of litter, trash, and garbage;

(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and

(f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

(a) at least once a week or more often if needed;

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

(c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items ~~[such as]~~ including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.

(5) The provider shall clean and sanitize highchair trays before each use.

(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.

(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.

(8) The provider shall clean and sanitize potty chairs after each use.

(9) The provider shall keep toilet paper in a dispenser that is accessible to children.

(10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:

(a) upon arrival;

(b) before handling or preparing food or bottles;

(c) before and after eating meals and snacks or feeding a child;

(d) after using the toilet or helping a child use the toilet;

(e) after contact with a body fluid;

(f) when coming in from outdoors; and

(g) after cleaning up or taking out garbage.

(11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.

(12) The provider shall ensure that children wash their hands thoroughly with soap and running water:

(a) upon arrival;

(b) before and after eating meals and snacks;

(c) after using the toilet;

(d) after contact with a body fluid;

(e) before using a water play table or tub; and

(f) when coming in from outdoors.

(13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.

(14) The provider shall ensure that if cloth towels are used, cloth towels are:

(a) not shared; and

(b) washed daily.

(15) The provider shall store personal hygiene items, ~~[such as]~~ including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.

(16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:

(a) labeled with each child's name or individually identified; and

(b) not shared, or washed and sanitized before being used by another child.

(17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.

(18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:

(a) washed and dried; or

(b) placed in a leakproof container that is labeled with the child's name and returned to the parent.

(19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:

(a) wear waterproof gloves;

(b) clean the surface using a detergent solution;

(c) rinse the surface with clean water;

(d) sanitize the surface;

(e) throw away in a leakproof plastic bag the disposable materials, ~~[such as]~~ including 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]~~ including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

(g) wash their hands after cleaning up the body fluid.

(20) If a child becomes ill while in care, the provider shall:

(a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and

(b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.

(21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.

(22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.

(23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms ~~[such as]~~ including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

R430-50-16. Food and Nutrition.

(1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

(2) If ~~the provider supplies the~~ 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]~~ including a cracker, ~~[which]~~ that may be placed directly in a child's hand.

(5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:

(a) labeled with the child's name;

(b) refrigerated if needed; and

(c) consumed only by that child.

R430-50-17. Medications.

(1) The provider shall make medications inaccessible to children in care.

(2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.

(3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications are:

(a) labeled with the child's full name;

(b) ~~[kept]~~ in the original or pharmacy container;

(c) have the original label; and

(d) have child safety caps.

(4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.

(5) The provider shall ensure that the medication permission form includes at least:

(a) the name of the child;

(b) the name of the medication;

(c) written instructions for administration; and

(d) the parent signature and the date signed.

(6) The provider shall ensure that instructions for administering the medication include at least:

(a) the dosage;

(b) how the medication will be given;

(c) the times and dates to administer the medication; and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

(a) written; or

(b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.

(8) The provider shall ensure that the staff administering the medication:

(a) washes their hands;

(b) check the medication label to confirm the child's name if the parent supplied the medication;

(c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and

(d) administers the medication.

(9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:

(a) the date, time, and dosage of the medication given;

(b) any error in administering the medication or adverse reactions; and

(c) their signature or initials.

(10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.

(11) The provider shall notify the parent before the time a child requires medication, ~~[medication needs to be given to a child]~~ if the provider chooses not to administer medication as instructed by the parent.

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

R430-50-18. Activities.

(1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.

(2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.

(3) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(4) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media ~~[such as]~~ including television, cell phones, tablets, and computers is:

(a) not allowed for children zero to 17 months old;

(b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and

(c) planned to address the needs of children five to 12 years old.

(5) If swimming activities are offered or if wading pools are used, the provider shall ensure that:

(a) the parent gives permission before their child in care uses the pool;

(b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;

(c) diapered children wear swim diapers when they are in the pool;

(d) wading pools are emptied and sanitized after use by each group of children;

(e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

(f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.

(6) If the provider offers offsite activities~~[are offered]~~, the provider shall ensure that:

(a) the parent gives written consent before each activity;

(b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;

(c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;

(d) children's names are not used on nametags, t-shirts, or in other visible ways; and

(e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

(7) The provider shall ensure that a caregiver with the children takes the ~~[written]~~ emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:

(a) the child's name;

(b) the parent's name and phone number;

(c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;

(d) the names of people authorized by the parents to pick up the child; and

(e) current emergency medical treatment and emergency medical transportation releases.

R430-50-19. Play Equipment.

(1) The provider shall ensure that children using play equipment use it safely and ~~[in the manner]~~ as 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]~~ including 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]~~ is 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]~~ permitted 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]~~ including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

R430-50-20. Transportation.

~~[If transportation services are offered:]~~

(1) For each child being transported by the provider, the provider shall have a transportation permission form:

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

(2) The provider shall ensure that each vehicle used for transporting children:

- (a) is enclosed with a roof or top;
- (b) is equipped with safety restraints;
- (c) has a current vehicle registration;
- (d) is maintained in a safe and clean condition; and
- (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

- (a) appropriate for the age and size of each child who is transported, as required by Utah law;
- (b) properly installed; and
- (c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

- (a) is at least 18 years old;
- (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;

(c) has with them the ~~[written]~~ emergency contact information for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leaves a child in the vehicle unattended by an adult;

(g) ensures that children stay seated while the vehicle is moving;

(h) never leaves the keys in the ignition when not in the driver's seat; and

- (i) ensures that the vehicle is locked during transport.

(5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent;

(b) a caregiver goes with the children and actively supervises the children;

- (c) the caregiver-to-child ratio is maintained; and

(d) a caregiver with the children has written emergency contact information and releases for the children being transported.

(6) The provider shall:

- (a) have transport liability insurance; or

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

R430-50-21. Animals.

(1) The provider shall inform parents of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

- (a) is naturally aggressive;
- (b) has a history of dangerous, attacking, or aggressive behavior; or

- (c) has a history of biting even one individual.

(3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.

(4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.

(5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.

(7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.

(8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.

(9) The provider shall keep current animal vaccination records on-site for review by the department.

R430-50-22. Rest and Sleep.

(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.

(2) The provider shall ensure that each crib:

- (a) has a tight-fitting mattress;
- (b) has slats spaced no more than 2-3/8 inches apart;

(c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;

(d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and

(e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.

(3) The provider shall ensure that sleeping equipment does not block exits.

(4) The provider shall ensure that sleeping equipment and bedding items are:

- (a) clearly assigned to one child; and
- (b) laundered as needed, but at least once a week, and before use by another child.

(5) Before each use t[F]he provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual~~[child before each use]~~.

R430-50-23. Diapering.

~~[If the provider accepts children who wear diapers:]~~

(1) If the provider accepts children who wear diapers, t[F]he provider shall ensure that each child's diaper is:

- (a) checked at least once every two hours;
 - (b) promptly changed if wet or soiled; and
 - (c) checked as soon as a sleeping child awakens.
- (2) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.
- (3) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (4) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (5) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.
- (6) The provider shall ensure that caregivers place wet and soiled disposable diapers:
- (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (7) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.
- (8) If cloth diapers are used, the provider shall:
- (a) not rinse cloth diapers at the facility; and
 - (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.

R430-50-24. Infant and Toddler Care.

~~[If the provider cares for infants or toddlers:]~~

- (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 20 minutes.
- (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults~~[-]~~, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.
- (3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions ~~[such as]~~including 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 may not confine an awake infant or toddler in any piece of equipment, ~~[such as]~~including 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 infant and toddlers ~~[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]~~including 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 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.]~~(11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each 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]~~including 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.

(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 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: 2023~~[June 1, 2022]~~

Notice of Continuation: May 4, 2023

Authorizing, and Implemented or Interpreted Law: ~~[26-39]~~26B-2-402

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R430-90	Filing ID: 55619
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Agency Information

1. Department:	Health and Human Services	
Agency:	Residential Child Care Licensing	
Building:	Multi-Agency State Office Building (MASOB)	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov

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Simon Bolivar	801-803-4618	sbolivar@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R430-90. Licensed Family Child Care
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to update language, clarify processes, updates terms and requirements as required by H.B. 15 from the 2022 General Session and updates citations following the consolidation and recodification of the Department of Health and Human Services' (Department) statute in 2023 General Session.
This amendment incorporates changes based on the input and approval of the Residential Child Care Licensing (Agency).
4. Summary of the new rule or change:
The amendment adds clarifying language compliant with the Rulewriting Manual for Utah.
Additionally, this aligns terminology and processes with current enforcement standards.
It also updates citations following the recodification and consolidation of the Department of Health and Human Services' statute.
Substantive changes to comply with H.B. 15 (2022) include:
1) the definition of child care;
2) the Department's authority over municipalities and counties related to requirements for child care providers;
3) allowing additional school-age children without requesting an increase in capacity;
4) an increase in the number of children an individual can care for without a license;
5) removing the limitations on the number children under age two for certified providers; and
6) establishing a limit on the total number of children that a person may care for in the person's home without a license or certificate.

Fiscal Information

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

A) State budget:

Increasing the minimum number of children required for a provider to become licensed may result in a fiscal impact for the Department.

Some providers who are currently required to be licensed for a lower number of children may decide to relinquish their license and operate without one. However, there is no way for the Department to calculate the fiscal impact of these changes because there is not a requirement for providers to report, and implementation of these changes is optional for providers.

B) Local governments:

The Agency does not expect any costs or savings to local governments caused by the proposed rule amendments because there is no oversight of local governments in these programs.

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

Giving providers, small businesses, the option to add school-age children without requesting a capacity change will potentially impact these providers' income.

This would be a benefit based on the number of children they add and would not result in a cost to them. The benefit amounts are inestimable due to the individualized capacities and preferences of each provider.

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

The Agency does not expect any costs or savings to non-small businesses caused by the proposed rule amendments because residential care providers do not exceed 50 employees in any setting.

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**):

Giving providers, other persons, the option to add school-age children without requesting a capacity change will potentially impact these providers' income.

This would be a benefit based on the number of children they add and would not result in a cost to them. The benefit amounts are inestimable due to the individualized capacities and preferences of each provider.

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 and do not require action unless the provider wishes to relinquish and provide care without a license due to no longer meeting the minimum threshold for licensure.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 26B-2-402

Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title: Tracy S. Gruber, Executive Director
Date: 08/09/2023

~~R430. Health and Human Services, [Family Health and Preparedness], Residential Child Care Licensing.~~

~~R430-90. Licensed Family Child Care.~~

~~R430-90-1. Legal Authority and Purpose.~~

(1) This rule is enacted and enforced in accordance with ~~[Title 26, Chapter 39, Utah Child Care Licensing Act.]~~ Section 26B-2-402.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a license to provide child care.

~~R430-90-2. Definitions.~~

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.

(2) "Background Finding" means information in a background check that Child Care Licensing uses to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Barrier" means an enclosing structure ~~[such as]~~ including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.

(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(5) "Business Days and Hours" means the days of the week and times the facility is open for business.

(6) "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.

(7) "Capacity" means the maximum number of children 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.]~~ rules under Titles R381 and R430.

(10) "Child Care" means continuous care and supervision of ~~five~~one or more qualifying children that is:

(a) in place of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

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

(12) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.

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

(14) "Covered Individual" means any of the following individuals involved with a child care program:

(a) an owner;

(b) an employee;

(c) a caregiver;

(d) a volunteer, except a parent of a child enrolled in the child care program;

(e) an individual age 12 years old or older who resides in the facility; and

(f) anyone who has unsupervised contact with a child in care.

(15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.

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

(17) "Department" means the Utah Department of Health and Human Services.

(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 there 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~~including 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~~including 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~~including in a locked room, cupboard, or drawer;

(b) secured with a child safety device, ~~such as~~including a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located at least 36 inches above the floor; or

(e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.

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

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

(31) "Involved with Child Care" means to do any of the following at or for a child care program:

(a) care for or supervise children;

(b) volunteer;

(c) own, operate, direct;

(d) reside;

(e) count in the caregiver-to-child ratio; or

(f) have unsupervised contact with a child in care.

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

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

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

(35) "Older Toddler" means a child age 18 through 23 months old.

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

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

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

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

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

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

(42) "Provider Designee" means the adult delegated by the provider to take the provider's responsibility in the provider's absence.

(4[2]3) "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[3]4) "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)[4]5) "Residential Child Care" means care that takes place in a child care provider's home.

(4)[5]6) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(4)[6]7) "School-Age Child" means a child age five through 12 years old.

(4)[7]8) "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)[8]9) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

(1)[49]50) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(5)[0]1) "Stationary Play Equipment" means equipment ~~[such as]~~including 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.

(5)[4]2) "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]~~including:

(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]~~including 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)[2]3) "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 is considered eligible by CCL~~[has passed a Child Care Licensing background check]~~.

(5)[3]4) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

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

(55) "Working Days" means the days of the week the department is open for business.

(56) "Younger Toddler" means a child age 12 through 17 months old.

R430-90-3. License Required.

(1) An individual shall ~~[be licensed as]~~obtain a [licensed] family child care provider license from the department if they provide care:

(a) in the provider's home~~[where they reside]~~;

(b) in the absence of the child's parent;

(c) for ~~[five to 16]~~nine or more unrelated children;

(d) for four or more hours a day;

(e) for each individual child for less than 24 hours a day;

(f) on a regularly scheduled, ongoing basis; and

(g) for direct or indirect compensation.

(2) A person who ~~[is not required to be licensed]~~does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.

(4) A residential child care provider may not be licensed for more than two facilities at the same time.

(5) An individual shall be licensed by the department as a child care provider if they provide child care in the person's home for more than ten children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

R430-90-4. License Application, Renewal, Changes, and Variances.

(1) Each applicant for a new child 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) complete CCL background checks for covered individuals as required in Section R430-90-8;

(f) complete CCL new provider training no more than six months before becoming licensed; and

(g) pay any required fees, which are nonrefundable.

(2) Each applicant shall pass a department's inspection of the facility before a new license or a renewal is issued.

(3) If the local fire authority states 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) 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]~~maintained at the proper temperature, and in good condition; and

(g) there is a working handwashing sink in the kitchen.

(5)(a) Each applicant for a new license shall ~~[have]~~ complete the licensing process within six months from the time any portion of the application is submitted to the department. ~~[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 to be licensed.]~~

(b) If successful licensure is not achieved by the applicant within six months, the applicant shall reapply.

(c) Any resubmission shall include the required documentation and payment of licensing fees.

(d) The department shall conduct a new inspection of the facility before issuing a license.

(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]~~noncompliance 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)(a) If an applicant or provider cannot comply with a rule under Rule R381-90 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.

(b) The department may:

(i) require additional information before acting on a variance request; and

(ii) impose health and safety requirements as a condition of granting a variance.

(16)(c) Each provider shall comply with the existing ~~[rules]~~Rule R381-90 ~~[until—]~~unless the department approves a variance. ~~[is approved by the department.]~~

(17)(d) 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)(e) The department may grant variances for up to 12 months.

(19)(f) The department may revoke a variance if:

(a)(i) the provider is not meeting the intent of the rule as stated in their approved variance;

(b)(ii) the provider fails to comply with the conditions of the variance; or

(c)(iii) a change in statute, rule, or case law affects the basis for the variance.

R430-90-5. Rule ~~[Violations]~~Noncompliance, Penalties, and ~~[Appeals]~~Agency Action Reviews.

(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]~~noncompliance 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]~~noncompliance 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 DHHS 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.]~~
(9) An unlicensed person providing care that requires a license or certificate may be charged with a civil money penalty and a class A misdemeanor unless they:

(a) stop providing child care that requires a license or certificate; or

(b) apply for the appropriate license or 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]~~noncompliance 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]~~26B-2-409.

(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 an agency review for [hearing to appeal] any department decision within ~~[15]~~ten working days of being informed in writing of the decision.

R430-90-6. Administration and Children's Records.

(1) The provider shall:

(a) be at least 18 years old;

(b) be ~~[deemed]~~considered 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 foster children and 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 and Human Services by the date specified by the department.

(15) The provider shall ensure that each child's information is ~~[kept]~~ confidential and not released without written parental permission except to the department.

R430-90-7. Personnel and Training Requirements.

(1) The provider ~~or the provider designee~~ shall be present at the home ~~when a child is in care~~ ~~[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.]~~ The provider shall ensure that, before being left alone with the children, the provider designee:

(a) completes the department's new provider training; and

(b) has current first aid and pediatric CPR certifications.

(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 requirements under Rule R430-90.

(4) The provider shall ensure that caregivers:

(a) are at least 16 years old;

(b) are ~~[deemed]~~ considered eligible by a CCL background check before becoming involved with child care;

(c) ~~[receive at least 2 1/2 hours of preservice training]~~ complete the 2-1/2 hour preservice training offered by the department before caring for children;

(d) know and follow any applicable laws and requirements under Rule R430-90; ~~and~~

(e) are introduced to other staff and to the caregiver's assigned group of children;

(f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and

(g) 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.

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

(a) are ~~[deemed]~~ considered eligible by a CCL background check before becoming involved with child care;

(b) [receive at least 2 1/2 hours of preservice training] complete the 2-1/2 hour preservice training offered by the department before beginning job duties; and

(c) know and follow any applicable laws and requirements under Rule R430-90.

(6) The provider shall ensure that volunteers are ~~[deemed]~~ considered eligible by a CCL background check before becoming involved with child care.

(7) 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.

(8) The provider shall ensure that household members who are:

(a) 12 to 17 years old are ~~[deemed]~~ considered eligible by a CCL background check; and

(b) 18 years old or older are ~~[deemed]~~ considered eligible by a CCL background check that includes fingerprints.

(9) The provider shall ensure that individuals who provide Individualized Educational Plan ~~[(IEP)]~~ or Individualized Family Service plan (IFSP) services ~~[such as]~~ including 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.

(10) 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.

~~[(11) 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.](11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by the department which includes at least the following topics:~~

(a) applicable laws and requirements under Rule R430-90;

(b) children with special needs;

(c) recognizing the signs of homelessness and available assistance;

(d) building and physical premises safety;

(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

(f) pediatric first aid and CPR;

(g) emergency preparedness, response, and recovery plan;

(h) prevention of and response to emergencies due to food and allergy reactions;

(i) safe handling and disposal of hazardous materials and biocontaminants;

(j) prevention and control of infectious diseases including immunizations;

(k) administration of medication;
(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
(m) precautions in transporting children;
(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and
(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.
~~[(12) 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.]~~
 (1[3]2) 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 use of safe sleeping practices; and~~
~~(j) recognizing the signs of homelessness and available assistance;]~~
(b) children with special needs;
(c) recognizing the signs of homelessness and available assistance;
(d) building and physical premises safety;
(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
(f) pediatric first aid and CPR;
(g) emergency preparedness, response, and recovery plan;
(h) prevention of and response to emergencies due to food and allergy reactions;
(i) safe handling and disposal of hazardous materials and biocontaminants;
(j) prevention and control of infectious diseases including immunizations;
(k) administration of medication;
(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
(m) precautions in transporting children;
(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and
(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.
 (1[4]3) The provider shall ensure that at least half of the required annual training is interactive.

(1[5]4) The provider shall ensure that documentation of each individual's annual child care training is ~~[kept]~~ on-site for review by the department and includes the following:
 (a) training topic;
 (b) date of the training;
 (c) name of the individual or organization that presented the training;
 (d) whether the training was interactive or not; and
 (d) total hours or minutes of training.
 (1[6]5) 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.
 (1[7]6) The provider shall ensure that CPR certification includes hands-on testing.
 (1[8]7) 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.]~~
(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:
(a) associate that individual with their facility; or
(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
 (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]~~ require the individual to 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 is eligible.
 (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~~[-]~~, except [4]when the 18-year-old has previously submitted fingerprints for a CCL background check, then 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 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) for any of the reasons listed under Subsection R430-90-8(8).

(8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:

(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 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]~~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 ~~[deemed]~~considered not eligible by CCL, 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 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, 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.

(1~~[5]~~4) The Executive Director of the department 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.

R430-90-9. Facility.

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

(2) The department may include 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) lobbies; and

(e) entryways.

~~[(4) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.]~~

(~~[5]~~4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license~~[-]~~, except when providing after school child care for up to three additional school-age children.

(~~[6]~~5) 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]~~6) 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]~~7) 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]~~8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(~~[10]~~9) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(1~~[1]~~0) 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.

(1~~[2]~~1) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

(1[3]2) The provider shall ensure that there is an outdoor area that is safely accessible to children.

(1[4]3) 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.

(1[5]4) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:

- (a) has a speed of 25 miles per hour or higher; or
- (b) has more than two lanes of traffic.

(1[6]5) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:

- (a) barbed wire that is within 30 feet of the children's play area;
- (b) livestock on or within 50 yards of the property line;
- (c) dangerous machinery, ~~[such as]~~including farm equipment, on or within 50 yards of the property line;
- (d) a drop-off of more than five feet on or within 50 yards of the property line; and
- (e) a water hazard, ~~[such as]~~including a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.

(1[7]6) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(1[8]7) 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.

(1[9]8) 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.

(1[20]9) 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.

(2[1]0) 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.

(2[2]1) 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.

(2[3]2) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when~~[the following conditions are met]~~:

- (a) there is a signed rental or lease agreement for the rented area;
- (b) there is a separate mailing address for the rented area;
- (c) there is a separate entrance for the child care program;
- (d) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.

R430-90-10. Ratios and Group Size.

(1) The provider shall maintain at least:

- (a) one caregiver for up to eight children in care; and
- (b) two caregivers for nine to 16 children in care.

(2) The provider shall include the provider's and employees' children age four years old or older in care:

(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 for every three children younger than two years old;
- (b) each caregiver cares for no more than two children younger than 18 months old; and
- (c) there are at least two caregivers if more than three children younger than two years old are present and there are more than six children in care.

(4) The provider may not exceed the group sizes found in Table 1 and Table 2.

TABLE 1 MAXIMUM GROUP SIZE WITH 1 CAREGIVER		
# of Provider's and Caregivers' Own Children Ages 4-12 Years Present During Child Care Hours	Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old	Total # of Children Present in the Home During Child Care Hours
0-4 Children	8 children	12 Children
5 Children	7 children	12 Children
6 Children	6 children	12 Children
7 Children	5 children	12 Children
8 Children	4 children	12 Children
9 Children	3 children	12 Children
10 Children	2 children	12 Children
11 Children	1 child	12 Children

TABLE 1 MAXIMUM GROUP SIZE WITH 1 CAREGIVER		
Number of provider's and caregiver's own children ages 4-12 years present during child care hours	Maximum allowed number of children in care, including the provider's and caregivers' own children younger than 4 years old	Total number of children present in the home during child care hours

<u>0-4 Children</u>	<u>8 Children</u>	<u>12 Children</u>
<u>5 Children</u>	<u>7 Children</u>	<u>12 Children</u>
<u>6 Children</u>	<u>6 Children</u>	<u>12 Children</u>
<u>7 Children</u>	<u>5 Children</u>	<u>12 Children</u>
<u>8 Children</u>	<u>4 Children</u>	<u>12 Children</u>
<u>9 Children</u>	<u>3 Children</u>	<u>12 Children</u>
<u>10 Children</u>	<u>2 Children</u>	<u>12 Children</u>
<u>11 Children</u>	<u>1 Child</u>	<u>12 Children</u>

[TABLE 2]

MAXIMUM GROUP SIZE WITH 2 CAREGIVERS

<u># of Provider's and Caregivers' Own Children Ages 4-12 Years Present During Child Care Hours</u>	<u>Maximum Allowed Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old</u>	<u>Total # of Children Present in the Home During Child Care Hours</u>
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<u>0-8 Children</u>	<u>16 children</u>	<u>24 Children</u>
<u>9 Children</u>	<u>15 children</u>	<u>24 Children</u>
<u>10 Children</u>	<u>14 children</u>	<u>24 Children</u>
<u>11 Children</u>	<u>13 children</u>	<u>24 Children</u>
<u>12 Children</u>	<u>12 children</u>	<u>24 Children</u>
<u>13 Children</u>	<u>11 children</u>	<u>24 Children</u>
<u>14 Children</u>	<u>10 children</u>	<u>24 Children</u>
<u>15 Children</u>	<u>9 children</u>	<u>24 Children</u>
<u>16 Children</u>	<u>8 children</u>	<u>24 Children</u>
<u>17 Children</u>	<u>7 children</u>	<u>24 Children</u>
<u>18 Children</u>	<u>6 children</u>	<u>24 Children</u>
<u>19 Children</u>	<u>5 children</u>	<u>24 Children</u>
<u>20 Children</u>	<u>4 children</u>	<u>24 Children</u>
<u>21 Children</u>	<u>3 children</u>	<u>24 Children</u>
<u>22 Children</u>	<u>2 children</u>	<u>24 Children</u>
<u>23 Children</u>	<u>1 child</u>	<u>24 Children</u>

TABLE 2

MAXIMUM GROUP SIZE WITH 2 CAREGIVERS

<u>Number of provider's and caregiver's own children ages 4-12 years present during child care hours</u>	<u>Maximum allowed number of children in care, including the provider's and caregivers' own children younger than 4 years old</u>	<u>Total number of children present in the home during child care hours</u>
<u>0-8 Children</u>	<u>16 Children</u>	<u>24 Children</u>
<u>9 Children</u>	<u>15 Children</u>	<u>24 Children</u>
<u>10 Children</u>	<u>14 Children</u>	<u>24 Children</u>
<u>11 Children</u>	<u>13 Children</u>	<u>24 Children</u>
<u>12 Children</u>	<u>12 Children</u>	<u>24 Children</u>
<u>13 Children</u>	<u>11 Children</u>	<u>24 Children</u>
<u>14 Children</u>	<u>10 Children</u>	<u>24 Children</u>
<u>15 Children</u>	<u>9 Children</u>	<u>24 Children</u>
<u>16 Children</u>	<u>8 Children</u>	<u>24 Children</u>
<u>17 Children</u>	<u>7 Children</u>	<u>24 Children</u>
<u>18 Children</u>	<u>6 Children</u>	<u>24 Children</u>
<u>19 Children</u>	<u>5 Children</u>	<u>24 Children</u>
<u>20 Children</u>	<u>4 Children</u>	<u>24 Children</u>
<u>21 Children</u>	<u>3 Children</u>	<u>24 Children</u>
<u>22 Children</u>	<u>2 Children</u>	<u>24 Children</u>
<u>23 Children</u>	<u>1 Child</u>	<u>24 Children</u>

(5) The provider may include caregivers and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.

(6) The provider shall ensure that guests do not count in caregiver-to-child ratio.

R430-90-11. Child Supervision and Security.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:

(a) a caregiver is inside the home when a child in care is inside the home;

(b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;

(c) caregivers know the number of children in their care at any time; and

(d) caregivers' attention is focused on the children and not on caregivers' personal interests.

(2) The provider 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.

(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.

(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.

(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.

(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.

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

(a) each child is signed in and out in accordance with this section;

(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]~~including 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.

(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.

(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.

R430-90-12. Child Guidance and Interaction.

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

(2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort ~~[such as]~~including hitting, spanking, shaking, biting, or pinching;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;

(c) shouting at children;

(d) any form of emotional abuse;

(e) forcing or withholding food, rest, or toileting; or

(f) confining a child in a closet, locked room, or other enclosure ~~[such as]~~including a box, cupboard, or cage.

(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in state law.

R430-90-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.

(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.

(5) The provider shall ensure that strangulation hazards ~~[such as]~~including 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]~~including 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]~~including 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 any state or federal law, the provider shall ensure that firearms ~~[such as]~~including 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]~~including 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]~~including 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]~~including furniture, unsecured televisions, and standing ladders.

(17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.

(19) The provider shall ensure that infant walkers with wheels are inaccessible to children.

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, not used:

- (a) in the facility or any other building when a child is in care;
- (b) in any vehicle that is being used to transport a child in care;
- (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or
- (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

R430-90-14. Emergency Preparedness, Response, and Recovery.

(1) The provider shall ~~have~~develop and follow 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) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;

~~(e)d~~ is available for review by parents, staff, and the department during business hours; and

~~(d)e~~ 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]~~including 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.

R430-90-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

- (a) walls and flooring clean and free of spills, dirt, and grime;
- (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;
- (c) surfaces free of rotting food or a build-up of food;
- (d) the building and grounds free of a build-up of litter, trash, and garbage;
- (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and
- (f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

(a) at least once a week or more often if needed;

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

(c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items ~~[such as]~~ including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.

(5) The provider shall clean and sanitize highchair trays before each use.

(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.

(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.

(8) The provider shall clean and sanitize potty chairs after each use.

(9) The provider shall keep toilet paper in a dispenser that is accessible to children.

(10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:

(a) upon arrival;

(b) before handling or preparing food or bottles;

(c) before and after eating meals and snacks or feeding a child;

(d) after using the toilet or helping a child use the toilet;

(e) after contact with a body fluid;

(f) when coming in from outdoors; and

(g) after cleaning up or taking out garbage.

(11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.

(12) The provider shall ensure that children wash their hands thoroughly with soap and running water:

(a) upon arrival;

(b) before and after eating meals and snacks;

(c) after using the toilet;

(d) after contact with a body fluid;

(e) before using a water play table or tub; and

(f) when coming in from outdoors.

(13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.

(14) The provider shall ensure that if cloth towels are used, cloth towels are:

(a) not shared; and

(b) washed daily.

(15) The provider shall store personal hygiene items, ~~[such as]~~ including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.

(16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:

(a) labeled with each child's name or individually identified; and

(b) not shared, or washed and sanitized before being used by another child.

(17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.

(18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:

(a) washed and dried; or

(b) placed in a leakproof container that is labeled with the child's name and returned to the parent.

(19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:

(a) wear waterproof gloves;

(b) clean the surface using a detergent solution;

(c) rinse the surface with clean water;

(d) sanitize the surface;

(e) throw away in a leakproof plastic bag the disposable materials, ~~[such as]~~ including 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]~~ including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

(g) wash their hands after cleaning up the body fluid.

(20) If a child becomes ill while in care, the provider shall:

(a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and

(b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.

(21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.

(22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.

(23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms ~~[such as]~~ including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

R430-90-16. Food and Nutrition.

(1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

(2) If food for children's meals or snacks is supplied by the provider, the provider shall ensure that:

(a) the meal service meets local health department food service rules;

(b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;

(c) the provider uses the CACFP meal pattern requirements, the standard department-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;

(d) the current week's menu is posted for review by parents and the department; and

(e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.

(3) The provider shall ensure that the individual who serves food to children:

(a) is aware of the children in their assigned group who have food allergies or sensitivities; and

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

(4) The provider 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]~~ including 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) are labeled with the child's full name;
- (b) are stored ~~[kept]~~ in the original or pharmacy container;
- (c) have the original label; and
- (d) have child safety caps.

(4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.

(5) The provider shall ensure that the medication permission form includes at least:

- (a) the name of the child;
- (b) the name of the medication;
- (c) written instructions for administration; and
- (d) the parent signature and the date signed.

(6) The provider shall ensure that instructions for administering the medication include at least:

- (a) the dosage;
- (b) how the medication will be given;
- (c) the times and dates to administer the medication; and
- (d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

(a) written; or

(b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.

(8) The provider shall ensure that the staff administering the medication:

(a) washes their hands;

(b) check the medication label to confirm the child's name if the parent supplied the medication;

(c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and

(d) administers the medication.

(9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:

- (a) the date, time, and dosage of the medication given;

(b) any error in administering the medication or adverse reactions; and

(c) their signature or initials.

(10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.

(11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.

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

R430-90-18. Activities.

(1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.

(2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.

(3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.

(4) For each child two years old and older, the provider shall post a daily schedule that includes:

(a) activities that support children's healthy development; and

(b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.

(5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media ~~[such as]~~ including television, cell phones, tablets, and computers is:

- (a) not allowed for children zero to 17 months old;
- (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
- (c) planned to address the needs of children five to 12 years old.

(7) If swimming activities are offered or if wading pools are used, the provider shall ensure that:

(a) the parent gives permission before their child in care uses the pool;

(b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;

(c) diapered children wear swim diapers when they are in the pool;

(d) wading pools are emptied and sanitized after use by each group of children;

(e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

(f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.

(8) If offsite activities are offered, the provider shall ensure that:

- (a) the parent gives written consent before each activity;

(b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;

(c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;

(d) children's names are not used on nametags, t-shirts, or in other visible ways; and

(e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

(9) The provider shall ensure that a caregiver with the children takes the ~~[written]~~ emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:

(a) the child's name;

(b) the parent's name and phone number;

(c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;

(d) the names of people authorized by the parents to pick up the child; and

(e) current emergency medical treatment and emergency medical transportation releases.

R430-90-19. Play Equipment.

(1) The provider shall ensure that children using play equipment use it safely and ~~[in the manner]~~ as 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]~~ including 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) 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]~~ including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

R430-90-20. Transportation.

~~[If transportation services are offered:]~~

(1) For each child ~~that the licensee transports~~ being transported, the provider shall ~~[have]~~ obtain a transportation permission form:

(a) signed by the parent; and

(b) on-site for review by the department.

(2) The provider shall ensure that each vehicle used for transporting children:

(a) is enclosed with a roof or top;

(b) is equipped with safety restraints;

(c) has a current vehicle registration;

(d) is maintained in a safe and clean condition; and

(e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

(a) appropriate for the age and size of each child who is transported, as required by Utah law;

(b) properly installed; and

(c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

(a) is at least 18 years old;

(b) has and carries with them a current, valid driver's license for the type of vehicle being driven;

(c) has with them the ~~[written]~~ emergency contact information for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leaves a child in the vehicle unattended by an adult;

(g) ensures that children stay seated while the vehicle is moving;

(h) never leaves the keys in the ignition when not in the driver's seat; and

(i) ensures that the vehicle is locked during transport.

(5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent;

(b) a caregiver goes with the children and actively supervises the children;

(c) the caregiver-to-child ratio is maintained; and

(d) a caregiver with the children has ~~written~~ emergency contact information and releases for the children being transported.

(6) The provider shall:

(a) have transport liability insurance; or

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

R430-90-21. Animals.

(1) The provider shall inform parents of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

(a) is naturally aggressive;

(b) has a history of dangerous, attacking, or aggressive behavior; or

(c) has a history of biting even one individual.

(3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.

(4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.

(5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.

(7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.

(8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.

(9) The provider shall keep current animal vaccination records on-site for review by the department.

R430-90-22. Rest and Sleep.

(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.

(2) The provider 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.

R430-90-23. Diapering.

~~[If the provider accepts children who wear diapers:]~~

(1) This section applies only to a provider that accepts children who wear diapers.

~~(1)~~(2) The provider shall ensure that each child's diaper is:

(a) checked at least once every two hours;

(b) promptly changed if wet or soiled; and

(c) checked as soon as a sleeping child awakens.

~~(2)~~(3) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.

~~(3)~~(4) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.

~~(4)~~(5) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.

~~(5)~~(6) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.

~~(6)~~(7) The provider shall ensure that caregivers place wet and soiled disposable diapers:

(a) in a container that has a disposable plastic lining and a tight-fitting lid;

(b) directly in an outdoor garbage container that has a tight-fitting lid; or

(c) in a container that is inaccessible to children.

~~(7)~~(8) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.

~~(8)~~(9) If cloth diapers are used, the provider shall:

(a) not rinse cloth diapers at the facility; and

(b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.

R430-90-24. Infant and Toddler Care.

~~[If the provider cares for infants or toddlers:]~~

(1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 20 minutes.

(2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults~~;~~.

including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.

(3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions ~~[such as]~~ including 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 may not confine an awake infant or toddler in any piece of equipment, ~~[such as]~~ including 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]~~ infants and toddlers 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]~~ including 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 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.]~~ (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each 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]~~ including 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.

(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 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: 2023[June 1, 2022]

Notice of Continuation: May 4, 2023

Authorizing, and Implemented or Interpreted Law: [26-39]26B-2-402

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R432-150

Filing ID:
55595

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Facility Licensing	
Room number:	1st Floor	
Building:	Multi-Agency State Office Bldg	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact persons:		
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 persons listed above.

General Information

2. Rule or section catchline:

R432-150. Nursing Care Facility

3. Purpose of the new rule or reason for the change:

The purpose of this amendment is to modify and replace outdated language with Rulewriting Manual for Utah standards, update citations in response to S.B.38 in the 2023 General Session for statute recodification, and re-title rules to the new Division of Health Care Facility, Licensing titles that are consistent with Rulewriting standards.

4. Summary of the new rule or change:

The revisions include more specific language consistent with the Rulewriting Manual for Utah.

Additionally, this amendment updates titles and citations due to the recodification of the Department of Health and Human Services' (Department) statute.

Fiscal Information

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

A) State budget:

This change will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

B) Local governments:

This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

Nursing Care Facilities are regulated by the Department and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

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

This rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

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 amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

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

This rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 26B-2-202		
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Public Notice Information**8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/07/2023
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R432. Health and Human Services, ~~[Family Health and Preparedness,]~~ Health Care Facility Licensing.

R432-150. Nursing Care Facility.

R432-150-1. ~~[Legal]~~ Authority.

~~[This rule is adopted pursuant to Title 26, Chapter 24]~~ Section 26B-2-202 authorizes this rule.

R432-150-2. Purpose.

The purpose of ~~[R432-150]~~ this rule is to establish health and safety standards to provide for the physical and psycho[-]social well-being of individuals receiving services in nursing care facilities.

R432-150-3. Construction Standard.

The licensee shall ensure ~~[Nursing Care Facilities shall be]~~ the facility is constructed and maintained in accordance with Rule R432-5, ~~[Nursing Facility Construction]~~ Nursing Care and Pediatric Respite Care Facility Construction.

R432-150-4. Definitions.

(1) The definitions found in Section R432-1-3 ~~[apply to this rule]~~ apply to this rule.

~~[(2) The following definitions apply to nursing care facilities.]~~

~~[(2) "Adult Day Care" means nonresidential care and supervision for at least four but less than 24 hours a day, that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.~~

~~[(a)3] ["Skilled Nursing Care" means a level of care that provides 24-hour inpatient care to residents who need licensed nursing supervision. The complexity of the prescribed services must be performed by or under the close supervision of licensed health care personnel.]~~ "Certification in Cardiopulmonary Resuscitation (CPR)" refers to certification issued after completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor.

~~[(b)4] ["Intermediate Care" means a level of care that provides 24-hour inpatient care to residents who need licensed supervision and supportive care, but do not require continuous nursing care.]~~ "Chemical Restraint" means any medication administered to a resident to control or restrict the resident's physical, emotional, behavioral functioning for the convenience of staff, punishment, discipline, or as a substitute for direct resident care.

~~[(e)5] ["Medically-related Social Services" means assistance provided by the facility licensed social worker to maintain or improve each resident's ability to control everyday physical, mental and psycho-social needs.]~~ "Dining Assistant" means an individual unrelated to a resident who meets the training requirements outlined in this rule to assist nursing care residents with eating and drinking.

~~[(d)6] ["Nurse's Aide" means any individual, other than an individual licensed in another category, providing nursing or nurse related services to residents in a facility. This definition does not include an individual who volunteers to provide such services without pay.]~~ "Governing Body" means the board of trustees, owner, and individuals designated by the owner with the legal authority and ultimate responsibility for the management, control, conduct, and functioning of the health care facility or agency.

~~[(e)7] ["Unnecessary Drug" means any drug when used in excessive dose, for excessive duration, without adequate monitoring, without adequate indications for its use, in the presence of adverse consequences which indicate the dose should be reduced or discontinued, or any combinations of these reasons.]~~ "Intermediate Care" means a level of care that provides 24-hour inpatient care to residents who need licensed supervision and supportive care, but do not require continuous nursing care.

~~[(f) "Chemical Restraint" means any medication administered to a resident to control or restrict the resident's physical, emotional, or behavioral functioning for the convenience of staff, for punishment or discipline, or as a substitute for direct resident care.]~~

~~[(g) "Physical Restraint" means any physical method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily which restricts the resident's freedom of movement or normal access to his own body.]~~

~~[(h)8] ["Significant Change" means a major change in a resident's status that impacts on more than one area of the resident's health status.]~~ "Medically-Related Social Services" means assistance provided by the licensed social worker to maintain or improve each resident's ability to control everyday physical, mental, and psychosocial needs.

~~[(i)9] ["Therapeutic Leave" means leave pertaining to medical treatment planned and implemented to attain an objective that is specified in the individual plan of care.]~~ "Nurse Aide" means any individual, other than an individual licensed in another category, providing nursing or nurse related services to residents in a facility. This definition does not include an individual who volunteers to provide such services without pay.

~~[(j)10] ["Licensed Practitioner" means a health care practitioner whose license allows assessment, treatment, or prescribing practices within the scope of the license and established protocols.]~~ "Nursing Staff" means nurse aides that are in the process of becoming certified, certified nurse aides, and those individuals that are licensed, including licensed practical nurses and registered nurses, to provide nursing care in Utah.

~~[(k)11] ["Governing Body" means the board of trustees, owner, person or persons designated by the owner with the legal authority and ultimate responsibility for the management, control, conduct and functioning of the health care facility or agency.]~~ "Palatable" means food that has a pleasant and agreeable taste and is acceptable to eat.

~~[(l)12] ["Nursing Staff" means nurses aides that are in the process of becoming certified, certified nurses aides, and those individuals that are licensed (e.g. licensed practical nurses and registered nurses) to provide nursing care in the State of Utah.]~~ "Physical Restraint" means any physical method, physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot easily remove and restricts the resident's freedom of movement or normal access to their body.

~~[(m) "Licensed Practical Nurse" as defined in the Nurse Practice Act, Title 58, Chapter 31.]~~

(13) "Pre-Admission Screening Resident Review" is a preliminary assessment completed for each individual before admission to a Medicaid-certified Nursing Facility to determine whether an individual might have a mental illness or intellectual disability.

(14) "Respite" means to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for a person.

([n]15) ["Registered Nurse" as defined in the Nurse Practice Act, Title 58, Chapter 31.] "Significant Change" means a major change in a resident's status that impacts more than one area of the resident's health status.

([o]16) ["Palatable" means food that has a pleasant and agreeable taste and is acceptable to eat.] "Skilled Level of Nursing Care" means a level of care that provides 24-hour inpatient care to residents who need licensed nursing supervision. Licensed health care personnel shall closely supervise or perform the prescribed services.

([p]17) ["Dining Assistant" means an individual unrelated to a resident or patient who meets the training requirements defined in this rule to assist nursing care residents with eating and drinking.] "Therapeutic Leave" means leave pertaining to planned medical treatment that is implemented to meet an objective that is specified in the individual plan of care.

([q]18) [Certification in Cardiopulmonary Resuscitation (CPR) refers to certification issued after completion of a course that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR.] "Unnecessary Drug" means any drug used:

- (a) excessive in dose;
- (b) for excessive duration;
- (c) without monitoring;
- (d) without indications for its use;
- (e) in the presence of adverse consequences that indicate the dose should be reduced or discontinued; or
- (f) for any combination of these reasons.

R432-150-5. Scope of Services.

[— (1) An intermediate level of care facility must provide 24-hour licensed nursing services.

(a) The facility shall ensure that nursing staff are present on the premises at all times to meet the needs of residents.

(b) The facility shall provide at least one registered nurse either by direct employ or by contract to provide direction to nursing services.

(c) The facility may employ a licensed practical nurse to act as the health services supervisor in lieu of a director of nursing provided that a registered nurse consultant meets regularly with the health services supervisor.

(d) The facility shall provide at least the following:

- (i) medical supervision;
 - (ii) dietary services;
 - (iii) social services; and
 - (iv) recreational therapy.
- (e) The following services shall be provided as required in the resident care plan:
- (i) physical therapy;
 - (ii) occupational therapy;
 - (iii) speech therapy;
 - (iv) respiratory therapy; and
 - (v) other therapies.]

(1) For an immediate care facility, the licensee:

(a) shall provide 24-hour licensed nursing services;

(b) shall ensure nursing staff are present on the premises 24 hours a day to meet the needs of residents;

(c) shall provide at least one registered nurse either by direct employ or by contract to provide direction to nursing services;

(d) may employ a licensed practical nurse to act as the health services supervisor instead of a director of nursing if a registered nurse consultant meets regularly with the health services supervisor; and

(e) shall provide at least the following:

(i) medical supervision;

(ii) dietary services;

(iii) social services; and

(iv) recreational therapy.

(2) The licensee shall provide the following services as required in the resident care plan:

(a) physical therapy;

(b) occupational therapy;

(c) speech therapy;

(d) respiratory therapy; and

(e) other therapies as ordered by the licensed practitioner.

[— (2) A skilled level of care facility must provide 24-hour licensed nursing services.

(a) The facility shall ensure that nursing staff are present on the premises at all times to meet the needs of residents.

A licensed nurse shall serve as charge nurse on each shift.

(b) The facility shall employ a registered nurse for at least eight consecutive hours a day, seven days a week.

(c) The facility shall designate a registered nurse to serve as the director of nursing on a full-time basis. A person may not concurrently serve as the director of nursing and as a charge nurse.

(d) A skilled level of care facility shall provide services to residents that preserve current capabilities and prevent further deterioration including the following:

(i) medical supervision;

(ii) dietary services;

(iii) physical therapy;

(iv) social services;

(v) recreation therapy;

(vi) dental services; and

(vii) pharmacy services;

(e) The facility shall provide the following services as required by the resident care plan:

(i) respiratory therapy;

(ii) occupational therapy; and

(iii) speech therapy.]

(3) For a skilled level of care nursing facility, the licensee shall:

(a) provide 24-hour licensed nursing services;

(b) ensure nursing staff are present on the premises 24 hours a day to meet the needs of residents;

(c) ensure a licensed charge nurse is present on each shift;

(d) employ a registered nurse for at least eight consecutive hours a day, seven days a week;

(e) designate a registered nurse to serve as the director of nursing on a full-time basis;

(f) not permit a person to concurrently serve as the director of nursing and as a charge nurse; and

(g) provide services to the residents that preserve current capabilities and prevent further deterioration including the following:

- ~~_____~~ (i) medical supervision;
- ~~_____~~ (ii) dietary services;
- ~~_____~~ (iii) physical therapy;
- ~~_____~~ (iv) social services;
- ~~_____~~ (v) recreation therapy;
- ~~_____~~ (vi) dental services; and
- ~~_____~~ (vii) pharmacy services.

~~_____~~ (4) The licensee shall provide the following services as required by the resident care plan:

- ~~_____~~ (a) respiratory;
- ~~_____~~ (b) occupational therapy; and
- ~~_____~~ (c) speech therapy.

~~_____~~ (3) ~~5~~(a) The licensee shall ensure any ~~[R]~~respite services ~~[may be provided in nursing care facilities]~~comply with this subsection.

~~_____~~ (a) The purpose of respite is to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for a person.]

~~_____~~ (b) The licensee may provide respite services ~~[Respite services may be provided]~~at an hourly rate or daily rate, but ~~[shall]~~may not exceed 14~~[-]~~days for any single respite stay. A respite stay ~~[which]~~that exceeds 14 days is considered a nursing facility admission and is subject to the requirements of this rule applicable to non-respite residents.

~~_____~~ (c) The ~~[facility]~~licensee shall coordinate the delivery of respite services with the recipient~~[-of services]~~, the case manager, if ~~[one exists]~~applicable, and the family member, or primary caretaker.

~~_____~~ (d) ~~[The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.]~~The licensee shall document and coordinate with each provider agency to ensure uninterrupted service delivery.

~~_____~~ (e) ~~6~~ The licensee shall~~[The facility must]~~ complete~~[- the following]~~:

~~_____~~ (i) ~~a~~ a Level 1 Pre-admission Screening upon the persons admission for respite services;~~[-and]~~

~~_____~~ (b) a record for each person receiving respite services;

~~_____~~ (i) ~~c~~ a service agreement to serve as the plan of care, ~~[which shall]~~that identifi~~[y]~~es the prescribed medications, physician treatment orders, need for assistance with activities of daily living, and diet orders~~[-]; and~~

~~_____~~ (d) written respite care policies and procedures that are available to staff.

~~_____~~ (f) ~~7~~ ~~[The facility must have written respite care policies and procedures that are available to staff. R]~~The licensee shall ensure respite care policies and procedures ~~[must]~~address the following:

~~_____~~ (i) ~~a~~ medication administration;

~~_____~~ (i) ~~b~~ notification of a responsible party in the case of an emergency;

~~_____~~ (i) ~~c~~ service agreement and admission criteria;

~~_____~~ (i) ~~d~~ behavior management interventions;

~~_____~~ (i) ~~e~~ philosophy of respite services;

~~_____~~ (i) ~~f~~ post-service summary;

~~_____~~ (i) ~~g~~ training and in-service requirement for employees; and

~~_____~~ (i) ~~h~~ handling personal funds.

~~_____~~ (g) ~~8~~ ~~[Persons]~~The licensee shall ensure the individual receiving respite services ~~[must]~~receives a copy of the ~~[R]~~resident ~~[R]~~rights documents upon admission.

~~_____~~ (h) ~~9~~ ~~[The facility must maintain a record for each person receiving respite services. The]~~The licensee shall ensure respite records ~~[shall]~~contain the following:

~~_____~~ (i) ~~a~~ the service agreement;

~~_____~~ (i) ~~b~~ resident demographic information;

~~_____~~ (i) ~~c~~ nursing notes;

~~_____~~ (i) ~~d~~ physician treatment orders;

~~_____~~ (i) ~~e~~ daily staff notes;

~~_____~~ (i) ~~f~~ accident and injury reports;

~~_____~~ (i) ~~g~~ a post-service summary; and

~~_____~~ (i) ~~h~~ an advanced directive, if available.

~~_____~~ (i) ~~10~~ The licensee shall ensure ~~[R]~~retention and storage of respite records ~~[shall]~~comply~~[y]~~es with Subsection R432-150-25(3).

~~_____~~ (i) ~~11~~ The licensee shall ensure ~~[C]~~confidentiality and release of information ~~[shall]~~comply~~[y]~~es with Subsection R432-150-25(4).

~~_____~~ (i) ~~12~~ Hospice care may only be arranged and provided by a licensed hospice agency in accordance with Rule R432-750.~~[The facility shall be licensed as a hospice if it provides hospice care.]~~

~~_____~~ (i) ~~13~~ A nursing care facility may provide terminal care.

R432-150-6. Adult Day Care Services.

~~_____~~ (1) ~~[Nursing Care Facilities may offer adult day care and are not required to obtain a license from Utah Department of Human Services. If a facility provides adult day care, it shall submit policies and procedures for Department approval.]~~A licensed nursing care facility may provide adult day care without an additional license from the department.

~~_____~~ (2) The licensee shall submit policies and procedures for adult day care to the department for approval.

~~_____~~ (2) In this section:

~~_____~~ (a) "Adult Day Care" means nonresidential care and supervision for at least four but less than 24 hours per day, that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

~~_____~~ (b) "Consumer" means a functionally impaired adult admitted to or being evaluated for admission in a facility offering adult day care.]

~~_____~~ (3) The governing ~~[board]~~body shall designate a qualified ~~[D]~~director to be responsible for the day-to-day program operation.

~~_____~~ (4) The ~~[D]~~director shall maintain written records on-site for each ~~[consumer]~~client and staff person, ~~[which]~~that ~~[shall]~~includes the following:

~~_____~~ (a) demographic information;

~~_____~~ (b) an emergency contact with name, address, and telephone number;

~~_____~~ (c) ~~[consumer]~~client health records, including the following:

~~_____~~ (i) record of medication including dosage and administration;

~~_____~~ (ii) a current health assessment, signed by a licensed practitioner; and

~~_____~~ (iii) level of care assessment~~[-];~~

~~_____~~ (d) signed ~~[consumer]~~client agreement and service plan~~[-];~~ and

~~_____~~ (e) employment file for each staff person ~~[which]~~that includes:

~~_____~~ (i) health history;

~~_____~~ (ii) background clearance consent and release form;

~~_____~~ (iii) orientation completion; and

~~_____~~ (iv) in-service requirements.

~~_____~~ (5) The ~~[facility]~~licensee shall have a written eligibility, admission, and discharge policy that includes the following:

- (a) intake process;
- (b) notification of responsible party;
- (c) reasons for admission refusal, including the [D]director's written, signed statement;
- (d) resident rights notification; and
- (e) reason for discharge or dismissal.

(6) ~~[Before a facility admits a consumer, it must first assess, in writing, the consumer's current health and medical history, immunizations, legal status, and social psychological factors to determine whether the consumer may be placed in the program.]~~ Before the licensee admits a client to the facility, the licensee shall ensure the following are addressed in writing to determine client eligibility for the program:

- (a) current health status;
- (b) medical history;
- (c) immunizations;
- (d) legal status; and
- (e) psychological factors.

(7) The licensee shall ensure that [F]the [D]director or designee, the responsible party, and the [consumer]client if competent [shall—]develops a written, signed [consumer]client agreement[—]. The agreement shall that includes:

- (a) rules of the program;
- (b) services to be provided and cost of service, including refund policy; and
- (c) arrangements regarding the following: ~~[—absenteeism, visits, vacations, mail, gifts and telephone calls.]~~
- (i) absenteeism;
- (ii) visits;
- (iii) vacations;
- (iv) mail;
- (v) gifts; and
- (vi) telephone calls.

(8) ~~[Within three days of admission to the program, the Director or designee, shall develop an individual consumer service plan that the facility shall implement for the consumer. The service plan shall include the specification of daily activities and services. The Director or designee shall reevaluate, and modify if necessary, the consumer's service plan at least every six months.]~~ The licensee shall ensure the following:

- (a) the director or designee develops an individual client service plan that is implemented for the client within three days of admission to the program;
- (b) the director or designee ensures the service plan includes the specification of daily activities and services; and
- (c) the director or designee shall reevaluate, and change if necessary, the client's service plan at least every six months.

(9) The [facility]licensee shall maintain the following incident report documentation that outlines the actions taken, including actions taken to avoid future incident or injury following any: [—make written incident and injury reports to document consumer death, injuries, elopement, fights or physical confrontations, situations which require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. The facility shall document the actions taken, including actions taken to avoid future incident or injury, and keep the reports on file. The Director shall notify and review the incident or injury report with the responsible party no later than when the consumer is picked up at the end of the day.]

- (a) client death;
- (b) injuries;

- (c) elopement;
- (d) fights or physical confrontations;
- (e) situations that require the use of passive physical restraints;

- (f) suspected abuse or neglect; and
- (g) other situations or circumstances affecting the health, safety, or well-being of a client while in care.

(10) The director shall notify and review the incident report with the responsible party no later than when the client is picked up at the end of the day.

(1[0]1) The [facility]licensee shall post and implement a daily activity schedule.

(1[4]2) The licensee shall: [Consumers shall receive direct supervision at all times and be encouraged to participate in activities.]

(a) ensure clients are directly supervised at all times and are encouraged to participate in activities;

~~[(12)b] [There shall be a minimum of]provide at least 50 square feet of indoor floor space, excluding hallways, office, storage, kitchens, and bathrooms, per [consumer]client designated for adult day care during program operational hours[—];~~

~~[(13)c] [All]maintain any indoor and outdoor areas [shall be maintained—in a clean, secure, and safe condition[—];~~

~~[(14)d] [There shall be]provide at least one bathroom designated for [consumers]client use during business hours[—]; [—For facilities serving more than 10 consumers, there shall be separate male and female bathrooms designated for consumer use.]~~

(e) provide separate male and female bathrooms designed for client use if serving more than ten clients;

~~[(15) Staff supervision shall be provided continually when consumers are present.]~~

(f) ensure staff supervision is provided continually when clients are present;

~~[(a)g] [W]ensure one staff member provides continuous, direct supervision when eight or fewer [consumers]clients are present[—]; [—one staff member shall provide continuous, direct supervision.]~~

~~[(b)h] [For each eight additional consumers, or fraction thereof, the facility shall—]provide [an additional staff member]continuous, direct supervision at a ratio of one staff to every eight clients; and [—to provide continuous, direct supervision. For example, ten consumers require two staff members.]~~

[(e)i] [F]if one-half or more of the [consumers]clients [is]are diagnosed by a physician's assessment with Alzheimer's or other dementia, the ratio [shall be]is one staff for [each]every six [consumers]clients, or fraction thereof.

R432-150-7. Governing Body.

(1) The [facility]licensee [must]shall have a governing body[—] or designated persons functioning as a governing body.

[(1)2] The licensee shall ensure that [F]the governing body [must—]establishes and implements policies regarding the management and operation of the facility.

[(2)3] The governing body shall institute bylaws, policies, and procedures relative to the general operation of [all]any [facility]licensee services including the health care of the residents and the protection of resident rights.

[(3)4] The governing body [must]shall appoint the administrator in writing.

R432-150-8. Administrator.

(1) The licensee shall ensure that [F]the administrator [must comply with the following requirements:]

(a) ~~[The administrator must be licensed]~~ holds a current license as a health facility administrator by the Utah Department of Commerce pursuant to Title 58, Chapter 15, Health Facility Administrator Act[-];

(b) ~~[The administrator's]~~ posts the license ~~[shall be posted]~~ in a place readily visible to the public[-];

(c) ~~[The administrator may supervise no more]~~ does not supervise more than one nursing care facility[-];

(d) ~~[The administrator shall have sufficient]~~ has enough freedom from other responsibilities to permit attention to the management and administration of the facility[-];

(e) ~~[The administrator shall]~~ designates, in writing, the name and title of the person who has the authority and freedom to act in the best interests of resident safety and well-being ~~[who shall]~~ to act as administrator in any temporary absence of the administrator[-]; ~~and [This person shall have the authority and freedom to act in the best interests of resident safety and well-being. It is not the intent of this paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.]~~

(f) is not superseded by an unlicensed administrator designee.

(2) The licensee shall ensure ~~[F]~~ the administrator's responsibilities ~~[must be]~~ are defined in a written job description on file in the facility[-]. ~~The job description~~ that ~~[shall]~~ includes at least the following responsibilities:

(a) the completion, submission, and filing of ~~[complete, submit, and file all]~~ any required reports, including a monthly census report to the Division of ~~[Medicaid and Health Financing]~~ Integrated Healthcare as required by Section R414-401-4, by the end of the succeeding month[s] to avoid department issued sanctions, including civil money penalties, in accordance with Section R432-3-7, for failure to report the required census information;

~~[(i) The Department may issue sanctions, including civil money penalties, in accordance with R432-3-7, for failure to report the required census information.]~~

(b) to act as a liaison between the licensee, medical and nursing staffs, and other supervisory staff of the facility;

(c) to respond to recommendations made by the quality assurance committee;

(d) to implement policies and procedures governing the operation of ~~[all]~~ any functions of the facility; ~~and~~

(e) to review ~~[all]~~ any incident, ~~and~~ accident report, ~~[s]~~ and document the action taken or reason for no action[-];

~~[(3)f] [The administrator shall]~~ to ensure that facility policies and procedures reflect current facility practice, and are revised and updated as needed[-]; ~~and~~

~~[(4)g] [The administrator shall]~~ secure and update contracts for required professional services that are not provided directly by the facility[-] that document the following:

~~[(a) Contracts shall document the following:]~~

(i) the effective and expiration date of contract;

(ii) a description of goods or services provided by the contractor to the facility;

(iii) a statement that the contractor shall conform to the standards required by Utah law or rules;

(iv) a provision to terminate the contract with advance notice;

(v) the financial terms of the contract;

(vi) a copy of the business or professional license of the contractor; ~~and~~

(vii) a provision to report findings, observations, and recommendations to the administrator on a regular basis[-]; ~~and~~

~~[(b)viii] [C]~~ contracts ~~[shall be]~~ are signed, dated, and maintained for review by the ~~[D]~~ department.

~~[(5)3] The licensee shall ensure~~ ~~[F]~~ the administrator ~~[shall]~~ maintains a written transfer agreement with one or more hospitals to facilitate the transfer of residents and essential resident information[-]. ~~The transfer agreement must~~ that includes:

(a) criteria for transfer;

(b) method of transfer;

(c) transfer of information needed for proper care and treatment of the resident transferred;

(d) security and accountability of personal property of the resident transferred;

(e) proper notification of hospital and responsible person before transfer;

(f) the facility responsible for resident care during the transfer; and

(g) resident confidentiality.

R432-150-9. Medical Director.

(1) The licensee shall ensure that ~~[F]~~ the administrator ~~[must]~~ retains, by formal agreement, a licensed physician to serve as medical director or advisory physician according to resident and facility needs.

(2) The medical director or advisory physician shall:

(a) ~~[be responsible for the development of]~~ develop resident care policies and procedures including the delineation of responsibilities of attending physicians;

(b) review current resident care policies and procedures with the administrator;

(c) serve as a liaison between resident physicians and the administrator;

(d) review incident and accident reports at the request of the administrator to identify health hazards to residents and employees; and

(e) act as consultant to the director of nursing or the health services supervisor in matters relating to resident care policies.

R432-150-10. Staff and Personnel.

(1) The administrator shall employ personnel who are able and competent to perform their respective duties, services, and functions.

~~[(a)2]~~ The administrator, director of nursing or health services supervisor, and ~~[department]~~ facility supervisors shall develop job descriptions for each position including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements.

(3) The licensee shall monitor staff to ensure compliance with each applicable rule under Title R432.

~~[(b)4] [A]~~ The licensee shall ensure each ~~[personnel]~~ employee has ~~[must have]~~ access to facility policy and procedure manuals and other information necessary to effectively perform duties and carry out responsibilities.

~~[(e)5] [A]~~ The licensee shall ensure each ~~[personnel]~~ employee ~~[must be]~~ is licensed, certified, or registered as required by the Utah Department of Commerce[-], and ~~[A]~~ a copy of the license, certification or registration ~~[shall be]~~ is maintained for ~~[D]~~ department review.

~~[(2)6]~~ The ~~[facility]~~ licensee shall: ~~maintain staffing records, including employee performance evaluations, for the preceding 12 months.]~~

(a) maintain staffing records, including employee performance evaluations, for the preceding 12 months;

([3]b) ~~[The facility shall]~~ establish a personnel health program through written personnel health policies and procedures[-];

([4]c) ~~[The facility shall]~~ complete a health evaluation ~~and inventory~~ for each employee upon hire[-] that includes the employee's history of the following:

~~[(a) The health inventory shall obtain at least the employee's history of the following:]~~

(i) conditions that predispose the employee to acquiring or transmitting infectious diseases; and

(ii) conditions ~~[which]~~ that may prevent the employee from performing certain assigned duties satisfactorily[-];

([b]d) ~~[The health inventory shall include]~~ ensure a health screening and immunization component[s] of the employee's personnel health program is included[-];

([e]e) ensure ~~[H]~~infection control ~~[shall]~~includes staff immunization as necessary to prevent the spread of disease[-];

([d]f) ensure ~~[E]~~employee skin testing by the Mantoux method or other FDA approved in-vitro serologic test and follow up for tuberculosis ~~[shall be]~~is done in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis,[-] and each employee is skin-tested for tuberculosis within two weeks of:

~~[(i) The licensee shall ensure that all employees are skin-tested for tuberculosis within two weeks of:]~~

([A]i) initial hiring;

([B]ii) suspected exposure to a person with active tuberculosis; and

([C]iii) development of symptoms of tuberculosis[-];

([ii]g) exempt ~~[S]~~skin testing ~~[shall be exempted]~~for ~~[all]~~each employee[s] with a known positive reaction to skin tests[-];

([e]h) ensure ~~[All]~~any infections and communicable diseases reportable by law ~~[shall be]~~are reported ~~[by the facility]~~to the local health department in accordance with Section R386-702-3[-];

([5]i) ~~[The facility shall]~~plan and document in-service training for ~~[all]~~each ~~[personnel]~~staff member[-] and address the following topics annually:

~~[(a) The following topics shall be addressed at least annually:]~~

(i) fire prevention;

(ii) review and drill of emergency procedures and evacuation plan;

(iii) the reporting of resident abuse, neglect, or exploitation to the proper authorities;

(iv) prevention and control of infections;

(v) accident prevention and safety procedures including instruction in body mechanics for ~~[all]~~any employees required to lift, turn, position, or ambulate residents; and proper safety precautions when floors are wet or waxed;

(vi) proper use and documentation of restraints;

(vii) resident rights;

(viii) ~~[A]~~a basic understanding of the various types of mental illness, including symptoms, expected behaviors and intervention approaches; and

(ix) confidentiality of resident information[-];

([6]j) ensure ~~[A]~~any person who provides nursing care, including nurse aides and orderlies, ~~[must]~~works under the supervision of an RN or LPN and shall demonstrate competency and dependability in resident care[-];

([a]k) ~~[A facility]~~prohibit any person from ~~[may not have an employee]~~working in the facility as a nurse aide for more than four months, on full-time, temporary, per diem, or other basis, unless

that individual has successfully completed a State Department of Education-approved training and testing program[-];

([b]l) ~~verify through the nurse aid registry before offering employment.~~ ~~[The facility shall verify through the nurse aid registry prior to employment]~~that nurse aide applicants do not have a verified report of abuse, neglect, or exploitation~~[-]~~ and if such a verified report exists, the ~~[facility]~~licensee may not hire the applicant[-];

([e]m) ~~require a person to complete a new training and competency evaluation program~~ ~~[H]~~if an individual has not performed paid nursing or nursing related services for a continuous period of 24 consecutive months since the most recent completion of a training and competency evaluation program[-]; ~~[the facility shall require the individual to complete a new training and competency evaluation program.]~~

([d]n) ~~[The facility shall]~~conduct regular performance reviews and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides[-]; and

([7]o) ~~[The facility shall]~~ensure ~~[that on all shifts,]~~ staff are available on each shift, who are CPR certified, trained in emergency procedures and basic first aid, including the Heimlich maneuver.

([8]7) The ~~[facility]~~licensee may utilize volunteers in the daily activities of the ~~[facility]~~licensee provided that volunteers are not included in the ~~[facility]~~licensee's staffing plan in lieu of facility employees[-] if the licensee ensures:

(a) ~~[V]~~volunteers ~~[shall be]~~are supervised and familiar with resident's rights and the ~~[facility]~~licensee's policies and procedures[-]; and

(b) ~~[V]~~volunteers who provide personal care to residents ~~[shall be]~~are screened according to facility policy and under the direct supervision of a qualified employee.

([9]8) The licensee shall ensure ~~[A]~~an employee who reports suspected abuse, neglect, or exploitation ~~[shall not be]~~is not subject to retaliation, disciplinary action, or termination by the ~~[facility]~~licensee for making the report.

R432-150-11. Quality Assurance.

(1) The administrator ~~[must]~~shall ~~[implement]~~develop and follow a well-defined quality assurance plan designed to improve resident care~~[-]~~ ~~The plan must~~ that:

(a) includes a system for the collection of data indicators;

(b) includes an incident reporting system to identify problems, concerns, and opportunities for improvement of resident care;

(c) implements a system to assess identified problems, concerns, and opportunities for improvement; and

(d) implements actions that are designed to eliminate identified problems and improve resident care.

(2) The licensee shall ensure the quality assurance plan ~~[must]~~includes a quality assurance committee that functions as follows:

(a) documents committee meeting minutes including ~~[all]~~any corrective actions and results;

(b) conducts quarterly meetings and reports findings, concerns and actions to the administrator and governing body; and

(c) coordinates input of data indicators from ~~[all]~~any provided services and other departments as determined by the resident plan of care and facility scope of services.

(3) The licensee shall ensure ~~[H]~~incident and accident reports~~[-]~~ ~~shall~~:

- (a) ~~[be]~~are available for ~~[D]~~department and quality assurance committee review;
- (b) ~~[be]~~are numbered and logged in a manner to account for ~~[aH]~~each filed report[s]; and
- (c) have space for written comments by the administrator or medical director.
- (4) The licensee shall ensure [I]infection reporting [must be]is integrated into the quality assurance plan and [must be]is reported to the [D]department in accordance with Rule R386-702, Communicable Disease Rule.

R432-150-12. Resident Rights.

- (1) The ~~[facility]~~licensee shall establish written resident[s'] rights.
- (2) The ~~[facility]~~licensee shall post resident rights in areas accessible to residents.~~[A copy of the residents' rights document shall be available to the residents, the residents' guardian or responsible person, and to the public and the Department upon request.]~~
- (3) The licensee shall ensure a copy of the resident rights document is available to the residents, the residents' guardian, or responsible person, and to the public and the department upon request.
- (~~[3]~~4) The ~~[facility]~~licensee shall ensure that each resident admitted to the facility has the right to:
 - (a) be informed, ~~[prior to or]~~at the time of admission and ~~[for the duration of]~~during the stay, of resident rights and of ~~[aH]~~any rules and regulations governing resident conduct[-];
 - (b) be informed, ~~[prior to or]~~at the time of admission and ~~[for the duration of]~~during the stay, of services available in the facility and of related charges, including any charges for services not covered by the ~~[facility]~~licensee's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act[-];
 - (c) be informed by a licensed practitioner of current total health status, including current medical condition, unless medically contraindicated, the right to refuse treatment, and the right to formulate an advance directive in accordance with~~[UCA]~~ Section 75-~~[2-1101]~~2a-107;
 - (d) be transferred or discharged only for medical reasons, for personal welfare or that of other residents, or for nonpayment for the stay, and to be given reasonable advance notice to ensure orderly transfer or discharge;
 - (e) be encouraged and assisted throughout the period of stay to exercise ~~[aH]~~any rights as a resident and as a citizen, and to voice grievances and recommend changes in policies and services to facility staff and outside representatives of personal choice, free from restraint, interference, coercion, discrimination, or reprisal;
 - (f) manage personal financial affairs or to be given at least a quarterly accounting of financial transactions made on ~~[his]~~their behalf should the ~~[facility]~~licensee accept ~~[his]~~their written delegation of this responsibility;
 - (g) be free from mental and physical abuse, and from chemical and physical restraints;
 - (h) be assured confidential treatment of personal and medical records, including photographs, and to approve or refuse their release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third-party payment contract;
 - (i) be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;

- (j) not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care;
- (k) associate and communicate privately with persons of the resident's choice, and to send and receive personal mail unopened;
- (l) meet with social, religious, and community groups and participate in activities provided that the activities do not interfere with the rights of other residents in the facility;
- (m) retain and use personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents;
- (n) if married, to be assured privacy for visits by the spouse[s] and if both are residents in the facility, to be permitted to share a room;
- (o) have members of the clergy admitted at the request of the resident or responsible person at any time;
- (p) allow relatives or responsible persons to visit critically ill residents at any time;
- (q) be allowed privacy for visits with family, friends, clergy, social workers, or for professional or business purposes;
- (r) have confidential access to telephones for both free local calls and for accommodation of long-distance calls according to facility policy;
- (s) have access to the ~~[S]~~state ~~[L]~~long ~~[F]~~term ~~[C]~~care ~~[O]~~ombudsman ~~[P]~~program or representatives of the ~~[L]~~long ~~[F]~~term ~~[C]~~care ~~[O]~~ombudsman ~~[P]~~program;
- (t) choose activities, schedules, and health care consistent with individual interests, assessments, and care plan;
- (u) interact with members of the community both inside and outside the facility; and
- (v) make choices about ~~[aH]~~any aspects of life in the facility that are significant to the resident.
- (~~[4]~~5)(a) A resident has the right to organize and participate in resident and family groups in the facility.
- (~~[a]~~b) A resident's family has the right to meet in the facility with the families of other residents in the facility.
- (~~[b]~~c) The ~~[facility]~~licensee shall provide a resident or family group, if one exists, with private space.
- (~~[e]~~d) Staff or visitors may attend meetings at the group's invitation.
- (~~[d]~~e) The ~~[facility]~~licensee shall designate a staff person responsible for providing assistance and responding to written requests that result from group meetings.
- (~~[e]~~f) If a resident or family group exists, the ~~[facility]~~licensee shall listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility.
- (~~[5]~~6) The ~~[facility]~~licensee ~~[must]shall: [accommodate resident needs and preferences, except when the health and safety of the individual or other residents may be endangered. A resident must be given at least a 24-hour notice before an involuntary room move is made in the facility.]~~
- (a) accommodate resident needs and preferences, except when the health and safety of the individual or other residents may be endangered;
- (b) ensure a resident is given at least a 24-hour notice before an involuntary room move is made in the facility;
- (~~[a]~~c) ensure that [I]in an emergency when there is actual or threatened harm to others, property, or self, the 24-hour notice requirement for an involuntary room move may be waived[-The]

and the circumstances requiring the emergency room change ~~must be~~ are documented for ~~[D]department review[-]; and~~

(~~b~~)d) ~~[The facility must-]make and document efforts to accommodate the resident's adjustment and choices regarding room and roommate changes.~~

(~~6~~)7) If a ~~[facility]licensee~~ is entrusted with residents' ~~[monies]funds~~ or valuables, the ~~[facility]licensee~~ or staff ~~may not use resident funds or valuables or mingle them with their own and shall comply with the following:~~

(a) ~~[The licensee or facility staff may not use residents' monies or valuables as his own or mingle them with his own.-]ensure [R]residents' [monies]funds and valuables [shall be]are separate, intact, and free from any liability that the licensee incurs in the use of [his]their own or the institution's funds and valuables[-];~~

(b) ~~[The facility shall-]maintain adequate safeguards and accurate records of residents' monies and valuables entrusted to the licensee's care[-];~~

(~~i~~)c) ensure [R]records of residents' [monies]funds [which]that are maintained as a drawing account [must-]include a control account for [all]any receipts and expenditures, an account for each resident, and supporting vouchers filed in chronological order[-];

(~~ii~~)d) ensure [E]each account [shall be]is kept current with columns for debits, credits, and balance[-];

(~~iii~~)e) ensure [R]records of residents' [monies]funds and other valuables entrusted to the licensee for safekeeping [must-]include a copy of the receipt furnished to the resident or to the person responsible for the resident[-];

(~~e~~)f) ~~[The facility must-]deposit residents' [monies]funds not kept in the facility within five days of receipt of such funds in an interest-bearing, insured account in a local bank or savings and loan association authorized to do business in Utah[-]; the deposits of which shall be insured.-]~~

(~~d~~)g) ~~[A]a person, firm, partnership, association, or corporation [which]that is licensed to operate more than one health facility [shall-]maintains a separate account for each [such-]facility and [shall]may not commingle resident funds from one facility with another[-];~~

(~~e~~)h) ~~[If the amount of residents' money entrusted to a licensee exceeds \$100, the facility must-]deposit [all]any money [in excess of]over \$100 in an interest-bearing account[-];~~

(~~f~~)i) ~~[Upon license renewal, the facility shall-]provide evidence of the purchase of a surety bond or other equivalent assurance to secure [all]any resident funds, upon license renewal[-];~~

(~~g~~)j) surrender upon discharge any resident money and valuables that have been entrusted to the licensee[When a resident is discharged, all money and valuables of that resident which have been entrusted to the licensee must be surrendered to the resident] in exchange for a signed receipt; [-]and[-Money and valuables kept within the facility shall be surrendered upon demand and those kept in an interest bearing account shall be made available within three working days.]

(k) surrender any money and valuables kept within the facility upon demand and make available any money kept in an interest-bearing account within three working days.

(~~h~~)8) Within 30 days following the death of a resident, except in a case under investigation by the medical examiner[-case-] the ~~[facility]licensee~~ [must]shall surrender ~~[all]any~~ money and valuables of ~~[that]the~~ resident ~~[which]that~~ have been entrusted to the licensee to the person responsible for the resident or to the executor or the administrator of the estate in exchange for a signed receipt. If a resident dies without a representative or known heirs, the

~~[facility]licensee~~ ~~[must]shall~~ immediately notify ~~[in writing-]the~~ local probate court and the ~~[D]department~~ in writing.

R432-150-13. Resident Assessment.

(1) The ~~[facility]licensee~~ shall, upon resident admission, obtain physician orders for the resident's immediate care.

(2) The ~~[facility]licensee~~ ~~[must]shall:-complete a comprehensive assessment of each resident's needs including a description of the resident's capability to perform daily life functions and significant impairments in functional capacity.-]~~

(a) ~~[The comprehensive assessment must include at least the following information-]complete a comprehensive assessment of each resident's needs including a description of the resident's capability to perform daily life functions and significant impairments in functional capacity that includes the following:~~

- (i) medically defined conditions and prior medical history;
- (ii) medical status measurement;
- (iii) physical and mental functional status;
- (iv) sensory and physical impairments;
- (v) nutritional status and requirements;
- (vi) special treatments or procedures;
- (vii) mental and psycho-social status;
- (viii) discharge potential;
- (ix) dental condition;
- (x) activities potential;
- (xi) rehabilitation potential;
- (xii) cognitive status; and
- (xiii) drug therapy[-];

(b) ~~[The facility must complete]ensure~~ the initial assessment is completed within 14 calendar days of admission and any revisions to the initial assessment within 21 calendar days of admission[-];

(c) ~~[A significant change in a resident's physical or mental condition requires an interdisciplinary team review and may require the facility to complete a new assessment within 14 calendar days of the condition change-]ensure that an interdisciplinary team review any significant change in a resident's physical or mental health and the team may require a new assessment within 14 days of the condition change;~~

(d) ~~[At a minimum, the facility must-]complete three quarterly reviews and one full assessment in each 12-[-]month period[-]; and~~

(e) ~~[The facility shall-]use the results of the assessment to develop, review, and revise the resident's comprehensive care plan.~~

(3) The licensee shall ensure ~~[E]each~~ individual who completes a portion of the assessment ~~[must-]signs and certif[y]ies~~ the accuracy of that portion of the assessment.

(4) The ~~[facility]licensee~~ ~~[must]shall~~ develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, and mental and psycho[-]social needs as identified in the comprehensive assessment.

(~~a~~)5) The licensee shall ensure the comprehensive care plan ~~[shall be]is~~:

(~~i~~)a) developed within seven days after completion of the comprehensive assessment;

(~~ii~~)b) prepared with input from an interdisciplinary team that includes the attending physician, the registered nurse having responsibility for the resident, and other appropriate staff in disciplines determined by the resident's needs, and with the participation of the resident, and the resident's family or guardian, to the extent practicable; and

(~~(f)(4)~~(c)) periodically reviewed and revised by a team of qualified persons at least after each assessment and as the resident's condition changes.

(~~(b)(6)~~(d)) The licensee shall ensure ~~(F)~~the services provided or arranged ~~[by the facility shall]~~meet professional standards of quality and be provided by qualified persons in accordance with the resident's written care plan.

(~~(5)(7)(a)~~(a)) The ~~[facility]~~licensee ~~[must]~~shall ensure ~~[prepare at the time of discharge]~~a final summary of the resident's status, to include items in Subsection R432-150-13(2)(a), ~~is prepared at the time of discharge~~~~[The final summary shall be]~~and is available for release to authorized persons and agencies, with the consent of the resident or representative.

(~~(a)(b)~~(b)) The licensee shall ensure ~~(F)~~the final summary ~~[must]~~includes a post-discharge care plan developed with the participation of the resident and resident's family or guardian.

(~~(b)(c)~~(c)) ~~[If the discharge of the resident is based on the inability of the facility to meet the resident's needs, the final summary must contain a detailed explanation of why the resident's needs could not be met.]~~If the licensee discharges a resident because they cannot meet the resident's needs, the licensee shall include a detailed explanation of why the resident's needs could not be met in the final summary.

R432-150-14. Restraint Policy.

(1) Each resident has the right to be free from physical restraints imposed for purposes of discipline or convenience, or not required to treat the resident's medical symptoms.

(2)(a) The ~~[facility]~~licensee ~~[must]~~shall have written policies and procedures regarding the proper use of restraints.

(~~(a)(b)~~(b)) The licensee shall ensure ~~(P)~~physical and chemical restraints ~~[may only be]~~are only used to assist residents to attain and maintain optimum levels of physical and emotional functioning.

(~~(b)(c)~~(c)) The licensee shall ensure ~~(P)~~physical and chemical restraints ~~[must]~~are not ~~[be]~~used as substitutes for direct resident care, activities, or other services.

(~~(e)(d)~~(d)) The licensee shall ensure ~~(R)~~restraints ~~[must]~~do not unduly hinder evacuation of the resident in the event of fire or other emergency.

(~~(d)(e)~~(e)) If use of a physical or a chemical restraint is implemented, the ~~[facility]~~licensee ~~[must]~~shall ensure~~[inform]~~ the resident, next of kin, and the legally designated representative ~~is informed~~of the reasons for the restraint, the circumstances ~~[under which]~~that allow the restraint ~~[shall]~~to be discontinued, and the hazards of the restraint, including potential physical side effects.

(3) The ~~[facility]~~licensee ~~[must]~~shall develop and implement policies and procedures that govern the use of physical and chemical restraints. The licensee shall ensure ~~(F)~~these policies ~~[shall]~~promote optimal resident function in a safe, therapeutic manner and minimize adverse consequences of restraint use~~[.]~~ and incorporate and address the following:

~~(4) Physical and chemical restraint policies must incorporate and address at least the following:]~~

(a) resident assessment criteria ~~[which]~~that includes:

(i) appropriateness of use;

(ii) procedures for use;

(iii) purpose and nature of the restraint;

(iv) less restrictive alternatives ~~[prior to]~~before the use of more restrictive measures; and

(v) behavior management and modification protocols including possible alterations to the physical environment;

(b) examples of the types of restraints and safety devices that are acceptable for the use indicated and possible resident conditions ~~[for which]~~when the restraint may be used; and

(c) physical restraint guidelines for periodic release and position change or exercise, with instructions for documentation of this action.

(~~(5)(4)~~(4)) The licensee shall ensure ~~(E)~~emergency use of physical and chemical restraints ~~[must]~~comply with the following:

(a) ~~(A)~~a physician, a licensed health practitioner, the director of nursing, or the health services supervisor ~~[must]~~authorizes the emergency use of restraints~~[.]~~;

(b) ~~[The facility must notify]~~the attending physician ~~is notified~~as soon as possible, but at least within 24 hours of the application of the restraints~~[.]~~;

(c) ~~[The facility must notify]~~the director of nursing or health services supervisor ~~is notified~~no later than the beginning of the next day shift of the application of the restraints~~[.]~~; and

(d) ~~[The facility must document in]~~the resident's record the circumstances necessitating emergency use of the restraint ~~is documented~~and the resident's response.

(~~(6)(5)~~(5)) The licensee shall ensure:~~[Physical restraints must be authorized in writing by a licensed practitioner and incorporated into the resident's plan of care.]~~

(a) physical restraints are authorized in writing by a licensed practitioner and incorporated in the resident's plan of care;

(~~(a)(b)~~(b)) ~~(F)~~the interdisciplinary team ~~[must]~~reviews and documents the use of physical restraints, including simple safety devices, during each resident care conference, and upon receipt of renewal orders from the licensed practitioner~~[.]~~;

(~~(b)(c)~~(c)) ~~(F)~~the resident care plan ~~[must]~~indicates the type of physical restraint or safety device, the length of time to be used, the frequency of release, and the type of exercise or ambulation to be provided~~[.]~~;

(~~(d)(d)~~(d)) ~~(S)~~staff application of physical restraints ~~[must]~~ensures minimal discomfort to the resident and allow sufficient body movement for proper circulation~~[.]~~;

(~~(d)(e)~~(e)) ~~(S)~~staff application of physical restraints ~~[must]~~do not cause injury or allow a potential for injury~~[.]~~;

(~~(e)(f)~~(f)) ~~(L)~~leather restraints, straight jackets, or locked restraints are prohibited~~[.]~~;

(~~(7)(g)~~(g)) ~~(C)~~chemical restraints ~~[must be]~~are authorized in writing by a licensed practitioner and incorporated into the resident's plan of care in conjunction with an individualized behavior management program~~[.]~~;

(~~(a)(h)~~(h)) ~~(F)~~the interdisciplinary team ~~[must]~~reviews and documents the use of chemical restraints during each resident care conference and upon receipt of renewal orders from the licensed practitioner~~[.]~~;

(~~(b)(i)~~(i)) ~~[The facility must monitor]~~each resident receiving chemical restraints ~~is monitored~~for adverse effects that significantly hinder verbal, emotional, or physical abilities~~[.]~~; and

(~~(e)(j)~~(j)) ~~(A)~~any medication given to a resident ~~[must be]~~is administered according to the requirements of professional and ethical practice and according to the policies and procedures of the facility.

(~~(d)(6)~~(6)) The ~~[facility]~~licensee ~~[must]~~shall initiate gradual drug dosage reductions as outlined in Subsection R432-150-15(13)(c)~~[drug holidays in accordance with R432-150-15(13)(b)]~~.

(~~(8)(7)~~(7)) ~~[Facility policy must include criteria for admission and retention of residents who require behavior management programs.]~~The licensee shall include criteria for admission and

retention of residents who require behavior management program in the facility policy.

R432-150-15. Quality of Care.

(1)(a) The [facility]licensee ~~[must]~~shall ~~[provide to]~~ensure each resident~~[-]~~ is provided the necessary care and services to attain or maintain the highest practicable physical, mental, and psycho~~[-]~~social well-being, in accordance with the comprehensive assessment and care plan.

(~~[a]~~)b) Necessary care and services under Subsection (1)(a) include the resident's ability to:

- (i) bathe, dress, and groom;
- (ii) transfer and ambulate;
- (iii) use the toilet;
- (iv) eat; and
- (v) use speech, language, or other functional communication systems.

(~~[b]~~)c) Based on the resident's comprehensive assessment, the [facility]licensee ~~[must]~~shall ensure that:

- (i) each resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrates that diminution was unavoidable;
- (ii) each resident is given the treatment and services to maintain or improve ~~[his]~~their abilities; and
- (iii) a resident who ~~[is unable to]~~cannot carry out these functions receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

(2) The [facility]licensee ~~[must]~~shall assist residents in scheduling appointments and arranging transportation for vision and hearing care as needed.

(3) The [facility's]licensee's comprehensive assessment of a resident ~~[must]~~shall include an assessment of pressure sores. The [facility ~~must~~]licensee shall additionally ensure~~[- that]~~:

(a) a resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable; and

(b) a resident having pressure sores receives the necessary treatment and services to promote healing, prevent infection, and prevent new sores from developing.

(4) The [facility's]licensee's comprehensive assessment of the resident ~~[must]~~shall include an assessment of incontinence. The [facility ~~must~~]licensee shall additionally ensure that:

(a) a resident who is incontinent of ~~[either]~~bowel or bladder~~[- or both]~~ receives the treatment and services to restore as much normal functioning as possible;

(b) a resident who enters the facility without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization is necessary;

(c) a resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections; and

(d) a licensed nurse ~~[must]~~completes a written assessment to determine the resident's ability to participate in a bowel and bladder management program.

(5) The [facility]licensee ~~[must]~~shall assess each resident to ensure that:

(a) a resident who enters the facility without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

(b) a resident with a limited range of motion receives treatment and services to increase range of motion or to prevent further decrease in range of motion.

(6) The [facility]licensee ~~[must]~~shall ensure that the psycho~~[-]~~social function of the resident remains at or above the level at the time of admission, unless the individual's clinical condition demonstrates that a reduction in psycho~~[-]~~social function was unavoidable~~[- The facility shall ensure that:]~~ and psychosocial practices adhere to the following:

(a) a resident who displays psycho~~[-]~~social adjustment difficulty receives treatment and services to achieve as much re-motivation and reorientation as possible; and

(b) a resident whose assessment does not reveal a psycho~~[-]~~social adjustment difficulty does not display a pattern of decreased social interaction, increased withdrawn anger, or depressive behaviors, unless the resident's clinical condition demonstrates that such a pattern is unavoidable.

(7) The [facility]licensee ~~[must]~~shall assess alternative feeding methods to ensure that:

(a) a resident who has been able to eat enough alone or with assistance is not fed by naso-gastric tube unless the resident's clinical condition demonstrates that use of a naso-gastric tube is unavoidable; and

(b) a resident who is fed by a naso-gastric or gastrostomy tube receives the treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers and to restore, if possible, normal feeding function.

(8) The [facility]licensee ~~[must]~~shall maintain the resident's environment and is ~~[to be as]~~free of accident hazards~~[- as is possible]~~.

(9) The [facility]licensee ~~[must]~~shall provide each resident with ~~[adequate]~~supervision and assistive devices to prevent accidents.

(10) ~~[Each resident's comprehensive assessment must include an assessment on nutritional status. The facility must ensure that each resident:]~~The licensee shall ensure that each resident's comprehensive assessment includes an assessment of nutritional status and nutritional practices ensure that each resident:

(a) maintains acceptable nutritional status parameters, ~~[such as]~~including body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

(b) receives a therapeutic diet when there is a nutritional problem.

(11) The [facility]licensee ~~[must]~~shall provide each resident with sufficient fluid intake to maintain proper hydration and health.

(12) The [facility]licensee ~~[must]~~shall ensure that residents receive proper treatment and care for the following special services:

- (a) injections;
- (b) parenteral and enteral fluids;
- (c) colostomy, ureterostomy, or ileostomy care;
- (d) tracheostomy care;
- (e) tracheal suctioning;
- (f) respiratory care;
- (g) foot care; and
- (h) prostheses care.

(13) The licensee shall ensure:~~[Each resident's drug regimen must be free from unnecessary drugs and the facility shall ensure that:]~~

~~(a) each resident's drug regimen is free from unnecessary drugs;~~

~~([a]b) residents who have not used anti[-]psychotic drugs are not given these drugs unless anti[-]psychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record; and~~

~~([b]c) residents who use anti[-]psychotic drugs receive gradual dose reductions and behavioral interventions, unless clinically contraindicated in an effort to discontinue these drugs.~~

~~(14) The licensee shall ensure [F]the quality assurance committee [must]monitors medication errors to ensure that:~~

~~(a) the [facility]licensee does not have medication error rates of [five percent]5% or greater; and~~

~~(b) residents are free of any significant medication errors.~~

R432-150-16. Physician Services.

~~(1)(a) The licensee shall ensure a[A] physician [must personally]approves, in writing, a recommendation that an individual be admitted to [a]the nursing care facility.~~

~~([a]b) Each resident [must]shall remain under the care of a physician licensed in Utah to deliver the scope of services required by the resident.~~

~~([b]c) Nurse practitioners or physician assistants, working under the direction of a licensed physician may initiate admission to a nursing care facility pending personal review by the physician.~~

~~(2) The [facility]licensee [must]shall provide supervision to ensure that the medical care of each resident is supervised by a physician. When a resident's attending physician is unavailable, another qualified physician [must]shall supervise the medical care of the resident.~~

~~(3) The physician that supervises the resident's care[~~must~~] shall:~~

~~(a) review the resident's total program of care, including medications and treatments, at each visit;~~

~~(b) write, sign, and date progress notes at each visit;~~

~~(c) indicate, in writing, direction and supervision of health care provided to residents by nurse practitioners or physician assistants; and~~

~~(d) sign [all]each order[s].~~

~~(4) The licensee shall ensure that p[P]hysician visits [must conform to]comply with the following:~~

~~(a) [F]the physician [shall]notif[y]ies the facility of the name of the nurse practitioner or physician assistant who is providing care to the resident at the facility[-];~~

~~(b) [Each resident must be seen by a]a physician sees each resident at least once every 30 days for the first 90 days after admission, and at least every 60 days thereafter[-];~~

~~(c) [P]hysician visits [must be]are completed within ten days of the date the visit is required[-];~~

~~(d) [E]xcept as [required by]permitted in Subsection R432-150-16(4)(e), [all required physician visits must be made by the physician.]the physician makes each required visit; and~~

~~(e) [A]at the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.~~

~~(5) The [facility]licensee [must]shall provide or arrange for [the provision of]physician services 24 hours a day in case of an emergency.~~

~~R432-150-17. Social Services.~~

~~Each nursing care facility must provide or arrange for medical social services sufficient to meet the needs of the residents.~~

~~Social services must be under the direction of a therapist licensed in accordance with Title 58 Chapter 60 of the Mental Health Practice Act.~~

R432-150-17[8]. Laboratory Services.

~~(1) The [facility]licensee [must]shall provide laboratory services in accordance with the size and needs of the facility.~~

~~(2) [Laboratory services must comply with the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). CLIA inspection reports shall be available for Department review.]The licensee shall comply with and maintain the Clinical Laboratory Improvement Amendments of 1988 (CLIA) inspection reports for department review.~~

R432-150-18[9]. Pharmacy Services.

~~(1) The [facility]licensee [must]shall provide, or obtain by contract, routine and emergency drugs, biologicals, and pharmaceutical services to meet each resident's physician's orders for medications[~~needs~~].~~

~~(2) The [facility]licensee [must]shall employ or obtain the services of a licensed pharmacist who:~~

~~(a) provides consultation on [all aspects of]the pharmacy services in the facility;~~

~~(b) establishes a system of records of receipt and disposition of[~~all~~]any controlled substances [which]that documents an accurate reconciliation; and~~

~~(c) determines that drug records are in order and that an account of[~~all~~] controlled substances is maintained and reconciled monthly.~~

~~(3)(a) A licensed pharmacist shall review the drug regimen of each resident at least monthly.[The drug regimen of each resident must be reviewed at least once a month by a licensed pharmacist.]~~

~~([a]b) [The pharmacist must report any irregularities to the attending physician and the director of nursing or health services supervisor.]The pharmacist shall provide reports of any drug regimen irregularities to the attending physician and the director of nursing or health services supervisors.~~

~~([b]c) [The physician and the director of Nursing or health services supervisor must indicate acceptance or rejection of the report and document any action taken.]The physician and director of nursing or health services supervisor shall indicate acceptance or rejection of the pharmacist's irregularity report and document any action taken.~~

~~(4) Pharmacy personnel [must]shall ensure that labels on drugs and biologicals are in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date.~~

~~(5)(a) The [facility]licensee [must]shall store [all]any drugs and biologicals in locked compartments under proper temperature controls [according to]in accordance with Subsections R432-150-18(5)(c)(iii) and (iv)[~~19-(5)(e)~~], and permit only authorized personnel to have access to the keys.~~

~~([a]b) The [facility]licensee [must]shall provide separately locked, permanently affixed compartments for storage of controlled substances [listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976]and other drugs subject to abuse, except when the [facility]licensee uses single unit dose package drug distribution systems [in which]where the quantity stored is minimal and a missing dose can be readily detected.~~

~~([b]c) The licensee may not store n[N]on-medication materials that are poisonous or caustic [may not be stored]with medications.~~

([e]d) The licensee shall ensure:~~[Containers must be clearly labeled.]~~

(i) containers are clearly labeled;

([d]ii) ~~[M]~~medication intended for internal use [shall be]is stored separately from medication intended for external use[-];

([e]iii) ~~[M]~~medications stored at room temperature [shall be]are maintained within 59 and 80 degrees F[-]; and

([f]iv) ~~[R]~~refrigerated medications [shall be]are maintained within 36 and 46 degrees F.

(6) ~~[The facility must maintain an emergency drug supply.]~~The licensee shall maintain an emergency drug supply and ensure emergency drug practices adhere to the following:

(a) ~~[E]~~emergency drug containers [shall be]are sealed to prevent unauthorized use[-];

(b) ~~[C]~~contents of the emergency drug supply [must be]are listed on the outside of the container and the use of contents ~~[shall be]is~~ documented by the nursing staff[-];

(c) ~~[F]~~the emergency drug supply [shall be]is stored and located for access by the nursing staff[-];

(d) ~~[T]~~the pharmacist [must]inventor[y]ies the emergency drug supply monthly[-]; and

(e) ~~[U]~~used or outdated items [shall be]are replaced within 72 hours by the pharmacist.

(7) ~~[The pharmacy must dispense and the facility must ensure that necessary drugs and biologicals are provided on a timely basis.]~~The licensee shall ensure that the pharmacy dispenses drugs and biologicals on a timely basis.

(8) The [facility]licensee [must]shall limit the duration of a drug order in the absence of the prescriber's specific instructions.

(9) The licensee shall ensure [D]drug references ~~[must be]are~~ available for ~~[all]any~~ drugs used in the facility~~[-]~~ and ~~[R]references [shall-]~~include generic and brand names, available strength and dosage forms, indications and side effects, and other pharmacological data.

(10) ~~[Drugs may be sent with the resident upon discharge if so ordered by the discharging physician provided that a record of the drugs sent with the resident is documented in the resident's health record.]~~The licensee may send drugs with the resident upon discharge, if ordered by the discharging physician provided that a record of the drugs sent with the resident is documented in the resident's health record.

(11) The licensee shall ensure [D]disposal of controlled substances ~~[must be]are~~ in accordance with the Pharmacy Practice Act.

R432-150-19[20]. Recreation Therapy.

(1) The ~~[facility]licensee~~ shall provide ~~[for-]~~an ongoing program of individual and group activities and therapeutic interventions designed to meet the interests, and attain or maintain the highest practicable physical, mental, and psycho~~[-]~~social well-being of each resident in accordance with the comprehensive assessment.

(2) Additionally, the licensee shall ensure:

(a) ~~[R]~~recreation therapy [shall be]is provided in accordance with Title 58, Chapter 40, Recreational Therapy Practice Act[-]; and

(b) ~~[F]~~the recreation therapy staff[~~must-~~] develops and conspicuously posts monthly resident activity calendars for residents, staff, and visitors to reference.

~~[~~-----~~(i) develop monthly activity calendars for residents activities; and~~

~~-----~~(ii) ~~post the calendar in a prominent location to be available to residents, staff, and visitors.]~~

([2]3) Each ~~[facility]licensee [must]shall~~ ensure ~~[provide]~~sufficient space and a variety of supplies and resource equipment to meet the recreational needs and interests of the residents are provided.

([3]4) The licensee shall ensure [S]storage [must be]is provided for recreational equipment and supplies.

(5) The licensee shall ensure [L]locked storage [must be]is provided for potentially dangerous items ~~[such as]including~~ scissors, knives, and toxic materials.

R432-150-2[4]0. Pet Policy.

(1) ~~[Each]The [facility]licensee [must]shall~~ develop a written policy regarding pets in accordance with local ordinances.

(2) The licensee shall ensure that [T]the administrator or designee [must-]determines which pets may be brought into the facility~~[- Family members may bring resident's pets to visit provided they have approval from the administrator and offer assurance that the pets are clean, disease free, and vaccinated.]~~ and ensures that pet policy and practices adhere to the following:

(a) family members may bring pets to visit provided they have approval from the administrator and offer assurance that the pets are clean, disease free, and vaccinated;

([3]b) ~~[P]pets~~ are not permitted in food preparation or storage areas; and~~[- Pets are not permitted in any area where their presence would create a health or safety risk.]~~

(c) pets are not permitted in any area where their presence would create a health or safety risk.

R432-150-2[2]1. Admission, Transfer, and Discharge.

(1) Each ~~[facility]licensee [must]shall~~ develop written admission, transfer, and discharge policies and make these policies available to the public upon request.~~[- The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:]~~

(2) The licensee shall permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

(a) ~~[F]~~the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

(b) ~~[F]~~the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

(c) ~~[F]~~the health or safety of an individual[s] in the facility is endangered;

~~-----~~(d) ~~The health of individuals in the facility is endangered;]~~

([e]d) ~~[F]~~the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or

([f]e) ~~[F]~~the licensee [facility-]ceases to operate the facility.

([2]3) The ~~[facility]licensee [must]shall~~ ensure ~~[document]~~resident transfers or discharges are documented under any of the circumstances specified in Subsection R432-150-22(1)(a) through (f), in the resident's medical record. The licensee shall ensure [F]the transfer or discharge documentation [must be]is made by:

(a) the resident's physician if transfer or discharge is necessary under Subsections R432-150-22(1)(a) and (b); or

(b) a physician if transfer or discharge is necessary under Subsection R432-150-22(1)(c)[~~and (d)~~].

([3]4) ~~[Prior to]~~ Before the transfer or discharge of a resident, the ~~[facility]~~licensee ~~[must]~~shall ensure:

(a) ~~[provide]~~a written notification of the transfer or discharge and the reasons for the transfer or discharge to the resident~~[-]~~ is provided in a language and manner the resident understands, and, if known, to a family member or legal representative of the resident;

(b) ~~[record]~~the reasons are recorded in the resident's clinical record; and

(c) ~~[include in]~~the notice includes the following:~~[items described in R432-150-22(6);]~~

~~_____~~(i) the reason for transfer or discharge;

~~_____~~(ii) the effective date of transfer or discharge;

~~_____~~(iii) the location where the resident is transferred or discharged; and

~~_____~~(iv) the name, address, and telephone number of the state and local long term care ombudsman programs.

([4]5)(a) Except when specified in Subsection R432-150-22(5)21-(6)(a), the licensee shall ensure the notice of transfer or discharge required under Subsection R432-150-22(3)(21)(4), ~~[must be]~~is made by the ~~[facility]~~licensee at least 30 days before the resident is transferred or discharged.

([5]b) The licensee may issue the notice of transfer or discharge~~[Notice may be made]~~ as soon as practicable before transfer or discharge if:

([a]i) the safety or health of individuals in the facility would be endangered if the resident is not transferred or discharged sooner;

([b]ii) the resident's health improves sufficiently to allow a more immediate transfer or discharge;

([e]iii) an immediate transfer or discharge is required by the resident's urgent medical needs; or

([d]iv) a resident has not resided in the facility for 30 days.

~~_____~~(6) The contents of the written transfer or discharge notice must include the following:

~~_____~~(a) the reason for transfer or discharge;

~~_____~~(b) the effective date of transfer or discharge;

~~_____~~(c) the location to which the resident is transferred or discharged; and

~~_____~~(d) the name, address, and telephone number of the State and local Long Term Care Ombudsman programs;]

([e]c) ~~[For nursing facility residents with developmental disabilities, the notice must.]~~The licensee shall ensure that the notice for nursing facility residents with developmental disabilities contains the mailing address and telephone number of the ~~[agency responsible]~~Disability Law Center that is responsible for the protection and advocacy of developmentally disabled individuals; and~~[established under part C of the Developmental Disabilities Assistance and Bill of Rights Act.]~~

([f]d) ~~[For nursing facility residents who are mentally ill, the notice must.]~~The licensee shall ensure that the notice for nursing facility residents who are mentally ill contains the mailing address and telephone number of the ~~[agency]~~Disability Law Center who is responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

([7]6) The ~~[facility]~~licensee ~~[must]~~shall provide discharge planning to prepare and orient a resident to ensure safe and orderly transfer or discharge from the facility.

~~_____~~(8) Notice of resident bed hold policy, transfer and re-admission must be documented in the resident file.

([a]7) Before a ~~[facility]~~licensee transfers a resident to a hospital or allows a resident to go on therapeutic leave, the ~~[facility]~~licensee ~~[must]~~shall ensure:

~~_____~~(a) ~~[provide]~~written notification and information is provided to the resident and a family member or legal representative that specifies:

(i) the ~~[facility's]~~polices regarding bed-hold periods permitting a resident to return; and

(ii) the duration of the bed-hold policy, if any, ~~[during which]~~and the resident is permitted to return and resume residence in the facility~~[-]~~;

(b) ~~[At the time of transfer of a resident to a hospital or for therapeutic leave, the facility must provide.]~~written notice is provided to the resident and a family member or legal representative, ~~[which]~~that specifies the duration of the bed-hold policy~~[-]~~ at the time of transfer of a resident to a hospital or for therapeutic leave;

(c) ~~[If transfers necessitated by medical emergencies preclude notification at the time of transfer, notification shall take place as soon as possible after transfer.]~~notification is provided as soon as possible following a transfer necessitated by a medical emergency; and

(d) ~~[The facility must establish and follow.]~~a written policy is established and followed for when ~~[under which]~~a resident whose hospitalization or therapeutic leave exceeds the bed-hold period ~~[is]~~may be readmitted to the facility.

([9]8) The ~~[facility]~~licensee ~~[must]~~shall establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services for ~~[all]~~each individual~~[s]~~ regardless of pay source.

([10]9) The ~~[facility]~~licensee ~~[must]~~shall have ~~[in effect]~~a written transfer agreement in effect with one or more hospitals to ensure that:

(a) residents are transferred from the facility to the hospital and ensured of timely admission to the hospital when transfer is medically necessary as determined by the attending physician;

(b) medical and other information needed for care and treatment of residents is exchanged between facilities including documentation of reasons for a less expensive setting; and

(c) security and accountability of personal property of the individual transferred is maintained.

R432-150-2[3]2. Ancillary Health Services.

~~_____~~(1) If the nursing care facility provides its own radiology services, these facility must comply with R432-100-22, Radiology Services, in the General Acute Hospital Rule.

~~_____~~(2) A facility that provides specialized rehabilitative services may offer these services either directly or through agreements with outside agencies or qualified therapists. If provided, these services must meet the needs of the residents.

~~_____~~(a) The facility must provide space and equipment for specialized rehabilitative services in accordance with the needs of the residents.

~~_____~~(b) Specialized rehabilitative services may only be provided by therapists licensed in accordance with Utah law.

~~_____~~(c) All therapy assistants must work under the direct supervision of the licensed therapist at all times.

~~_____~~(d) Speech pathologists must have a "Certificate of Clinical Compliance" from the American Speech and Hearing Association.

~~_____~~(e) Specialized rehabilitative services may be provided only if ordered by the attending physician.

~~(i) The plan of treatment must be initiated by an attending physician and developed by the therapist in consultation with the nursing staff.~~

~~(ii) An initial progress report must be submitted to the attending physician two weeks after treatment is begun or as specified by the physician.~~

~~(iii) The physician and therapist must review and evaluate the plan of treatment monthly unless the physician recommends an alternate schedule in writing.~~

~~(f) The facility must document the delivery of rehabilitative services in the resident record.]~~

(1) A licensee that provides its own radiology services shall comply with Section R432-100-23.

(2) A licensee may provide specialized rehabilitative services directly or through agreements with outside agencies or qualified therapists.

(3) A licensee that directly provides specialized rehabilitative services shall ensure:

(a) there is space and equipment provided to meet the prescribed needs of the residents;

(b) specialized rehabilitative services are only provided by therapists licensed in Utah;

(c) each therapy assistant works under the direct supervision of the licensed therapist at all times;

(d) each speech pathologist has a certificate of clinical compliance issued by the American Speech and Hearing Association;

(e) specialized rehabilitative services are only provided upon order of the attending physician;

(f) an attending physician initiates the plan of treatment;

(g) the therapist, in consultation with the nursing staff develops and implements the plan of treatment and provides an initial progress report to the attending physician within two weeks of the start of treatment, or as specified by the attending physician;

(h) the physician and therapist review the plan of treatment at least monthly unless the physician recommends an alternate schedule in writing; and

(g) delivery of any specialized rehabilitative services are documented in the resident record.

([3]4) The [facility]licensee [must]shall provide or arrange for regular and emergency dental care for residents. Dental care practices include:

[~~(a) Dental care provisions shall include:~~]

([b]a) development of oral hygiene policies and procedures with input from dentists;

([e]b) presentation of oral hygiene in-service programs to staff by knowledgeable persons;

([d]c) development of referral service for [those]any resident[s] who do not have a personal dentist; and

([e]d) arrangement for transportation to and from the dentist's office.

(5) The licensee shall ensure that medical social services are sufficient to meet the needs of the residents and provided or arranged by the nursing care facility. The licensee shall ensure that social services are under the direction of a therapist licensed in accordance with Title 58 Chapter 60 of the Mental Health Practice Act.

R432-150-2[4]3. Food Services.

(1) The [facility]licensee [must]shall provide each resident with a safe, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(2) The licensee shall employ [T]there [must be adequate]enough staff [employed by the facility]to meet the dietary needs of the residents.

(3) For food services and practices, the licensee shall ensure:

(a) [The facility must employ]there is a dietitian employed either full-time, part-time, or on a consultant basis[-];

(b) [T]the dietitian [must be]is certified in accordance with Title 58, Chapter 49, Dietitian Certification Act[-];

(c) [I]if a dietitian is not employed full-time, the administrator [must]designates a full-time person to serve as the dietetic supervisor[-];

(d) [I]if the dietetic supervisor is not a certified dietitian, [the facility must document at least monthly consultation by]the licensee consults a certified dietitian at least monthly, according to the needs of the residents and documents the consultations[-]; and

(e) [T]the dietetic supervisor [shall be]is available when the consulting dietitian visits the facility.

([3]4) The [facility]licensee shall [must]develop menus that meet the nutritional needs of residents to the extent medically possible[-] and ensure the menus are:

[~~(a) Menus shall be:~~]

([i]a) prepared in advance;

([ii]b) followed;

([iii]c) different each day;

([iv]d) posted for each day of the week;

([v]e) approved and signed by a certified [dietician]dietitian; and[-]

([vi]f) cycled no less than every three weeks.

([b]5) The [facility]licensee [must]shall retain documentation for at least three months [of all]for any served substitutions to the menu.

([4]6) The [facility]licensee [must]shall ensure [make available for Department review all]any food sanitation inspection reports of [S]state or local health department inspections are available for department review.

([5]7) [All therapeutic diets must be ordered in writing by the attending physician or by a qualified registered dietitian in consultation with the physician, if allowed by facility policy.]The licensee shall ensure the attending physician or qualified registered dietitian in consultation with the physician, orders each therapeutic diet in writing, if allowed by facility policy.

([6]8) The licensee shall ensure [T]there [must be]is no more than a 14-hour interval between the evening meal and breakfast, unless a substantial snack is served in the evening.

([7]9) The [facility]licensee [must]shall provide special eating equipment and assistive devices for residents who need them.

([8]10) The licensee shall ensure the facility's food service [must]comply[ies] with [the Utah Department of Health Food Service Sanitation Regulations-]Rule R392-100.

([9]11) The [facility]licensee [must]shall ensure [maintain]a one-week supply of nonperishable staple foods and a three-day supply of perishable foods are maintained to complete the established menu for three meals per day, per resident.

([10]12) A nursing care [facility]licensee may use trained dining assistants to aid residents in eating and drinking if:

(a) a licensed practical nurse-geriatric care manager, registered nurse[-], advance practice registered nurse, speech pathologist, occupational therapist, or dietitian has assessed that the resident does not have complicated feeding problems, [such as]including recurrent lung aspirations, behaviors [which]that

interfere with eating, difficulty swallowing, or tube or parenteral feeding; and

(b) ~~[F]~~the service plan or plan of care documents that the resident needs assistance with eating and drinking and defines who is qualified to offer the assistance.

~~[(11)13]~~ If the nursing care facility uses a dining assistant, the ~~[facility]~~licensee ~~[must]~~shall ~~[assure]~~ensure that the dining assistant:

(a) has completed a training course from a ~~[D]~~department-approved training program;

(b) has completed a background screening pursuant to Rule R432-35; and

(c) performs duties only for those residents who do not have complicated feeding problems.

~~[(12)14]~~ ~~[A long-term care facility, employee organization, person, governmental entity, or private organization must submit the following to the Department to become Department approved training program:]~~ A long term care licensee shall submit the following to the department to become an approved training program:

(a) a copy of the curriculum to be implemented that meets the requirements of ~~[s]~~Subsection (13); and

(b) the names and credentials of the trainers.

~~[(13)15]~~ ~~[The training course for the dining assistant shall provide eight hours of instruction and one hour of observation by the trainer to ensure competency. The course shall include the following topics:]~~ The long term care licensee shall ensure a dietitian training program is approved by the department if it includes the following:

(a) eight hours of instruction for the dining assistant and one hour of observation by the trainer to ensure competency;

~~[(a)]~~(b) feeding techniques;

~~[(b)]~~(c) assistance with eating and drinking;

~~[(c)]~~(d) communication and interpersonal skills;

~~[(d)]~~(e) safety and emergency procedures including the Heimlich ~~[maneuver]~~maneuver;

~~[(e)]~~(f) infection control;

~~[(f)]~~(g) resident rights;

~~[(g)]~~(h) recognizing resident changes inconsistent with their normal behavior and the importance in reporting those changes to the supervisory nurse;

~~[(h)]~~(i) special diets;

~~[(i)]~~(j) documentation of type and amount of food and hydration intake;

~~[(j)]~~(k) appropriate response to resident behaviors~~[-]~~; and

~~[(k)]~~(l) use of adaptive equipment.

~~[(14)16]~~ ~~[The training program shall issue a certificate of completion and maintain a list of the dining assistants. The certificate shall include the training program provider and provider's telephone number at which a long-term care facility may verify the training, and the dining assistant's name and address.]~~ The licensee shall issue a training certificate of completion and maintain a list of the dining assistants that identifies:

(a) the training program provider;

(b) the telephone number where the licensee may verify the training; and

(c) each dining assistant's name and address.

~~[(15)17]~~ To provide dining assistant training in a ~~[D]~~department-approved training program, the licensee shall ensure a trainer ~~[must]~~holds a current valid license to practice as:

(a) a registered nurse, advanced practice registered nurse or licensed practical nurse-geriatric care manager pursuant to Title 58, Chapter 31b, Nurse Practice Act;

(b) a registered dietitian, pursuant to Title 58, Chapter 49, Dietitian Certification Act;

(c) a speech-language pathologist, pursuant to Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act; or

(d) an occupational therapist, pursuant to Title 58, Chapter 42a, Occupational Therapy Practice Act.

~~[(16)18]~~ The ~~[Department]~~licensee may suspend a training program if the program's courses do not meet the requirements of this rule.

~~[(17)19]~~ The ~~[Department]~~licensee may suspend a training program operated by a nursing care facility if:

(a) a federal or state survey reveals failure to comply with federal regulations or state rules regarding feeding or dining assistant programs;

(b) the ~~[facility]~~licensee fails to provide sufficient, competent staff to respond to emergencies;

(c) the ~~[D]~~department sanctions the facility for any reason; or

(d) the ~~[D]~~department determines that the ~~[facility]~~licensee is in continuous or chronic non-compliance under state rule or that the ~~[facility]~~licensee has provided sub-standard quality of care under federal regulation.

R432-150-2[5]4. Medical Records.

(1) The ~~[facility]~~licensee ~~[must]~~shall implement a medical records system to ensure complete and accurate retrieval and compilation of information.

~~(2)(a)~~ The administrator ~~[must]~~shall designate an employee to be responsible and accountable for the processing of medical records.

~~[(a)]~~(b) ~~[The medical records department must be under the direction of a registered record administrator, RRA, or an accredited record technician, ART.]~~ The administrator shall ensure that a registered record administrator (RRA) or accredited record technician (ART) directs the medical records department.

~~[(b)]~~(c) If an RRA or ART is not employed at least part-time, the ~~[facility]~~administrator ~~[must]~~shall consult with an RRA or ART according to the needs of the facility, ~~[but not]~~and no less than semi-annually.

(3) The licensee shall ensure resident medical records ~~are:~~The resident medical record and its contents must be retained, stored and safeguarded from loss, defacement, tampering, and damage from fires and floods:

(a) retained, stored, and safeguarded from loss, defacement, tampering, and damage from fires and floods;

~~[(a)]~~(b) ~~[Medical records must be]~~protected against access by unauthorized individuals~~[-]~~; and

~~[(b)]~~(c) ~~[Medical records must be]~~retained for at least seven years~~[-]~~ and ~~[M]~~medical records of minors ~~[must be]~~are kept until the age of eighteen plus four years, but in no case less than seven years.

(4) The ~~[facility]~~licensee ~~[must]~~shall maintain an individual medical record for each resident~~[-]~~ ~~[The medical record must]~~that contains written documentation of the following:

(a) records made by staff regarding daily care of the resident;

(b) informative progress notes by staff to record changes in the resident's condition and response to care and treatment in accordance with the care plan;

(c) a pre-admission screening;

(d) an admission record with demographic information and resident identification data;

(e) a history and physical examination up-to-date at the time of the resident's admission;

(f) written and signed informed consent;

(g) orders by clinical staff members;

(h) a record of assessments, including the comprehensive resident assessment, care plan, and services provided;

(i) nursing notes;

(j) monthly nursing summaries;

(k) quarterly resident assessments;

(l) a record of medications and treatments administered;

(m) laboratory and radiology reports;

(n) a discharge summary for the resident to include a note of condition, instructions given, and referral as appropriate;

(o) a service agreement if respite services are provided;

(p) physician treatment orders;~~and~~

(q) information pertaining to incidents, accidents, and injuries~~;~~; and

(r) ~~If a resident has an advanced directive, the resident's record must contain a copy of the advanced directive.~~ a copy of an advanced directive, if a resident has one.

(5) ~~All~~ The licensee shall ensure any entries into the medical record ~~must be~~ are authenticated including date, name or identifier initials, and title of the person making the entries.

(6) The licensee shall ensure ~~R~~ resident respite records ~~must be~~ are maintained within the facility.

R432-150-2[6]5. Housekeeping Services.

(1) The ~~facility~~ licensee shall ~~must~~ provide a safe, clean, comfortable environment, allowing the resident to use personal belongings to create a homelike environment.

(~~a~~)2 The licensee shall ensure ~~C~~ cleaning agents, bleaches, insecticides, poisonous, dangerous, or flammable materials ~~must be~~ are stored in a locked area to prevent unauthorized access.

(~~b~~)3 The ~~facility~~ licensee ~~must~~ shall: ~~provide adequate housekeeping services and sufficient personnel to maintain a clean and sanitary environment.~~

(a) provide enough housekeeping services and personnel to maintain a clean and sanitary environment;

(~~i~~)b ensure ~~P~~ personnel engaged in housekeeping or laundry services ~~cannot~~ are not ~~be~~ engaged concurrently in food service or resident care~~;~~; and

(~~ii~~)c ~~If housekeeping personnel also work in food services or direct patient care services, the facility must~~ develop and implement employee hygiene and infection control measures to maintain a safe, sanitary environment if housekeeping personnel also work in food services or direct patient care services.

R432-150-2[7]6. Laundry Services.

(1) ~~F~~ the administrator ~~must~~ shall designate a person to direct the facility's laundry service~~;~~ ~~The designee must have~~ that has experience, training-, or knowledge of the following:

(a) proper use of chemicals in the laundry;

(b) proper laundry procedures;

(c) proper use of laundry equipment;

(d) facility policies and procedures; and

(e) federal, state, and local rules and regulations.

(2) The ~~facility~~ licensee ~~must~~ shall provide clean linens, towels, and wash~~-~~cloths for resident use.

(3) If the ~~facility~~ licensee contracts for laundry services, ~~there must be~~ there is a signed, dated agreement that details ~~all~~ any services provided.

(4) The ~~facility~~ licensee ~~must~~ shall inform the resident and family of facility laundry policy for personal clothing.

(5) The ~~facility~~ licensee ~~must~~ shall ensure: ~~that each resident's personal laundry is marked for identification.~~

(a) each resident's personal laundry is marked for identification;

(~~6~~)b ~~F~~ there ~~must be~~ are enough clean linen, towels, and washcloths for at least three complete changes of the facility's licensed bed capacity~~;~~;

(~~7~~)c ~~F~~ there ~~must be~~ is a bed~~-~~spread for each resident bed~~;~~;

(~~8~~)d ~~C~~ clean linen ~~must be~~ is handled and stored in a manner to minimize contamination from surface contact or airborne deposition~~;~~;

(~~9~~)e ~~S~~ soiled linen ~~must be~~ is handled, stored, and processed in a manner to prevent contamination and the spread of infections~~;~~;

(~~10~~)f ~~S~~ soiled linen ~~must be~~ is sorted in a separate room by methods affording protection from contamination~~;~~; and

(~~11~~)g ~~F~~ the laundry area ~~must be~~ is separate from any room where food is stored, prepared, or served.

R432-150-2[8]7. Maintenance Services.

(1) The ~~facility~~ licensee ~~must~~ shall ensure that buildings, equipment, and grounds are maintained in a clean and sanitary condition and in good repair ~~at all times~~ for the safety and well-being of residents, staff, and visitors.

(~~a~~)2 For facility maintenance services the licensee shall ensure: ~~The administrator shall employ a person qualified by experience and training to be in charge of facility maintenance.~~

(a) the administrator employs a person, qualified by experience and training, to be in charge of facility maintenance;

(b) ~~F~~ if the ~~facility~~ licensee contracts for maintenance services, there ~~must be~~ is a signed~~;~~ and dated agreement that details ~~all~~ each service[s] provided~~;~~ and ~~F~~ the contracted maintenance service ~~must~~ meets ~~all~~ each requirement[s] of this section~~;~~;

(c) ~~F~~ the ~~facility~~ licensee ~~must~~ develops and implements a written maintenance program, ~~(including)~~ that includes preventive maintenance, to ensure the continued operation of the facility and sanitary practices throughout the facility~~;~~;

(~~2~~)d ~~F~~ the ~~facility must ensure that the~~ premises ~~is~~ are free from vermin and rodents~~;~~;

(~~3~~)e ~~E~~ entrances, exits, steps, ramps, and outside walkways ~~must be~~ are maintained in a safe condition with regard to snow, ice, and other hazards~~;~~;

(~~4~~)f ~~Facilities which provide care for residents who cannot be relocated in an emergency must make provision for~~ emergency lighting and heat are provided to meet the needs of residents~~;~~ in a facility that provides care for residents who are unable to be relocated in an emergency;

(~~5~~)g ~~F~~ functional flashlights ~~shall be~~ are available for emergency use by staff~~;~~;

(~~6~~)h ~~All~~ any facility equipment ~~must be~~ is tested, calibrated and maintained in accordance with manufacturer specifications~~;~~;

(~~a~~)i ~~F~~ testing frequency and calibration documentation ~~shall be~~ is available for ~~D~~ department review~~;~~;

([b]i) [D]documentation of testing or calibration conducted by an outside agency ~~[must be]~~is available for [D]department review[-];

([7]k) [A]any spaces within buildings ~~[which]~~that house people, machinery, equipment, approaches to buildings, and parking lots ~~[must have]~~have lighting[-];

([8]l) [H]heating, air conditioning, and ventilating systems ~~[must be]~~are maintained to provide comfortable temperatures[-];

([9]m) [B]back-flow prevention devices ~~[must be]~~are maintained in operating condition and tested according to manufacturer specifications[-];

([10]n) [H]hot water temperature controls ~~[must]~~automatically regulate temperatures of hot water delivered to plumbing fixtures used by residents[-] and [H]hot water ~~[must be]~~is delivered to public and resident care areas at temperatures between 105-115 degrees F[-];

([11]o) [D]disposable and single use items ~~[must be]~~are properly disposed of after use[-];

([12]p) [N]nursing equipment and supplies ~~[must be]~~are available as determined by facility policy in accordance with the needs of the residents[-];

([13]q) ~~[The facility must have]~~there is at least one first aid kit ~~[and a first aid manual]~~available at a specified location in the facility~~[-The]~~ accompanied by a current edition of a first aid manual~~[must be a current edition of a basic first aid manual]~~ approved by the American Red Cross or the American Medical Association[-];

([14]r) ~~[The facility must have]~~there is at least one [OSHA]Occupational Safety and Health Administration (OSHA) approved spill or clean-up kit for blood-borne pathogens[-]; and

([15]s) [V]ehicles used to transport residents ~~[must be]~~are:

([a]i) licensed with a current vehicle registration and safety inspection;

([b]ii) equipped with individual, size-appropriate safety restraints ~~[such as]~~including seat belts ~~[which are defined in the federal motor vehicle safety standards contained in the Code of Federal Regulations, Title 49, Section 571.213, and]~~that are installed and used in accordance with manufacturer specifications;

([e]iii) equipped with a first aid kit and current version of a first aid manual approved by the American Red Cross or the American Medical Association~~[as specified in R432-150-28(13)]~~; and

([d]iv) equipped with an OSHA-approved spill or clean-up kit~~[-as specified in R432-150-28(14)]~~.

R432-150-2[9]8. Emergency Response and Preparedness Plan.

(1) The [facility]licensee ~~[must]~~shall ensure the safety and well-being of residents and ~~[make provisions]~~provide for a safe environment in the event of an emergency or disaster. An emergency or disaster may include utility interruption, explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic, and injury.

(2)[a] The [facility]licensee ~~[must]~~shall develop an emergency and disaster plan that is approved by the governing body~~[board]~~.

([a]b) The ~~[facility's]~~emergency and disaster plan shall delineate:

(i) the person~~[-or persons]~~ with decision-making authority for fiscal, medical, and personnel management;

(ii) on-hand personnel, equipment, and supplies and how to acquire additional help, supplies, and equipment after an emergency or disaster;

(iii) assignment of personnel to specific tasks during an emergency;

(iv) methods of communicating with local emergency agencies, authorities, and other appropriate individuals;

(v) individuals ~~[who shall]~~to be notified in an emergency in order of priority; and

(vi) methods of transporting and evacuating residents and staff to other locations.

([b]c) The [facility]licensee ~~[must]~~shall have emergency phone numbers at each nursing station with responsible staff listed in the order of priority contact~~[-have available at each nursing station emergency telephone numbers including responsible staff persons in the order of priority]~~.

([e]d) The [facility]licensee ~~[must]~~shall document resident emergencies and responses, emergency events and responses, and the location of residents and staff evacuated from the facility during an emergency.

([d]e) The [facility]licensee ~~[must]~~shall conduct and document simulated disaster drills semi-annually.

(3) The administrator ~~[must]~~shall develop a written fire emergency and evacuation plan in consultation with qualified fire safety personnel[-] that:

(a) ~~[The evacuation plan must]~~delineates evacuation routes, location of fire alarm boxes, fire extinguishers, and emergency telephone numbers of the local fire department[-];

(b) ~~[The facility must]~~ensures the evacuation plan is posted ~~[the evacuation plan]~~in prominent locations in exit access ways throughout the building[-];

(c) ~~[The written fire or emergency plan must]~~includes fire containment procedures and how to use the facility alarm systems and signals[-]; and

(d) ensures ~~[F]~~fire drills and fire drill documentation ~~[must be]~~are completed in accordance with the State of Utah Fire Prevention Board, Rule R710-4.

R432-150-[30]29. Penalties.

Any person who violates ~~[any provision of]~~this rule may be subject to the penalties enumerated in Sections 26B-2-208 and 26B-2-216 ~~[26-21-11]~~and Section R432-3-7~~[-and be punished for violation of a class A misdemeanor as provided in Section 26-21-16]~~.

KEY: health care facilities

Date of Last Change: 2023~~[January 11, 2018]~~

Notice of Continuation: January 24, 2022

Authorizing, and Implemented or Interpreted Law: ~~[26-21-5; 26-21-16]~~26B-2-202

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R432-270

Filing ID:
55593

Agency Information

1. Department:	Health and Human Services
Agency:	Health Care Facility Licensing
Room number:	1st Floor
Building:	Multi-Agency State Office Bldg

Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R432-270. Assisted Living Facility
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to modify and replace outdated language with the Rulewriting Manual for Utah standards, update citations in response to S.B. 38 in the 2023 General Session for statute recodification, and re-title rules to the new Division titles that are consistent with Rulewriting standards.
4. Summary of the new rule or change:
The revisions include more specific language consistent with the Rulewriting Manual for Utah.
Additionally, this amendment updates titles and citations due to the recodification of the Department of Health and Human Services' (Department) statute.
Only one substantive change clarifies the administrator training requirements. The change was approved by the Health Facility Committee on 11/05/2022.
If facilities are members of any association, there is no charge for any of the trainings offered. If not members of an association, free trainings can be found.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This change will not impact the current process for licensure and re-licensure surveys.
No change to the state budget is expected because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards which will not impact the state's oversight of these facilities.

B) Local governments:
This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.
The Assisted Living Standards are regulated by the Department, and not local governments.
There will be no change in local business licensing or any other item(s) with which local government is involved.
C) Small businesses ("small business" means a business employing 1-49 persons):
Most Assisted Living Facilities are already participating in Association Membership. It is impossible to estimate a fixed cost to the affected businesses because the membership is per bed per facility, which varies greatly across the state.
If a facility is not a member of an association, membership in Utah Assisted Living Association (UALA) is \$15 per bed per year. Training is free to members.
Training is \$35 per hour for non members, but the facilities are at liberty to locate other cheaper (or free) trainings to satisfy the requirement.
Beehive Association charges \$35 per year, but only accept their own franchise members at \$32.50 per bed.
The maximum a small business would pay would be \$735 per year for a UALA membership for a facility with 49 beds.
The minimum a small business would pay would be \$0 if they find a free training that the association approves. The maximum a small business would pay would be \$210 to attend UALA training without membership (this is the fixed estimated cost for all affected parties in the table below).
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The costs for non-small businesses are the same for as small business, however \$750 per year would be the minimum a non-small business would pay for a membership at \$15 per bed and the per-hour maximum cost would remain \$210 per year.
Minimums could be \$0 if the facility can locate a free training that's approved. It is impossible to estimate a fixed cost to the affected businesses because the membership is per bed per facility, which varies greatly across the state.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

No persons other than small businesses, non-small businesses, state or local government entities should be impacted by the substantive or nonsubstantive changes introduced in this amendment.

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

The minimum to an affected administrator would be \$0 if their facility pays for either their membership or per class.

If the facility does not pay for the training or membership, the maximum per-training cost to an administrator would be \$210 or a minimum of \$0 if they can locate an approved free trainings.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 26B-2-202

Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/07/2023
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R432. Health and Human Services, [Family Health and Preparedness, Health Care Facility Licensing.

R432-270. Assisted Living Facilities.

R432-270-1. Legal Authority.

[This rule is adopted pursuant to Title 26, Chapter 21.] This rule is authorized by Section 26B-2-202.

R432-270-2. Purpose.

This rule establishes the licensing and operational standards for assisted living facilities. [Type I and Type II.] Assisted living is intended to enable [persons]an individual experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with [sufficient]enough structure to meet the care needs in a safe manner.

R432-270-3. Compliance and Responsibility.

The licensee shall comply with each Section of Rule R432-270.

R432-270-[3]4. Definitions.

(1) [The terms used in these rules are defined in.]Section R432-1-3 additionally applies.

(2) ~~[In addition:]~~ "Activities of Daily Living" (ADL) means those personal functional activities required for an individual for continued well-being, including:

(a) personal grooming, including oral hygiene and denture care;

(b) dressing;

(c) bathing;

(d) toileting and toilet hygiene;

(e) eating and nutrition;

(f) administration of medication; and

(g) transferring, ambulation and mobility.

(3) ADL's are divided into the following levels:

(i) "Assistance" means the resident can perform some part of an ADL, but cannot do it entirely alone;

(ii) "Dependent" means the resident cannot perform any part of an ADL and it is done entirely by someone else; and

(iii) "Independent" means the resident can perform the ADL without help.

(4) "Adult Day Care" means the care and support to three or more functionally impaired adults through a comprehensive program that provides a variety of social, recreational, and related support services in a licensed health care setting.

([a]5) "Assessment" means documentation of each resident's ability or current condition in the following areas:

([i]a) memory and daily decision[-]-making ability;

([i]b) ability to communicate effectively with others;

([i]c) physical functioning and ability to perform [activities of daily living]ADLs;

([i]d) continence;

([i]e) mood and behavior patterns;

([i]f) weight loss;

([i]g) medication use and the ability to self-medicate;

([i]h) special treatments and procedures;

([i]i) [disease]medical diagnoses that have a relationship to current [activities of daily living]ADL status, behavior status, medical treatments, or risk of death;

([i]j) leisure patterns and interests;

([i]k) assistive devices; and

([i]l) prosthetics.

[—] (b) "Activities of daily living (ADL)":

(i) means those personal functional activities required for an individual for continued well-being, including:

(A) personal grooming, including oral hygiene and denture care;

(B) dressing;

(C) bathing;

(D) toileting and toilet hygiene;

(E) eating and nutrition;

(F) administration of medication; and

(G) transferring, ambulation and mobility.

(ii) Are divided into the following levels:

(A) "Independent" means the resident can perform the ADL without help.

(B) "Assistance" means the resident can perform some part of an ADL, but cannot do it entirely alone.

(C) "Dependent" means the resident cannot perform any part of an ADL; it must be done entirely by someone else.]

([e]6) [Certification in Cardiopulmonary Resuscitation (CPR) refers to certification issued after completion of a course that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR.] "Certification in Cardiopulmonary Resuscitation (CPR)" refers to certification

issued after completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor.

([d]7) "Core competencies" mean:

([i]a) communication;

([i]b) person centered care principles and practices;

([i]c) observation;

([i]d) crisis prevention and intervention;

([i]e) safety;

([i]f) professionalism and ethics;

([i]g) empowerment and advocacy;

([i]h) health and wellness;

([i]i) community living skills and supports;

([i]j) cultural competency and community inclusion;

([i]k) dementia care competencies; and

([i]l) training and self-development.

([e]8) "Home-like" [as used in statute and this rule] means a place of residence, [which] that creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is also supported by the use of residential building materials and furnishings.

([f]9) "Hospice patient" means an individual who is admitted to a hospice program or agency.

([g]10) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.

([h]11) "Monitoring device" [i] means a video surveillance camera, microphone, or other device that captures audio, but does not include:

[—] (i) means a video surveillance camera or a microphone or other device that captures audio; and

(ii) does not include;

([A]a) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or

([B]b) a device that is connected to the [I]internet or that is set up to [transmit]send data via an electronic communication.

([i]12) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.

([j]13) "Responsible person" means an individual who:

([i]a) is designated in writing by a resident to receive communication on behalf of the resident; or

([i]b) a legal representative.

([k]14) "Self-direct medication administration" means the resident can:

([i]a) recognize medications offered by color or shape; and

([i]b) [question]identify and report differences in the usual routine of medications.

([l]15) "Service Plan" means a written plan of care for services that meets the requirements of Section R432-270-[13]14.

([m]16) "Services" means activities[-, which] that help the residents develop skills to increase or maintain their level of psychosocial and physical functioning, or, [which] that assists them in activities of daily living.

([n]17) ["Significant change" means a major change in a resident's status that is self-limiting or impacts on more than one area of the resident's health status.] "Significant assistance" means the resident cannot perform any part of an ADL and is dependent upon staff or others to accomplish the ADL.

([o]18) ["Significant assistance" means the resident is unable to perform any part of an ADL and is dependent upon staff or

others to accomplish the ADL as defined in Subsection R432-270-3(2)(b). "Significant change" means a major change in a resident's status that is self-limiting or impacts on more than one area of the resident's health status.

([p]19) "Social care" means:

([i]a) providing opportunities for social interaction in the facility or in the community; or

([i]b) providing services to promote independence or a sense of self-direction.

([q]20) "Unit" means an individual living space, including living and sleeping space, bathroom, and optional kitchen area.

([r]21) "Vulnerable adult" is defined in Subsection 26B-6-201(30). ~~means an elder adult, or a dependent adult who has a mental or physical impairment that substantially affects the person's ability to:~~

- ~~(i) provide personal protection;~~
- ~~(ii) provide necessities such as food, shelter, clothing, or mental or other health care;~~
- ~~(iii) obtain services necessary for health, safety, or welfare;~~
- ~~(iv) carry out the activities of daily living;~~
- ~~(v) manage their own financial resources; or~~
- ~~(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.~~

R432-270-[4]5. Licensing.

(1) The licensee shall ensure [A]a person who offers or provides care to two or more unrelated individuals in a residential facility ~~must be~~is ~~minimally~~licensed as an assisted living facility if:

(a) the individuals stay in the facility for more than 24 hours; and

(b) the facility provides or arranges for ~~the provision of~~ assistance with one or more ~~activity of daily living~~ADL for any of the individuals.

(2) The licensee shall ensure [A]an assisted living facility ~~shall be~~is licensed as a [F]type I facility if the individuals under care are capable of achieving enough mobility ~~sufficient~~to exit the facility without the assistance of another person.

(3) The licensee shall ensure [A]an assisted living facility ~~shall be~~is licensed as a [F]type II facility if the individuals under care are capable of achieving mobility enough~~sufficient~~ to exit the facility only with the limited assistance of one person.

(4) A [F]type I assisted living facility licensee shall provide social care to the individuals under care.

(5) A [F]type II assisted living facility licensee shall provide care in a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours ~~per~~a day to residents who need any of these services as required by department rule.

(6) Type I and II assisted living facility~~ies~~ licensees shall provide each resident with a separate living unit. Two residents may share a unit upon written request of both residents.

(7) An individual may continue to remain in an assisted living facility ~~provided~~if:

(a) the facility construction ~~can~~meets the individual's needs;

(b) the individual's physical and mental needs are appropriate to the assisted living criteria; and

(c) the ~~facility~~licensee provides adequate staffing to meet the individual's needs.

(8) The licensee shall ensure [A]assisted living facilities ~~shall be~~are licensed as one of the following:~~large, small or limited capacity facilities.~~

(a) [A]a large assisted living facility hous~~es~~ing 17 or more residents~~[-]~~;

(b) [A]a small assisted living facility hous~~es~~ing six to 16 residents~~[-]~~; or

(c) [A]a limited capacity assisted living facility hous~~es~~ing two to five residents.

R432-270-[5]6. Licensee.

(1) The licensee shall:

(a) ensure compliance with ~~all~~each federal, state, and local law~~s~~;

(b) assume responsibility for the overall organization, management, operation, and control of the facility;

(c) establish policies and procedures for the welfare of residents, the protection of their rights, and the general operation of the facility;

(d) implement a policy that ensures the facility does not discriminate on the basis of race, color, sex, religion, ancestry, or national origin in accordance with state and federal law;

(e) secure and update contracts for required services not provided directly by the facility;

(f) respond to requests for reports from the ~~D~~department; and

(g) appoint, in writing, a qualified administrator who shall assume full responsibility for the day-to-day operation and management of the facility. The licensee and administrator may be the same person.

(2) The licensee shall implement a quality assurance program to include a [Q]quality [A]assurance ~~C~~committee. The committee shall:

(a) consist of at least the facility administrator and a health care professional; and

(b) meet at least quarterly to identify and act on quality issues.

(3) If the licensee is a corporation or an association, it shall maintain an active and functioning governing body to fulfill licensee duties and to ensure accountability.

R432-270-[6]7. Administrator Qualifications.

(1) The administrator shall ~~have the following qualifications~~:

(a) be 21 years of age or older;

(b) ~~have knowledge of~~know applicable laws and rules;

(c) have the ability to deliver, or direct the delivery of, appropriate care to residents;

(d) successfully complete the criminal background screening process defined in Rule R432-35; and

(e) ~~for Type II facilities,~~complete a ~~D~~department~~[-]~~ approved national certification program within six months of hire for type II facilities.

(2) ~~In addition to Subsection R432-270-6(1) -f~~The administrator of a [F]type I facility shall have an associate degree or two years experience in a health care facility.

(3) ~~In addition to Subsection R432-270-6(1) -f~~The administrator of a [F]type II small or limited~~[-]~~ capacity assisted living facility shall have one or more of the following:

(a) an associate degree in a health care field;

(b) two years or more management experience in a health care field; or

(c) one year experience in a health care field as a licensed health care professional.

(4) ~~[In addition to Subsection R432-270-6(1) -]~~ The administrator of a ~~[F]~~ type II large assisted living facility shall have one or more of the following:

(a) a ~~[State of]~~ Utah health facility administrator license;

(b) a bachelor's degree in a health care field, to include management training or one or more years of management experience;

(c) a bachelor's degree in any field, to include management training or one or more years of management experience and one year or more experience in a health care field; or

(d) an associate degree and four years or more management experience in a health care field.

R432-270-~~[7]~~8. Administrator Duties.

(1) The administrator shall:

(a) be on the premises ~~[a sufficient]~~ enough ~~[number of]~~ hours in the business day, and at other times as necessary, to manage and administer the facility;

(b) designate, in writing, a competent employee, 21 years of age or older, to act as administrator when the administrator is unavailable for immediate contact ~~[and]~~ and it is not the intent of this subsection to permit a de facto administrator to replace the designated administrator ~~[and]~~;

~~[(2) The administrator is responsible for the following:]~~

~~[(a)]~~ (c) recruit, employ, and train the number of licensed and unlicensed staff needed to provide services;

~~[(b)]~~ (d) verify required licenses and permits of staff and consultants at the time of hire or the effective date of contract;

~~[(e)]~~ (e) maintain facility staffing records for the preceding 12 months;

~~[(f)]~~ (f) admit and retain only those residents who meet admissions criteria and whose needs can be met by the facility;

~~[(g)]~~ (g) review at least quarterly every injury, accident, and incident to a resident or employee and document appropriate corrective action;

~~[(h)]~~ (h) maintain a log indicating any significant change in a resident's condition and the facility's action or response;

~~[(i)]~~ (i) complete an investigation when ~~[ever]~~ there is reason to believe a resident has been subject to abuse, neglect, or exploitation;

~~[(j)]~~ (k) report ~~[all]~~ any suspected abuse, neglect, or exploitation in accordance with Section 62A-3-305, and document appropriate action if the alleged violation is verified;

~~[(l)]~~ (l) notify the resident's responsible person within 24 hours of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;

~~[(m)]~~ (m) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;

~~[(n)]~~ (n) complete, submit, and file records and reports required by the ~~[D]~~ department;

~~[(o)]~~ (o) participate in a quality assurance program; and

~~[(p)]~~ (p) secure and update contracts for required professional and other services not provided directly by the facility.

~~[(3)]~~ (2) The licensee shall maintain the administrator's responsibilities ~~[shall be included]~~ in a written and signed job description on file in the facility.

R432-270-~~[8]~~9. Personnel.

(1) The licensee shall ensure that ~~[Q]~~ qualified ~~[competent]~~ direct-care personnel ~~[shall be]~~ are on the premises 24 hours a day to meet residents' needs as determined by the residents' assessment and service plans. The licensee shall employ ~~[A]~~ additional staff ~~[shall be employed]~~ as necessary to perform: ~~[office work, cooking, housekeeping, laundering and general maintenance.]~~

~~[(a)]~~ office work;

~~[(b)]~~ cooking;

~~[(c)]~~ housekeeping;

~~[(d)]~~ laundering; and

~~[(e)]~~ general maintenance.

(2) The licensee shall ensure qualified staff perform ~~[The]~~ services ~~[provided or arranged by the facility shall be provided by qualified persons]~~ in accordance with the resident's written service plan.

(3) The licensee shall ensure that ~~[P]~~ personnel who provide personal care to residents in a ~~[F]~~ type I and ~~[F]~~ type II facility ~~[shall be]~~ are at least 18 years of age or may be a certified nurse aide in accordance with Section 58-31b-3 and shall have related experience or on the job training for ~~[in]~~ the job assigned. ~~[or receive on the job training.]~~

(4) The licensee shall ensure that ~~[P]~~ personnel ~~[shall be]~~ are licensed, certified, or registered in accordance with applicable state laws.

(5) The administrator shall maintain written job descriptions for each position, including job title, job responsibilities, qualifications or required skills.

(6) The licensee shall make ~~[F]~~ facility policies and procedures ~~[shall be]~~ available to personnel ~~[at all times]~~.

(7) The licensee shall ensure ~~[E]~~ each employee ~~[shall]~~ receives documented orientation to the facility for their hired position. The licensee shall provide ~~[O]~~ orientation ~~[shall be completed]~~ within 30 days of hire ~~[and]~~ that includes the following:

(a) job description;

(b) ethics, confidentiality, and residents' rights;

(c) fire and disaster plan;

(d) policy and procedures;

(e) reporting responsibility for abuse, neglect and exploitation; and

(f) a ~~[D]~~ department-approved core competency training.

(8) In addition to completing facility orientation and demonstration of core competency skills, the licensee shall provide each direct-care employee ~~[shall receive]~~ with 16 hours of documented one-on-one job training with a direct-care employee, with at least ~~[3]~~ three months of experience and who has completed orientation, or with the supervising nurse at the facility. Additionally, the licensee shall ensure:

(a) ~~[This]~~ training ~~[is not transferable]~~ is not transferred to another facility and ~~[must]~~ includes:

(i) transfer assistance and safety; and

(ii) activities of daily living ~~[and]~~;

(b) ~~[D]~~ direct-care employees hired from a staffing agency ~~[must be]~~ are certified nurse aides and are exempt from the 16 hours of one-on-one training ~~[and]~~;

(c) ~~[E]~~ employees who are certified nurse aides are exempt from the 16 hours of one-on-one job training.

(9) The licensee shall ensure ~~[E]~~ each employee ~~[shall]~~ receives documented in-service training ~~[The]~~ and tailor the training ~~[shall be tailored]~~ to annually include the following subjects ~~[that are]~~ relevant to the employee's job responsibilities:

(a) principles of good nutrition, menu planning, food preparation, and storage;
(b) principles of good housekeeping and sanitation;
(c) principles of providing personal and social care;
(d) proper procedures in assisting residents with medications;
(e) recognizing early signs of illness and determining if there is a need for professional help;
(f) accident prevention, including safe bath and shower water temperatures;
(g) communication skills, ~~[which]~~that enhance resident dignity;

(h) first aid;
(i) resident's rights;
(j) abuse and neglect reporting requirements of Section 26B-6-205[62A-3-305];

(k) dementia and Alzheimer's specific training; and
(l) review of core competency training.

(10) The facility administrator shall annually ~~[receive]~~complete a minimum of ~~[4]~~four hours of core competency training that includes ~~[D]~~dementia and Alzheimer's specific training.

(11) ~~[An employee who reports suspected abuse, neglect, or exploitation may not be subject to retaliation, disciplinary action, or termination by the facility for that reason alone.]~~In addition to core competency training, the facility administrator shall:

(a) complete a minimum of six hours of approved continuing professional education (CPE) annually as follows:

(i) complete a minimum of five hours in person; and

(ii) complete a minimum of one additional hour either in person or online;

(b) ensure CPE courses under Subsection (11) are:

(i) approved by the Utah Assisted Living Association (UALA), Utah Health Care Association (UHCA), or Beehive Homes;
or

(ii) require prior approval under Subsection (11)(b)(i) for courses offered by other entities or organizations; and

(c) calculate 50 minutes of CPE as one hour.

(12) The licensee shall ensure employees who report suspected abuse, neglect, or exploitation are not subject to retaliation, disciplinary action, or termination by the facility for that reason alone.

~~[(12)]~~(13) The ~~[facility]~~licensee shall ensure [establish-]a personnel health program is established through written personnel health policies and procedures that protect the health and safety of personnel, residents, and the public.

~~[(13)]~~(14) ~~[The facility shall complete an employee placement health evaluation to include at least a health inventory when an employee is hired. Facilities may use their own evaluation or a Department approved form.~~

~~(a) A health inventory shall include at least the employee's history of the following:~~

~~(i) conditions that may predispose the employee to acquiring or transmitting infectious diseases; and~~

~~(ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily.~~

~~(b) The facility shall develop employee health screening and immunization components of the personnel health program.~~

~~(c) Employee skin testing by the Mantoux Method or other FDA approved in vitro serologic test and follow up for tuberculosis shall be done in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis.~~

~~(i) The licensee shall ensure employees are skin tested for tuberculosis within two weeks of:~~

~~(A) initial hiring;~~

~~(B) suspected exposure to a person with active tuberculosis; and~~

~~(C) development of symptoms of tuberculosis.~~

~~(ii) Skin testing shall be exempted for employees with known positive reaction to skin tests.~~

~~(d) Infections and communicable diseases reportable by law shall be reported to the local health department in accordance with Section R386-702-3.]~~The licensee shall:

(a) ensure an employee health inventory is completed when an employee is hired;

(b) use a department-approved form for the health inventory evaluation or their own form if it includes at least the employee's history of the following:

(i) conditions that may predispose the employee to acquiring or transmitting infectious diseases; and

(ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily;

(c) develop an employee health screening and immunization components of for its personnel health program;

(d) ensure employee skin testing;

(i) uses the Mantoux Method or other Food and Drug Administration, (FDA) approved in-vitro serologic test; and

(ii) perform follow-up procedures for tuberculosis in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis;

(e) ensure employees are skin-tested for tuberculosis within two weeks of:

(i) initial hiring;

(ii) suspected exposure to a person with active tuberculosis; and

(iii) development of symptoms of tuberculosis;

(f) report any infections and communicable diseases reportable by law to the local health department in accordance with Section R386-702-3; and

(g) allow employees with known positive reaction to skin tests to be exempt from skin testing.

~~[(14)]~~(15) The ~~[facility]~~licensee shall ensure[develop and implement] policies and procedures governing an infection control program are developed and implemented to protect residents, family, and personnel~~[- that includes]~~including appropriate task~~[-]~~-related employee infection control procedures and practices.

~~[(15)]~~(16) The ~~[facility]~~licensee shall ensure compl[y]ance with the Occupational Safety and Health Administration's Blood~~[-]~~-borne Pathogen Standard.

R432-270-~~[9]~~10. Residents' Rights.

(1) Assisted living ~~[facilities]~~licensees shall develop a written resident's rights statement based on this section.

(2) The licensee shall ensure ~~[T]~~the administrator or designee ~~[shall]~~gives [the]each resident a written description of the resident's legal rights upon admission, including the following:

(a) a description of the manner of protecting personal funds~~[- in accordance with Section R432-270-20];~~ and

(b) a statement that the resident may file a complaint with the state long~~[-]~~-term care ombudsman and any other advocacy group concerning resident abuse, neglect, or misappropriation of resident property in the facility.

(3) The licensee shall ensure ~~[F]~~the administrator or designee ~~[shall]~~ promptly notifi[y]ies the resident or the resident's responsible person at the time of admission, in writing and in a language and manner that the resident or the resident's responsible person understands, of the resident's rights and rules governing resident conduct and responsibilities during the stay in the facility.

(4) The licensee shall ensure ~~[F]~~the administrator or designee ~~[shall]~~ promptly notifi[y]ies in writing the resident or the resident's responsible person when there is a change in resident rights under state law.

(5) The licensee shall ensure ~~[R]~~resident rights include the ~~[following]right to:~~

(a) ~~[the right to]~~be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;

(b) ~~[the right to]~~be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;

(c) ~~[the right to]~~be free of mental and physical abuse, and chemical and physical restraints;

(d) ~~[the right to]~~refuse to perform work for the facility;

(e) ~~[the right to]~~perform work for the facility if the facility consents and if:

(i) the facility has documented the resident's need or desire for work in the service plan;

(ii) the resident agrees to the work arrangement described in the service plan;

(iii) the service plan specifies the nature of the work performed and whether the services are voluntary or paid; and

(iv) compensation for paid services is at or above the prevailing rate for similar work in the surrounding community;

(f) ~~[the right to]~~privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;

(g) ~~[the right to]~~share a unit with a spouse if both spouses consent, and if both spouses are facility residents;

(h) ~~[the right to]~~privacy when receiving personal care or services;

(i) ~~[the right to]~~keep personal possessions and clothing as space permits;

(j) ~~[the right to]~~participate in religious and social activities of the resident's choice;

(k) ~~[the right to]~~interact with members of the community both inside and outside the facility;

(l) ~~[the right to]~~send and receive mail unopened;

(m) ~~[the right to]~~have access to telephones to make and receive private calls;

(n) ~~[the right to]~~arrange for medical and personal care;

(o) ~~[the right to]~~have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs;

(p) ~~[the right to]~~leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night:

(i) assisted living ~~[F]~~type II residents who have been assessed to require a secure environment may be housed in a secure unit, provided the secure unit is approved by the fire authority having jurisdiction; and

(ii) this right does not prohibit the locking of facility entrance doors if egress is maintained;

(q) ~~[the right to]~~be informed of complaint or grievance procedures and to voice grievances and recommend changes in

policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;

(r) ~~[the right to]~~be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;

(s) ~~[the right to]~~manage and control personal funds, or to be given an accounting of personal funds entrusted to the facility, as provided in Section R432-270-20 concerning management of resident funds;

(t) ~~[the right]~~upon oral or written request, to access within 24 hours records pertaining to the resident, including clinical records;

(u) ~~[the right]~~two working days after the day of the resident's oral or written request, to purchase at a cost not to exceed the community standard photocopies of the resident's records or any portion thereof;

(v) ~~[the right to]~~personal privacy and confidentiality of personal and clinical records;

(w) ~~[the right to]~~be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(x) ~~[the right to]~~be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including the following:

(i) medical condition;

(ii) the right to refuse treatment;

(iii) the right to formulate an advance directive in accordance with Title 75, Chapter 2a, Advance Health Care Directive Act; and

(iv) the right to refuse to participate in experimental research.

(6) The licensee shall ensure the following items ~~[must be posted]~~are posted in a public area of the facility that is easily accessible and visible by residents and the public:

(a) the long[-]term care ombudsmen's notification poster;

(b) information on Utah protection and advocacy systems; and

(c) a copy of the resident's rights.

(7) ~~[The facility shall have available in a public area of the facility the results of the current survey of the facility and any plans of correction.]~~The licensee shall make the results of the current facility survey with any plans of correction available in a public area of the facility.

(8)(a) A resident may organize and participate in resident groups in the facility, and a resident's family may meet in the facility with the families of other residents.

(a)[b] The ~~[facility]~~licensee shall ~~ensure~~provide private space is provided for resident groups or family groups.

(b)[c] Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.

(e)[d] The administrator shall designate an employee to provide assistance and ~~[to]~~respond to written requests that result from group meetings.

R432-270-~~[40]~~11. Admissions.

(1) The ~~[facility]~~licensee shall have written admission, retention, and transfer policies that are available to the public upon request.

(2) Before accepting a resident, the ~~[facility]~~licensee shall ~~ensure~~[obtain sufficient]enough information is obtained about the person's ability to function in the facility through the following:

(a) an interview with the resident and the resident's responsible person; and

(b) the completion of the resident assessment.

(3) If the ~~[D]~~department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the ~~[D]~~department may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.

(4) A ~~[F]~~type I ~~[facility]~~licensee:

(a) shall accept and retain residents who meet the following criteria:

(i) are ambulatory or mobile and are capable of taking life[]-saving action in an emergency without the assistance of another person;

(ii) have stable health;

(iii) require no assistance or only limited assistance ~~[in the activities of daily living (ADL)]~~with ADLs; and

(iv) do not require total assistance from staff or others with more than three ADLs~~[-]~~ and

(b) may accept and retain residents who meet the following criteria:

(i) are cognitively impaired or physically disabled but able to evacuate from the facility without the assistance of another person; and

(ii) require and receive intermittent care or treatment in the facility from a licensed health care professional either through contract or by the facility, if permitted by facility policy.

(5) A ~~[F]~~type II ~~[facility]~~licensee may accept and retain residents who meet the following criteria:

(a) require total assistance from staff or others in more than three ADLs, provided that:

(i) the staffing level and coordinated supportive health and social services meet the needs of the resident; and

(ii) the resident is capable of evacuating the facility with the limited assistance of one person.

(b) are physically disabled but able to direct their own care; or

(c) are cognitively impaired or physically disabled but able to evacuate from the facility with the limited assistance of one person.

(6) Type I and ~~[F]~~type II assisted living ~~[facilities]~~licensees may not admit or retain a person who:

(a) manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others;

(b) has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis; or may be transmitted to other residents or guests through the normal course of activities; or

(c) requires inpatient hospital, long-term nursing care or 24-hour continual nursing care that will last longer than 15 calendar days after the day that the nursing care begins.

(7) Type I and ~~[F]~~type II assisted living ~~[facilities]~~licensees may not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room in accordance with Title 26, Chapter 21, Part 304, Monitoring Device -- Facility admission, patient discharge, and posted notice.

(8) The licensee shall ensure ~~[F]~~the prospective resident or the prospective resident's responsible person ~~[shall]~~signs a written admission agreement ~~[prior to]~~before admission. The licensee shall maintain the admission agreement ~~[shall be kept]~~on file ~~[by the facility]~~and shall specify at least the following:

(a) room and board charges and charges for basic and optional services;

(b) provision for a 30-day notice ~~[prior to]~~before any change in established charges;

(c) admission, retention, transfer, discharge, and eviction policies;

(d) conditions when the agreement may be terminated;

(e) the name of the responsible party;

(f) notice that the ~~[D]~~department has the authority to examine resident records to determine compliance with licensing requirements; and

(g) refund ~~[provisions]~~procedures that address the following:

(i) thirty-day notices for transfer or discharge given by the facility or by the resident~~[-]~~;

(ii) emergency transfers or discharges;

(iii) transfers or discharges without notice; and

(iv) the death of a resident.

(9) A type I assisted living ~~[facility]~~licensee may accept and retain residents who have been admitted to a hospice program, under the following conditions:

(a) the ~~[facility]~~licensee keeps a copy of the physician's diagnosis and orders for care;

(b) the ~~[facility]~~licensee makes the hospice services part of the resident's service plan that shall explain who is responsible to meet the resident's needs; and

(c) a ~~[facility]~~licensee may retain hospice patient residents who are not capable of exiting the facility without assistance with the following conditions:

(i) ~~[the facility shall assure that]~~a worker or an individual is assigned solely to each specific hospice patient and is on-site to assist the resident in emergency evacuation 24 hours a day, seven days a week;

(ii) ~~[the facility shall train]~~the assigned worker or individual is trained to specifically assist in the emergency evacuation of the assigned hospice patient resident;

(iii) the worker or individual ~~[shall be]~~is physically capable of providing emergency evacuation assistance to the particular hospice patient resident; and

(iv) hospice residents who are not capable of exiting the facility without assistance comprise no more than 25~~[-]~~% of the facility's resident census.

(10) A type II assisted living ~~[facility]~~licensee may accept and retain hospice patient residents under the following conditions:

(a) the ~~[facility]~~licensee keeps a copy of the physician's diagnosis and orders for care;

(b) the ~~[facility]~~licensee makes the hospice services part of the resident's service plan that ~~[shall]~~explains who is responsible to meet the resident's needs; and

(c) if the hospice patient resident cannot evacuate the facility without significant assistance, the ~~[facility]~~licensee shall:

(i) develop an emergency plan to evacuate the hospice resident in the event of an emergency; and

(ii) integrate the emergency plan into the resident's service plan.

R432-270-~~[44]~~12. Transfer or Discharge Requirements.

(1) The licensee~~[A resident]~~ may ~~[be]~~discharge~~[d]~~, transfer~~[ed]~~, or evict~~[ed]~~ a resident for one or more of the following reasons:

(a) ~~[the facility is no longer able to meet the resident's needs because the resident poses a threat to health or safety to self or others, or the facility is not able to provide required medical treatment; the resident's needs are no longer able to be met because the resident poses a threat to the health or safety to self or others, or~~

the resident's required medical treatment is no longer able to be provided;

(b) the resident fails to pay for services as required by the admission agreement;

(c) the resident fails to comply with written policies or rules of the facility;

(d) the resident wishes to transfer; or

(e) the facility ceases to operate.

(2) ~~[Prior to the facility initiating a transfer or discharge of a resident]~~ Before a resident transfer or discharge is initiated, the [facility]licensee shall ensure [serve] a transfer or discharge notice is served upon the resident and the resident's responsible person. Before a resident transfer or discharge is initiated, the licensee shall:

(a) ~~[The]~~ensure the notice ~~[shall be]~~is delivered either by hand~~[-delivered]~~ or ~~[sent]~~by certified mail~~[-]~~; and

(b) ~~[The]~~ensure the notice ~~[shall be made]~~is served at least 30 days before the day ~~[that the facility plans to]~~of planned resident transfer or discharge~~[-the resident]~~, unless~~;~~ notice for a shorter period of time is necessary to protect:

(i) the safety of individuals in the facility from endangerment due to the medical or behavioral status of the resident;

(ii) the health of the individuals in the facility from endangerment due to the resident's continued residency;

(iii) an immediate transfer or discharge is required by the resident's urgent medical needs; or

(iv) the resident has not resided in the facility for at least 30 days.

(3) The licensee shall ensure that the notice of transfer or discharge~~[-shall]~~:

(a) ~~[be]~~is in writing with a copy placed in the resident file;

(b) ~~[be]~~is phrased in a manner and in a language that is most likely to be understood by the resident and the resident's responsible person;

(c) details the reasons for transfer or discharge;

(d) states the effective date of transfer or discharge;

(e) states the location where the resident will be transferred or discharged, if known;

(f) states that the resident may request a conference to discuss the transfer or discharge; and

(g) contains the following information:

(i) the name, mailing address, email address, and telephone number of the [S]tate [L]ong [F]term [C]are [O]mbudsman;

(ii) for facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under the Developmental Disabilities Assistance and Bill of Rights Act, Part C; and

(iii) for facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(4) The [facility]licensee shall:

(i)a) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

(ii)b) ~~[orally]~~verbally explain to the resident, the services available through the ombudsman and the contact information for the ombudsman; and

(iii)c) send a copy~~[-in English]~~ of the notice described in Subsection R432-270-12(2) to the [S]tate [L]ong~~[-F]term~~ [C]are [O]mbudsman:

([A]i) on the same day that the facility delivers the notice described in Subsection R432-270-12(2) to the resident and the resident's responsible person; and

([B]ii) provide the notice described in Subsection R432-270-12(2) at least 30 days before the day that the resident is transferred or discharged, unless notice for a shorter period~~[-of time]~~ is necessary to protect the safety of individuals in the facility from endangerment due to the medical or behavioral status of the resident.

(5) The [facility]licensee shall ensure~~[provide and document]~~ the ~~[provisions of]~~preparation and orientation is provided and documented, in a language and manner the resident is most likely to understand, for a resident to ensure a safe and orderly transfer or discharge from the facility.

(6)a) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the [facility]licensee shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

([a]b) The resident or the resident's responsible person shall request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

([b]c) Participants in the conference shall include the facility representatives, the resident or the resident's responsible person, and any others requested by the resident or the resident's responsible person.

(7) In the event of a facility closure, the licensee shall provide written notification of the closure to the [S]tate [L]ong~~[-F]term~~ [C]are [O]mbudsman, each resident of the facility, and each resident's responsible person.

(8) The [facility]licensee may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's room in accordance with [Chapter 26, Title 21, Part 304]Section 26B-2-236 Monitoring Device -- ~~[Facility admission, patient discharge, and posted notice.]~~Installation, notice, and consent--Liability.

R432-270-[12]13. Resident Assessment.

(1) The licensee shall ensure a[A] signed and dated resident assessment is completed~~[shall be completed on]~~ for each resident ~~[prior to]~~before admission and at least every six months thereafter.

(2) In [F]type I and [F]type II facilities, a licensed health care professional shall complete and sign the initial and six-month resident assessment~~[-shall be completed and signed by a licensed health care professional.]~~

(3) The licensee shall ensure that the resident assessment:~~[must accurately reflect the resident's status at the time of assessment.]~~

(a) accurately reflects the resident's status at the time of assessment; and

([4]b) ~~[The resident assessment must]~~includes a statement signed by the licensed health care professional completing the resident assessment that the resident meets the admission and level of assistance criteria for the facility.

([5]4) The [facility]licensee shall ensure ~~[use a]~~the resident assessment form ~~[that]~~is approved and reviewed by the [D]epartment to document the resident assessments.

([6]5) The [facility]licensee shall ensure~~[revise and update]~~ each resident's assessment is revised and updated when there is a significant change in the resident's cognitive, medical, physical, or social condition and update the resident's service plan to reflect the change in condition.

R432-270-[13]14. Service Plan.

(1) ~~The licensee shall ensure that e~~[E]ach resident ~~[shall have]~~has an individualized service plan that is consistent with the resident's unique cognitive, medical, physical, and social needs, and is developed within seven calendar days of the day the facility admits the resident. The ~~[facility]~~licensee shall ~~ensure~~ periodically revise ~~[the service plan is periodically revised as needed.]~~

(2) The ~~[facility]~~licensee shall ~~ensure~~ use ~~[the resident assessment is used]~~ to develop, review, and revise the service plan for each resident.

(3) The licensee shall ~~ensure that the service plan [shall]~~ includes a written description of the following:

- (a) ~~[what services are]~~the services to be provided;
- (b) who will provide the services, including the resident's significant others who may participate in the delivery of services;
- (c) how the services are provided;
- (d) the frequency of services; and
- (e) changes in services and reasons for those changes.

R432-270-[14]15. Nursing Services.

(1) The ~~[facility]~~licensee shall ~~ensure~~develop written policies and procedures are developed defining the level of nursing services provided by the facility.

(2) A ~~[F]~~type I assisted living ~~[facility]~~licensee shall employ or contract with a registered nurse to provide or delegate medication administration for any resident who ~~[is unable]~~cannot to self-medicate or self-direct medication management.

(3) A ~~[F]~~type II assisted living ~~[facility]~~licensee shall employ or contract with a registered nurse to provide or supervise nursing services to include:

- (a) a nursing assessment on each resident;
- (b) general health monitoring on each resident; and
- (c) routine nursing tasks, including those that may be delegated to unlicensed assistive personnel in accordance with Section R156-31B-701.

(4) A ~~[F]~~type I assisted living ~~[facility]~~licensee may provide nursing care according to facility policy. If a ~~[F]~~type I assisted living facility chooses to provide nursing services, the nursing services shall be provided in accordance with Subsections R432-270-15(3)(a) through (c).

(5) Type I and ~~[F]~~type II assisted living ~~[facilities]~~licensees may not provide skilled nursing care, but shall assist the resident in obtaining required services. To determine whether a nursing service is skilled, the following criteria shall apply:

- (a) the complexity or specialized nature of the prescribed services can be safely or effectively performed only by, or under the close supervision of licensed health care professional personnel; or
- (b) care is needed to prevent, to the extent possible, deterioration of a condition or to sustain current capacities of a resident.

(6) At least one certified nurse aide ~~[must]~~shall be on duty in a ~~[F]~~type II facility 24 hours ~~[per]~~a day.

R432-270-[15]16. Secure Units.

(1) A ~~[F]~~type II assisted living ~~[facility]~~licensee with approved secure units may admit residents with a diagnosis of Alzheimer's or dementia if the resident ~~[is able to]~~can exit the facility with limited assistance from one person.

(2) The licensee shall ensure that e~~[E]~~ach resident admitted to a secure unit ~~[must have]~~has an admission agreement that indicates placement in the secure unit. The licensee shall ensure the secure admission agreement;

(a) ~~[The secure unit admission agreement must]~~ documents that a wander risk management agreement has been negotiated with the resident or resident's responsible person~~[-]; and~~

(b) ~~[The secure unit admission agreement must]~~ identify~~[s]~~ discharge criteria that would initiate a transfer of the resident to a higher level of care than the assisted living facility ~~[is able to]~~can provide.

(3) In addition to completing the facility orientation and demonstration of core competency skills, the licensee shall ensure each direct-care employee in the secure unit is provided~~[shall receive]~~ a minimum of four hours of the 16 required hours of documented one-on-one job training in the secure unit.

(4) There licensee shall ensure that there is ~~[shall be]~~ at least one direct-care staff in the secure unit ~~[at all times]~~continuously.

(5) The licensee shall provide an emergency evacuation plan on each secure unit that addresses the ability of the secure unit staff to evacuate the residents in case of emergency. ~~[Each secure unit shall have an emergency evacuation plan that addresses the ability of the secure unit staff to evacuate the residents in case of emergency.]~~

R432-270-[16]17. Arrangements for Medical or Dental Care.

(1) The ~~[facility]~~licensee shall ~~ensure~~assist residents are assisted in arranging access for ancillary services for medically related care including: ~~[-physician, dentist, pharmacist, therapy, podiatry, hospice, home health, and other services necessary to support the resident.]~~

- (a) physician;
- (b) dentist;
- (c) pharmacist;
- (d) therapy;
- (e) podiatry;
- (f) hospice;
- (g) home health; and
- (h) other services necessary to support the resident.

(2) The ~~[facility]~~licensee shall ~~ensure~~arrange for care through one or more of the following methods is arranged:

- (a) notifying the resident's responsible person;
- (b) arranging for transportation to and from the practitioner's office; or
- (c) arrange for a home visit by a health care professional.

(3) The ~~[facility]~~licensee shall ~~ensure~~notify a physician or other health care professional is notified when the resident requires immediate medical attention.

R432-270-[17]18. Activity Program.

(1) The licensee shall ensure r~~[R]~~esidents ~~[shall be encouraged]~~are encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs.

(2) The ~~[facility]~~licensee shall ~~ensure~~provide opportunities for the following are provided:

- (a) socialization activities;
- (b) independent living activities to foster and maintain independent functioning;
- (c) physical activities; and
- (d) community activities to promote resident participation in activities away from the facility.

(3) The administrator shall designate an activity coordinator to direct the facility's activity program. The activity coordinator's duties include the following:

- (a) coordinate recreational activities, including volunteer and auxiliary activities;

(b) plan, organize, and conduct the residents' activity program with resident participation; and

(c) develop and post monthly activity calendars, including information on community activities, based on residents' needs and interests.

(4) The ~~[facility]~~licensee shall ~~ensure~~~~[provide sufficient]~~ enough equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of residents ~~are provided~~.

(5) The ~~[facility]~~licensee shall ~~ensure~~~~[provide]~~ storage for recreational equipment and supplies ~~is provided~~. The licensee shall ~~ensure~~ ~~[L]~~locked storage ~~[shall be]~~is provided for potentially dangerous items such as scissors, knives, and toxic materials.

R432-270-[48]19. Medication Administration.

(1) A licensed health care professional shall assess each resident to determine what level and type of assistance is required for medication administration. ~~The health care professional shall document t[F]he level and type of assistance the health care professional provides~~~~[provided shall be documented]~~ ~~in[on]~~ each resident's assessment.

(2) ~~The licensee shall ensure each resident's medication program is administered by one of the methods described Subsections R432-270-19(2) through (9).~~~~[Each resident's medication program shall be administered by means of one of the methods described in Subsections (2)(a) through (f):]~~

~~—(a) The resident is able to self-administer medications;~~

~~[(i) Residents who have been assessed to be able to self-administer medications]~~~~(3) A resident assessed to be able to self-administer medication may keep prescription medications in their room[s].~~

~~[(ii)](4) If more than one resident resides in a unit, the [facility]licensee shall ensure [assess—]each person's ability is assessed to safely have medications in the unit. If safety is a factor, the licensee shall ensure a resident stores their [shall keep his] medication in a locked container in the unit.~~

~~[(b)](5)(a) [The resident is]A resident may be assessed to be able to self-direct medication administration.~~~~[—Facility staff may assist residents who self-direct medication administration by:]~~

~~(b) Facility staff may assist a resident assessed to self-direct medication by:~~

- ~~(i) reminding the resident to take the medication;~~
- ~~(ii) opening medication containers; and~~
- ~~(iii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.~~

~~[(e)6](a) A resident may be assessed to allow [F]family members or a designated responsible person [may]to administer medications.~~~~[—If a family member or designated responsible person assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. Facility staff may not serve as the designated responsible person.]~~

~~(b) If a family member or designated responsible person assists with medication administration, the licensee shall ensure they sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered.~~

~~(c) Facility staff may not serve as the designated responsible person.~~

~~[(d)](7)(a) A resident may be assessed as [For residents who are—]unable to self-administer or self-direct medications[,]~~

~~facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.]~~

~~(b) Facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.~~

~~[(i)](c) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the licensee shall ensure the delegation [shall be]is in accordance with Title 58, Chapter 31b, Nurse Practice Act and Section R156-31B-701.~~

~~[(ii)](d) The licensee shall ensure medications are administered[must be administered]~~ according to the prescribing order.

~~[(iii)](e) The delegating authority shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.~~

~~[(iv)](f) The delegating authority or another registered nurse shall be readily available either in person or by telecommunication.~~

~~[(e)]8) A [R]resident[s] may independently administer their own personal injections if they have been assessed to be independent in that process. This may be done in conjunction with the administration of medication in methods Subsections R432-270-19(3) through (6).~~~~[(2)(a) through (d):]~~

~~[(f)]9) [h]Home health or hospice agency staff may provide medication administration to facility residents exclusively, or in conjunction with Subsections R432-270-19(2)[(e)] through (9)[(e)].~~

~~[(3)]10) The [facility]licensee shall [have]ensure a licensed health care professional or licensed pharmacist reviews resident medications at least every six months.~~

~~[(4)]11) The licensee shall ensure that m[M]edication records [shall]include the following:~~

- ~~(a) the resident's name;~~
- ~~(b) the name of the prescribing practitioner;~~
- ~~(c) medication name including prescribed dosage;~~
- ~~(d) the time, dose, and dates administered;~~
- ~~(e) the method of administration;~~
- ~~(f) signatures of personnel administering the medication;~~

and

- ~~(g) the review date.~~

~~[(5)]12)(a) The licensee shall ensure that a licensed health care professional or licensed pharmacist [shall—]documents any change in the dosage or schedule of medication in the medication record.~~~~[—When changes in the medication are documented by the facility staff the licensed health care professional shall co-sign within 72 hours. The licensed health care professional shall notify unlicensed assistive personnel who administer medications of the medication change.]~~

~~(b) When the facility staff documents changes in the medication, the licensed health care professional shall co-sign within 72 hours.~~

~~(c) The licensee shall ensure that the licensed health care professional notifies unlicensed assistive personnel who administer medications of the medication change.~~

~~[(6)]13) The [facility]licensee shall have access to a reference for possible reactions and precautions for prescribed medications in the facility.~~

~~[(7)]14) The [facility]licensee shall [notify]ensure the licensed health care professional is notified when medication errors occur.~~

~~[(8)]15) The licensee shall ensure that m[M]edication error incident reports [shall be]are completed if a medication error occurs or is identified.~~

([9]16) The licensee shall incorporate m[M]edication errors ~~[must be incorporated]~~ into the facility quality improvement process.

([10]17) The licensee shall ensure that m[M]edications stored in a central storage area ~~[shall be]~~are:

(a) locked to prevent unauthorized access; and

(b) available for the resident to have timely access to the medication.

([11]18) The licensee shall ensure m[M]edications that require refrigeration ~~[shall be stored]~~are stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.

([12]19) The [facility]licensee shall ~~ensure~~develop and implement policies governing the following ~~are developed and implemented~~[:]

(a) security and disposal of controlled substances by the licensee or facility staff that are consistent with the ~~[provisions of]~~Code of Federal Regulations, Title 21, Chapter II, Part 1307; and

(b) destruction and disposal of unused, outdated, or recalled medications.

([13]20) The [facility]licensee shall ~~ensure~~document the return of resident's medication to the resident or to the resident's responsible person ~~is documented~~ upon discharge.

R432-270-[19]20. Management of Resident Funds.

(1) Residents have the right to manage and control their financial affairs. The [facility]licensee may not require a ~~resident~~[residents] to deposit their personal funds or valuables with the facility.

(2) The [facility]licensee is not required to handle a ~~resident's~~[residents'] cash resources or valuables. However, upon written authorization by the resident or the resident's responsible person, the facility may hold, safeguard, manage, and account for the resident's personal funds or valuables deposited with the facility, in accordance with ~~[the following]~~this section.

([a]3) The licensee shall establish and maintain, on the ~~resident's~~[residents'] behalf, a system that ~~[assures]~~ensures a full, complete, and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility. The system shall:

([i]a) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using a resident's~~[']~~ ~~[monies]~~funds or valuables as their own;

([i]b) separate a resident's~~[']~~ ~~[monies]~~funds and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables;

([i]c) maintain a separate account for resident funds for each facility and ~~does not~~ commingle such funds with resident funds from another facility;

([i]d) for records of a resident's~~[']~~ ~~[monies]~~funds that are maintained as a drawing account, include a control account for receipts and expenditures and an account for each resident and supporting receipts filed in chronological order;

([i]e) keep each account with columns for debits, credits, and balance; and

([i]f) include a copy of the receipt that it furnished to the resident~~[s]~~ for funds received and other valuables entrusted to the licensee for safekeeping.

([b]4) The [facility]licensee shall ~~ensure~~make individual financial records ~~are made~~ available on request through quarterly statements to the resident or the resident's legal representative.

([e]5) The [facility]licensee shall purchase a surety bond or otherwise provide assurance satisfactory to the ~~[D]~~department that resident personal funds deposited with the facility are secure.

([d]6) ~~[The facility shall deposit, within five days of receipt, resident monies that are in excess of \$150 in an interest-bearing bank account, that is separate from any of the facility's operating accounts, in a local financial institution.]~~

~~(i) Interest earned on a resident's bank account shall be credited to the resident's account.~~

~~(ii) In pooled accounts, there shall be a separate accounting for each resident's share, including interest.~~

~~(e) The facility shall maintain a resident's personal funds that do not exceed \$150 in a non-interest-bearing account, interest-bearing account, or petty cash fund.]~~The licensee shall ensure:

(a) resident funds over \$150 are deposited within five days of receipt in an interest-bearing bank account at a local financial institution ~~separate from any of the facility's operating accounts;~~

(b) interest earned on a resident's bank account is credited to the resident's account;

(c) each resident's share, including interest, has separate accounting in pooled accounts; and

(d) resident personal funds that do not exceed \$150 are kept in either a non-interest-bearing account, an interest-bearing account, or a petty cash fund.

([f]7) Upon discharge of a resident~~[resident]~~ with funds or valuables deposited with the facility, the [facility]licensee shall ~~ensure~~ ~~[that day convey]~~the resident's funds are conveyed the same day, and a final accounting of those funds~~[.]~~ ~~provided~~ to the resident or the resident's legal representative. ~~[Funds and valuables kept in an interest-bearing account shall be accounted for and made available within three working days.]~~

(8) Upon discharge of a resident with funds or valuables kept in an interest-bearing account, the licensee shall ensure the funds or valuables are accounted for and made available to the resident or resident's legal representative within three working days.

([g]9) Within 30 days following the death of a resident, except in a medical examiner case, the [facility]licensee shall ~~ensure~~ ~~[convey]~~the resident's valuables and funds entrusted to the facility ~~are conveyed~~, and a final accounting of those funds, to the individual administering the resident's estate.

R432-270-[20]21. [Facility]Records.

(1) The [facility]licensee shall ~~[maintain]~~ensure accurate and complete records ~~are maintained.~~ The licensee shall safely ~~[Records shall be]~~file~~[d,]~~ and store~~[d safely,]~~ records and ~~[be]~~ensure they remain easily accessible to staff and the ~~[D]~~department.

(2) The licensee shall ensure records ~~[Records shall be protected]~~are protected against access by unauthorized individuals.

(3) The [facility]licensee shall ~~[maintain]~~ensure personnel records ~~are maintained~~ for each employee and ~~[shall]~~are retained ~~[such records]~~for at least three years following termination of employment. The licensee shall ensure ~~[P]~~personnel records ~~[must]~~include the following:

(a) employee application;

(b) date of employment;

(c) termination date;

(d) reason for leaving;

(e) documentation of CPR and first aid training;

(f) health inventory;

(g) food handlers permits;

(h) TB skin test documentation;

(i) documentation of criminal background screening; and
 (j) documentation of core competency initial and annual training.

(4) The [facility]licensee shall ~~[maintain in the facility]~~ensure a separate record for each resident is maintained at the facility that includes the following:

(a) the resident's name, date of birth, and last address;
 (b) the name, address, and telephone number of ~~[-the person who administers and obtains medications, if this person is not facility staff;]~~

([e]i) ~~[the name, address, and telephone number of the individual to be notified in case of accident or death;]~~the person who administers and obtains medications, if this person is not facility staff;

([d]ii) ~~[the name, address, and telephone number of a physician and dentist to be called in an emergency;]~~the individual to be notified in case of accident or death; and

(iii) a physician and dentist to be called in an emergency;

([e]c) the admission agreement;

([f]d) the resident assessment; and

([g]e) the resident service plan.

(5) The licensee shall retain resident records ~~[Resident records must be retained]~~for at least three years following discharge.

(6) ~~[There shall be]~~The licensee shall ensure written incident and injury reports are maintained to document ~~[consumer]~~resident death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety, or well-being of residents. The licensee shall ensure ~~[F]~~the reports ~~[shall be]~~are kept on file for at least three years.

R432-270-[24]22. Food Services.

(1) ~~[Facilities]~~The licensee shall ensure:~~[have the capability to provide three meals a day, seven days a week, to residents, plus snacks;]~~

(a) residents are provided three meals a day, seven days a week, plus snacks;

([a]b) ~~[The facility shall maintain onsite]~~a one-week supply of nonperishable food and a three[-]day supply of perishable food is maintained, as required to prepare the planned menus[-];

([b]c) ~~[There shall be]~~no more than a 14[-]-hour interval occurs between the evening meal and breakfast, unless a nutritious snack is available in the evening[-]; and

([e]d) ~~[The facility]~~food service ~~[shall]~~comply[-]ies with the following:

(i) ~~[F]~~food ~~[shall be]~~is of good quality and ~~[shall be]~~is prepared by methods that ~~[conserve]~~retain nutritive value, flavor, and appearance[-];

(ii) ~~[The facility shall ensure]~~food is palatable, attractively served, and delivered to the resident at the appropriate temperature[-]; and

(iii) ~~[P]~~powdered milk may only be used as a beverage, upon the resident's request, but may be used in cooking and baking.

(2) The [facility]licensee shall ~~[provide]~~ensure adaptive eating equipment and utensils are provided for residents as needed.

(3) The licensee shall ensure a~~[A]~~ different menu ~~[shall be]~~is planned and followed for each day of the week[-] and that:

(a) a certified dietitian approves and signs any menu;~~[Menus must be approved and signed by a certified dietitian.]~~

(b) a c[C]ycle menu[s]~~[shall]~~ covers a minimum of three weeks[-];

(c) ~~[F]~~the current week's menu ~~[shall be]~~is posted for resident[s] viewing[-]; and

(d) any s[S]ubstitution[s] to the menu that are actually served to a resident ~~is~~the residents shall be recorded and retained for three months for review by the ~~[D]~~department.

(4) The licensee shall ensure meals ~~[Meals shall be served]~~are served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.

(5) The licensee shall ensure each resident ~~[Residents shall be encouraged]~~is encouraged to eat their meals in the dining room with other residents.

(6) The licensee shall ensure any i[I]nspection report[s] by the local health department ~~[shall be]~~are maintained at the facility for review by the ~~[D]~~department.

(7) If ~~[the facility admits]~~a resident~~[residents]~~ is admitted requiring a therapeutic or special diet[s], the [facility]licensee shall ~~[have]~~ensure there is an approved dietary manual for reference when preparing meals. The licensee shall ensure ~~[D]~~dietitian consultation ~~[shall be]~~is provided at least quarterly and documented for any resident[residents] requiring a therapeutic diet[s].

(8)(a) The [facility]licensee shall ensure ~~[employ]~~food service personnel are employed to meet the needs of residents.

([a]b) While on duty in food service, the cook and other kitchen staff may not be assigned concurrent duties outside the food service area.

([b]c) The licensee shall ensure ~~[P]~~personnel who prepare or serve food ~~[shall]~~have a current ~~[F]~~food ~~[H]~~handler's ~~[P]~~permit.

(9) The licensee shall ensure~~[Food service shall]~~comply[-]iance with the Rule R392-100, Food Service Sanitation.

(10) If food service personnel also work in housekeeping or provide direct resident care, the [facility]licensee shall ~~[develop and implement]~~ensure employee hygiene and infection control measures are developed and implemented to maintain a safe, sanitary food service.

R432-270-[22]23. Housekeeping Services.

(1) The [facility]licensee shall employ housekeeping staff to maintain both the exterior and interior of the facility.

(2) The [facility]licensee shall designate a person to direct housekeeping services~~[- This person]~~ who shall:

(a) post routine laundry, maintenance, and cleaning schedules for housekeeping staff; and

(b) ensure furniture, bedding, linens, and equipment are clean before use by another resident.

(3) The [facility]licensee shall ensure control odors by maintaining cleanliness.

(4) ~~The[re]~~ licensee shall provide~~[-shall be]~~ a trash container in every occupied room.

(5) The licensee shall ensure c[C]leaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials ~~[shall be stored]~~are stored in a locked area to prevent unauthorized access.

(6) The licensee shall ensure h[H]ousekeeping personnel are trained regarding:~~[shall be trained in preparing and using cleaning solutions, cleaning procedures, proper use of equipment, proper handling of clean and soiled linen, and procedures for disposal of solid waste;]~~

(a) preparing and using cleaning solutions;

(b) cleaning procedures;

(c) proper use of equipment;

(d) proper handling of clean and soiled linen; and

(e) procedures for disposal of waste.

(7) The licensee shall ensure ~~[B]~~ bathtubs, shower stalls, or lavatories ~~[may]are not [be]~~ used as storage places.

(8) The licensee shall ensure ~~[T]~~ throw or scatter rugs that present a tripping hazard to residents ~~[are not permitted]~~ are not used.

R432-270-[23]24. Laundry Services.

(1) The ~~[facility]~~ licensee shall ensure: ~~[provide laundry services to meet the needs of the residents, including a sufficient supply of linens.]~~

~~(a) laundry services are provided to meet the needs of the residents, including an adequate supply of linens;~~

~~(2)[b] [The facility shall inform] the resident or the resident's responsible person is informed in writing of the facility's laundry policy for residents' personal clothing[-]; and~~

~~(c) at least one washing machine and one clothes dryer are made available for resident use.~~

~~(3)2 The licensee shall ensure food is not stored, prepared, or served in any laundry area. [Food may not be stored, prepared, or served in any laundry area.]~~

~~[(4) The facility shall make available for resident use at least one washing machine and one clothes dryer.]~~

R432-270-[24]25. Maintenance Services.

(1) The ~~[facility]~~ licensee shall ~~[conduct]~~ ensure maintenance, including preventive maintenance, is conducted according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, in good repair and in compliance with Rule R432-6.

~~([2]2) The licensee shall ensure the maintenance of the following: [Fire rated construction and assemblies must be maintained in accordance with Rule R710-3, Fire Marshal.~~

~~(b) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow, and other hazards.~~

~~(c) Electrical systems, including appliances, cords, equipment call lights, and switches shall be maintained to guarantee safe functioning.~~

~~(d) Air filters installed in heating, ventilation and air conditioning systems must be inspected, cleaned or replaced in accordance with manufacturer specifications.]~~

~~(a) fire rated construction and assemblies are maintained in accordance with Rule R710-3, Fire Marshal;~~

~~(b) entrances, exits, steps, and outside walkways are maintained in a safe condition, free of ice, snow, and other hazards;~~

~~(c) electrical systems, including appliances, cords, equipment call lights, and switches are maintained to guarantee safe functioning; and~~

~~(d) air filters installed in heating, ventilation, and air conditioning systems must be inspected, cleaned, or replaced in accordance with manufacturer specifications.~~

~~(2)3 The licensee shall ensure that a pest control program is [A pest control program shall be] conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee, certified by this state, to ensure the absence of vermin and rodents. [Documentation of the pest control program shall be maintained for Department review.]~~

~~(3)4 The [facility] licensee shall document any maintenance work or pest control that is performed.~~

~~(4)5 The licensee shall ensure that h[H]ot water temperature controls [shall] automatically regulate temperatures of hot water delivered to plumbing fixtures used by residents. The [facility] licensee shall [maintain] ensure hot water delivered to public~~

and resident care areas is maintained at temperatures between 105 - 120 degrees Fahrenheit.

R432-270-[25]26. Disaster and Emergency Preparedness.

(1) The ~~[facility]~~ licensee is responsible for the safety and well-being of residents in the event of an emergency or disaster.

(2) The licensee and the administrator are responsible to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. The plan shall outline:

(a) the protection or evacuation of residents;

(b) arrangements for staff response or ~~[provisions for]~~ providing additional staff to ensure the safety of any resident with physical or mental limitations; and

(c) when to notify the Silver Alert program for missing and endangered adults and the resident's emergency contacts.

~~[(3) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.]~~

~~(4)3 The licensee shall ensure that the emergency and disaster response plan [shall be] is in writing and distributed or made available to facility staff and residents to [assure] ensure prompt and efficient implementation.~~

~~(4) Emergencies and disasters include:~~

~~(a) fire;~~

~~(b) severe weather;~~

~~(c) missing residents;~~

~~(d) death of residents;~~

~~(e) interruption of public utilities;~~

~~(f) explosion;~~

~~(g) bomb threat;~~

~~(h) earthquake;~~

~~(i) windstorm;~~

~~(j) epidemic; or~~

~~(k) mass casualty.~~

(5) The licensee and the administrator shall review and update the plan as necessary to conform with local emergency plans. The licensee shall ensure [T] the plan [shall be] is available for review by the [D] department.

~~(6) The [facility's] licensee shall ensure the emergency and disaster response plan [must] addresses the following:~~

~~(a) the names of the person in charge and persons with decision-making authority;~~

~~(b) the names of persons who shall be notified in an emergency in order of priority;~~

~~(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;~~

~~(d) instructions on how to contain a fire and how to use the facility alarm systems;~~

~~(e) assignment of personnel to specific tasks during an emergency;~~

~~(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations;~~

~~(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;~~

~~(h) delivery of essential care and services to facility occupants by alternate means;~~

(i) delivery of essential care and services if additional persons are housed in the facility during an emergency; and

(j) delivery of essential care and services to facility occupants if personnel are reduced by an emergency.

(7)(a) The ~~[facility]~~licensee shall ensure~~[maintain]~~ safe ambient air temperatures are maintained within the facility.

~~([a]b) The local fire department shall approve the facility's emergency heating.[- must have the approval of the local fire department.]~~

~~([b]c) Ambient air temperatures of 58 degrees Fahrenheit or below may constitute an imminent danger to the health and safety of the residents in the facility. The person in charge shall take immediate action in the best interests of the residents.~~

~~([e]d) The [facility]licensee shall have, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of residents.~~

(8) The licensee shall provide p[P]ersonnel and residents [shall receive]with instruction and training in accordance with the plans to respond appropriately in an emergency. The [facility]licensee shall:

(a) annually review the procedures with existing staff and residents and carry out unannounced drills using those procedures;

(b) hold simulated disaster drills semi-annually;

(c) hold simulated fire drills quarterly on each shift for staff and residents in accordance with Rule R710-3; and

(d) document drills, including date, participants, problems encountered, and the ability of each resident to evacuate.

(9) The licensee shall ensure that [F]the administrator [shall be]is in charge during an emergency. If not on the premises, the licensee shall ensure the administrator [shall]makes every effort to report to the facility, relieve subordinates and take charge.

(10) The ~~[facility]licensee~~ shall provide in-house equipment and supplies required in an emergency including:~~[emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.]~~

(a) emergency lighting;

(b) heating equipment;

(c) food;

(d) potable water;

(e) extra blankets;

(f) first aid kit; and

(g) radio.

(11) The licensee shall ensure the following information [shall be posted]is posted in [prominent]public locations throughout the facility:

(a) ~~[F]the name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems; and~~

(b) evacuation routes, location of fire alarm boxes, and fire extinguishers.

R432-270-[26]27. First Aid.

(1) ~~The[re shall be]licensee shall ensure that there is one staff person on duty at all times, who has:[- training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation and emergency procedures to ensure each resident receives prompt first aid as needed.]~~

(a) training in basic first aid;

(b) training in the Heimlich maneuver;

(c) certification in cardiopulmonary resuscitation; and

(d) training in emergency procedures to ensure each resident receives prompt first aid as needed.

~~[- (2) First aid training refers to any basic first aid course.]~~

~~([3]2) The [facility]licensee shall ensure [have]there is a: [first aid kit available at a specified location in the facility.]~~

(a) first aid kit available at a specified location in the facility;

~~([4]b) [The facility shall have a]-current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency[-]; and~~

~~([5]c) [The facility shall have a]-clean-up kit for blood[-]borne pathogens.~~

R432-270-[27]28. Pets.

(1) The ~~[facility]licensee~~ may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) The ~~[facility]licensee~~ shall ensure pets are kept clean and disease-free.

(3) The licensee shall ensure pets' environment [shall be kept]is kept clean.

(4) The licensee shall ensure small[Small] pets, such as birds and hamsters, [shall be kept]are kept in appropriate enclosures.

(5) The licensee may not permit pets[Pets] that display aggressive behavior [are not permitted]in the facility.

(6) The licensee shall ensure that pets[Pets] that are kept at the facility or are frequent visitors [must]have current vaccinations.

(7) Upon approval of the administrator, family members may bring residents' pets to visit.

(8) Each ~~[facility]licensee~~ [with]that permits birds shall have procedures that prevent the transmission of psittacosis. The licensee shall ensure that [P]procedures [shall ensure]-involve the minimum handling and placing of droppings into a closed plastic bag for disposal.

(9) The licensee may not permit pets[Pets are not permitted] in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-270-[28]29. Respite Services.

(1) Assisted ~~[L]living [facilities]licensees~~ may offer respite services and are not required to obtain any additional license[respite license] from the Utah Department of Health and Human Services.

(2) The purpose of respite is to provide intermittent, time[]-limited care to give primary caretakers relief from the demands of caring for a person. Respite services may also be provided for emergency shelter placement of vulnerable adults requiring protection by Adult Protective Services.

(3) The licensee may provide r[R]espite services [may be provided]-at an hourly rate or daily rate, but may not exceed 14[-] days for any single respite stay. Stays that exceed 14 days shall be considered a non-respite assisted living facility admission[-, subject to the requirements of Rule R432-270].

(4) The ~~[facility]licensee~~ shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(5) The ~~[facility]licensee~~ shall ensure[document] the person's response to the respite placement is documented and coordinated with [all]each provider agency[ies]y to ensure an uninterrupted service delivery program.

(6) The ~~[facility]~~licensee shall ~~[complete]~~ensure a service agreement ~~is completed~~ to serve as the plan of care. The licensee shall ensure the service agreement ~~[shall]~~identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.

(7) The ~~[facility]~~licensee shall ~~[have]~~ensure there are written policies and procedures approved by the ~~[D]~~department ~~[prior to]~~before providing respite care. The licensee shall make policies~~[Policies]~~ and procedures ~~[shall be]~~available to staff regarding the respite care for ~~[clients]~~residents that include:

- (a) medication administration;
 - (b) notification of a responsible party in the case of an emergency;
 - (c) service agreement and admission criteria;
 - (d) behavior management interventions;
 - (e) philosophy of respite services;
 - (f) post-service summary;
 - (g) training and in-service requirement for employees; and
 - (h) handling personal funds.
- (8) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission.

(9) The ~~[facility]~~licensee shall ~~[maintain]~~ensure a record for each person receiving respite services ~~is maintained~~ that includes:

- (a) a service agreement;
- (b) demographic information and resident identification data;
- (c) nursing notes;
- (d) physician treatment orders;
- (e) records made by staff regarding daily care of the person in service;
- (f) accident and injury reports; and
- (g) a post-service summary.

~~[(10) Retention and storage of respite records shall comply with Subsections R432-270-20(1), (2), and (5).]~~

~~[(11)]~~(10) If a person has an advanced directive, the licensee shall ensure a copy ~~[shall be filed]~~is maintained in the respite record and ~~inform~~ staff ~~[shall be informed]~~of the advanced directive.

R432-270-~~[29]~~30. Adult Day Care Services.

(1) Type I and type II ~~[A]~~assisted ~~[L]~~living ~~[Facilities Type I and II]~~licensees may offer adult day care services and are not required to obtain a separate license from Utah Department of Health and Human Services. If the licensee~~[facilities]~~ provides adult day care services, they shall submit policies and procedures for ~~[D]~~department approval.

~~[(2) "Adult Day Care" means the care and support to three or more functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a licensed health care setting.]~~

~~[(3)]~~(2) The licensee shall ensure that ~~[A]~~a qualified ~~[D]~~director ~~[shall be]~~is designated by the governing board to be responsible for the day~~[-]~~to~~[-]~~day program operation.

~~[(4)]~~(3) The licensee shall ensure that ~~[F]~~the ~~[D]~~director ~~[shall have]~~has written records on-site for each ~~[consumer]~~resident and staff person, to include the following:

- (a) demographic information;
- (b) an emergency contact with name, address, and telephone number;
- (c) ~~[consumer]~~resident health records, including the following:
 - (i) record of medication including dosage and administration;

(ii) a current health assessment, signed by a licensed practitioner; and

(iii) level of care assessment;

(d) signed ~~[consumer]~~resident agreement and service plan; and

- (e) ~~[E]~~employment file for each staff person that includes:
 - (i) health history;
 - (ii) background clearance consent and release form;
 - (iii) orientation completion~~[-]~~; and
 - (iv) in-service training requirements.

~~[(5)]~~(4) The ~~[program]~~licensee shall ~~[have a]~~ensure there is a written eligibility, admission, and discharge policy to include the following:

- (a) intake process;
- (b) notification of responsible party;
- (c) reasons for admission refusal that includes a written, signed statement;
- (d) resident rights notification; and
- (e) reason for discharge or dismissal.

~~[(6)]~~(5) Before a ~~[program]~~licensee admits a ~~[consumer]~~resident, a written assessment shall be completed to evaluate current health and medical history, immunizations, legal status, and social psychological factors.

~~[(7)]~~(6) The licensee shall ensure that the director or designee develops a~~[A]~~ written ~~[consumer]~~resident agreement, ~~[developed]~~with the ~~[consumer]~~resident, the responsible party and the ~~[D]~~director or designee, ~~[shall be]~~that is completed~~[-]~~ and signed by ~~[all]~~each part~~[ies]~~y and include the following:

- (a) rules of the program;
- (b) services to be provided and cost of service, including refund policy; and
- (c) arrangements regarding absenteeism, visits, vacations, mail, gifts, and telephone calls.

~~[(8)]~~(7) The ~~[D]~~director, or designee, shall develop, implement, and review the individual ~~[consumer]~~resident service plan. The licensee shall ensure ~~[F]~~the plan~~[-]~~~~[shall]~~~~[-]~~include the specification of daily activities and services. The service plan shall be developed within three working days of admission and evaluated semi-annually.

~~[(9)]~~(8) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(10)]~~(9) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(11)]~~(10) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(12)]~~(11) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(13)]~~(12) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(14)]~~(13) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(15)]~~(14) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(16)]~~(15) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(17)]~~(16) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(18)]~~(17) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(19)]~~(18) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(20)]~~(19) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(21)]~~(20) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(22)]~~(21) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(23)]~~(22) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(24)]~~(23) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(25)]~~(24) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(26)]~~(25) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(27)]~~(26) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

~~[(28)]~~(27) The licensee shall ensure that written incident and injury reports ~~[to]~~document the following:~~[consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.]~~

(9) The licensee shall ensure that the director and responsible party reviews each injury report and ensures that each report is kept on file.

(10) The licensee shall ensure a daily activity schedule is provided, posted, and implemented as designed.

(11) The licensee ensure residents are provided direct supervision at all times and encouraged to participate in activities.

(12)(a) The licensee shall ensure a minimum of 50 square feet of indoor floor space is provided per resident designated for adult day care during program operational hours.

(a) Hallways, office, storage, kitchens, and bathrooms may not be included in the calculation.

(b) The licensee shall ensure indoor and outdoor areas are maintained in a clean, secure, and safe condition.

(c) The licensee shall ensure at least one bathroom designated for resident use is provided during business hours. For facilities licenses serving more than ten residents, the licensee shall ensure there are separate male and female bathrooms designated for resident use.

(13) The licensee shall ensure:

(a) continual staff supervision is provided when residents are present;

(b) a staff to resident ratio of one staff for every eight residents is maintained;

(c) a ratio of one staff for every six residents is maintained when one-half or more of the residents are diagnosed by a physician's assessment with Alzheimer's, or related dementia, the ratio shall be one staff for every six consumers.

R432-270-31. Penalties.

Any person who violates this rule may be subject to the penalties enumerated in Sections 26B-2-208 and 26B-2-216 and Section R432-3-6 and be punished for violation of a class A misdemeanor as provided in Section 26-21-16.

KEY: health care facilities

Date of Last Change: 2023 September 15, 2020

Notice of Continuation: February 20, 2019

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-1; 26B-2-202

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:	R501-3	Filing ID: 55600
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Agency Information

1. Department:	Health and Human Services
Agency:	Human Services Program Licensing
Building:	MASOB

Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
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 persons listed above.		

General Information

2. Rule or section catchline:

R501-3. Inspection and Enforcement

3. Purpose of the new rule or reason for the change:

This new rule is for the Department of Health and Human Services (Department) to outline a balanced process for the Office of Human Services Program Licensing (Office) to initiate immediate protections for clients while preserving the human services program's rights.

4. Summary of the new rule or change:

This rule establishes the standard for emergency agency actions taken by the Department following a serious injury or death in a human services program.

Fiscal Information

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

A) State budget:

The Office already issues and monitors conditional licenses under notices of agency actions, the addition of an emergency agency action allows staff to take these measures with more immediacy for the protection of clients.

It is not anticipated that there will be any cost benefit or loss to state budget as a result of this rule filing.

B) Local governments:

Human services programs are regulated by the Department and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved.

There are no fiscal impact to local governments resulting from the changes in this rule content.

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

Fiscal impact to small business is immeasurable, as this rule requires a significant critical incident to occur before it can be initiated.

A chronically noncompliant human services program could be subject to license sanctions or civil money penalties of up to \$10,000.00 (as authorized by Section 26B-2-113) and a compliant human services program may appeal the action and have it reversed with no civil money penalties or license sanctions.

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

Fiscal impact to non-small business is immeasurable, as this rule requires a significant critical incident to occur before it can be initiated.

A chronically noncompliant human services program could be subject to license sanctions or civil money penalties up to \$10,000.00 (as authorized by Section 26B-2-113) and a compliant human services program may appeal the action and have it reversed with no civil money penalties or license sanctions.

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**):

Fiscal impact to other persons (for example foster parents) is immeasurable, as this rule requires a significant critical incident to occur before it can be initiated

It is not the Office's practice to issue civil money penalties to foster parents and their cost could amount to revocation of license as a most stringent penalty.

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

It is impossible to determine what the fiscal impact on affected persons might be due to the variables contributing to each specific incident.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 26B-2-104

Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/03/2023
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R501. Health and Human Services, Human Services Program Licensing.**R501-3. Inspection and Emergency Enforcement.****R501-3-1. Authority and Purpose.**

(1) Section 26B-2-104 authorizes this rule.

(2) This rule establishes the standard for an emergency agency action taken by the office following a serious injury or death in a human services program.

R501-3-2. Scope.

Each human services program licensee is subject to this rule.

R501-3-3. Definitions.

The terms used in Title R501 are defined in Section 26B-2-101 and Section R501-1-3. In addition, the following terms are defined:

(1) "Notice of Emergency Agency Action (NEAA)" means the notice issued by the office which places a human services program license on immediate conditional status.

(2) "Serious Injury" means significant disfigurement or loss or impairment of function of a bodily member, organ, or mental faculty.

R501-3-4. Notice of Emergency Agency Actions.

(1) A human services program licensee that experiences a serious injury or death shall report the critical incident to the office in accordance with Subsection R501-1-11(2).

(2) The office shall make the determination of whether or not to issue an NEAA with consideration of:

(a) any known facts of the event;

(b) the human services program licensee's adherence to licensing rules leading up to and during the critical incident; and

(c) the immediate health and safety of the remaining clients.

(3) The known facts of the event are deemed proof of conduct adverse to the standards required to provide services and promote public trust in accordance with Section 26B-2-112.

(4)(a) If the office determines that an NEAA is necessary for the protection of clients, it may place emergency conditions on the license to include restricting new admissions and increased monitoring of human services program operations.

(b) An NEAA shall expire 30 days after the date of issuance.

(c) The office may dismiss the NEAA at any time before the 30-day expiration.

(d) Issuance of an NEAA does not prevent the office from issuing a subsequent notice of agency action or any other sanction.

(5) The human services program licensee may appeal an NEAA by filing a written request for an administrative hearing with the office within five business days of receipt of the NEAA.

(6) NEAA conditions are immediately in effect and the human services program licensee shall adhere to any listed conditions unless reversed by a hearing with the department or under written authorization from the office.

R501-3-5. Compliance.

A human services program licensee found in noncompliance with any part of this rule may be subject to a civil money penalty or other sanctions as authorized by Section 26B-2-104 and as outlined in Section R501-1-12.

KEY: licensing, human services

Date of Last Change: 2023

Authorizing, and Implemented or Interpreted Law: 26B-2-104

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R501-20	Filing ID: 55611
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Agency Information

1. Department:	Health and Human Services	
Agency:	Human Services Program Licensing	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
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 persons listed above.

General Information

2. Rule or section catchline:
R501-20. Day Treatment Programs
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to modify and replace outdated language with the Rulewriting Manual for Utah standards.
4. Summary of the new rule or change:
The revision includes more specific language and formatting consistent with the Rulewriting Manual for Utah. Additionally, it removes outdated citations and aligns with current industry standards. Most of the stricken content is now located in Rule R501-1. New content for clubhouses (a program accredited by Clubhouse International), Applied Behavioral Analysis (ABA), and the Division of Services for People with Disabilities (DSPD) providers is added upon collaboration with representatives of each of

those groups to better outline regulations and industry standards pertaining specifically to them.

Fiscal Information

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

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure.

No change to the state budget is expected because this amendment modifies and replaces outdated language and citations.

New content aligns with federal and industry standards already in practice.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

The Day Treatment Programs are regulated by the Department of Health and Human Services and not local governments.

There will be no change in local business licensing or any other item(s) with which local government is involved.

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

Small businesses impacted will be insignificant, as the new rule content was specifically tailored to address small businesses who operate distinct versions of Day Treatment.

These entities have always fit into the statutory definition requiring licensure, so the new content just better addresses their services and clarifies and guides them toward compliance. Stakeholders were involved in the creation of this rule.

There are no fiscal impacts to small businesses resulting from the substantive or nonsubstantive changes in this rule.

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

Non-small businesses impacted will be insignificant, as the new rule content was specifically tailored to address non-small businesses who operate distinct versions of Day Treatment.

These entities have always fit into the statutory definition requiring licensure, so the new content just better addresses their services and clarifies and guides them toward compliance.

There are no fiscal impacts to small businesses resulting from the substantive or nonsubstantive changes in this rule content.

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**):

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to any affected persons because this amendment modifies and replaces outdated language with Rulewriting Manual for Utah standards.

The substantive and nonsubstantive changes being made clarify and outline existing industry standards and requirements for the protection of clients in day treatment programs.

There will be no fiscal impacts on any affected persons as a result of this rule.

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

This rule amendment does not introduce any new processes that will incur a cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 26B-2-104		

Public Notice Information

8. 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:	10/02/2023

9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/06/2023
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R501. Health and Human Services, [Administration, Administrative Services,] Human Services Program Licensing.

R501-20. Day Treatment Programs.**R501-20-1. Authority.**

~~[Pursuant to Section 62A-2-101 et seq., the Office of Licensing, shall license day treatment programs according to the following rules.]~~Section 26B-2-104 authorizes this rule.

R501-20-2. Purpose.

~~[A day treatment program provides services to individuals who have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies. Day treatment is provided in lieu of, or in coordination with, a more restrictive residential or inpatient environment or service in accordance with Subsection 62A-2-101(4).]~~The purpose of this rule is to set foundational health and safety standards for licensed programs providing day treatment services.

R501-20-3. Definitions.

~~[_____ Day treatment program means specialized treatment for less than 24 hours a day, for four or more persons who are unrelated to the owner or provider pursuant to Subsection 62A-2-101(4).]~~

(1) "ABA" means Applied Behavioral Analysis as defined in Rule R539-4. The practice of Applied Behavior Analysis is regulated through Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act.

(2) "Activity Plan" means goal plan and encourages optimal mental or physical function that may consist of:

- (a) behavioral training;
- (b) community living skills;
- (c) work activity;
- (d) work adjustment;
- (e) recreation;
- (f) self-feeding;
- (g) self-care;
- (h) toilet training;
- (i) social appropriateness;
- (j) development of gross and fine motor skills;
- (k) interpersonal adjustment;
- (l) mobility training;
- (m) self-sufficiency training;
- (n) speech, audiology;
- (o) physical therapy;
- (p) psychological services;
- (q) counseling;
- (r) vocational training;
- (s) education; and
- (t) socialization.

(3) "Behavior Interventions" is defined in Rule R539-4.

(4) "Client" is defined in Section 26B-2-101 and includes members in a clubhouse setting or participants in a DSPD setting.

(5) "Clubhouse" means a program accredited by Clubhouse International that is organized to support people living with mental illness in community centers that offer supportive membership that provides:

- (a) a work-ordered day in which the talents and abilities of clients are recognized and utilized within the clubhouse;
- (b) participation in consensus-based decision-making regarding all important matters relating to the running of the clubhouse;
- (c) opportunities to obtain paid employment in the local labor market through a clubhouse-created transitional employment program;
- (d) opportunity to participate in clubhouse-supported and independent programs;
- (e) assistance in accessing community-based educational resources;
- (f) access to crisis intervention services when needed;
- (g) evening and weekend social and recreational events; and

(h) assistance in securing and sustaining safe and affordable housing.

(6) "Day treatment" is defined in Section 26B-2-101. Day treatment may be considered "partial hospitalization" in the American Society of Addiction Medicine (ASAM) continuum of care.

(7) "DSPD" means the Division of Services for People with Disabilities within the Department of Health and Human Services.

(8) "DSPD Worksheet" means the mechanism used by DSPD to calculate hours and staffing ratios for programs serving DSPD clients.

(9) "Settings Rule" means the Home and Community Based Services (HCBS) Settings Final Rule as identified in 42 CFR 430 and 431.

R501-20-4. Administration and Direct Service.

(1)[A-] In addition to the following rules, [all Day Treatment Programs]each day treatment licensee shall comply with Rules R501-1 and R501-14.[2, Core Standards].

[B. A list of current consumers shall be available and on-site at all times.]

(2) Non-residential licensees may meet less frequently than weekly only with individualized justification in the client record.

(3) A licensee shall:

(a) ensure that activity plans are prepared to meet individual client needs or link to applicable resources in the community;

(b) design and implement a daily activity or service schedule based on client needs and not staff convenience;

(c) ensure clients are supervised onsite and encouraged to participate in activities; and

(d) ensure all clients are given the same quality of care.

(4) Except as outlined in Subsections R501-20-6(2) and R501-20-7(3), a licensee shall ensure that the minimum staffing ratio is one direct care staff to ten clients at all times.

(5) Day treatment or day support services may not be offered within a residential setting unless:

(a) each resident is a recipient of the day support services;
or

(b) the residential setting has a current residential treatment license.

(6) A licensee who utilizes restraints shall report each incident of restraint resulting in injury beyond basic first aid to the office as a critical incident.

[R501-20-5. Staffing.

A. The program shall have an employed manager who is responsible for the day to day supervision and operation of the facility. The responsibilities of the manager shall be clearly defined. Whenever the manager is absent, there shall be a substitute available.

B. The program shall have a staff person trained, by a certified instructor, in first aid and CPR on duty with the consumers at all times.

C. Staffing Ratios

1. The minimum ratio shall be one direct care staff to ten consumers. In Division of Services for People With Disabilities programs, consumer ratios shall be determined by type of activity.

2. When 10% or more of the consumers are non-ambulatory, the ratio shall be one direct care staff to seven consumers.

D. Professional staff shall include the following individuals who have received training in the specific area listed below:

1. Mental Health

a. a licensed physician, or consulting licensed physician;

b. a licensed psychologist, or consulting licensed psychologist;

c. a licensed mental health therapist or consulting licensed mental health therapist; and

d. a licensed advanced practice registered nurse-psychiatric mental health nurse specialist, or a consulting licensed advanced practice registered nurse psychiatric mental health nurse specialist.

e. If unlicensed staff are used they shall be supervised by a licensed clinical professional.

2. Substance Abuse

a. a licensed physician or consulting licensed physician;

b. a licensed psychologist or consulting licensed psychologist;

c. a licensed mental health therapist or consulting licensed mental health therapist; and

d. a licensed substance abuse counselor or unlicensed staff who work with substance abuses shall be supervised by a licensed clinical professional.

3. Children and Youth

a. a licensed physician, or consulting licensed physician;

b. a licensed psychologist, or consulting licensed psychologist;

c. a licensed mental health therapist or consulting licensed mental health therapist, to provide a minimum of one hour of service per week per consumer enrolled in the program; and

d. a licensed advanced practice registered nurse-psychiatric mental health nurse specialist, or consulting licensed advanced practice registered nurse psychiatric mental health nurse specialist.

e. If unlicensed staff are used, they shall be trained to work with emotionally and behaviorally disturbed, or conduct disordered children and youth and shall be under the supervision of a licensed clinical professional.

4. Services for People With Disabilities

a. a staff person responsible for consumer supervision and operation of the facility; and

b. trained staff to provide the services and treatment stated in the consumer's plan.

R501-20-6. Direct Service.

A. Day treatment activity plans shall be prepared to meet individual consumer needs. Daily activity plans may include behavioral training, community living skills, work activity, work adjustment, recreation, self feeding, self care, toilet training, social appropriateness, development of gross and fine motor skills, interpersonal adjustment, mobility training, self sufficiency training, and to encourage optimal mental or physical function, speech, audiology, physical therapy, and psychological services, counseling, and socialization.

B. A daily activity or service schedule shall be designed and implemented.

C. While on site, consumers shall be supervised as necessary and encouraged to participate in activities.

D. All consumers shall be afforded the same quality of care.

R501-20-7. Physical Environment.

~~A. The program shall provide written documentation of compliance with the following:~~

- ~~1. local zoning ordinances;~~
- ~~2. local business license requirements;~~
- ~~3. local building codes;~~
- ~~4. local fire safety regulations;~~
- ~~5. local health codes; and~~
- ~~6. local approval from the appropriate government agency for new program services or increased consumer capacity.~~

~~B. Building and Grounds~~

- ~~1. The program shall ensure that the appearance and cleanliness of the building and grounds are maintained.~~
- ~~2. The program shall take reasonable measures to ensure a safe physical environment for consumers and staff.]~~

R501-20-[8]5. Physical Facility.

~~[A-](1) Except as outlined in Subsection R501-20-6(3), a licensee shall ensure that the facility has~~[The program shall have] a minimum of ~~[fifty]~~50 square feet of floor space per ~~[consumer]~~client designated specifically for day treatment ~~services~~. Hallways, office, storage, kitchens, and bathrooms ~~[will]~~may not be included in computation.

~~[B-](2) A licensee shall ensure that~~ ~~[O]~~outdoor recreational space and compatible recreational equipment ~~[shall be]~~are available when necessary to meet treatment plans.

~~[C. Furniture and equipment shall be of sufficient quantity, variety, and quality to meet program and consumer needs and shall be maintained in a clean and safe condition.~~

~~D. The program shall have locked storage for hazardous chemicals and materials, according to the direction of the local fire authorities.~~

~~E. Equipment~~

~~Equipment for work activities shall be kept in safe operating condition.~~

- ~~1. Power equipment shall be installed and maintained in accordance with the National Electrical Code.~~
- ~~2. When operating power equipment, the operator shall wear safe clothing and protective eye gear.~~
- ~~3. Rings and watches are not to be worn, and long hair shall be confined when operating power equipment.~~
- ~~4. Consumer exposure to hazardous materials shall be controlled as defined in Utah State Industrial Regulations.~~

~~F. Bathrooms~~

- ~~1. The program shall have one or more bathrooms each for males and females in accordance with current uniform building codes. They shall be maintained in good operating order and in a clean and safe condition.~~
- ~~2. Bathrooms shall accommodate consumers with physical disabilities as required.~~
- ~~3. Bathrooms shall be properly equipped with toilet paper, towels, soap, and other items required for personal hygiene.~~
- ~~4. Bathrooms shall be ventilated by mechanical means or equipped with a screened window that opens.~~

R501-20-9. Food Service.

~~A. One person shall be responsible for food service. If this person is not a professionally qualified dietitian, regularly scheduled consultation with a professionally qualified dietitian shall be obtained. Meals served shall be from dietitian approved menus.~~

~~B. The person responsible for food service shall maintain a current list of consumers with special nutritional needs and record~~

~~in the consumers service record information relating to special nutritional needs and provide for nutrition counseling where indicated.~~

~~C. When meals are prepared by consumers, there shall be a written policy to include the following:~~

- ~~1. rules of kitchen privileges;~~
- ~~2. menu planning and procedures;~~
- ~~3. nutritional and sanitation requirements; and~~
- ~~4. schedule of responsibilities.~~

~~D. The program shall provide adequate storage and refrigeration for meals carried to the program by consumers.~~

~~E. Kitchens shall have clean, operational equipment for the preparation, storage, serving, and clean up of all meals.~~

~~F. Adequate dining space shall be provided for consumers. The dining space shall be maintained in a clean and safe condition.~~

R501-20-10. Medication.

~~A. Prescriptive medication shall be provided as prescribed by a qualified person according to the Medical Practices Act.~~

~~B. The program shall have locked storage for medication.~~

~~C. The program shall have written policy and procedure to include the following:~~

- ~~1. self administered medication;~~
- ~~2. storage;~~
- ~~3. control; and~~
- ~~4. release and disposal of drugs in accordance with federal and state regulations.]~~

R501-20-6. Additional Considerations for Professional Licensees Providing ABA Day Treatment Services.

~~(1) An ABA licensee shall additionally adhere to Rule R539-4, if contracted for providing services to DSPD clients.~~

~~(2) A licensee shall ensure that behavior support plans outline individual behaviors and staff responses to them.~~

~~(3) The licensee shall submit a critical incident to the office for:~~

- ~~(a) any self-directed violence not identified in the behavior support plan; and~~
- ~~(b) any staff responses outside of the behavior support plan.~~

R501-20-7. Additional Considerations for Licensees Providing Clubhouse Day Treatment Services.

~~(1) This section of rule supersedes any conflicting requirements of Rules R501-1 and R501-20.~~

~~(2)(a) A clubhouse licensee accredited by Clubhouse International may apply a staff to client ratio of 1 staff to 15 clients in accordance with national standards.~~

~~(b) A clubhouse licensee may apply the higher ratio only for specialized activities involving transports or for clients and their guests when:~~

- ~~(i) staff and client safety has been assessed; and~~
- ~~(ii) there is identified back-up for the staff in case of emergency.~~

~~(3) Square footage calculations in a clubhouse may include hallways, office, storage, kitchens, and bathrooms.~~

~~(4) A clubhouse licensee may offer clients the option to bring their own food or purchase meals or snacks at a reduced rate.~~

~~(5) A clubhouse licensee may allow clients cleaning chemicals as part of their work-ordered day. Clubhouse staff shall follow suicide prevention policy and safety protocols when assessing and allowing client access to chemicals.~~

(6) Visitors to the clubhouse may only be exempt from background clearance in accordance with Subsection 26B-2-120(10).

R501-20-8. Additional Considerations for DSPD Home and Community Based Medicaid Waiver Licensees.

(1) This section of rule supersedes any conflicting requirements of Rules R501-1 and R501-20.

(2) A licensee serving clients of DSPD shall ensure staff to client ratios are determined by the DSPD worksheet and are individualized based on the person's need.

(3) A licensee shall ensure a ratio of one staff to six persons is maintained at all times.

(4) A licensee serving Home and Community Based Services (HCBS) Medicaid Waiver clients shall:

(a) identify themselves as a Waiver provider on their licensing application and follow all attestation and survey requirements therein;

(b) comply with the HCBS Settings rule and Rule R414-519 to include:

(i) providing non-segregated bathrooms;

(ii) providing individually stalled bathrooms with locking capability with only trained and authorized staff having access to keys for safety;

(iii) ensuring the setting is fully accessible and affords access to the community;

(iv) ensuring client information is not posted or stored in public spaces;

(v) not restricting client access to food unless documented in the person-centered service plan or behavior support plan;

(vi) allowing clients individual initiative, autonomy, independence and choices in regard to their daily activities, physical environment and with whom they interact as much as safely possible; and

(vii) supervising clients and maintaining supporting documentation according to the person-centered service plan or behavior support plan; and

(c) when there is a conflict between a rule under Title R501 and Settings rule, Settings rule shall supersede.

(5) A licensee shall identify any community-based supports provided under the day treatment license and ensure that community-based services are provided safely and in consideration of weather, transportation, emergencies and overall client needs for food, medicine and any other assistance necessary for safe participation in the program.

KEY: human services, licensing

Date of Last Change: ~~May 2, 2000~~ 2023

Notice of Continuation: March 30, 2020

Authorizing, and Implemented or Interpreted Law: ~~62A-2-101 et seq.~~ 26B-2-104

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:	R623-9	Filing ID: 55535
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Agency Information

1. Department:	Lieutenant Governor
Agency:	Elections

Room number:	220	
Building:	Capitol	
Street address:	350 N State Street	
City, state and zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 142325	
City, state and zip:	Salt Lake City, UT 84114-2325	
Contact persons:		
Name:	Phone:	Email:
Ryan Cowley	801-538-1041	elections@utah.gov
Shelly Jackson	801-538-1041	elections@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R623-9. Ballot Printing, Handling, and Envelope Standards

3. Purpose of the new rule or reason for the change:

Sections 20A-6-108 and 20A-3a-106 require the director of elections within the Office of the Lieutenant Governor to establish requirements for ballot printing, handling, and ballot envelopes.

4. Summary of the new rule or change:

Rule R623-9 establishes minimum requirements a vendor must meet and follow to be eligible to print ballots to be used in elections in Utah.

This rule also establishes standards for what is printed on ballot envelopes.

Fiscal Information

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

A) State budget:

This rule simply provides requirements and guidelines for ballot printing, handling, and envelope standards and does not include any direct fiscal cost or savings to the state budget.

The state has a supervisory role in these functions but does not perform them.

B) Local governments:

Since this rule proposes guidelines and has a future effective date and provides the opportunity for counties to use existing envelope stock prior to complying with this rule, it is not believed there is an addition burden or cost savings for local governments.

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

This rule does not apply to small businesses and as such has no fiscal cost or savings to small businesses.

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

This rule does not apply to non-small businesses and as such has no 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**):

This rule does not apply to other persons and as such has no 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 is no anticipated cost or savings to affected persons as none apply to this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Lieutenant Governor of the Office of the Lieutenant Governor, Deidre M. Henderson, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 20A-6-108	Section 20A-3a-106	
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Ryan Cowley, Director	Date:	07/17/2023
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R623. Lieutenant Governor, Elections.

R623-9. Ballot Printing, Handling, and Envelope Standards.
R623-9-1. Purpose.

This rule establishes minimum requirements a vendor must meet and follow to be eligible to print ballots to be used in an election in Utah. This rule establishes standards for what is printed on ballot envelopes.

R623-9-2. Authority.

This rule is authorized by Sections 20A-6-108 and 20A-3a-106, and is enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R623-9-3. Definitions.

In addition to the terms defined in Section 20A-1-102, the following definitions apply to this rule:

(1) "Chain of custody" means the sequence of custody, control, and transfer of materials.

(2) "Intelligent mail barcode services" or "IMb" means using a barcode that complies with USPS standards for IMb which provides tracking data for ballots through the postal system.

(3) "Personally identifiable information" or "PII" means information that can be used to identify, or infer the identity of the person to which the information belongs.

(4) "Vendor" means a company that prints, handles, sorts, or mails ballots on behalf of an election officer.

(5) "Subcontractor" means a business or person that carries out any portion of the work described in this rule that is not performed by the vendor.

R623-9-4. Vendor Requirements.

(1) A vendor shall have:

(a) a secure facility that, includes:

(i) processing areas where public access is restricted through badge access with logging of the date, time, and operator of each ballot process;

(ii) 24-hour facility security through on-site security staffing, alarm system, or video surveillance; or

(iii) another method of similar security with logging of the date, time, and operator of each ballot process.

(b) documented continuity of operations plan that includes:

(i) secure data transfer, storage, backups, and redundancy;

(ii) printer and equipment redundancy; and

(iii) documented disaster recovery plan; and

(c) a documented chain of custody plan describing how ballots will be printed and delivered to a postal facility for mailing.

(2) A vendor may not subcontract any portion of the ballot printing processes described in this section without obtaining written consent from the contracting county.

(3) A vendor shall:

(a) disclose to the election officer any subcontractors, including freight handlers along with their primary point of contact;

(b) maintain the ability to track ballots through each process while ballots are in the custody of a subcontractor;

(c) disclose the following:

(i) how blank ballot stock and printed ballot stock are securely stored;

(ii) the process for securely destroying spoiled ballots;

(iii) the policy on conducting any employee background checks; and

(iv) how they encrypt and protect the data stated in Subsection R623-9-4(3)(d);

(d) encrypt and protect any sensitive data or PII of voters; and

(e) provide full access to the ballot processing facility and full access to any of the records described in this rule to the lieutenant governor, legislative auditors, and any county clerk for which they provide ballot printing services while contracted work is being performed including access to facilities and records of subcontractors.

(4) A vendor subcontractor shall maintain the ability to provide to the vendor and election officer a log that shows the date, time, and quantity of ballots each time ballots are transferred between the vendor and a subcontractor.

R623-9-5. Ballots.

(1) A vendor shall ensure that the initial mailing of ballots for an election is mailed from a location within Utah in accordance with Section 20A-6-108.

(2) A vendor shall ensure that transportation to and within Utah is secure and trackable with the capability of regular updates or real-time location information provided to the election officer.

(3) A vendor shall provide IMb services for the mailing of ballots and adhere to industry standards for election mail.

(4) A vendor shall create a postal record for the mailing of each county's ballots. A vendor shall ensure that ballots are never comingled with other non-election mail.

(5) Subsections R623-9-5(1) and R623-9-5(2) do not apply to ballots subject to Federal UOCAVA requirements.

R623-9-6. Envelopes.

The county clerk shall ensure that envelopes used to mail out and return ballots meet the requirements of this section. The provisions in this section take effect by the sooner of the 2024 General Election or the next time ballot envelopes are ordered.

(1) Return and ballot envelopes must meet USPS Official Election Mail -- Graphic Guidelines and Logos standards, Publication 631, incorporated by reference in this rule.

(2) Return ballot envelopes must comply with Subsection 20A-3a-202(4).

(3) Return envelopes must contain the address of the election office or county clerk where the ballots are to be returned as both the addressee and the return address.

(4) The addresses described in Subsection (3), or any envelope used to deliver or return ballots, may contain the position title of the election officer, but not the name of any candidate running for political office.

(5) Each envelope must contain markings that show the election to which the envelope belongs. If the affidavit is removed from the envelope, both the envelope and the affidavit must contain the date of the election.

(6) Each return envelope must contain the unique identifying number which corresponds to a ballot record issued to a voter in the voter registration system. If the affidavit is removed from the envelope, both the envelope and the affidavit must contain the unique identifying number.

(7) Return ballot envelopes must contain cross-hatching unless other measures are taken to ensure that a ballot cannot be read through the envelope.

KEY: ballot, ballot envelope, ballot printing

Date of Last Change: 2023

Authorizing, and Implemented or Interpreted Law: 20A-6-108, 20A-3a-106

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:

R623-10

Filing ID: 55536

Agency Information

1. Department:	Lieutenant Governor	
Agency:	Elections	
Room number:	220	
Building:	Capitol	
Street address:	350 N State Street	
City, state and zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 142325	
City, state and zip:	Salt Lake City, UT 84114-2325	
Contact persons:		
Name:	Phone:	Email:
Ryan Cowley	801-538-1041	elections@utah.gov
Shelly Jackson	801-538-1041	elections@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R623-10. Voter Registration Database Security and Voter List Maintenance
3. Purpose of the new rule or reason for the change:
Section 20A-2-507 requires the director of elections within the Office of the Lieutenant Governor to make rules regulating the use, security, maintenance, data entry, and updates to the voter registration system. Section 20A-2-507 also requires the rule to establish requirements to maintain the registration system by identifying tools and utilities for county clerks to run, as well as documenting and reporting compliance.
4. Summary of the new rule or change:
Rule R623-10 establishes requirements for users, training, and access to the voter registration system for both county and state users.
This rule outlines the Division of Technology Services (DTS) policies that are used for system hosting and maintenance.
This rule identifies the voter list maintenance utilities used but the Lieutenant Governor and county clerks that exist within the voter registration system and outlines a monthly compliance certification process for the clerks.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:								
A) State budget:								
This rule adds additional staffing needs to monitor the requirements and oversee compliance.								
Funding was provided in H.B. 448, passed in the 2023 General Session, for the additional staffing needs.								
This rule does not add any additional fiscal impact, nor does it provide any cost savings.								
B) Local governments:								
It is estimated that this can impact county governments with an additional hour of labor per month for compliance certification.								
The utilities identified in this rule are already required in the state code.								
C) Small businesses ("small business" means a business employing 1-49 persons):								
This rule does not apply to small businesses and as such has no fiscal cost or savings to small businesses.								
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):								
This rule does not apply to non-small businesses and as such has no 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):								
This rule does not apply to other persons and as such has no 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 is no anticipated cost or savings to affected persons as none apply to this rule.								
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)								
Regulatory Impact Table								
<table border="1"> <tr> <th>Fiscal Cost</th> <th>FY2024</th> <th>FY2025</th> <th>FY2026</th> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </table>	Fiscal Cost	FY2024	FY2025	FY2026	State Government	\$0	\$0	\$0
Fiscal Cost	FY2024	FY2025	FY2026					
State Government	\$0	\$0	\$0					

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$600	\$600	\$600
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Lieutenant Governor of the Office of the Lieutenant Governor, Deidre M. Henderson, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 20A-2-507		
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Public Notice Information

8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
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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.

Agency Authorization Information

Agency head or designee and title:	Ryan Cowley, Director	Date:	07/17/2023
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R623. Lieutenant Governor, Elections.

R623-10. Voter Registration Database Security and Voter List Maintenance Rule.

R623-10-1. Purpose.

Section 20A-2-507 requires the director of elections within the Office of the Lieutenant Governor to:

(1) make rules regulating the use, security, maintenance, data entry, and updates to the voter registration system; and

(2) make rules to establish requirements to maintain the registration system by identifying tools and utilities for county clerks to run as well as documenting and reporting compliance.

R623-10-2. Authority.

This rule is authorized by Section 20A-2-507, and enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R623-10-3. Definitions.

In addition to the terms defined in Section 20A-1-102, the following definitions apply to this rule:

(1) "Registration system" means the voter registration database described in Subsection 20A-2-502(1)(a).

(2) "Registration form" means a form described in Section 20A-2-104 or 20A-2-206 that is submitted to an election official for registering to vote.

(3) "NCOA" means the National Change of Address data set maintained by the United States Postal Service.

(4) "Voter verification utility" means the functionality within the registration system that verifies the information of the voter in the registration system with information from the Driver License Division.

R623-10-4. County Registration System Users.

(1) Before receiving access to the county registration system, county registration system users shall:

(a) be employed by the county clerk with job duties that are directly related to elections and require access to the registration system;

(b) be authorized by the county clerk and approved by the Lieutenant Governor; and

(c) complete security training is required and provided by the Lieutenant Governor before using the registration system.

(2) A county clerk shall:

(a) ensure county users have completed training before the user performs an election process for which an online training module has been developed under Section 20A-1-107;

(b) agree to abide by a disclosure agreement provided by the Lieutenant Governor that outlines how data from within the registration system is protected, including:

(i) only using voter registration data for election related purposes as outlined and in accordance with Utah law;

(ii) only sharing registration data with those that are authorized under Utah law; and

(iii) never using voter registration data for personal use;

(c)(i) immediately disable any user account that is no longer active or authorized to have access;

(ii) complete a monthly review of the list of authorized users in their county;

(iii) certify monthly reviews and disabled accounts with the Lieutenant Governor no later than the 5th day of the following month;

(d) conduct an annual review of county users by the last business day in December as directed by the Lieutenant Governor that includes:

(i) verification that each active user meets the criteria of a county user as outlined in this section;

(ii) the job title of each county user;

(iii) a brief description of the election related duties of each county user; and

(iv) removal of users that have not accessed the system within the calendar year of the annual review.

(3) A county clerk's failure to complete the annual review under Subsection (2)(d)(iv) will result in the revocation of access to the registration system for that county until the necessary review has been completed.

R623-10-5. State Registration System Users.

(1) Before receiving access to the state registration system, state registration system users shall:

(a) be employed by the Lieutenant Governor with job duties that are directly related to elections and require access to the registration system;

(b) complete security training required and provided by the Lieutenant Governor before using the registration system;

(c) agree to abide by a disclosure agreement provided by the Lieutenant Governor that outlines how data in the registration system is protected including:

(i) using voter registration data for election related purposes as outlined in accordance with Utah law;

(ii) only sharing registration data with those that are authorized under Utah law; and

(iii) never using voter registration data for personal use.

(2) The Lieutenant Governor shall:

(a) ensure state registration system users have completed training before the user performs an election process for which an online training module has been developed under Section 20A-1-107; and

(b) immediately disable access for users that no longer meet the requirements of Subsection (1).

(3) Each month, the Lieutenant Governor shall review the list of authorized state registration system users and remove any user account that does not meet the requirements of Subsection (1).

R623-10-6. Other System Users.

(1) If a request for access is received by the Lieutenant Governor for someone that is not a county or state user, the Lieutenant Governor will review that request and determine whether to grant access.

(2) If the Lieutenant Governor grants access under Subsection (1), the user must follow the security procedures outlined for a state user in Section R623-10-5.

R623-10-7. Registration System Hosting and Maintenance.

Hosting and maintenance of the registration system must follow the rules and policies, incorporated by reference in this rule, set forth by the Division of Technology Services (DTS) governing the hosting, maintenance, security requirements, development, and

usage of the registration system and its components, including storage and transmission of any related data policy:

(1) DTS POLICY 4000-0001 - Enterprise Application and Database Deployment Policy, Last Revised October 2015;

(2) DTS POLICY 4000-0002 - Enterprise User Authentication Standards Policy, Last Revised November 2021; and

(3) DTS POLICY 5000-0002 - Information Security Policy, Last Revised June 2023.

R623-10-8. Voter List Maintenance Tools and Utilities.

(1) A county clerk shall maintain the registration system by using the following utilities:

(a) process each voter registration form within 7 days of receiving the form and certify to the Lieutenant Governor that each registration form received within 7 days of the end of the month has been processed, unless the registration was received during the period from the voter registration deadline described in Section 20A-2-102.5 through the canvass as outlined in Section 20A-4-301;

(b) run the voter verification utility each time a clerk receives a voter registration form;

(c) process and remove a deceased voter from the voter rolls in accordance with Section 20A-2-504;

(d) perform a duplicate voter check in accordance with Subsection 20A-2-503(4); and

(e) perform the annual maintenance utility in accordance with Subsection 20A-2-503(4)(a).

(2) 90 days before each election, a county clerk shall certify to the Lieutenant Governor that the county clerk has performed, or will perform, an NCOA check before mailing the county's main ballot extract.

(3)(a) A county clerk shall certify monthly to the Lieutenant Governor that they have properly run each utility listed in Subsection (1).

(b) Certification shall be made to the Lieutenant Governor no later than the 5th day of the following month.

(4) The Lieutenant Governor shall maintain a record of the certifications made by the county clerks on the Lieutenant Governor's website in accordance with Subsection 20A-2-502(4).

KEY: voter registration, election, voter list maintenance

Date of Last Change: 2023

Authorizing, and Implemented or Interpreted Law: 20A-2-507

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:

R650-302

Filing ID:
55589

Agency Information

1. Department:	Natural Resources
Agency:	Outdoor Recreation
Room number:	100
Building:	Department of Natural Resources Building
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116

Contact persons:		
Name:	Phone:	Email:
Tara McKee	801-538-5500	tmckee@utah.gov
Patrick Morrison	801-538-5500	patrickmorrison@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R650-302. Utah Outdoor Recreation Infrastructure Grant
3. Purpose of the new rule or reason for the change:
<p>This is to promulgate what has been an emergency rule (R650-302) as a permanent rule.</p> <p>This has been an emergency rule because the Division of Outdoor Recreation (Division) has been working to finalize the Utah Outdoor Recreation Infrastructure Grant rule pursuant to this statutory mandate but was unable to finalize the rule prior to the 2023 grant cycle. The Division believes the emergency rule was necessary given the Utah Code provides the Division shall make rules to establish the eligibility and reporting criteria for this cycle's grants.</p> <p>(EDITOR'S NOTE: The 120-day (emergency) rule of R650-302 is under ID 55407 and was published in the June 1, 2023, issue of the Bulletin.)</p>
4. Summary of the new rule or change:
<p>This rule establishes eligibility and reporting criteria for an entity to receive a Utah Outdoor Recreation Infrastructure Grant, including:</p> <ol style="list-style-type: none"> 1) the form and process of submitting an application to the Division for an infrastructure grant; 2) which entities are eligible to apply for an infrastructure grant; 3) specific categories of recreational infrastructure projects that are eligible for an infrastructure grant; 4) the method and formula for determining grant amounts; and 5) the reporting requirements of grant recipients.

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 associated with this rule because this rule had existed under the Office of Outdoor Recreation (under the Governor's Office of Economic Opportunity) prior to merging the Office of Outdoor Recreation (from the Governor's Office) into the Division of Outdoor Recreation

(under the Department of Natural Resources) and the content of this rule is the same/what entities have been functioning under.

B) Local governments:

There are no anticipated costs or savings to local governments associated with this rule because this rule had existed under the Office of Outdoor Recreation (under the Governor's Office of Economic Opportunity) prior to merging the Office of Outdoor Recreation into the Division of Outdoor Recreation and the content of this rule is the same/what entities have been functioning under.

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

There are no anticipated costs or savings to the small businesses associated with this rule because this rule had existed under the Office of Outdoor Recreation (under the Governor's Office of Economic Opportunity) prior to merging the Office of Outdoor Recreation into the Division of Outdoor Recreation and the content of this rule is the same/what entities have been functioning under.

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

The proposed rule does not have a fiscal impact on non-small businesses nor will a service be required of them to implement the grants.

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, state, or local government entities associated with this emergency rule because this rule had existed under the Office of Outdoor Recreation (under the Governor's Office of Economic Opportunity) prior to merging the Office of Outdoor Recreation into the Division of Outdoor Recreation and the content of this rule is the same/what entities have been functioning under.

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 anticipated compliance costs associated with this rule because this rule had existed under the Office of Outdoor Recreation (under the Governor's Office of Economic Opportunity) prior to merging the Office of Outdoor Recreation into the Division of Outdoor Recreation and the content of this rule is the same/what entities have been functioning under.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 79-8-402(1)		
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Public Notice Information

8. 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: 10/02/2023

9. This rule change MAY become effective on: 10/10/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Jason Curry, Director	Date:	08/02/2023
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R650. Natural Resources, Outdoor Recreation.

R650-302. Utah Outdoor Recreation Infrastructure Grant.

R650-302-1. Authority.

(1) Section 79-8-402 requires the division to establish by rule eligibility and reporting criteria for entities receiving an infrastructure grant.

(2) Pursuant to Section 79-8-401, the division seeks to accomplish the following objectives in administering the grant program:

(a) build, maintain, and promote recreational infrastructure to provide greater access to low-cost outdoor recreation for the state's citizens;

(b) encourage residents and nonresidents of the state to take advantage of the beauty of Utah's outdoors;

(c) encourage individuals and businesses to relocate to the state;

(d) promote outdoor exercise; and

(e) provide outdoor recreational opportunities to an underserved community in the state.

R650-302-2. Definitions as Used In This Rule.

(1) "Accessible to the general public," when used in relation to the awarding of an infrastructure grant, means that:

(a) the public may use the infrastructure in accordance with federal regulations and state rules; and

(b) no individual, community, group, or organization retains exclusive rights to access the infrastructure.

(2) "Advisory committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in Section 79-7-206.

(3) "Director" means the director of the Division of Outdoor Recreation.

(4) "Division" means the Division of Outdoor Recreation.

(5) "Executive director" means the executive director of the Department of Natural Resources.

(6) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 79-8-401.

(7) "Mini-grant category" means an infrastructure grant award that is \$15,000 or less.

(8)(a) "Project" means a recreational infrastructure project that undertakes the build or improvement of facilities and installations needed for the public to access and enjoy the state's outdoors.

(b) "Project" may include:

(i) the establishment, construction, or renovation of trails, trail facilities, and trail infrastructure, including trail kiosks, trail wayfinding signage, trailhead parking, restroom facilities, and trail bridges or tunnels;

(ii) construction of a project for water-related outdoor recreational activities;

(iii) development of a project for wildlife watching opportunities, including bird watching;

(iv) development of a project that provides winter recreation amenities, including groomed recreation trails or warming huts for motorized or non-motorized winter recreation activities, outdoor ice skating rinks or loops, sledding hill infrastructure, or other improvements that further winter recreation activities;

(v) construction or improvement of a community park that has amenities for outdoor recreation;

(vi) construction or improvement of an accessible playground or a playground that includes improvements that resemble naturally occurring features like logs and boulders, or other improvements made with or made to resemble natural materials;

(vii) the construction of a community-owned or sponsored campground;

(viii) the establishment or construction of a community-owned outdoor shooting or archery range;

(ix) projects similar to those listed in Subsections (8)(b)(i) through (viii); or

(x) except for ineligible projects listed under Subsection (8)(c), projects that increase outdoor recreation facilities available for public use.

(c) Ineligible projects include:

(i) outdoor education programming;

(ii) golf courses;

(iii) athletic fields or courts;

(iv) general community wayfinding signage;

(v) harbor dredging projects; or

(vi) projects similar to those listed in Subsections (8)(c)(i) through (v).

(9) "Underserved or underprivileged community" means a group of people, including a subset of the population of a municipality, county, or American Indian tribe, that is economically disadvantaged.

(a) "Underserved or underprivileged community" includes an economically disadvantaged community that has limited access to, or has demonstrated a low use of, recreational infrastructure.

R650-302-3. Application Form and Submission Procedure.

(1) The division shall supply an infrastructure grant application form which shall contain the following:

(a) general application submission instructions;

(b) infrastructure grants available for application;

(c) the criteria a recipient must meet to be eligible to receive a infrastructure grant;

(d) instructions to applicants regarding submission of a project description, including a project timeline;

(e) instructions to applicants for submitting an outlined budget for total project costs, highlight of funds already procured for the project, and an itemized budget showing the planned use of the requested infrastructure grant funds;

(f) instructions to applicants for reporting project impacts, including community and economic impacts;

(g) the scoring system the division will use to score the application;

(h) any deadlines or relevant timelines applicable to submission of the application;

(i) any reports the applicant must submit with the application; and

(j) all other documents and information the applicant must submit with the application.

(2) The division shall:

(a) create an application in an electronic format and make it available to the public at <http://recreation.utah.gov>; and

(b) supply a paper application to any person or entity requesting one.

(3) The applicant shall submit the application to the division on or before the deadline specified in the application.

(4) Division staff shall review the submitted application, and all documentation submitted with the application, and shall:

(a) verify that the application is complete and meets the program criteria outlined in the statute and this rule; and

(b) select recipients using the criteria and method outlined in this rule.

R650-302-4. Eligible Entities.

The division shall award infrastructure grants only to the following entities:

(1) Utah non-profit corporations with a 501(c)(3) or 501(c)(6) status;

(2) Utah political subdivisions;

(3) Utah state agencies;

(4) federal government agencies; and

(5) tribal governments.

R650-302-5. Project Eligibility Criteria.

(1)(a) The infrastructure grant recipient shall provide matching funds based on an algorithm determined by the division and made available in the infrastructure grant application or the program guide.

(b) The algorithm under Subsection (1)(a) shall consider the total population and per capita income of the county where the project will be located.

(c) For infrastructure grant awards within the mini-grant category, the infrastructure grant recipient shall provide matching funds having a value equal to or greater than the amount of the infrastructure grant.

(d) The maximum infrastructure grant award available:

(i) shall depend on available funds; and

(ii) shall be specified in the infrastructure grant application.

(e) Up to 50% of the infrastructure grant recipient match may be provided through an in-kind contribution by the infrastructure grant recipient, if:

(i) approved by the director and the executive director after consultation with the advisory committee; and

(ii) the in-kind donation does not include real property.

(f) The division shall include the following information in the application form:

(i) matching funding requirements; and

(ii) eligible and ineligible matching costs.

(g) An applicant shall secure at least 75% of the project's matching funds before submitting an application.

(h) An applicant's budget estimates may be rounded to the nearest \$500 increment.

(2)(a) For applications over \$15,000, an applicant shall include a letter of support from the local economic development office or local tourism director.

(b) The letter of support shall state that the project has the potential to attract growth and retention in the community or area or increase visitation to the region.

(c) Applicants shall include a statement of responsibility from any entity responsible for maintaining the recreational infrastructure.

(3) An applicant shall obtain approval from the appropriate land management entity for any recreational infrastructure project if the project is physically located on public lands.

(4) If required by law, the infrastructure grant applicant shall comply with the National Environmental Policy Act (NEPA) and, upon written request of the division, shall provide to the division written certification of NEPA compliance from the land management authority where the project is physically located.

(5)(a) All projects shall be:

(i) wholly located within the state; and

(ii) on land owned by or under the applicant's control or on land owned by a management agency partner, including federal, state, or local government entities, or a conservancy.

(b) If the project crosses private property, the applicant shall ensure that public access is maintained for a minimum of 10 years. This guarantee shall be in the form of an easement, right-of-way, or other negotiated written agreement acceptable to the division.

(6) Applicants shall:

(a) consult with the Utah Division of Wildlife Resources to determine if the project is located within a special management area for sensitive species; and

(b) coordinate with the Utah Division of Wildlife Resources to ensure the project complies with statutes and rules applicable to special management areas if the project is located within a special management area.

(7) An infrastructure grant applicant shall comply with the requirements of Sections 9-8-401 through 9-8-405 before beginning any project.

(8) An infrastructure grant may not be awarded if the awarded funds, or the infrastructure grant recipient's matching funds, will be used for the purchase of real property or for the purchase or transfer of a conservation easement.

R650-302-6. Method and Formula for Determining Infrastructure Grant Amounts.

(1)(a) The division shall use a weighted scoring system to enable the advisory committee to analyze, advise, and make recommendations to the division regarding the award of an infrastructure grant and infrastructure grant amount.

(b) The application shall include the scoring system.

(c) The scoring system shall assess and value general categories, including:

(i) needs of the community where the project will be physically located;

(ii) economic impact, including the potential to increase area tourism;

(iii) recreation access and value;

(iv) project readiness; and

(v) whether the project is located within an underserved or underprivileged community.

(2) The division shall distribute the infrastructure grant applications among the advisory committee members and ensure that

each application is reviewed and scored by members of the advisory committee.

(3) The division shall use the average of the scores to create a prioritization matrix ranking the infrastructure grant applications.

(4) The division shall convene the advisory committee to review the ranked infrastructure grant applications.

(5) In determining infrastructure grant awards, advisory committee members shall:

(a) use the prioritization matrix referenced in Subsection (3) to rank the applications; and

(b) review all but the lowest ranked applications, as determined by a threshold determined by the Division.

(6) An advisory committee member may move the advisory committee to review a low-scoring application that was not scheduled to receive consideration by the advisory committee.

(7) An advisory committee member may move the advisory committee to vote to recommend a infrastructure grant be awarded.

(8) The advisory committee may prioritize projects:

(a) that conform to the criteria and eligibility as outlined in the program guide;

(b) that are likely to increase visitation to the project area;

(c) that will serve an underserved or underprivileged community;

(d) that will further the goal of providing geographic distribution of recreation infrastructure throughout the state;

(e) that are for trails that are accessible to all members of the public, including trails that are usable with adaptive equipment;

(f) that are for trail segments that complete trail gaps;

(g) that will add to connect trails for a more extensive trail network;

(h) that will enhance an outdoor recreation amenity that draws tourists; or

(i) where project applicants have coordinated with the local tourism office to market the project as a tourism attraction.

(9) The division shall provide a synopsis of each project proposed in each application and each reviewer shall have access to all scored evaluations.

(10) In accordance with available funds, the advisory committee shall advise and make recommendations to the division regarding proposals for funding.

(11) The advisory committee shall forward recommendations for infrastructure grant awards to the executive director, who shall approve infrastructure grants to be awarded after consulting with the division director.

(12) If an infrastructure grant recipient declines an awarded infrastructure grant, the division may give the funding to another high-scoring application upon a recommendation from the advisory committee and approval of the division director and executive director.

(13) The division shall notify the infrastructure grant applicant of the funding decision within two weeks of the executive director's final decision.

(14) The division shall notify each successful infrastructure grant applicant of expected contractual requirements.

(15) The division shall notify each infrastructure grant applicant who was unsuccessful in obtaining a Infrastructure grant award that the applicant's application was unsuccessful.

(16) A copy of the reviewers' written comments, with reviewers' names redacted, shall be provided to rejected infrastructure grant applicants upon request.

R650-302-7. Reporting and Reimbursement Cooperation Requirements.

(1) An infrastructure grant recipient shall:

(a) cooperate with the division's reasonable requests for site visits during and after the completion of the project;

(b) provide any financial records related to the project upon the division's request;

(c) provide the division with a progress report twice yearly until the project's completion;

(d) provide economic development information and supporting documentation of economic development goals achieved on an annual basis or upon the division's request;

(e) provide economic development information for up to 10 years following completion of the project; and

(f) provide the division with a description and an itemized report detailing infrastructure grant expenditures or the intended cost of any unspent awarded funds.

(2) An infrastructure grant recipient shall provide the division with a final written itemized report after the project's completion.

(3)(a) An applicant shall provide the reports referenced in Subsections (1) and (2) at least annually and no later than 60 days after the infrastructure grant agreement has expired; and

(b) Each report shall include assurances that all monies awarded to the infrastructure grant recipient were spent on planning, construction, or improvements in accordance with the recipient's infrastructure grant application and the infrastructure grant agreement.

(4) The division, upon receipt of a reimbursement request, shall require recipients to submit the following documentation:

(a) a reimbursement request on a form provided by the division;

(b) copies of all invoices and evidence of payment as well as records of volunteer labor or other in-kind donations for work completed on the project;

(c) several photos that show the recipient completed the project in accordance with the recipient's application and the infrastructure grant agreement;

(d) a final report with a detailed description of the project and any other information requested by the division; and

(e) any other documentation the division deems necessary to ensure compliance with the infrastructure grant agreement.

(5) The division may make partial advance reimbursement payments pursuant to the terms of the grant agreement.

(6) partial advance reimbursement payments may not exceed 75% of expenses incurred during the development of the project.

(7)(a) The division shall in the program guide provide a reference to which an applicant may refer to make a request and be granted advance funding up to 75% of the award.

(b) The applicant shall state within the application that they intend to request advance funding so that the advisory committee may consider the advance funding request.

(c) The division may advance no more than 75% of the infrastructure grant award to the recipient before the project is completed.

(d) The recipient shall make a written request to the division, outlining the need and use for advance funds needed for project costs over the subsequent six month period.

(e) The infrastructure grant recipient shall provide the division with an itemized report detailing the expenditure of the advance funds or the intended expenditure of the advanced funds.

(8) All project spending shall occur during the contract period.

(a) The division shall not reimburse the recipient for costs incurred before or after the contract period.

(b) The infrastructure grant recipient shall submit reimbursement documentation within 60 days following the contract expiration.

R650-302-8. Modifications to the Original Contract.

The applicant may modify the original Infrastructure grant agreement only by subsequent, written amendment, approved by the program director and division director, and signed by all parties to the original grant agreement.

KEY: Outdoor Recreation Infrastructure Grant, outdoor recreation grants

Date of Last Change: 2023

Authorizing, and Implemented or Interpreted Law: 79-8-402(1)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Rule or Section Number:	R651-102	Filing ID: 55650
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Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	Phone:	Email:
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R651-102. Government Records Access Management Act
3. Purpose of the new rule or reason for the change:
This rule is coved in the statute, therefore, there is no need for this rule.
4. Summary of the new rule or change:
This rule is repealed 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 does not affect the state budget. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

B) Local governments:

The repeal of this rule does not affect the local governments. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the non-small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the persons other than small businesses, non-small businesses, state, or local government entities. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the compliance costs for affected persons. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 63G-2-204		
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Public Notice Information**8. 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:	10/02/2023
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9. This rule change MAY become effective on:

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	Date:	08/10/2023
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R651. Natural Resources, Parks and Recreation.

~~[R651-102. Government Records Access Management Act.~~

~~R651-102-1. Purpose and Authority.~~

~~(1) This rule prescribes where and to whom requests for information shall be directed and provides procedures for access to division records as allowed under Subsection 63G-2-204(2).~~

~~(2) Specific procedures for requesting division records are provided in Chapter 2, Title 63G, Government Records Access and Management Act.~~

~~R651-102-2. Definitions.~~

~~(1) Terms used in this rule are defined in Section 63G-2-103.~~

~~(2) In addition:~~

~~(a) "Records officer" means the individual located in the Salt Lake division office designated by the director of the division to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.~~

~~(b) "Division" means the Division of Parks and Recreation.~~

~~R651-102-3. Allocation of Responsibility Within the Division.~~

~~The division is considered a governmental entity and the director of the division is considered the head of the governmental entity.~~

~~R651-102-4. Requesting Information.~~

~~(1) A person making a request for any record shall furnish the division with a written request as provided in Subsection 63G-2-204(1) on a form provided by the division.~~

~~(2)(a) A request for any record shall be made only to the records officer in the Salt Lake division office located at 1594 West North Temple Salt Lake City, Utah.~~

~~(b) Response to a request submitted to any person other than the records officer in the Salt Lake division office may be delayed.~~

~~(3)(a) The records officer shall respond to each request according to Section 63G-2-204.~~

~~(b) Under authority of Subsection 63G-2-201(5)(b) the director may, in his discretion, disclose records that are private under Subsection 63G-2-302(2) or protected under Section 63G-2-304 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if he determines there is no interest in restricting access to the record, or that the interests favoring access outweighs the interest favoring restriction of access.~~

~~R651-102-5. Requests for Access for Research Purposes.~~

~~(1) Access to private or controlled records for research purposes is allowed under Section 63G-2-202(8).~~

~~(2) Requests for access to private or controlled records for research purposes may be made to the records officer in the Salt Lake division office.~~

~~R651-102-6. Intellectual Property Records.~~

~~(1) The division may duplicate and distribute an intellectual property right that is owned by the division in accordance with Subsection 63G-2-201(10).~~

~~(2) Decisions with regard to these rights shall be made by the records officer in the Salt Lake division office.~~

~~(3) Any request regarding the duplication and distribution of such materials shall be made in writing to the records officer in the Salt Lake division office.~~

~~R651-102-7. Fees.~~

~~(1) The division, pursuant to Section 63G-2-203, may charge a reasonable fee to cover the actual cost of duplicating a record or compiling a record in a form other than that maintained by the division.~~

~~(2) The division shall establish fees according to Subsection 63G-2-203(3).~~

~~(3) Fees must be paid at the time of the request or before the records are provided to the requester.~~

~~(4) The records officer may fulfill a record request without charge according to the guidelines established in Subsection 63G-2-203(3).~~

~~(5) Requests for a fee waiver may be made to the records officer in the Salt Lake division office.~~

~~R651-102-8. Denials.~~

~~(1) If the records officer denies a request in whole or in part, he shall send a notice of denial to the requester either in person or by sending the notice to the requester's address.~~

~~(2) The notice of denial shall contain the information required in Subsection 63G-2-205(2).~~

~~R651-102-9. Appeal of Access Determination.~~

~~(1) Any person aggrieved by an access determination made by the records officer, including a person not a party to the division proceeding may, within 30 days after the determination, appeal the determination to the director by submitting a notice of appeal on a form provided by the division.~~

~~(2) The notice of appeal shall contain the information provided in Subsection 63G-2-401(2).~~

~~(3) Upon receiving the notice of appeal the director shall make a determination according to the guidelines and within the time periods specified in Section 63G-2-401.~~

~~R651-102-10. Appeal of Request to Amend a Record.~~

~~(1) Any individual contesting the accuracy or completeness of any public, private, or protected record concerning him may request the division amend the record according to the guidelines specified in Subsection 63G-2-603(2).~~

~~(2) The request to amend shall be considered a request for agency action as prescribed in Subsection 63G-46b-3 and the adjudicative proceeding shall be conducted informally according to the procedures prescribed in Section 63G-46b-5 and R651-101, Adjudicative Proceedings.~~

~~(3) Any request to amend a record must be made to the records officer in the Salt Lake division office on a form provided by the division.~~

KEY: government documents, freedom of information, public records

Date of Last Change: 1993

Notice of Continuation: March 23, 2022

Authorizing, and Implemented or Interpreted Law: 63G-2-204]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R651-103	Filing ID: 55649

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	Phone:	Email:
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R651-103. Electronic Meetings
3. Purpose of the new rule or reason for the change:
This rule is covered in the statute, therefore, there is no need for this rule.
4. Summary of the new rule or change:
This rule is repealed 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 does not affect the state budget. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.
B) Local governments:
The repeal of this rule does not affect the local governments. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect the small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the non-small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the persons other than small businesses, non-small businesses, state, or local government entities. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the compliance costs for affected persons. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 52-4-207

Public Notice Information

8. 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:	10/02/2023

9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	Date:	08/10/2023
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R651. Natural Resources, State Parks.

~~R651-103. Electronic Meetings.~~

~~R651-103-1. Purpose and Authority.~~

~~This rule is established under the authority of Section 52-4-207 to provide the standards and procedures for electronic meetings of the Board of State Parks.~~

~~R651-103-2. Definitions.~~

- ~~(1) Terms used in this rule are defined as follows:~~
- ~~(a) "Anchor location" means the physical location from which:~~
- ~~(i) An electronic meeting originates; or~~
 - ~~(ii) The participants are connected.~~
 - ~~(b) "Electronic meeting" means a public meeting convened or conducted by a conference using electronic communications.~~

~~R651-103-3. Electronic Meetings.~~

- ~~(1) Section 52-4-207 authorizes a public body to convene or conduct an electronic meeting provided written procedures are~~

~~established for such meetings. This rule establishes procedures for conducting Board meetings by electronic means.~~

~~(2) The following provisions govern any meeting at which one or more Board members appear telephonically or electronically pursuant to Section 52-4-207:~~

~~(a) If one or more members participate in a public meeting electronically or telephonically, public notices of the meeting shall specify:~~

~~(i) The members participating in the meeting electronically and how they will be connected to the meeting;~~

~~(ii) The anchor location where interested persons and the public may attend, monitor, and participate in the open portions of the meeting;~~

~~(iii) The meeting agenda; and~~

~~(iv) The date and time of the meeting.~~

~~(b) Written or electronic notice of the meeting and the agenda shall be posted or provided no less than 24 hours before the meeting:~~

~~(i) At the anchor location;~~

~~(ii) On the Utah Public Notice Website; and~~

~~(iii) To at least one newspaper of general circulation within the state or to a local media correspondent. These notices shall be provided at least 24 hours before the meetings.~~

~~(c) Notice of the possibility of an electronic meeting shall be given to board members at least 24 hours before the meeting. In addition, the notice shall describe how a member may participate in the meeting electronically or telephonically.~~

~~(d) When notice is given of the possibility of a board member appearing electronically or telephonically, any board member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the board.~~

~~(i) At the commencement of the meeting, or at such time as any board member initially appears electronically or telephonically, the chair should identify for the record all those who are appearing telephonically or electronically.~~

~~(ii) Votes by members of the board who are not at the physical location of the meeting shall be confirmed by the chair.~~

~~(c) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Utah Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah.~~

~~(i) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.~~

~~(ii) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.~~

~~R651-103-4. Board and Council Emergency Meetings.~~

~~(1) There are times when, due to the necessity of considering matters of an emergency or urgent nature, the public notice Subsection 52-4-202(1) cannot be met. Pursuant to Subsection 52-4-202(5), the notice requirements in Subsection 52-4-202(1) may be disregarded when unforeseen circumstances require the board to meet and consider matters of an emergency or urgent nature.~~

~~(2) The following procedure shall govern any emergency meeting:~~

~~(a) No emergency meeting shall be held unless an attempt has been made to notify the members of the board of the proposed meeting and a majority of the convened members vote in the affirmative to hold such an emergency meeting.~~

~~(b) Public notice of the emergency meeting shall be provided as soon as practicable and shall include at a minimum the following:~~

~~(i) Posting of the date, time, and place of the meeting and the topics to be considered:~~

~~(A) At the offices of the division;~~

~~(B) On the division's web page; and~~

~~(C) At the location where the emergency meeting will be held.~~

~~(ii) If members of the board appear electronically or telephonically, notice shall comply with the requirements of Section R651-103-3 to the extent practicable.~~

~~(c) In convening the meeting and voting in the affirmative to hold such an emergency meeting, the board shall affirmatively state and find what unforeseen circumstances have made it necessary for the board to hold an emergency meeting to consider matters of an emergency or urgent nature such that the ordinary public notice of meetings Section 52-4-202 could not be followed.~~

KEY: electronic meetings, procedures

Date of Last Change: January 11, 2023

Notice of Continuation: April 17, 2023

Authorizing, and Implemented or Interpreted Law: 52-4-207]

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Rule or Section Number:	R651-607	Filing ID: 55651
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Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	Phone:	Email:
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R651-607. Disorderly Conduct
3. Purpose of the new rule or reason for the change:
This rule is covered in the statute, therefore, there is no need for this rule. Section R651-607-2 is duplicative and covered in Section R651-633-1.

(EDITOR'S NOTE: The proposed amendment to Rule R651-633 is under ID 55646 in this issue, September 1, 2023, of the Bulletin.)

4. Summary of the new rule or change:

This rule is repealed 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 does not affect the state budget. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

B) Local governments:

The repeal of this rule does not affect the local governments. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the non-small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the persons other than small businesses, non-small businesses, state, or local government entities. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the compliance costs for affected persons. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 79-4-501		

Public Notice Information

8. 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:	10/02/2023

9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	Date:	08/10/2023
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R651. Natural Resources, Parks and Recreation.

~~[R651-607. Disorderly Conduct.~~

~~R651-607-1. Applicability of the Utah Criminal Code.~~

~~Offenses against persons and property shall be handled through the Utah Criminal Code.~~

~~R651-607-2. Restricted Activities.~~

~~No person shall participate in a posted restricted activity.~~

~~KEY: parks~~

~~Date of Last Change: October 4, 1999~~

~~Notice of Continuation: April 17, 2023~~

~~Authorizing, and Implemented or Interpreted Law: 79-4-501]~~

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Rule or Section Number:	R651-632	Filing ID: 55648
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Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R651-632. Enforcement

3. Purpose of the new rule or reason for the change:

This rule is covered in the statute, therefore, there is no need for this rule.

4. Summary of the new rule or change:

This rule is repealed 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 does not affect the state budget. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

B) Local governments:

The repeal of this rule does not affect the local governments. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the non-small businesses. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the persons other than small businesses, non-small businesses, state, or local government entities. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

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

The repeal of this rule does not affect the compliance costs for affected persons. This rule is covered in statute and will have no fiscal affect with the repeal of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 79-4-501	Section 53-13-103	
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Public Notice Information**8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	Date:	08/10/2023
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R651. Natural Resources, State Parks.

~~[R651-632. Enforcement.~~

~~R651-632 1. Authorized Law Enforcement Officers.~~

~~Any law enforcement officer authorized under Section 53-13-103 may enforce the rules promulgated under Title R651.~~

~~KEY: parks~~

~~Date of Last Change: January 11, 2023~~

~~Notice of Continuation: April 17, 2023~~

~~Authorizing, and Implemented or Interpreted Law: 79-4-501; 53-13-103]~~

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R651-633	Filing ID:	55646
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Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	Phone:	Email:
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R651-633. Special Closures or Restrictions
3. Purpose of the new rule or reason for the change:
The addition to this rule is needed for the protection of the Bighorn Sheep population at Antelope Island State Park.

Additionally, the change adds additional protection for visitors and animals that use the park to train pack animals.

4. Summary of the new rule or change:

This rule filing restricts trail use in sensitive locations during peak sheep lambing, prohibits domestic sheep, pack goats, and camelids from the island to prevent transmittable pathogens (*Pasteurella* spp.) from domestic livestock and pneumonia from infecting the Bighorn Sheep population.

During the fall of 2018, an outbreak of *Pasteurella* spp. decimated the population of Bighorn on Antelope Island. Domestic sheep, goats, and camelids are known carriers of this disease. With the recent explosion of visitation at Antelope Island the trails are becoming more and more crowded.

Recently there have been incidents of horse trainers bringing out horses or mules untethered to try and "train" them to pack. On several occasions these animals have run away and injured other horses or riders. The current park code says to keep "pets" on a leash. The argument is being made that these horses and mules are not "pets". This rule would make it mandatory to keep them on a lead line or tethered.

Fiscal Information

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

A) State budget:

With the proposed rule amendment, there is no to little anticipated cost to the state budget.

Grazing is not allowed on Antelope Island State Park and there are no concession activities on the park related to domestic sheep, pack goats, or camelids.

Some additional signage may be required and an update to the park's printed materials. Closing sections of the trail from March 15 to May 15 will not dramatically impact park visitation or revenue as there are many alternate trails available to the public.

There could be cost savings in the future as this rule could help ensure there is not a recurrence of the 2018 incident where the entire Bighorn Sheep population was decimated and was replaced the following years by the Division of Wildlife Resources (DWR). The herd at Antelope Island State Park is a nursery herd for DWR and used to repopulate other areas of the state.

This rule amendment does not change legislation accounting for any agency as nothing is changed related to that.

B) Local governments:

With the proposed rule amendment, there is no to little anticipated cost to local governments.

Grazing is not allowed on Antelope Island State Park and there are no concession activities on the park related to domestic sheep, pack goats, or camelids.

Some additional signage may be required and an update to the park's printed materials. Closing sections of the trail from March 15 to May 15 will not dramatically impact park visitation or revenue as there are many alternate trails available to the public.

There could be cost savings in the future as this rule could help ensure there is not a recurrence of the 2018 incident where the entire Bighorn Sheep population was decimated and was replaced the following years by the DWR. The herd at Antelope Island State Park is a nursery herd for DWR and used to repopulate other areas of the state.

This rule amendment does not change legislation accounting for any agency as nothing is changed related to that.

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

With the proposed rule amendment, there is no to little anticipated cost to small businesses.

Grazing is not allowed on Antelope Island State Park and there are no concession activities on the park related to domestic sheep, pack goats, or camelids.

Some additional signage may be required and an update to the park's printed materials. Closing sections of the trail from March 15 to May 15 will not dramatically impact park visitation or revenue as there are many alternate trails available to the public.

There could be cost savings in the future as this rule could help ensure there is not a recurrence of the 2018 incident where the entire Bighorn Sheep population was decimated and was replaced the following years by the DWR. The herd at Antelope Island State Park is a nursery herd for DWR and used to repopulate other areas of the state.

This rule amendment does not change legislation accounting for any agency as nothing is changed related to that.

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

With the proposed rule amendment, there is no to little anticipated cost to non-small businesses.

Grazing is not allowed on Antelope Island State Park and there are no concession activities on the park related to domestic sheep, pack goats, or camelids.

Some additional signage may be required and an update to the park's printed materials. Closing sections of the trail from March 15 to May 15 will not dramatically impact park visitation or revenue as there are many alternate trails available to the public.

There could be cost savings in the future as this rule could help ensure there is not a recurrence of the 2018 incident where the entire Bighorn Sheep population was decimated and was replaced the following years by the DWR. The herd at Antelope Island State Park is a nursery herd for DWR and used to repopulate other areas of the state.

This rule amendment does not change legislation accounting for any agency as nothing is changed related to that.

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**):

With the proposed rule amendment, there is no to little anticipated cost to persons other than small businesses, non-small business, state, or local government entities.

Grazing is not allowed on Antelope Island State Park and there are no concession activities on the park related to domestic sheep, pack goats, or camelids.

Some additional signage may be required and an update to the park's printed materials. Closing sections of the trail from March 15 to May 15 will not dramatically impact park visitation or revenue as there are many alternate trails available to the public.

There could be cost savings in the future as this rule could help ensure there is not a recurrence of the 2018 incident where the entire Bighorn Sheep population was decimated and was replaced the following years by the DWR. The herd at Antelope Island State Park is a nursery herd for DWR and used to repopulate other areas of the state.

This rule amendment does not change legislation accounting for any agency as nothing is changed related to that.

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

With the proposed rule amendment, there is no to little anticipated compliance costs for affected persons.

Grazing is not allowed on Antelope Island State Park and there are no concession activities on the park related to domestic sheep, pack goats, or camelids.

Some additional signage may be required and an update to the park's printed materials. Closing sections of the trail from March 15 to May 15 will not dramatically impact park

visitation or revenue as there are many alternate trails available to the public.

There could be cost savings in the future as this rule could help ensure there is not a recurrence of the 2018 incident where the entire Bighorn Sheep population was decimated and was replaced the following years by the DWR. The herd at Antelope Island State Park is a nursery herd for DWR and used to repopulate other areas of the state.

This rule amendment does not change legislation accounting for any agency as nothing is changed related to that.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 79-4-203	Section 79-4-304	Section 79-4-501
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Public Notice Information

8. 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:	10/02/2023
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9. This rule change MAY become effective on:	10/10/2023
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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.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	Date:	08/10/2023
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R651. Natural Resources, State Parks.

R651-633. Special Closures or Restrictions.

R651-633-1. Emergency Closures or Restrictions.

~~[No person shall]~~Persons may not be in a closed area or participate in a restricted activity which has been posted by the park manager, with the approval of the region manager, to protect public safety or park resources during a temporary emergency situation.

R651-633-2. General Closures or Restrictions.

Persons are prohibited from being in a closed area or participating in a restricted activity as listed for the following park areas:

- (1) Coral Pink Sand Dunes State Park: ~~[—]~~
 - (a) ~~[Motorized vehicle use is prohibited in t]~~The non-motorized area of the sand dunes prohibits motorized vehicle use, except for the outlined in (1)(b). ~~[— except for limited and restricted access through the travel corridor;]~~
 - (b) Limited and restricted motorized vehicle use through the travel corridor is permitted in the non-motorized area of the sand dunes.
- (2) Dead Horse State Park:
 - (a) prohibits ~~[H]~~hang gliding, para~~[—]~~gliding, and B.A.S.E. jumping ~~[— is prohibited.]~~
 - (b) prohibits ~~[D]~~dogs on the Interpid Mountain Bike Trail System ~~[— are prohibited.]~~; and
 - (c) prohibits ~~[B]~~bicycling on Rim Hiking Trails ~~[— is prohibited]~~ unless posted open.
- (3) Snow Canyon State Park:
 - (a) limits ~~[H]~~hiking and walking in the park ~~[— is limited]~~ to roadways, designated trails, ~~[— and]~~ slick rock areas, and the Sand Dunes area ~~[—];~~

(b)(i) except for the activities listed under Subsection (3)(b)(ii), [F]the last half-mile of the Johnson Canyon Trail is closed annually from March 15 through September 14;

(ii) [except]the trail is open by permit or guided walks[; this portion of trail is open] from September 15 through March 14[;]; and

(iii) the last half-mile of the Johnson Canyon Trail is open from September 15 through March 14.

(c) closes Black Rocks Canyon[is closed] annually from March 15 to June 30[;];

(d) closes West Canyon climbing routes[are closed] annually from February 1 to June 1[;]; and

(e) prohibits [H]hang gliding, para[-]gliding, and B.A.S.E. jumping[is prohibited].

(4) Antelope Island State Park;

(a) prohibits domestic sheep, pack goats, and camelids from the park;

(b) closes the West Side Trail annually from March 15 through May 15 from the top of Sentry to the switchbacks for Bighorn Sheep lambing;

(c) requires any horse and mule, if not being ridden, to be secured with a lead rope or by other similar means; and

(d) requires all other domesticated animals, pets, or service animals to be on a leash, tethered, or otherwise under the physical control of their handlers, except for dogs actively engaged in waterfowl hunting activities if they are under the voice control of their handler.

KEY: parks

Date of Last Change: 2023[August 22, 2022]

Notice of Continuation: April 17, 2023

Authorizing, and Implemented or Interpreted Law: 79-4-203; 79-4-304; 79-4-501

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at 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

Rule Number:	R68-25	Filing ID: 55439
Effective Date:	08/08/2023	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R68-25. Industrial Hemp Program-Cannabinoid Product Processors
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 Subsection 4-41-103.1(1)(a) that requires that the Department of Agriculture and Food (Department) makes rules establishing the requirement for a cannabinoid processor license to process cannabinoid products.
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 on 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 is statutorily required and because it provides guidance to prospective cannabinoid product processors regarding the requirements to get and maintain a license to process products in Utah. It helps to ensure that products on the market are safe and honestly presented by ensuring accountability for processors. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	Date:	08/08/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R68-26	Filing ID: 55411
Effective Date:	08/08/2023	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R68-26. Cannabinoid Product Registration and Labeling
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 Subsection 4-41-103.1(1)(a) that requires that the Department of Agriculture and Food (Department) makes rules establishing the requirement for a cannabinoid processor license to process cannabinoid products, as well as Subsection 4-41-103.1(1)(b) that requires the Department to make rules establishing requirements for a permit to market or sell industrial hemp products.

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:

During the prior five years, the Department has received comments expressing concerns regarding the frequency of rule changes and cost of product registration.

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 by requiring that all cannabinoid products be registered with the department and adhere to minimum labeling requirements the department is able to track products in the event of potential health and safety concerns as well as help ensure products are safe and honestly presented. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig W Butters, Commissioner	Date:	08/08/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R154-100	Filing ID: 54777
Effective Date:	08/10/2023	

Agency Information

1. Department:	Commerce	
Agency:	Corporations and Commercial Code	
Room number:	Second Floor	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146705	
City, state and zip:	Salt Lake City, UT 84114-6705	
Contact persons:		
Name:	Phone:	Email:
Leigh Veillette	801-530-6162	lveillette@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R154-100. Administrative Procedures 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:

Section 13-1a-5 states the director of the Division of Corporations and Commercial Code (Division) "has authority: to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the responsibilities of the division".

Section 63G-4-202 permits an agency, by rule, to "designate categories of adjudicative proceedings to be conducted informally". The Division has made this rule pursuant to the authorization in these statutory provisions.

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 about Rule R154-100 have been received by 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 because it provides procedural clarity for adjudicative proceedings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Leigh Veillette, Division Director	Date:	08/10/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R156-44a	Filing ID: 52254
Effective Date:	08/08/2023	

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Jeff Busjahn	801-530-6628	jbusjahn@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information**2. Rule catchline:**

R156-44a. Nurse Midwife Practice 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 44a, provides for the licensure and regulation of certified nurse midwives.

Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58.

Subsection 58-1-202(1)(a) provides that the Certified Nurse Midwife 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 44a, with respect to certified nurse midwives.

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 August 2018, this rule has been amended one time in November/December 2019. The Division did receive a December 1, 2019, email inquiry from Angela Anderson relating to the proposed fine schedule for certified nurse midwives as it pertained to opioid prescriptions. Division Bureau Manager Jeff Busjahn responded to Ms. Anderson's questions raised in the email on December 2, 2019.

The Division then made the proposed rule amendments in OAR File No. 44117 effective on December 9, 2019 with no further amendments/changes being filed. The Division has received no other written comments relating to this rule since the December 1, 2019 email from Angela Anderson.

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 44a.

This rule is also necessary as it 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.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	08/08/2023
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Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	Date:	08/09/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R251-105	Filing ID:	50347
Effective Date:	08/14/2023		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-550	Filing ID:	53247
Effective Date:	08/15/2023		

Agency Information

1. Department:	Corrections		
Agency:	Administration		
Street address:	14727 Minuteman Drive		
City, state and zip:	Draper, UT 84020		
Contact persons:			
Name:	Phone:	Email:	
Wendy Horlacher-Aldrich	435-590-2048	wendyha@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R251-105. Applicant Qualifications for Employment with Department of Corrections
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 63G-3-201, 64-13-10, and 64-13-25.
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:
Corrections has not received any written comments in the past five years pertaining 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:
The purpose of this rule is to provide policies and procedures for the screening, testing, interviewing, and selecting of applicants for Department of Corrections employment. Therefore, this rule should be continued.

General Information

2. Rule catchline:
R277-550. Charter Schools - Definitions
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 pursuant to 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 execute rules to carry out its duties and responsibilities under the Utah Constitution and state law; and Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it establishes definitions for Rules R277-550 through R277-555 that govern charter schools. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-554	Filing ID:	50498
Effective Date:	08/15/2023		

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 persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R277-554. State Charter School Board Grants and Mentoring 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 pursuant to 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 execute rules to carry out its duties and responsibilities under the Utah Constitution and state law; Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools; and Section 53F-2-

705, which requires the Board to make rules regarding start-up and implementation grants and a mentoring 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:

There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it establishes rules for the State Charter School Board to operate a start-up and implementation grant for charter schools, and a mentoring program for charter schools. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R602-7	Filing ID:	51487
Effective Date:	08/15/2023		

Agency Information

1. Department:	Labor Commission	
Agency:	Adjudication	
Room number:	3rd Floor	
Building:	Heber M. Wells Bldg	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact persons:		
Name:	Phone:	Email:
Aurora Holley	801-530-6865	auroraholley@utah.gov
Chris Hill	801-530-6113	chill@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

General Information

2. Rule catchline:

R602-7 Adjudication of Discrimination Claims

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 34A-5-107 authorizes the Labor Commission to conduct adjudicative proceedings to resolve claims of discrimination.

Section 34A-5-107 also authorized the Labor Commission to adopt rules to carry out those adjudicative functions.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received during or 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:

As part of the Labor Commission's continuing responsibility to administer a system for adjudication of discrimination claims, it is necessary for the Labor Commission to establish procedures for handling these claims. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jaceson R. Maughan, Commissioner	Date:	08/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R602-8	Filing ID:	51489
Effective Date:	08/15/2023		

Agency Information

1. Department:	Labor Commission
Agency:	Adjudication
Room number:	3rd Floor
Building:	Heber M Wells Bldg
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111

Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact persons:		
Name:	Phone:	Email:
Aurora Holley	801-530-6865	Auroraholley@utah.gov
Chris Hill	801-530-6113	chill@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R602-8 Adjudication of Utah Occupational Safety and Health Citation Claims

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Sections 34A-6-105, 34A-6-303, and 34A-6-304 authorize the Labor Commission to conduct adjudicative proceedings to resolve contests of Utah Occupational Safety and Health Citation. These sections also authorize the Labor Commission to adopt rules to carry out those adjudicative functions.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received during or 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:

As part of the Labor Commission's continuing responsibility to administer a system for adjudication of contests of Utah Occupational Safety and Health citations, it is necessary for the Labor Commission to establish procedures for handling these claims. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jaceson R. Maughan, Commissioner	Date:	08/15/2023
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R945-1	Filing ID: 52603
New Deadline Date:	01/05/2024	

Agency Information

1. Department:	Higher Education (Utah Board of)	
Agency:	Administration	
Room number:	5th Floor	
Building:	Board of Regents Building, The Gateway	
Street address:	60 S 400 W	
City, state and zip:	Salt Lake City, UT 84101	
Contact persons:		
Name:	Phone:	Email:
Kevin V. Olsen	801-556-3461	kvolsen@agutah.gov
Geoffrey T. Landward	801-321-7136	glandward@ushe.edu

Alison Adams	801-643-5535	Alison.Adams@ushe.edu
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:
R945-1. UTech Technical College Scholarship
3. Reason for requesting the extension:
The Utah Board of Higher Education is considering the repeal of Rule R945-1 and an extension will allow the board time to make the repeal effective before this rule expires.

Agency Authorization Information

Agency head or designee and title:	Kevin V. Olsen, Assistant Attorney General and Designee	Date:	08/11/2023
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End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 55345 (Amendment) R68-29: Quality Assurance Testing on Cannabis
Published: 05/15/2023
Effective: 08/01/2023

No. 55345 (Change in Proposed Rule) R68-29: Quality Assurance Testing on Cannabis
Published: 07/01/2023
Effective: 08/01/2023

No. 55442 (New Rule) R68-39: Industrial Hemp Producer Registration
Published: 06/15/2023
Effective: 08/01/2023

Regulatory Services

No. 55403 (Amendment) R70-330: Raw Milk for Retail
Published: 06/01/2023
Effective: 08/01/2023

Commerce

Real Estate

No. 55495 (Amendment) R162-2c: Utah Residential Mortgage Practices and Licensing Rules
Published: 07/01/2023
Effective: 08/08/2023

No. 55454 (Amendment) R162-2f: Real Estate Licensing and Practices Rules
Published: 07/01/2023
Effective: 08/16/2023

Cultural and Community Engagement

Pete Suazo Utah Athletic Commission

No. 55449 (New Rule) R457-1: Pete Suazo Utah Athletic Commission Act Rule
Published: 06/15/2023
Effective: 08/18/2023

Education

Administration

No. 55486 (Amendment) R277-110: Educator Salary Adjustment
Published: 07/01/2023
Effective: 08/08/2023

No. 55515 (New Rule) R277-314: Provider-Specific Licenses
Published: 07/15/2023
Effective: 08/22/2023

No. 55516 (Amendment) R277-461: Elementary School Counselor Grant Program
Published: 07/15/2023
Effective: 08/22/2023

No. 55487 (Amendment) R277-496: K-3 Reading Software Licenses
Published: 07/01/2023
Effective: 08/08/2023

No. 55488 (Amendment) R277-497: School Accountability System
Published: 07/01/2023
Effective: 08/08/2023

No. 55517 (Repeal) R277-522: Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Teachers
Published: 07/15/2023
Effective: 08/22/2023

No. 55489 (Amendment) R277-607: Absenteeism and Truancy Prevention
Published: 07/01/2023
Effective: 08/08/2023

NOTICES OF RULE EFFECTIVE DATES

No. 55490 (Amendment) R277-613: LEA Policies and Training Regarding Bullying, cyber-bullying, Hazing, Retaliation, and Abusive Conduct
Published: 07/01/2023
Effective: 08/08/2023

No. 55518 (Amendment) R277-618: Homeless Teen Center Grant Program
Published: 07/15/2023
Effective: 08/22/2023

No. 55491 (Repeal) R277-619: Student Leadership Skills Development
Published: 07/01/2023
Effective: 08/08/2023

No. 55519 (Amendment) R277-721: PRIME Pilot Program
Published: 07/15/2023
Effective: 08/22/2023

No. 55492 (Amendment) R277-726: Statewide Online Education Program
Published: 07/01/2023
Effective: 08/08/2023

No. 55520 (Amendment) R277-750: Education Programs for Students with Disabilities
Published: 07/15/2023
Effective: 08/22/2023

Government Operations

Finance

No. 55521 (Amendment) R25-7: Travel-Related Reimbursements for State Travelers
Published: 07/15/2023
Effective: 08/22/2023

Records Committee

No. 55398 (Amendment) R35-1a: State Records Committee Definitions
Published: 06/15/2023
Effective: 08/23/2023

No. 55399 (Amendment) R35-2: Scheduling and Declining Hearings
Published: 06/15/2023
Effective: 08/23/2023

No. 55400 (Amendment) R35-4: Compliance with State Records Committee Decisions and Orders
Published: 06/15/2023
Effective: 08/23/2023

No. 55401 (Amendment) R35-5: Subpoenas Issued by the Records Committee
Published: 06/15/2023
Effective: 08/23/2023

No. 55402 (Amendment) R35-6: Expedited Hearing
Published: 06/15/2023
Effective: 08/23/2023

Health and Human Services

Population Health, Environmental Health

No. 55392 (Repeal and Reenact) R392-302: Design, Construction and Operation of Public Pools
Published: 06/01/2023
Effective: 08/21/2023

Health Care Facility Licensing

No. 55415 (Amendment) R432-13: Freestanding Ambulatory Surgical Center Construction Rule
Published: 06/01/2023
Effective: 08/10/2023

No. 55494 (Amendment) R432-35: Background Screening -- Health Facilities

Published: 07/01/2023
Effective: 08/22/2023

No. 55434 (Amendment) R432-500: Freestanding Ambulatory Surgical Center Rules
Published: 07/01/2023
Effective: 08/10/2023

Human Services Program Licensing

No. 55380 (Amendment) R501-11: Social Detoxification Programs
Published: 05/15/2023
Effective: 08/02/2023

No. 55383 (Amendment) R501-18: Recovery Residence Services

Published: 05/15/2023
Effective: 08/02/2023

Insurance

Administration

No. 55511 (Repeal and Reenact) R590-191: Unfair Life Insurance Claims Settlement Practices Rule
Published: 07/15/2023
Effective: 08/22/2023

No. 55512 (Repeal and Reenact) R590-192: Unfair Accident and Health Claims Settlement Practices
Published: 07/15/2023
Effective: 08/22/2023

No. 55513 (Repeal) R590-248: Mandatory Fraud Reporting Rule
Published: 07/15/2023
Effective: 08/22/2023

Title and Escrow Commission

No. 55514 (Repeal) R592-15: Schedule of Minimum Charges for Escrow Services
Published: 07/15/2023
Effective: 08/21/2023

Natural ResourcesOutdoor Recreation

No. 55500 (New Rule) R650-101: Procedures for Applications to Receive Funds from the Zion National Park Support Programs Restricted Account
Published: 07/15/2023
Effective: 08/21/2023

No. 55445 (New Rule) R650-301: Off Highway Vehicle Recreation Grant Program
Published: 06/15/2023
Effective: 08/10/2023

Wildlife Resources

No. 55462 (Repeal) R657-3: Collection, Importation, Transportation, and Possession of Animals
Published: 07/01/2023
Effective: 08/10/2023

No. 55463 (New Rule) R657-3a: Collection, Importation, Transportation, and Possession of Animals
Published: 07/01/2023
Effective: 08/10/2023

No. 55464 (New Rule) R657-3b: Certification of Registration – Birds and Mammals
Published: 07/01/2023
Effective: 08/10/2023

No. 55465 (New Rule) R657-3c: Certification of Registration – Fish, Mollusks, and Crustaceans
Published: 07/01/2023
Effective: 08/10/2023

No. 55467 (Amendment) R657-5: Taking Big Game
Published: 07/01/2023
Effective: 08/10/2023

No. 55468 (Amendment) R657-6: Taking Upland Game
Published: 07/01/2023
Effective: 08/10/2023

No. 55469 (Amendment) R657-9: Taking Waterfowl, Snipe and Coot
Published: 07/01/2023
Effective: 08/10/2023

No. 55470 (Amendment) R657-10: Taking Cougar
Published: 07/01/2023
Effective: 08/10/2023

No. 55471 (Amendment) R657-11: Taking Furbearers and Trapping
Published: 07/01/2023
Effective: 08/10/2023

No. 55472 (Amendment) R657-13: Taking Fish and Crayfish
Published: 07/01/2023
Effective: 08/10/2023

No. 55473 (Amendment) R657-14: Commercial Harvesting of Protected Aquatic Wildlife
Published: 07/01/2023
Effective: 08/10/2023

No. 55476 (Amendment) R657-33: Taking Bear
Published: 07/01/2023
Effective: 08/10/2023

No. 55477 (Amendment) R657-37: Cooperative Wildlife Management Units for Big Game or Turkey
Published: 07/01/2023
Effective: 08/10/2023

No. 55478 (Amendment) R657-42: Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents
Published: 07/01/2023
Effective: 08/10/2023

No. 55480 (Amendment) R657-54: Taking Wild Turkey
Published: 07/01/2023
Effective: 08/10/2023

No. 55481 (Amendment) R657-59: Private Fish Ponds, Short Term Fishing Events, Private Fish Stocking, and Institutional Aquaculture
Published: 07/01/2023
Effective: 08/10/2023

No. 55482 (Amendment) R657-62: Drawing Application Procedures
Published: 07/01/2023
Effective: 08/10/2023

No. 55483 (Amendment) R657-67: Utah Hunter Mentoring Program
Published: 07/01/2023
Effective: 08/10/2023

No. 55484 (Amendment) R657-69: Turkey Depredation
Published: 07/01/2023
Effective: 08/10/2023

TransportationAdministration

No. 55508 (Amendment) R907-67: Debarment of Contractors from Work on Department Projects -- Reasons
Published: 07/15/2023
Effective: 08/23/2023

Workforce ServicesHousing and Community Development

No. 55499 (Amendment) R990-300: Review Process for Plan for Moderate Income Housing Reports
Published: 07/01/2023
Effective: 08/24/2023

End of the Notices of Rule Effective Dates Section

