

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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EDITOR'S NOTES

Comment Extension for Rule R307-150, Emission Inventories

The amendment to Rule R307-150, Emission Inventories, that was published in the March 1, 2025, Bulletin under ID 57036 on page 28, has had the comment period extended 15 days.

Comments will be accepted until 04/15/2025 instead of 03/31/2025.

Comments can be made to:

Greg Mortensen, by phone at 385-226-6171, or by email at gmortensen@utah.gov

or

Erica Pryor, by phone at 385-499-3416, or email at epryor1@utah.gov

End of the Editor's Notes Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between March 01, 2025, 12:00 a.m., and March 14, 2025, 11:59 p.m. are included in this, the April 01, 2025, issue of the *Utah State Bulletin*.

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

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 Rules being repealed are completely struck out.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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 01, 2025. 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 July 30, 2025, 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 SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal		
Rule or Section Number:	R270-5	Filing ID: 57077

Agency Information

1. Title catchline:	Crime Victim Reparations, Administration	
Building:	UOVC Offices	
Street address:	350 E 500 S, Suite 200	
City, state:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dale Oyler	801-238-2364	doyler@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:	R270-5. Electronic Meetings	
3. Purpose of the new rule or reason for the change:	The purpose of this change is to repeal Rule R270-5, which governs the use of electronic meetings by the Crime Victims Reparations and Assistance Board (CVRA Board). As of 12/31/2024, the CVRA Board has been dissolved by Subsection 631-2-263(11) and no longer exists. As a result, Rule R270-5 is no longer needed.	
4. Summary of the new rule or change:	This change repeals Rule R270-5 in its entirety.	

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:		
A) State budget:	There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.	
B) Local governments:	There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.	
C) Small businesses ("small business" means a business employing 1-49 persons):	There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.	
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):	There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.	
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):	There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.	

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

There will not be compliance costs because this change repeals Rule R270-5 in its entirety.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Director of the Utah Office for Victims of Crime, Chyleen Richey, 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 63M-7-506(b)

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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	Chyleen Richey, Director	Date:	03/11/2025
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R270. Crime Victim Reparations, Administration.

~~**R270-5. Electronic Meetings.**~~

~~**R270-5-1. Authorization and Purpose.**~~

~~(1) Purpose. Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule R270-5 establishes procedures for conducting Crime Victim Reparations and Assistance Board (hereinafter "Board") meetings by electronic means.~~

~~(2) Procedure. The following provisions govern any meeting at which one or more Board members appear electronically pursuant to Section 52-4-207:~~

(a) If one or more members of the Board desire to participate electronically, such member(s) shall contact the Director of the Crime Victim Reparations and Assistance Board (hereinafter "Director"). The Director shall assess the practicality of facility requirements needed to conduct the meeting electronically in a manner that allows for the attendance, participation and monitoring as required by this Rule. If it is practical, the Presiding Officer or Director shall determine whether to allow for such electronic participation, and the public notice of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Board not participating electronically will be present and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location and be provided in accordance with the Open and Public Meetings Act. The anchor location is the physical location where the electronic meeting originates or where the participants are connected. The anchor location shall be identified in the public notice for the meeting. Unless otherwise designated in the notice, the anchor location shall be a room in the Utah Office for Victims of Crime office located at 350 East 500 South, Salt Lake City, Utah where the Board would normally meet if the Board was not holding an electronic meeting.

(c) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. In addition, the notice shall describe how a Board member may participate in the meeting electronically.

(d) When notice is given of the possibility of a Board member participating electronically, any Board member may do so and any voting Board member, whether at the anchor location or participating electronically, shall be counted as present for purposes of a quorum and may fully participate and vote. At the commencement of the meeting, or at such time as any Board member initially appears electronically, the Presiding Officer shall identify for the record all those who are participating electronically. Votes by members of the Board who are not at the anchor location of the meeting shall be confirmed by the Presiding Officer.

(e) The anchor location will have space and facilities so that interested persons and the public may attend, monitor and participate in the open portions of the meeting, as appropriate.

KEY: ~~electronic meetings, procedures~~

Date of Last Change: ~~April 6, 2016~~

Notice of Continuation: ~~March 16, 2021~~

Authorizing, and Implemented or Interpreted Law: ~~52-4-207]~~

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal

Rule or Section Number:

R270-6

Filing ID: 57078

Agency Information

1. Title catchline:	Crime Victims Reparations, Administration	
Building:	UOVC Offices	
Street address:	350 E 500 S, Suite 200	
City, state:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dale Oylar	801-238-2364	doyler@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R270-6. Recusal of a Board Member for a Conflict of Interest
3. Purpose of the new rule or reason for the change:
The purpose of this change is to repeal Rule R270-6, which establishes standards and procedures for addressing conflicts of interest involving members of the Crime Victims Reparations and Assistance Board (CVRA Board). As of 12/31/2024, the CVRA Board has been dissolved by Subsection 63I-2-263(11) and no longer exists. As a result, Rule R270-6 is no longer needed.
4. Summary of the new rule or change:
This change repeals Rule R270-6 in its entirety.

Fiscal Information

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

A) State budget:

There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.

B) Local governments:

There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.

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

There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.

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

There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.

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

There will not be a fiscal impact from repealing this rule as the CVRA Board has been dissolved and no longer exists.

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

There will not be compliance costs because this change repeals Rule R270-6 in its entirety.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Director of the Utah Office for Victims of Crime, Chyleen Richey, 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 63M-7-506(b)		
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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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Chyleen Richey, Director	Date:	03/11/2025
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R270. Crime Victim Reparations, Administration.

~~[R270-6. Recusal of a Board Member for a Conflict of Interest.~~

~~**R270-6-1. Authority.**~~

~~_____ This rule is authorized by Section 63M-7-506.~~

~~**R270-6-2. Purpose.**~~

~~_____ The purpose of this rule is to establish standards and procedures for addressing potential conflicts of interest.~~

~~**R270-6-3. Definitions.**~~

~~_____ Terms used in this rule are defined in Section 63M-7-502.~~

~~**R270-6-4. Potential Conflicts of Interest.**~~

~~_____ A board member has a potential conflict of interest with respect to a matter to be considered by the board if:~~

~~_____ (1) the board member's participation would be prohibited under Title 67, Chapter 16, the Utah Public Officers' and Employees' Ethics Act;~~

~~_____ (2) the board member's participation constitutes a violation of constitutional due process under the Utah or United States constitutions; or~~

~~_____ (3) the board member has a pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome.~~

~~**R270-6-5. Procedures.**~~

~~_____ (1) A board member, who has a potential conflict of interest with respect to a matter before the board, shall:~~

~~_____ (a) disclose the conflict of interest on a form provided by the Office;~~

~~_____ (b) refrain from directly or indirectly influencing the board's decision on the specific issue which gave rise to the conflict of interest; and~~

~~_____ (c) recuse himself or herself from voting with the board on the matter.~~

~~_____ (2) This rule does not preclude a board member from participating in a general discussion as a subject matter expert.~~

~~**KEY: conflict of interest, Crime Victim Reparations and Assistance Board**~~

~~**Date of Last Change: August 22, 2016**~~

~~**Notice of Continuation: March 16, 2021**~~

~~**Authorizing, and Implemented or Interpreted Law: 67-16; 63M-7-506]**~~

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-113	Filing ID: 57071
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Agency Information

1. Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 144200

City, state and zip:	Salt Lake City, Utah 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Elisse Newey	801-538-7550	elisse.newey@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-113. LEA Fiscal and Auditing Policies
3. Purpose of the new rule or reason for the change:
This rule is being amended to update the requirements related to Local Education Agencies (LEA) flexible use of restricted funds.
4. Summary of the new rule or change:
The amendments specifically make updates to the section on LEA flexibility, removing unnecessary language while preserving key Utah State Board of Education (USBE) reporting components.

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 impacts on state government revenues or expenditures. This language is related to LEA recordkeeping of fund transfers through the fiscal flexibility offered in Section 53F-2-209.
The original fiscal flexibility language in code had referenced COVID related impacts. H.B. 2 passed in the 2023 General Session removed the COVID related language and these updates provide clarity for LEAs on recordkeeping requirements but do not impact the allowability of the transfers themselves and therefore, do not have any measurable impacts for the USBE or LEAs.
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. This language is related to LEA recordkeeping of fund transfers through the fiscal flexibility offered in Section 53F-2-209. The original fiscal flexibility language in code had referenced COVID related impacts. H.B. 2 (2023) removed the COVID-related language and these updates provide clarity for LEAs on recordkeeping requirements but do not impact the allowability of the transfers themselves and therefore, do not have any measurable impacts for the USBE or LEAs.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. This only impacts the USBE and 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 rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only impacts 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 language is related to LEA recordkeeping of fund transfers through the fiscal flexibility offered in Section 53F-2-209. The original fiscal flexibility language in code had referenced COVID related impacts. H.B. 2 (2023) removed the COVID-related language and these updates provide clarity for LEAs on recordkeeping requirements but do not impact the allowability of the transfers themselves and therefore, do not have any measurable impacts for the USBE or 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-3-501(1)(e)
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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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Elisse Newey, Deputy Superintendent of Policy	Date:	03/14/2025
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R277. Education, Administration.
R277-113. LEA Fiscal and Auditing Policies.
R277-113-1. Authority, Purpose, and Oversight Category.
 (1) This rule is authorized by:

NOTICES OF PROPOSED RULES

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Subsection 53E-3-501(1)(e)(i), which directs the Board to establish rules and minimum standards for school productivity and cost effectiveness measures;
 - (d) Subsection 53E-3-501(1)(e)(iv), which allows the Board to adopt rules regarding financial, statistical, and student accounting requirements;
 - (e) Section 53E-3-602, which allows the Board to approve auditing standards for LEA governing boards;
 - (f) Section 53E-3-603, which requires the Board to verify accounting procedures of LEA governing boards for determining the allocation of Uniform School Funds;
 - (g) Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system;
 - (h) Subsection 53G-5-404(4), which requires charter schools to make the same annual reports required of other public schools, including an annual financial audit report;
 - (i) Subsection 53F-2-209(2), which requires the Board to make rules for flexible use of restricted funds; and
 - (j) ESSA, which requires states to revise and redesign school accountability systems.
- (2) The purpose of this rule is to:
- (a) require LEAs to formally adopt and implement policies regarding the management and use of public funds;
 - (b) provide minimum standards, procedures, and definitions for LEA policies;
 - (c) direct that LEAs make policies, procedures, and training materials available to the public and readily accessible on LEA or public school websites, to the extent of resources available;
 - (d) require LEAs to train employees in:
 - (i) appropriate financial practices;
 - (ii) necessary accounting procedures; and
 - (iii) ethical financial practices;
 - (e) specify uniform budgeting, accounting, and auditing procedures for LEAs consistent with GAAP, GAAS, and GAGAS; and
 - (f) establish reporting and accounting requirements for LEAs to enable the Board to comply with ESSA.
- (3) This Rule R277-113 is categorized as Category 3 as described in Rule R277-111.

R277-113-2. Definitions.

- (1) "Accrual basis of accounting" means a basis of accounting that records:
 - (a) revenue when earned and expenses when incurred; and
 - (b) transactions irrespective of the dates on which any associated cash flows occur.
- (2) "Administration" means:
 - (a) an LEA superintendent or director;
 - (b) a deputy or associate superintendent or director;
 - (c) a business administrator or manager; or
 - (d) another LEA educational administrator, designated staff, or a designated educational service provider.
- (3) "Arm's length transaction" means a transaction between two unrelated, independent, and unaffiliated parties or a transaction between two parties acting in their own self interest that is conducted as if the parties were strangers so that no conflict of interest exists.
- (4) "Cash" or "cash receipts" means cash, checks, credit cards, electronic payments via a website or a mobile payment application, or other items used for payment.
- (5) "Exclusive contract or arrangement" means an agreement requiring a buyer to purchase or exchange needed goods or services from one seller.
- (6) "GAAP" means Generally Accepted Accounting Principles or a common framework of accounting rules and standards for financial reporting promulgated by GASB.
- (7) "GAAS" means Generally Accepted Auditing Standards or a set of auditing standards and guidelines promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants.
- (8) "GAGAS" means Generally Accepted Government Auditing Standards or a set of auditing standards and guidelines promulgated by the Government Accountability Office.
- (9) "GASB" means the Governmental Accounting Standards Board whose purpose is to establish GAAP for state and local governments within the United States.
- (10) "Internal controls" means a process, implemented by an entity's governing body, administration, or other personnel, designed to:
 - (a) provide reasonable assurance regarding the achievement of objectives in the following categories:
 - (i) effectiveness and efficiency of operations;
 - (ii) reliability of reporting for internal and external use; and
 - (iii) compliance with applicable laws and regulations;
 - (b) provide reasonable assurance regarding the achievement of the following objectives over state and federal awards:
 - (i) proper recording and accounting for transactions, to:
 - (A) permit the preparation of reliable financial statements and state and federal reports;
 - (B) maintain accountability over assets; and

- (C) demonstrate compliance with state and federal statutes, regulations, and the terms and conditions of state and federal awards;
- and
- (ii) execution of transactions in compliance with:
 - (A) state and federal statutes and regulations; and
 - (B) the terms and conditions of state or federal awards; and
 - (c) safeguard funds, property, and other against loss from unauthorized use or disposition.
 - (11) "Modified accrual basis of accounting" means a basis of accounting, commonly used by government agencies, that recognizes revenues when they become available and measurable and recognizes expenditures when liabilities are incurred.
 - (12) "Non-operating LEA" means an LEA that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as an LEA in a start-up period.
 - (13) "N-size" means the minimum size necessary to disclose or display data to ensure maximum student group visibility while protecting student privacy.
 - (14) "Operating LEA" means an LEA that has received state minimum school program funds or federal funds and is providing educational services during a fiscal year.
 - (15)(a) "Provided, sponsored, or supported by a school" has the same meaning as defined in Section R277-407-2.
 - (b) "Provided, sponsored, or supported by a school" does not apply to non-curricular clubs specifically authorized and meeting the requirements of Sections 53G-7-704 through 53G-7-707.
 - (16) "Public funds" has the same meaning as that term is defined in Subsection 51-7-3(26).
 - (17) "Title IX" refers to that portion of the United States Education Amendments of 1972 codified as 20 U.S.C. 1681 through 20 U.S.C. 1688.
 - (18) "Utah Public Officers' and Employees' Ethics Act," means Title 67, Chapter 16, which provides standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between public duties and private interests.

R277-113-3. Superintendent Responsibilities.

- (1) The Superintendent shall provide training, informational materials, and model policies for use by LEAs in developing LEA and public school-specific financial policies.
- (2) The Superintendent shall provide online training and resources for LEAs regarding the use and management of public funds and ethical practices for licensed Utah educators who manage, control, participate in fundraising, or expend public funds.
- (3) The Superintendent shall provide training and informational materials for use by LEA governing boards in establishing their audit committees and internal audit programs in compliance with Section 53G-7-402.
- (4) The Superintendent shall provide and establish a cycle for state review of LEA fiscal policies and standards.
- (5) The Superintendent shall work with and provide information upon request to the Utah State Auditor's Office, the Legislative Fiscal Auditors, and other state agencies with the right to information from the Board.

R277-113-4. LEA Audit Responsibilities.

- (1) The presiding officer of an LEA governing board shall ensure that the members of the governing board and audit committee are provided with training on the requirements of Title 53G, Chapter 7, Part 4, Internal Audits, and this Section R277-113-4 as part of the member on-boarding process.
- (2) The training described in Subsection (1) shall:
 - (a) comply with Title 63G, Chapter 22, State Training and Certification Requirements; and
 - (b) use the online training and informational materials provided by the Superintendent in accordance with Subsection R277-113-3(3).
- (3) An LEA governing board shall:
 - (a) designate board members to serve on an audit committee, consistent with Subsection 53G-7-401(1); and
 - (b) maintain the following information on the LEA's website:
 - (i) names of the governing board members who serve on the audit committee; and
 - (ii) if required by Subsection 53G-7-402(2);
 - (A) the name and contact information of the internal audit director; and
 - (B) a copy of the LEA's annual audit plan.
 - (4) An LEA audit committee shall:
 - (a) ensure the LEA obtains all audits, agreed-upon procedures, engagements, and financial reports required by Section 51-2a-201 and Subsection 53G-5-404(4);
 - (b) provide an independent forum for internal auditors, internal audit contractors, and other regulatory bodies to report findings of fraud, waste, abuse, non-compliance, or control weaknesses, particularly if LEA administration is involved;
 - (c) ensure that corrective action on findings, concerns, issues and exceptions reported by independent external auditors, internal auditors, or other regulatory bodies are resolved in a timely manner by LEA administration;
 - (d) present, as appropriate, information and reports from the audit committee's meetings to the LEA board; and
 - (e) receive, as appropriate, reports of reviews, monitoring, or investigations conducted by LEA administration and ensure appropriate corrective action is taken in a timely manner.
 - (5) With regards to engagements completed by an independent external auditor, an LEA audit committee shall:

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- (a) manage the audit procurement and quality process in compliance with Title 63G, Chapter 6a, State Procurement Code and Rule R123-5;
 - (b) ensure that the independent external auditor has access to directly communicate with the audit committee;
 - (c) review disagreements between independent external auditors and LEA administration;
 - (d) consider LEA responses to audits or agreed-upon procedures; and
 - (e) determine the scope and objectives of other non-audit services, as necessary.
- (6) An LEA audit committee shall if required by Section 53G-7-402:
- (a) establish an internal audit program that provides internal audit services for the programs administered by the LEA;
 - (b) advise the LEA board in the appointment of an audit director or in contracting for internal audit services in accordance with Subsection 53G-7-402(3);
 - (c) conduct or advise the LEA board in an annual evaluation of the internal audit director or contractors providing internal audit services;
 - (d) prioritize the internal audit plan based on risk;
 - (e) receive regular updates on the internal audit plan and internal audit project progress; and
 - (f) receive final internal audit reports from internal auditors or contractors providing internal audit services.

R277-113-5. LEA Fiscal Responsibilities and Required Fiscal Policies.

- (1) An LEA shall review the LEA's fiscal policies and procedures regularly.
- (2) An LEA shall develop a plan for annual training of LEA and public school employees on policies and procedures enacted by the LEA specific to job function.
- (3) LEA fiscal policies and procedures shall be available at each LEA main office, at individual public schools, and be publicly available on the LEA's website.
- (4) LEA fiscal policies, procedures, and training may have different components, specificity, and levels of complexity for public elementary and secondary schools.
- (5) An LEA may have one or more policies to satisfy the minimum requirements of this Rule R277-113.
- (6) An LEA fiscal policy may reference specific training manuals or other resources that provide detailed descriptions of business practices which are too lengthy or detailed to include in the LEA policy.
- (7) A public education foundation established by an LEA shall follow the requirements set forth in Section 53E-3-403.
- (8)(a) An LEA shall ensure that the LEA's written fiscal policies and procedures address applicable state and federal statutes and regulations.
 - (b) The requirements set forth in this Section R277-113-5 are minimum requirements.
 - (c) An LEA may include other related items, provide LEA specific policy and guidance, and set policies that are more restrictive and inclusive than the minimum provisions established by Board rule.
- (9) LEA fiscal policies shall include the following:
 - (a) a program accounting policy that establishes internal controls and procedures to record program revenues and expenditures in accordance with:
 - (i) GAAP; and
 - (ii) the school fee provisions in Section R277-407-12;
 - (b) a program accounting policy that:
 - (i) accurately reflects the use of funds for allowable costs and activities;
 - (ii) requires that transactions be recorded when they occur;
 - (iii) allows adjusting journal entries during the year and at the end of the year, in accordance with GAAP; and
 - (iv) requires that initial transactions, and adjusting entries if applicable, be recorded in the proper program, utilizing the following codes as established by the Board approved chart of accounts:
 - (A) fund;
 - (B) function;
 - (C) program;
 - (D) location; and
 - (E) object or revenue code, as applicable;
 - (c) a cash handling policy, which shall address cash receipts, including cash, checks, credit cards, electronic payments via a website or a mobile payment application, and other items used for payment, collected at the LEA and individual public schools and shall include:
 - (i) establishment of internal controls and procedures over the collection, deposit, and reconciliation of cash receipts received; and
 - (ii) compliance with Subsection 51-4-2(2) regarding deposits.
 - (d) an expenditure policy, which shall address expenditures made by the LEA and individual public schools and shall include:
 - (i) establishment of internal controls and procedures over the initiation, approval and monitoring of expenditures, including:
 - (A) credit, debit, or purchase card transactions;
 - (B) employee reimbursements;
 - (C) travel; and
 - (D) payroll;
 - (ii) directives regarding the appropriate use of the LEA's tax exempt status number;
 - (iii) compliance with Section 63G-6a-1204 regarding length of multi-year contracts;
 - (iv) compliance with:

- (A) Title 63G, Chapter 6a, Utah Procurement Code;
- (B) Board rule regarding construction and improvements; and
- (C) federal Title IX requirements, found in 20 U.S.C. 1681, et seq.;
- (v) requirements for LEA contracts, including:
 - (A) inclusion of specific scope of work language;
 - (B) inclusion of federal requirements;
 - (C) inclusion of language regarding data privacy and use, where appropriate; and
 - (D) legal review before LEA approval; and
- (vi) procedures and documentation maintained by the LEA if the LEA chooses to enter into exclusive contracts or arrangements consistent with state procurement law and the LEA procurement policy; and
- (vii) procedures for determining allowability of costs in accordance with relevant regulations and terms and conditions of awards;
- (e) a fundraising policy that:
 - (i) establishes procedures for LEA and public school fundraising in general;
 - (ii) establishes an approval process for fundraising activities for school sponsored activities;
 - (iii) provides for compliance with the requirements of Rule R277-408; and
 - (iv) includes:
 - (A) specific designation of employees by title or job description who are authorized to approve fundraising and school sponsored fundraising activities;
 - (B) establishment of internal controls and procedures over the approval of fundraising and school sponsored activities and compliance with associated cash handling and expenditure policies;
 - (C) directives regarding the appropriate use of the LEA's tax exempt status number and issuance of charitable donation written disclosure in accordance with IRS regulations;
 - (D) procedures governing LEA or public school employee interaction with parents, donors, and organizations doing fundraisers not provided, supported, or sponsored, by a school or LEA;
 - (E) disclosure requirements for LEA and public school employees approving, managing, or overseeing fundraising activities, who also have a financial or controlling interest or access to bank accounts in the fundraising organization or company;
 - (F) provisions establishing compliance with:
 - (I) Utah Constitution, Article X, Section 2, establishing a free public education system;
 - (II) Rule R277-408; and
 - (III) federal Title IX requirements, found in 20 U.S.C. 1681, et seq.
 - (v) may include procedures governing:
 - (A) student participation and incentives offered to students;
 - (B) allowable types of individual or group fundraising activities; and
 - (C) participation in school sponsored activities by volunteer or outside organizations;
 - (f) an LEA donation and gift policy that includes:
 - (i) an acceptance and approval process for:
 - (A) monetary donations;
 - (B) donations and gifts with donor restrictions;
 - (C) donations of gifts, goods, materials, or equipment; and
 - (D) donation of funds or items designated for construction or improvements of facilities;
 - (ii) establishment of internal controls and procedures over the acceptance and approval of donations and gifts and compliance with associated cash handling and expenditure policies;
 - (iii) directives regarding the appropriate use of the LEA's tax exempt status number, and issuance of charitable donation written disclosure in accordance with IRS regulations;
 - (iv) procedures regarding the objective valuation of donations or gifts if advertising or other services are offered to the donor in exchange for a donation or gift;
 - (v) procedures governing LEA or public school employee conduct with parents, donors, and nonschool sponsored organizations;
 - (vi) procedures establishing provisions for direct donations or gifts to the LEA or LEA programs, individual public school or public school programs;
 - (vii) provisions restricting donations from being directed at specific LEA employees, individual students, vendors, or brand name goods or services;
 - (viii) compliance with:
 - (A) Title 63G, Chapter 6a, Utah Procurement Code;
 - (B) state law and Board rule regarding construction and improvements;
 - (C) IRS regulations and tax deductible directives; and
 - (D) Title IX;
 - (ix) procedures for:
 - (A) accepting donations and gifts through an LEA's legally organized foundation, if applicable;
 - (B) recognition of donors; or
 - (C) granting naming rights; and
 - (g) an LEA Financial Reporting policy, which shall include the following:

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- (i) a requirement that the LEA shall ensure external audits of LEA financial reporting, compliance, and performance, in accordance with GAAS and GAGAS;
 - (ii)(A) a requirement that the LEA shall provide financial reporting in a manner consistent with the basis of accounting as required by GAAP, as applicable to the entity; and
 - (B) a requirement that the basis of accounting will be GASB; and
 - (iii) a requirement that the LEA shall provide data and information consistent with budgeting, accounting, including the uniform chart of accounts for LEAs, and auditing standards for Utah LEAs provided online annually by the Superintendent.
- (10) The Superintendent shall maintain a School Finance website with applicable Utah statutes, Board rules, and uniform rules for:
- (a) budgeting;
 - (b) financial accounting, including a chart of accounts required for an LEA;
 - (c) student membership and attendance accounting;
 - (d) indirect costs and proration;
 - (e) financial audits;
 - (f) statistical audits; and
 - (g) compliance and performance audits.

R277-113-6. LEA Governing Board Fiscal Responsibilities.

An LEA governing board shall have the following responsibilities:

- (1) approve written fiscal policies and procedures required by Section R277-113-5;
- (2) ensure, considering guidance in "Standards for Internal Control in the Federal Government," issued by the Comptroller General of the United States or the "Internal Control Integrated Framework," issued by the Committee of Sponsoring Organizations of the Treadway Commission, that LEA administration establish, document, and maintain an effective internal control system for the LEA;
- (3) develop a process to regularly discuss and review LEA:
 - (a) budget and financial reporting practices;
 - (b) financial statements and annual financial and program reports;
 - (c) financial position;
 - (d) expenditure of restricted funds to ensure administration is complying with applicable laws, regulations, and award terms and conditions; and
 - (e) systems and software applications for compliance with financial and student privacy laws;
- (4) receive the results of required annual audits from the external auditor in accordance with Section R123-5-5;
- (5) oversee procurement processes in compliance with Title 63G, Chapter 6a, Utah Procurement Code, and Rule R277-115, including:
 - (a) reviewing the scope and objectives of LEA contracts or subawards with entities that provide business or educational services; and
 - (b) receiving reports regarding the compliance and performance of entities with contracts or subawards;
 - (c) ensure the procurement process for an external auditor is in compliance with Section R123-5-4; and
 - (d) ensure LEA administration implements sufficient internal controls over the functions of entities with contracts or subawards to perform services on behalf of the LEA[?].

R277-113-7. Reporting of School Level Expenditures.

- (1) In accordance with ESSA, the Superintendent shall make public the per pupil expenditures of federal, state, and local funds, for each LEA and each school in the state.
 - (a) The Superintendent shall exclude expenditures that:
 - (i) are non-current;
 - (ii) do not reflect the day-to-day operations of an LEA or school;
 - (iii) do not contribute to k-12 education; or
 - (iv) are significant, unique expenditures that may skew data in certain years and thwart year-to-year comparison.
 - (b) The Superintendent shall publish and make available a comprehensive list of expenditures that are excluded from per pupil expenditure information.
 - (2) The Superintendent's school level report for each school shall include:
 - (a) average daily membership for the fiscal year covered by the report;
 - (b) an indicator if the school is:
 - (i) a Title I School; or
 - (ii) a Necessarily Existent Small School;
 - (c) grade levels served by each school;
 - (d) student demographics;
 - (e) expenditures recorded at the school level and central expenditures allocated to each school by:
 - (i) federal program expenditures; and
 - (ii) state and local combined expenditures;
 - (f) calculated per pupil expenditures; and
 - (g) average teacher salary.
 - (3) The Superintendent may not report expenditure data for a school with an n-size of less than 10.

R277-113-8. LEA Accounting Requirements.

- (1) Each LEA shall:
 - (a) record revenues and expenditures in compliance with the Board approved chart of accounts;
 - (b) record expenditures using school location codes that can be mapped to official school location codes used in the Board system of record;
 - (c) record expenditures using approved district and school codes in the Board system of record;
 - (d) submit expenditures using location codes in the Utah Public Education Financial System;
 - (e) perform program accounting in accordance with GAAP and this rule; and
 - (f) beginning with the fiscal year that begins on July 1, 2021, accrue school fees, and fee waivers and use contra-revenue accounts to record fee waivers in the LEA's accounting system.
- (2) Each LEA shall record and report the following expenditures for each school annually:
 - (a) salaries;
 - (b) benefits;
 - (c) supplies;
 - (d) contracted services; and
 - (e) equipment.
- (3) If an LEA pays for contracted services that occur at the school level, the LEA shall record the payments to the contractors in the appropriate function and object codes established under Subsection (2) at the school level.
- (4)(a) An LEA shall record centralized administrative costs to the administrative location code.
- (b) The Superintendent shall allocate such costs to each school based on school enrollment.
- (5) The Superintendent shall present one expenditure report for a school receiving more than one report card under Subsection R277-497-4(8).
- (6) If an LEA reports expenditures in programs, the LEA shall report the expenditures to one or more schools.
- (7) Each LEA shall request reimbursement for federal programs no less than semi-annually as funds are available.
- (8) Each LEA shall submit an intent to fully expend or waive a federal award nine months before the end of the federal program grant award period.

R277-113-9. Activities Provided, Sponsored, or Supported by a School.

- (1) An LEA or school shall comply with this Section R277-113-9 for all activities provided, sponsored, or supported by a school.
- (2) An LEA shall ensure that revenues raised from or during activities provided, sponsored, or supported by a school are classified, recorded, and deposited as public funds in compliance with LEA cash handling, program accounting, and expenditure of funds policies as required by Section R277-113-5.
- (3) An LEA shall:
 - (a) maintain records in sufficient detail to:
 - (i) track individual contributions and expenditures;
 - (ii) track overall financial outcomes; and
 - (iii) verify compliance with relevant regulations; and
 - (b) make records of activities available to parents, students, and donors, except as restricted by state or federal law;
- (4) An LEA may establish LEA specific rules or policies:
 - (a) designating categories of activities or groups as provided, sponsored, or supported by the school; and
 - (b) regarding use of facilities or LEA resources.
- (5) An LEA shall document their annual review of fundraising activities that support or subsidize LEA or public school-authorized clubs, activities, sports, classes, or programs to determine if the activities are provided, sponsored, or supported by a school.
- (6)(a) An LEA may enter into contractual agreements to allow for fundraising and use of LEA facilities.
- (b) An agreement under Subsection (6)(a) shall take into consideration the LEA's fiduciary responsibility for the management and use of public funds, resources, and assets.
- (c) An LEA shall review an agreement under Subsection (6)(a) with the LEA's insurer or legal counsel to consider risk to the LEA.
- (7) An LEA shall comply with this Subsection (7) for any activity not provided, sponsored, or supported by a school:
 - (a) an LEA shall conduct transactions at arm's length;
 - (b) an LEA may not co-mingle revenue and expenditures with public funds; and
 - (c) a public school employee may only provide educational services outside of the employee's regular employment consistent with Rule R277-107.

R277-113-10. LEA Policies and Compliance with State and Federal Law.

- (1) An LEA is responsible to ensure that its policies comply with the following:
 - (a) Utah Constitution Article X, Section 3;
 - (b) Title 63G, Chapter 6a, Utah Procurement Code;
 - (c) Title 51, Chapter 4, Deposit of Funds Due State;
 - (d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
 - (e) Family Educational Rights and Privacy Act, 20 U.S.C. 1232g;
 - (f) Title 63G, Chapter 2, Government Records Access and Management Act;
 - (g) Title 53G, Chapter 7, Part 5, Student Fees;

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- (h) Title 53G, Chapter 7, Part 6, Textbook Fees;
- (i) Section 53E-3-403, Establishment of Public Education Foundations;
- (j) Title 53G, Chapter 7, Part 7, Student Clubs Act;
- (k) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
- (l) Additional state legal compliance guides for operating LEAs and non-operating LEAs as published by the office of the state

Auditor;

- (m) Subsection 51-7-3(26), Definition of Public Funds;
 - (n) Title 53G, Chapter 7, Part 4, Internal Audits;
 - (o) Rule R277-407, School Fees;
 - (p) Rule R277-107, Educational Services Outside of Educator's Regular Employment;
 - (q) Rule R277-217, Utah Educator Standards;
 - (r) Rule R277-605, Coaching Standards and Athletic Clinics;
 - (s) Rule R123-5, Audit Requirements for Audits of Political Subdivisions and Governmental Nonprofit Corporations; and
 - (t) 2 CFR. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2020).
- (2) An LEA shall include the following requirements of Title IX in LEA policies:
- (a) Fundraising shall equitably benefit males and females;
 - (b) Males and females shall have reasonably equal access to facilities, fields, and equipment;
 - (c) School sponsored activities shall be reasonably equal for males and females.

R277-113-11. LEA Recordkeeping for Flexible Use of Restricted Funds.

(1) An LEA may reallocate funds for flexible uses as described in Section 53F-2-209.

(2) An LEA that makes flexible adjustments as described in Subsection (1) shall:

- ~~(a)~~ report accounting transactions and adjust entries utilizing the Board approved chart of accounts, including:
 - ~~(i)~~ a dedicated program code;
 - ~~(ii)~~ a dedicated other financing ~~[uses code]~~ codes for ~~[fund or]~~ program transfers ~~[from]~~ of state restricted funds; and
 - ~~(iii)~~ expenditure details, ~~if applicable,~~ ~~[accurately describing transactions in response to changing circumstances and student needs;~~

and

- ~~(b) refund to the state restricted program from which the original transfer originated any remaining funds transferred under Subsection (1) not completely or materially expended at the end of each fiscal year.]~~

(3) An LEA that makes flexible adjustments under this section shall ensure that the LEA continues to meet:

- (a) federal maintenance of effort requirements; and
 - (b) other state or federal requirements on restricted funding, including requirements for program-specific effort, matching, and equity.
- (4) The Superintendent shall publish online a list of eligible state restricted programs meeting requirements of Section 53F-2-209 no later than May 30 of each year.

R277-113-12. Applicability to the Utah Schools for the Deaf and the Blind.

The Utah Schools for the Deaf and the Blind shall comply with:

- (1) Subsection R277-113-5(9)(f);
- (2) Section R277-113-9;
- (3) Section R277-113-10; and
- (4) Section R277-113-11.

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

Date of Last Change: 2025[February 7, 2025]

Notice of Continuation: September 9, 2021

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53E-3-501(1)(e)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R277-304

Filing ID: 57072

Agency Information

1. Title catchline:	Education, Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

Contact persons:		
Name:	Phone:	Email:
Elisse Newey	801-538-7550	elisse.newey@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-304. Teacher Preparation Programs
3. Purpose of the new rule or reason for the change:
This rule is being amended to update the list of incorporated by reference documents which align with updates to other program requirements throughout this rule.
4. Summary of the new rule or change:
The amendments specifically add the incorporated document "Special Education Preparation Foundational Competencies dated March 2025". The amendments also update the definition for "Utah Core Standards", and update program requirements related to early childhood and elementary preparation programs, secondary preparation programs, special education and preschool special education programs, and deaf education preparation programs.

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 incorporated document is updated to reflect current best practices in special education educator preparation, and update nomenclature such as changing "severe disabilities" to "complex support needs" and mild/moderate disabilities" to "minimal/moderate support needs".
These changes provide clarity for educator preparation but do not carry a measurable fiscal impact for preparation programs, educators, or the Utah State Board of Education (USBE). Other changes update this rule to reflect core standards update already made by the USBE in Rule R277-700 and there are no measurable fiscal impacts related to these updates.
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The incorporated document is updated to reflect current best practices in special education educator preparation, and update nomenclature such as changing "severe disabilities" to "complex support needs" and mild/moderate disabilities" to "minimal/moderate support needs".
These changes provide clarity for educator preparation but do not carry a measurable fiscal impact for preparation programs, educators, or the USBE. Other changes update the rule to reflect core standards update already made by the board in Rule R277-700 and there are no measurable fiscal impacts related to these updates.
Local Education Agencies (LEAs) are not impacted by the updates made to teacher 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 impacts the USBE, LEAs, and teacher preparation programs.
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. The incorporated document is updated to reflect current best practices in special education educator preparation, and update nomenclature such as changing "severe disabilities" to "complex support needs" and mild/moderate disabilities" to "minimal/moderate support needs".

These changes provide clarity for educator preparation but do not carry a measurable fiscal impact for preparation programs, educators, or the USBE. Other changes update the rule to reflect core standards update already made by the USBE in Rule R277-700 and there are no measurable fiscal impacts related to these updates for universities 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 incorporated document is updated to reflect current best practices in special education educator preparation, and update nomenclature such as changing "severe disabilities" to "complex support needs" and mild/moderate disabilities" to "minimal/moderate support needs".

These changes provide clarity for educator preparation but do not carry a measurable fiscal impact for preparation programs, educators, or the USBE. Other changes update the rule to reflect core standards update already made by the USBE in Rule R277-700 and there are no measurable fiscal impacts related to these updates.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:

Article X, Section 3	Section 53E-3-401	Section 53E-6-201
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Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Special Education Preparation Foundational Competencies
Publisher	Utah State Board of Education
Issue Date	March 2025

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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Elisse Newey, Deputy Superintendent of Policy	Date:	03/14/2025
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R277. Education, Administration.

R277-304. Teacher Preparation Programs.

R277-304-1. Authority, Purpose, and Oversight Category.

(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-6-201(3)(a), which directs the Board to make rules to establish the criteria for obtaining an educator license.

(2)(a) The purpose of this rule is to specify the standards which the Board expects of a teacher preparation institution before program approval in specified areas.

(b) The standards in this rule apply to the specific educational area and grade level for which the preparation program is designed.

(3) This Rule R277-304 is categorized as Category 4 as described in Rule R277-111.

R277-304-2. Definitions.

(1)(a) "Career and technical education" or "CTE" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements do not generally require a baccalaureate or advanced degree.

(b) CTE programs provide all students a continuous education system, driven by a student's college and career readiness plan, through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment.

(2) "Clinical experience" means a structured opportunity in which a program candidate is mentored by a licensed educator and evaluated by a teacher leader, school administrator, or university preparation program faculty member, in order to develop and demonstrate competency in the skills and knowledge necessary to be an effective teacher, in a physical classroom, which may include experiences in a virtual classroom.

(3) "Competency" means evidence through demonstration in a higher education or prek-12 classroom setting of successful application of knowledge and skills.

(4) "Essential Elements" means the alternate academic achievement standards for students with significant cognitive disabilities, established by the Board in the Special Education Rules Manual, dated [~~October 2016~~] June 2023, incorporated by reference in Section R277-750-2.

(5) "Diverse student populations" means unique student groups as identified by:

(a) disability;

(b) academic learning needs; or

(c) linguistic needs.

(6)(a) "Multi-tiered system of supports" or "MTSS" means a framework for integrating assessment and intervention to maximize student achievement, reduce behavior problems, and increase long-term success.

(b) The combination of systematic implementation of increasingly intensive intervention, [~~some time~~]-referred to as tiers, and carefully monitoring students' progress, distinguishes MTSS from typical prevention measures.

(c) Emphasis, in MTSS, is placed on ensuring interventions are implemented effectively.

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(7) "Personalize" means to engage all students with high expectations for their learning goals and to empower each learner to take ownership of ~~their~~ individual strengths, needs, and interests, while tailoring flexible supports to maximize student growth and competence.

(8) "Utah Core Standards" means the core standards established by the Board in Rule R277-700 for grades K-12 and the ~~Utah Early Childhood Core Standards, February 2013 edition~~ Core Standards for Early Learning, adopted June 2023.

R277-304-3. Incorporation by Reference of Educator Preparation Program Competencies.

(1) This rule incorporates by reference:

- (a) the General Teacher Preparation Competencies dated June 2024;
- (b) the Educator Preparation Program Competencies for Elementary Literacy dated May 2022;
- (c) the Elementary Content Competencies dated January 2024; ~~and~~
- (d) the Standards for Special Education Educator Preparation Program Approval dated August 2024 ~~[-]; and~~
- (e) the Special Education Preparation Foundational Competencies dated March 2025.

(2) A copy of these documents is located at:

- (a) <https://schools.utah.gov/administrativerules/documentsincorporated>; and
- (b) the offices of the Utah State Board of Education.

R277-304-4. General Teacher Preparation.

Before approval by the Board, a teacher preparation program shall provide evidence that the program:

- (1) prepares candidates to meet the Utah Effective Teaching Standards in Rule R277-330;
- (2) prepares candidates to teach:
 - (a) the Utah Core Standards; and
 - (b) the Essential Elements, as appropriate to a candidate's prospective area of licensure as established by the Board;
- (3) includes school-based clinical experiences for a candidate to observe, practice skills, and reflect on teaching that:
 - (a) are significant in number, depth, breadth, and duration;
 - (b) are progressively more complex; and
 - (c) include working with all types of students;
- (4) for candidates who enroll in a preparation program before September 1, ~~2025~~2026, requires competency in:
 - (a) content and content specific pedagogy appropriate for the area of licensure;
 - (b) knowledge of the Educator Standards contained in Rule R277-217;
 - (c) designing, administering, and reviewing formative and summative assessments in a meaningful and ethical manner;
 - (d) improving student outcomes by:
 - (i) using student assessment data, both formative and summative;
 - (ii) analyzing instructional practices; and
 - (iii) making necessary adjustments to personalize learning;
 - (e) using strategies to promote active student engagement;
 - (f) systematically designing instruction toward a specific learning goal by:
 - (i) providing tier one and tier two instruction and intervention on the Utah core standards including the use of competency-based learning;
 - (ii) using a variety of evidence-based instructional strategies, including explicit instruction and scaffolded supports;
 - (iii) integrating technology to support and meaningfully supplement the learning of students;
 - (iv) designing developmentally appropriate and authentic learning experiences;
 - (v) developing higher order thinking and metacognitive skills; and
 - (vi) integrating cross-disciplinary skills, such as literacy and numeracy, into instruction;
 - (g) providing positive and constructive feedback to guide students' learning and behavior;
 - (h) establishing a consistent, organized, and respectful learning environment, including:
 - (i) positive behavior interventions and supports within a multi-tiered system of support;
 - (ii) classroom procedures and routines;
 - (iii) trauma-informed practices; and
 - (iv) ~~restorative~~accountability practices;
 - (i) knowledge and skills to assist in the identification of and instruction for students with disabilities in the general classroom, including:
 - (i) knowledge of the IDEA and Section 504 of the Rehabilitation Act;
 - (ii) knowledge of the role of non-special[-]_education teachers in the education of students with disabilities;
 - (iii) knowledge and skills in implementing least restrictive behavior interventions;
 - (iv) skills in implementing and assessing the results of interventions; and
 - (v) skills in the implementation of an educational program with accommodations, modifications, services, and supports established by an IEP or a 504 plan for students with disabilities in the general education classroom;
 - (j) knowledge and skills designed to meet the needs of diverse student populations in the general education classroom, including:
 - (i) allowing students alternative ways to demonstrate learning that are sensitive to student diversity;
 - (ii) creating an environment that is sensitive to multiple experiences and diversity;
 - (iii) designing, adapting, and delivering instruction to address each student's diverse learning strengths and needs; and

(iv) incorporating language development into planning, instruction, and intervention for students learning English, using their first language as an asset while supporting development of English proficiency; and

(k) effectively communicating and collaborating with parents, colleagues, and administration;

(5) for candidates who enroll in a preparation program on or after September 1, ~~[2025]~~2026, requires competence in the General Teacher Preparation Competencies;

(6) for a program candidate accepted on or after January 1, 2020, provides multiple opportunities for a program candidate to successfully demonstrate application of knowledge and skills gained through the program in one or more clinical experiences in collaboration with a licensed teacher over an extended period in each of the following competencies:

(a) implementing the planning and design, delivery, facilitation, assessment, evaluation, and reflection of a unit of instruction;

(b) revising instructional plans for future implementation or reteaching concepts as appropriate;

(c) implementing the accommodations, modifications, services, and supports as outlined in a student's IEP or 504 plan;

(d) evaluating student artifacts and assessments;

(e) establishing and maintaining classroom procedures and routines that include positive behavior interventions and supports;

(f) establishing and maintaining a positive learning climate;

(g) reflecting on the teaching process and justifying instructional decisions;

(h) participating in at least one IEP meeting or parental consultation regarding a student that the program candidate has instructed;

and

(i) consulting and collaborating with qualified personnel, such as a school counselor or school social worker, regarding the emotional well-being of students;

(7) include consideration of a candidate's dispositions and suitability for teaching; and

(8) include plans for candidate remediation and exit counseling, if appropriate.

R277-304-5. Early Childhood and Elementary Preparation Programs.

(1) Before approval by the Board, a preparation program for early childhood education or elementary education shall demonstrate how the program requires candidate competency in:

(a) the areas outlined in Section R277-304-3;

(b) early childhood development and learning;

(c) the Educator Preparation Program Competencies for Elementary Literacy;

~~[(e)d]~~ for candidates who enroll in a preparation program before September 1, ~~[2025]~~2026, the appropriate content knowledge needed to teach:

(i) the science of literacy instruction including:

(A) phonemic awareness;

(B) phonics;

(C) fluency;

(D) vocabulary;

(E) comprehension; and

~~[(ii) the Educator Preparation Program Competencies for Elementary Literacy;]~~

~~[(iii)](ii)~~ the science of mathematics instruction, including:

(A) quantitative reasoning;

(B) problem solving;

(C) representation;

(D) numeracy; and

(E) a balance of procedural and conceptual understanding;

~~[(iv)](iii)~~ physical and life science;

~~[(v)](iv)~~ health and physical education;

~~[(vi)](v)~~ social studies; and

~~[(vii)](vi)~~ fine arts; or

(2) for candidates who enroll in a preparation program on or after September 1, ~~[2025]~~2026, the Elementary Content Competencies and the Educator Preparation Program Competencies for Early Literacy.

(3) For a program candidate accepted after January 1, 2020, a preparation program for early childhood or elementary education shall provide multiple opportunities for a program candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsections R277-304-4(4) through (7);

(b) demonstrating content-specific pedagogy in each of the areas outlined in Subsection R277-304-5(1);

(c) diagnosing students struggling with reading and planning and implementing remediation for those students; and

(d) diagnosing students struggling with mathematics and planning and implementing remediation for those students.

(4) An educator preparation program shall apply the standards in this Section R277-304-4 to the specific age group or grade level for which the preparation program is designed.

(a) An early childhood education program shall focus primarily on early childhood development and learning in ~~[kindergarten]~~preschool through grade 3.

(b) An elementary program shall include both early childhood development and learning and elementary content and pedagogy in kindergarten through grade 6.

R277-304-6. Secondary Preparation Programs.

- (1) Before approval by the Board, a secondary preparation program shall demonstrate that it requires competency in:
- (a) all content competencies established by the Superintendent for a professional educator license in at least one endorsement;
 - (b) all areas outlined in Subsections R277-304-4(4) through (7);
 - (c) including literacy and quantitative learning objectives in content-specific classes in alignment with the Utah Core Standards; and
 - (d) planning instruction and assessment in content-specific teams and in cross-curricular teams.
- (2) For a program candidate accepted after January 1, 2020, a secondary preparation program shall provide multiple opportunities for a program candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:
- (a) all requirements outlined in Subsections R277-304-4(4) through (7); and
 - (b) ensuring student safety and learning in educational labs or shops and extra-curricular settings.

R277-304-7. Special Education and Preschool Special Education Programs.

- (1) Before approval by the Board, a special education or preschool special education preparation program shall demonstrate that:
- (a) the program is operated by or partnered with a Utah institution of higher education or the ~~[Utah State]Board[of Education]~~;
 - (b) it requires competency in Board approved special education teacher preparation competencies in one or more of the following special education areas:
 - (i) Mild/Moderate ~~[Disabilities]~~Support Needs;
 - (ii) ~~[Severe Disabilities]~~Complex Support Needs;
 - (iii) Deaf and Hard of Hearing;
 - (iv) Blind and Visually Impaired;
 - (v) Deafblind; or
 - (vi) Preschool Special Education (Birth-Age 5);
- ~~the program requires the passage of a special education content knowledge assessment approved by the Superintendent;~~
- ~~(c)~~ (c) the program requires the passage of a Braille assessment approved by the Superintendent for a program in the Blind and Visually Impaired area;
- ~~(d)~~ (d) For a candidate enrolled in a special education preparation program before September 1, 2027 or enrolled in a preschool special education preparation program, the program requires competency in:
- (i) all areas detailed in Subsections R277-304-4(4) through (7);
 - (ii) legal and ethical issues surrounding special education, including:
 - (A) the IDEA;
 - (B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and
 - (C) all other applicable statutes and Board rules;
 - (iii) working with other school personnel to implement and evaluate academic, behavioral, and developmental supports and interventions for students with disabilities within a multi-tiered system of supports as appropriate for the area of licensure;
 - (iv) training in and supervising the services and supports provided to students with disabilities by general education teachers, related service providers, and paraprofessionals; and
 - (v) providing specially designed instruction, including content-specific pedagogy, as per IEPs, to students with disabilities, including:
 - (A) the Utah Core Standards; and
 - (B) the Essential Elements as appropriate to a candidate's prospective area of licensure as established by the Board;
 - (C) skills in assessing and addressing the educational, developmental, and functional needs and progress of students with disabilities;
 - (D) skills in implementing and assessing the results of research and evidence-based interventions for students with disabilities; and
 - (E) skills in implementing an educational program with accommodations, modifications, services, and supports established by an IEP for students with disabilities.
- (2) For a program candidate accepted after January 1, 2020, a special education or preschool special education preparation program shall require multiple opportunities for a program candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:
- (a) all requirements outlined in Subsections R277-304-4(4) through (7);
 - (b) creating learning goals and objectives for a student with disabilities that are specific, measurable, time-bound, and aligned to identified student needs and the Utah Core Standards;
 - (c) designing or adapting learning environments for diverse student populations that encourage active participation in individual and group activities;
 - (d) monitoring school compliance with multiple ~~student's~~student IEP and Section 504 plans;
 - (e) conducting a student IEP meeting under the supervision of a licensed special education teacher;
 - (f) using knowledge of measurement principles and practices to interpret assessment information in making instructional, eligibility, program, and placement decisions for students with disabilities, including those from culturally or linguistically diverse backgrounds;
 - (g) communicating with parents of students with disabilities to ensure they are informed regarding the progress of their student and their right to due process; and
 - (h) if the program is designed to prepare an individual for a special education license area, developing and implementing a secondary transition plan as it ~~[related]~~relates to post-secondary education and training, competitive employment, and independent living.
- (3) For a program candidate accepted on or after September 1, 2027, a special education preparation program shall require demonstration of:

- (a) the Special Education Preparation Foundational Competencies; and
- (b) the competencies for at least one special education endorsement.

R277-304-8. Deaf Education Preparation Programs.

- (1) Before approval by the Board, a deaf education preparation program shall:
- (a) be operated by or partnered with a Utah institution of higher education or the [Utah State]Board[-of Education];
 - (b) be aligned with the National Association of State Directors of Special Education, Inc., Optimizing Outcomes for Students who are Deaf or Hard of Hearing, Educational Service Guidelines, Third Edition;
 - (c) be focused on one or more of the following areas:
 - (i) teaching students who are deaf or hard of hearing from birth to age five using both listening and spoken language strategies and American Sign Language;
 - (ii) teaching students who are deaf or hard of hearing with listening and spoken language strategies; or
 - (iii) teaching students who are deaf or hard of hearing with strategies that promote the development of American Sign Language and English literacy across the curriculum;
 - ~~[(d) require the passage of a deaf education content knowledge assessment approved by the Superintendent;~~
 - ~~(e)](d) require competency in:~~
 - (i) the areas detailed in Subsections R277-304-4(4) through (7).
 - (ii) legal and ethical issues surrounding special education, including:
 - (A) the IDEA;
 - (B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and
 - (C) all other applicable statutes and Board rules;
 - (iii) addressing specific linguistic and cultural needs of deaf and hard of hearing students throughout the curriculum;
 - (iv) skills for incorporating language into all aspects of the curriculum;
 - (v) pedagogical skills unique to teaching reading, writing, mathematics, and other content areas to deaf and hard of hearing students;
 - (vi) basic fluency in the use of American Sign Language;
 - (vii) knowledge of the audiological and physiological components of audition;
 - (viii) skills for teaching speech to deaf and hard of hearing students;
 - (ix) the socio-cultural and psychological implications of hearing loss; and
 - (x) assessing and addressing the educational needs and educational progress of deaf and hard of hearing students.
- (2) For a program candidate accepted after January 1, 2020, a deaf or hard of hearing education preparation program shall require multiple opportunities for a program candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:
- (a) all requirements outlined in Subsections R277-304-4(4) through (7);
 - (b) for a program focused on Subsection R277-304-8(1)(c)(i):
 - (i) assessing early childhood language development and assessment in American Sign Language and spoken English;
 - (ii) working with families with students who are deaf or hard of hearing while respecting a variety of communication modalities;
 - (iii) integrating language, speech, and listening into everyday activities;
 - (iv) sharing knowledge with families with students who are deaf or hard of hearing about the complexities of deaf culture, including norms and behaviors of the deaf community;
 - (v) developing auditory perception in children and educating parents about developmental milestones for listening skills; and
 - (vi) proficiency in American Sign Language as demonstrate by passing an assessment approved by the Superintendent;
 - (c) for a program focused on Subsection R277-304-8(1)(c)(ii):
 - (i) developing auditory perception in children and strategies for developing listening and spoken language in deaf and hard of hearing students;
 - (ii) demonstrating understanding and expertise regarding early childhood spoken language development;
 - (iii) involving family members with students who are deaf or hard of hearing in learning and therapeutic activities;
 - (iv) integrating speech, listening, and spoken language in preschool and early elementary content areas; and
 - (v) integrating current listening technology, including troubleshooting such technology; and
 - (d) for a program focused on Subsection R277-304-8(1)(c)(iii):
 - (i) integrating American Sign Language into instruction of core academic content for all school-age students;
 - (ii) enhancing bilingual literacy of students who are deaf or hard of hearing in both American Sign Language and English;
 - (iii) integrating respect and understanding of deaf culture into instruction;
 - (iv) demonstrating understanding and expertise regarding American Sign Language, language development; and
 - (v) proficiency in American Sign Language as demonstrated by passing an assessment approved by the Superintendent.

R277-304-9. Career and Technical Education Preparation Programs.

- (1) Before approval by the Board, a CTE teacher preparation program designed for individuals that do not hold a bachelor's degree or higher shall:
- (a) focus on one or more of the following areas:
 - (i) family and consumer sciences;
 - (ii) health sciences;
 - (iii) information technology;

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- (iv) skilled and technical sciences; or
- (v) work-based learning;
- (b) require that candidates have six years of documented, related occupational experiences within the 10 years before the program application in an approved CTE license area;
- (c) require competency in all areas detailed in Section R277-304-4;
- (d) for a program candidate accepted after January 1, 2020, a CTE preparation program shall require multiple opportunities for a program candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in all requirements outlined in Section R277-304-4; and
- (e) require candidates to hold the applicable license or certificate issued by the Utah State Department of Commerce, Division of Professional Licensing in any area where such licensure or certification exists.
- (2) A program may count an associate's degree in a related area for up to two years of occupational experience to satisfy the requirement in Subsection R277-304-9(1)(b).
- (3)(a) An approved program may request a waiver from the Superintendent of the occupational experience required for a candidate if the candidate has passed an approved competency examination in the respective field at or above the passing score established by the Superintendent.
- (b) The Superintendent may grant a waiver under Subsection ~~(2)~~(3)(a) for up to five years from the date the candidate passed the examination.

KEY: teacher preparation, programs, educators

Date of Last Change: 2025|October 8, 2024|

Notice of Continuation: March 15, 2024

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-6-201

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R277-407	Filing ID: 57073

Agency Information

1. Title catchline:	Education, Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Elisse Newey	801-538-7550	elisse.newey@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-407. School Fees
3. Purpose of the new rule or reason for the change:
This rule is being amended to update the date that Local Education Agencies (LEAs) must have their fee schedules approved by their board.
4. Summary of the new rule or change:
The amendments specifically change the date from "April 1" to "July 1".

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. This rule change allows LEAs additional time to approve their fee schedules to adjust to pending legislative changes potentially affecting school fees. This does not affect the Utah State Board of Education (USBE), LEAs, or individuals or other entities.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. This rule change allows LEAs additional time to approve their fee schedules to adjust to pending legislative changes potentially affecting school fees. This does not affect the USBE, LEAs, or individuals or other entities.

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 and 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 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 allows LEAs additional time to approve their fee schedules to adjust to pending legislative changes potentially affecting school fees. This does not affect the USBE, LEAs, or 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. This rule change allows LEAs additional time to approve their fee schedules to adjust to pending legislative changes potentially affecting school fees. This does not affect the USBE, LEAs, or individuals or other entities.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

Article X, Section 2	Article X, Section 3	Subsection 53E-3-401(4)
Section 53G-7-503		

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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	Elisse Newey, Deputy Superintendent of Policy	Date:	03/14/2025
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R277. Education, Administration.

R277-407. School Fees.

R277-407-1. Authority and Purpose.

- (1) This rule is authorized under:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Utah Constitution Article X, Section 2, which provides that:
 - (i) public elementary schools shall be free; and
 - (ii) secondary schools shall be free, unless the Legislature authorizes the imposition of fees;
 - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (d) Subsection 53G-7-503(4), which requires the Board to adopt rules regarding student fees; and
 - (e) Section 53G-7-504 which authorizes waiver of fees for eligible students with appropriate documentation.
- (2) The purpose of this rule is to:
 - (a) permit the orderly establishment of a system of reasonable fees;
 - (b) provide adequate notice to students and families of fees and fee waiver requirements; and
 - (c) prohibit practices that would:
 - (i) exclude those unable to pay from participation in school-sponsored activities; or
 - (ii) create a burden on a student or family as to have a detrimental impact on participation.
- (3) This R277-407 is categorized as Category 3 as described in Rule R277-111.

R277-407-2. Definitions.

- (1) "Co-curricular activity" means the same as that term is defined in Section 53G-7-501.
- (2) "Curricular activity" means the same as that term is defined in Section 53G-7-501.
- (3) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.
- (4) "Fee" means the same as that term is defined in Section 53G-7-501.
- (5) "Fundraiser," "fundraising," or "fundraising activity" means the same as that term is defined in Rule R277-408.
- (6) "Individual fundraiser" or "individual fundraising" means the same as that term is defined in Rule R277-408.
- (7) "Instructional equipment or supplies" means the same as that term is defined in Section 53G-7-501.
- (8) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

- (9) "Noncurricular club" has the same meaning as that term is defined in Section 53G-7-701.
- (10) "Non-waivable charge" means a cost, payment, or expenditure that:
- (a) is a personal discretionary charge or purchase, including:
 - (i) a charge for insurance, unless the insurance is required for a student to participate in an activity, class, or program;
 - (ii) a charge for college credit related to the successful completion of:
 - (A) a concurrent enrollment class; or
 - (B) an advanced placement examination; or
 - (iii) except when requested or required by an LEA, a charge for a personal consumable item such as a yearbook, class ring, letterman jacket or sweater, or other similar item;
 - (b) is subject to sales tax as described in Utah State Tax Commission Publication 35, Sales Tax Information for Public and Private Elementary and Secondary Schools; or
 - (c) by Utah Code, federal law, or Board rule is designated not to be a fee, including:
 - (i) a school uniform as provided in Section 53G-7-801;
 - (ii) a school lunch; or
 - (iii) a charge for a replacement for damaged or lost school equipment or supplies.
- (11)(a) "Provided, sponsored, or supported by a school" means an activity, class, program, club, camp, clinic, or other event that:
- (i) is authorized by an LEA or school, according to local education board policy; or
 - (ii) satisfies at least one of the following conditions:
 - (A) the activity, class, program, club, camp, clinic, or other event is managed or supervised by an LEA or school, or an LEA or school employee in the employee's school employment capacity;
 - (B) the activity, class, program, club, camp, clinic, or other event uses, more than inconsequentially, the LEA or school's facilities, equipment, or other school resources; or
 - (C) the activity, class, program, club, camp, clinic, or other event is supported or subsidized, more than inconsequentially, by public funds, including the school's activity funds or minimum school program dollars.
- (b) "Provided, sponsored, or supported by a school" does not include an activity, class, or program that meets the criteria of a noncurricular club as described in Title 53G, Chapter 7, Part 7, Student Clubs.
- (12)(a) "Provision in lieu of fee" means an alternative to fee payment.
- (b) "Provision in lieu of fee" may include a plan under which fees are paid in installments or under some other delayed payment arrangement or a service in lieu of fee payment agreement.
- (13) "Regular school day" has the same meaning as the term "school day" described in Section R277-419-2.
- (14) "Requested or required by an LEA as a condition to a student's participation" means something of monetary value that is impliedly or explicitly mandated or necessary for a student, parent, or family to provide so that a student may:
- (a) fully participate in school or in a school activity, class, or program;
 - (b) successfully complete a school class for the highest grade; or
 - (c) avoid a direct or indirect limitation on full participation in a school activity, class, or program, including limitations created by:
 - (i) peer pressure, shaming, stigmatizing, bullying, or the like; or
 - (ii) withholding or curtailing any privilege that is otherwise provided to any other student.
- (15) "School activity clothing" means the same as that term is defined in Section 53G-7-501.
- (16)(a) "School equipment" means the same as that term is defined in Section 53G-7-501.
- (b) "School equipment" includes a saw or 3D printer.
- (17)(a) "Something of monetary value" means a charge, expense, deposit, rental, fine, or payment, regardless of how the payment is termed, described, requested or required directly or indirectly, in the form of money, goods or services.
- (b) "Something of monetary value" includes:
- (i) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;
 - (ii) payments made to a third party that provide a part of a school activity, class, or program;
 - (iii) classroom supplies or materials; and
 - (iv) a fine, except for a student fine specifically approved by an LEA for:
 - (A) failing to return school property;
 - (B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior; or
 - (C) improper use of school property, including a parking violation.
 - (c) "Something of monetary value" does not include a payment or charge for damages, which may reasonably be attributed to normal wear and tear.
- (18)(a) "Student supplies" means items which are the personal property of a student which, although used in the instructional process, are also commonly purchased and used by persons not enrolled in the class or activity in question and have a high probability of regular use in other than school-sponsored activities.
- (b) "Student supplies" include:
- (i) pencils;
 - (ii) paper;
 - (iii) notebooks;
 - (iv) crayons;
 - (v) scissors;

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- (vi) basic clothing for healthy lifestyle classes; and
- (vii) similar personal or consumable items over which a student retains ownership.
- (c) "Student supplies" does not include items listed in Subsection (18)(b) if the requirement from the school for the student supply includes specific requirements such as brand, color, or a special imprint to create a uniform appearance not related to basic function.
- (19) "Supplemental Nutrition Assistance Program" or "SNAP" means a program, formerly known as food stamps, which provides nutrition benefits to supplement the food budget of low income families through the Utah Department of Workforce Services.
- (20) "Supplemental Security Income for children with disabilities" or "SSI" means a benefit administered through the Social Security Administration that provides payments for qualified children with disabilities in low income families.
- (21) "Temporary Assistance for Needy Families" or "TANF," means a program, formerly known as AFDC, which provides monthly cash assistance and food stamps to low income families with children under age 18 through the Utah Department of Workforce Services.
- (22) "Textbook" means the same as that term is defined in Section 53G-7-501.
- (23) "Waiver" means the same as that term is defined in Section 53G-7-501.

R277-407-3. Classes and Activities During the Regular School Day.

- (1) An LEA may not charge a fee in kindergarten through grade six for:
 - (a) materials;
 - (b) textbooks;
 - (c) supplies, except for student supplies described in Subsection (6); or
 - (d) any class or regular school day activity, including assemblies and field trips.
- (2)(a) An LEA may charge a fee related to an activity, class, or program provided, sponsored, or supported by a school for a student in a secondary school that takes place during the regular school day if:
 - (i) the fee is allowed to be charged under Title 53G, Chapter 7, Student Fees; and
 - (ii) the fee is noticed and approved as provided in this rule.
- (b) All fees are subject to the fee waiver requirements of Section R277-407-8.
- (3)(a) Notwithstanding, Subsection (1) and except as provided in Subsection (3)(b), a school may charge a fee to a student in grade six if the student attends a school that includes any of grades seven through twelve.
 - (b) A school that provides instruction to students in grades other than grades six through twelve may not charge fees for grade six unless the school follows a secondary model of delivering instruction to the school's grade six students.
 - (c) If a school charges fees in accordance with Subsection (3)(a), the school shall annually provide notice to parents that the school will collect fees from grade six students and that the fees are subject to waiver.
 - (4) If a class is established or approved, which requires payment of fees or purchase of items in order for students to participate fully and to have the opportunity to acquire skills and knowledge required for full credit and highest grades, the fees or costs for the class shall be subject to the fee waiver requirements of Section R277-407-8.
 - (5)(a) In project related courses, projects required for course completion shall be included in the course fee.
 - (b) A school may require a student at any grade level to provide materials or pay for an additional discretionary project if the student chooses a project in lieu of, or in addition to a required classroom project.
 - (c) A school shall avoid allowing high cost additional projects, particularly if authorization of an additional discretionary project results in pressure on a student by teachers or peers to also complete a similar high cost project.
 - (d) A school may not require a student to select an additional project as a condition to enrolling, completing, or receiving the highest possible grade for a course.
 - (6) An elementary school or elementary school teacher may provide to a student's parent or guardian, a suggested list of student supplies for use during the regular school day so that a parent or guardian may furnish, on a voluntary basis, student supplies for student use, provided that, in accordance with Section 53G-7-503, the following notice is provided with the list:
"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."
 - (7) A school may require a secondary student to provide student supplies, subject to the requirements of Section 53G-7-503 and Section R277-407-8.
 - (8)(a) A school may require a secondary student to provide school activity clothing.
 - (b) School activity clothing is considered a fee and is subject to fee waiver.
 - (9) As provided in Subsection 53G-7-802(4), an LEA's school uniform policy, including a requirement for a student to wear a school uniform, is not considered a fee for either an elementary or a secondary school if the LEA's school uniform policy is consistent with the requirements of Title 53G, Chapter 7, Part 8, School Uniforms.

R277-407-4. School Activities Outside of the Regular School Day.

- (1) A school may charge a fee, subject to the requirements of Section R277-407-8, related to any school-sponsored activity, that does not take place during the regular school day, regardless of the age or grade level of the student, if participation in the activity is voluntary and does not affect a student's grade or ability to participate fully in any course taught during the regular school day.
- (2) A fee related to a co-curricular or extracurricular activity may not exceed the maximum fee amounts for the co-curricular or extracurricular activity adopted by the LEA governing board as described in Subsection R277-407-6(2).
- (3) A school may only collect a fee for an activity, class, or program provided, sponsored, or supported by a school consistent with LEA policies and state law.

(4) An LEA that provides, sponsors, or supports an activity, class, or program outside of the regular school day or school calendar is subject to the requirements of this rule regardless of the time or season of the activity, class, or program.

R277-407-5. Fee Waivable Activities, Classes, or Programs Provided, Sponsored, or Supported by a School.

Fees for the following are waivable:

- (1) an activity, class, or program that is:
 - (a) primarily intended to serve school-age children, including a student participating in an activity, class, or program through dual enrollment as described in Rule R277-438 or as described in Rule R277-494; and
 - (b) taught or administered, more than inconsequentially, by a school employee as part of the employee's assignment;
- (2) an activity, class, or program that is explicitly or implicitly required:
 - (a) as a condition to receive a higher grade, or for successful completion of a school class or to receive credit, including a requirement for a student to attend a concert or museum as part of a music or art class for extra credit; or
 - (b) as a condition to participate in a school activity, class, program, or team, including, a requirement for a student to participate in a summer camp or clinic for students who seek to participate on a school team, such as cheerleading, football, soccer, dance, or another team;
- (3) an activity or program that is promoted by a school employee, such as a coach, advisor, teacher, school-recognized volunteer, or similar person, during school hours where it could be reasonably understood that the school employee is acting in the employee's official capacity;
- (4) an activity or program where full participation in the activity or program includes:
 - (a) travel for state or national educational experiences or competitions;
 - (b) debate camps or competitions; or
 - (c) music camps or competitions;
- (5) a concurrent enrollment, CTE, IB, or AP course; and
- (6) the cost to access software, digital content, or other instructional materials required as part of an activity, course, or program.

R277-407-6. LEA Requirements to Establish a Fee Schedule -- Maximum Fee Amounts -- Notice to Parents.

(1) An LEA, school, school official, or employee may not charge or assess a fee or request or require something of monetary value related to an activity, class, or program provided, sponsored, or supported by, and including for a co-curricular or extracurricular activity, unless the fee:

- (a) has been set and approved by the LEA's governing board;
 - (b) is equal to or less than the maximum fee amount established by the LEA governing board as described in Subsection (4); and
 - (c) is included in an approved fee schedule.
- (2)(a) If an LEA charges a fee, on or before ~~April~~ July 1 and in consultation with stakeholders, the LEA governing board shall annually adopt a fee schedule and fee policies for the LEA in a regularly scheduled public meeting.
- (b) Before approving the LEA's fee schedule described in this section, an LEA shall provide an opportunity for the public to comment on the proposed fee schedule during a minimum of two public LEA governing board meetings.
- (c) An LEA shall:
- (i) provide public notice of the meetings described in Subsections (2)(a) and (b) in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and
 - (ii) encourage public participation in the development of fee schedules and waiver policies.
- (d) In addition to the notice requirements of Subsection (2)(c), an LEA shall provide notice to parents and students of the meetings described in Subsections (2)(a) and (b) using the same form of communication regularly used by the LEA to communicate with parents, including notice by email, text, flyer, or phone call.
- (e) An LEA shall keep minutes of meetings during which fee and waiver policies are developed or adopted, together with copies of approved policies, in accordance with Section 52-4-203.
- (3) After the fee schedule described in Subsection (2)(a) is adopted, an LEA may amend the LEA's fee schedule if the LEA follows the process described in Subsection (2) before approving the amended fee schedule.
- (4)(a) As part of an LEA's fee setting process, an LEA shall establish:
- (i) a maximum fee amount per student for each activity; and
 - (ii) a maximum total aggregate fee amount per student per school year.
- (b) An LEA may establish a reasonable number of activities, courses, or programs that will be covered by the annual maximum fee amount described in Subsection (4)(a).
- (5) As part of an LEA's fee setting process described in this section, the LEA may review and consider the following per school:
- (a) the school's cost to provide the activity, class, or program;
 - (b) the school's student enrollment;
 - (c) the median income of families:
 - (i) within the school's boundary; or
 - (ii) enrolled in the school;
 - (d) the number and monetary amount of fee waivers, designated by individual fee, annually granted within the prior three years;
 - (e) the historical participation and school interest in certain activities;
 - (f) the prior year fee schedule;
 - (g) the amount of revenue collected from each fee in the prior year;
 - (h) fundraising capacity;

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- (i) prior year community donors; and
- (j) other resources available, including through donations and fundraising.
- (6)(a) If an LEA charges a fee, the LEA shall:
 - (i) annually publish the following on each of the LEA's schools' publicly available websites:
 - (A) the LEA's fee waiver policies and fee schedule, including the fee maximums described in Subsection (4);
 - (B) the LEA's fee waiver application;
 - (C) the LEA's fee waiver decision and appeals form; and
 - (D) the LEA's school fee notice for families;
 - (ii) annually include a copy of the LEA's fee schedule and fee waiver policies with the LEA's registration materials; and
 - (iii) provide a copy of the LEA's fee schedule and fee waiver policies to a student's parent who enrolls a student after the initial enrollment period.
- (b) If an LEA's student or parent population in a single written language other than English exceeds 20%, the LEA shall also publish the LEA's fee schedule and fee waiver policies in the language of those families.
- (c) An LEA representative shall meet personally with each student's parent or family and make available an interpreter for the parent to understand the LEA's fee waiver schedules and policies if:
 - (i) the student or parent's first language is a language other than English; and
 - (ii) the LEA has not published the LEA's fee schedule and fee waiver policies in the parent's first language.
- (7)(a) An LEA policy shall include easily understandable procedures for obtaining a fee waiver and for appealing an LEA's denial of a fee waiver, as soon as possible before the fee becomes due.
 - (b) If an LEA denies a student or parent request for a fee waiver, the LEA shall provide the student or parent:
 - (i) the LEA's decision to deny a waiver; and
 - (ii) the procedure for the appeal in the form approved by the Board.
 - (8)(a) A school may not deny a present or former student receipt of transcripts or a diploma, nor may a school refuse to issue a grade for a course for failure to pay school fees.
 - (b) A school may impose a reasonable charge to cover the cost of duplicating, mailing, or transmitting transcripts and other school records.
 - (c) A school may not charge for duplicating, mailing, or transmitting copies of school records to an elementary or secondary school in which a former student is enrolled or intends to enroll.
 - (9) To preserve equal opportunity for all students and to limit diversion of money and school and staff resources from the basic school program, each LEA's fee policies shall be designed to limit student expenditures for school-sponsored activities, including expenditures for activities, uniforms, clubs, clinics, travel, and subject area and vocational leadership organizations, whether local, state, or national.

R277-407-7. Donations in Lieu of Fees.

- (1)(a) A school may not request or accept a donation in lieu of a fee from a student or parent unless the activity, class, or program for which the donation is solicited will otherwise be fully funded by the LEA and receipt of the donation will not affect participation by an individual student.
 - (b) A donation is a fee if a student or parent is required to make the donation as a condition to the student's participation in an activity, class, or program.
 - (c) An LEA may solicit and accept a donation or contribution in accordance with the LEA's policies, but such requests must clearly state that donations and contributions by a student or parent are voluntary.
- (2) If an LEA solicits donations, the LEA:
 - (a) shall solicit and handle donations in accordance with policies established by the LEA; and
 - (b) may not place any undue burden on a student or family in relation to a donation.
- (3) An LEA may raise money to offset the cost to the LEA attributed to fee waivers granted to students through the LEA's foundation.
- (4) An LEA shall direct donations provided to the LEA through the LEA's foundation in accordance with the LEA's policies governing the foundation.
- (5) If an LEA accepts a donation, the LEA shall prevent potential inequities in schools within the LEA when distributing the donation.

R277-407-8. Fee Waivers.

- (1)(a) All fees are subject to waiver.
 - (b) Fees charged for an activity, class, or program held outside of the regular school day, during the summer, or outside of an LEA's regular school year are subject to waiver.
 - (c) Non-waivable charges are not subject to waiver.
 - (2)(a) Except as provided in Subsection (2)(b), an LEA may not use revenue collected through fees to offset the cost of fee waivers by requiring students and families who do not qualify for fee waivers to pay an increased fee amount to cover the costs of students and families who qualify for fee waivers.
 - (b) An LEA may notify students and families that the students and families may voluntarily pay an increased fee amount or provide a donation to cover the costs of other students and families.
 - (3) An LEA shall provide, as part of any fee policy or schedule, for adequate waivers or other provisions in lieu of a fee to ensure that no student is denied the opportunity to participate in a class or school-sponsored or supported activity because of an inability to pay a fee.
 - (4) An LEA shall designate at least one person at an appropriate administrative level in each school to review and grant fee waiver requests.

- (5) An LEA shall administer the process for obtaining a fee waiver or pursuing an alternative fairly, objectively, without delay, and in a manner that avoids stigma, embarrassment, undue attention, and unreasonable burdens on students and parents.
- (6) An LEA may not treat a student receiving a fee waiver or provision in lieu of a fee waiver differently from other students.
- (7) A school may not identify a student on fee waiver to students, staff members, or other persons who do not need to know.
- (8)(a) An LEA shall ensure that a fee waiver or other provision in lieu of a fee payment is available to any student whose parent cannot pay a fee.
- (b) A school or LEA administrator shall verify fee waivers consistent with this rule.
- (9) An LEA shall adopt a fee waiver policy for review and appeal of fee waiver requests which:
- (a) provides parents the opportunity to review proposed alternatives to fee waivers;
- (b) establishes a timely appeal process, which shall include the opportunity to appeal to the LEA or its designee; and
- (c) suspends any requirement that a given student pay a fee during any period for which the student's eligibility for waiver is under consideration or during which an appeal of denial of a fee waiver is in process.
- (10) An LEA may pursue reasonable methods for collecting student fees, but may not, as a result of unpaid fees:
- (a) exclude a student from a school, an activity, class, or program that is provided, sponsored, or supported by a school during the regular school day;
- (b) refuse to issue a course grade; or
- (c) withhold official student records, including written or electronic grade reports, class schedules, diplomas or transcripts.
- (11)(a) A school may withhold student records in accordance with Subsection 53G-8-212(2)(a).
- (b) Notwithstanding Subsection (12)(a), a school may not withhold any records required for student enrollment or placement in a subsequent school.
- (12) A school is not required to waive a non-waivable charge.

R277-407-9. Service In Lieu of Fees -- Provisions In Lieu of Fees -- Voluntary Requests for Installment Plans.

- (1) Subject to the requirements of Subsection (2), an LEA may allow a student to perform service in lieu of a fee, but service in lieu of a fee may not be required.
- (2) An LEA may allow a student to perform service in lieu of a fee if the LEA establishes a policy as described in Subsection R277-407-14(2).
- (3)(a) A student who performs service may not be treated differently than other students who pay a fee.
- (b) The service may not create an unreasonable burden for a student or parent and may not be of such a nature as to demean or stigmatize the student.
- (4) An LEA shall transfer a student's service credit to:
- (a) another school within the LEA; or
- (b) another LEA upon request of the student.
- (5)(a) An LEA may make an installment payment plan available to a parent or student to pay for a fee.
- (b) An installment payment plan described in Subsection (5)(a) may not be required in lieu of a fee waiver.
- (6) An LEA may provide optional individual fundraising opportunities for students to raise money to offset the cost of the student's fees as provided in Rule R277-408.

R277-407-10. Fee Waiver Eligibility.

- (1) A student is eligible for fee waiver if an LEA receives verification that:
- (a) in accordance with Subsection 53G-7-504(4), based on the family income levels established by the Superintendent as described in Subsection (2);
- (b) the student to whom the fee applies receives SSI;
- (c) the family receives TANF or SNAP funding;
- (d) the student is in foster care through the Division of Child and Family Services;
- (e) the student is in state care; or
- (f) the student qualifies for McKinney-Vento Homeless Assistance Act assistance.
- (2) The Superintendent shall annually establish income levels for fee waiver eligibility and publish the income levels on the Board's website.
- (3) In lieu of income verification, an LEA may require alternative verification under the following circumstances:
- (a) If a student's family receives TANF or SNAP, an LEA may require the student's family to provide to the LEA an electronic copy or screenshot of the student's family's eligibility determination or eligibility status covering the period for which a fee waiver is sought from the Utah Department of Workforce Services;
- (b) If a student receives SSI, an LEA may require a benefit verification letter from the Social Security Administration;
- (c) If a student is in state care or foster care, an LEA may rely on the youth in care required intake form and school enrollment letter or both provided by a case worker from the Utah Division of Child and Family Services or the Utah Juvenile Justice Department; or
- (d) If a student qualifies for McKenny-Vento, verification is obtained through the LEAs McKinney-Vento liaison.
- (4)(a) An LEA may not subject a family to unreasonable demands for re-qualification.
- (b) A school may grant a fee waiver to a student, on a case by case basis, who does not qualify for a fee waiver under Subsection (1), but who, because of extenuating circumstances is not reasonably capable of paying the fee.
- (5) An LEA may charge a proportional share of a fee or reduced fee if circumstances change for a student or family so that fee waiver eligibility no longer exists.

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- (6) An LEA may retroactively waive fees if eligibility can be determined to exist before the date of the fee waiver application.

R277-407-11. Fees for Textbooks.

(1) An LEA may not charge a fee for a textbook as provided in Section 53G-7-506, except for a textbook used for a concurrent enrollment, International Baccalaureate, or Advanced Placement course as described in Subsection (2).

(2)(a) An LEA may charge a fee for a textbook used for a concurrent enrollment, International Baccalaureate, or Advanced Placement course.

(b) A fee for a textbook used for a concurrent enrollment, International Baccalaureate, or Advanced Placement course is fee waivable as described in Section R277-407-8.

R277-407-12. Budgeting and Spending Revenue Collected Through Fees -- Fee Revenue Sharing Requirements.

(1) An LEA shall follow the general accounting standards described in Rule R277-113 for treatment of fee revenue.

(2) An LEA shall establish a spend plan for the revenue collected from each fee charged.

(3)(a) A spend plan described in Subsection (2)(a) provides students, parents, and employees transparency by identifying a fee's funding uses.

(b) An LEA or school's spend plan shall identify the needs of the activity, course, or program for the fee being charged and shall include a list or description of anticipated types of expenditures, for the current fiscal year or as carryover for use in a future fiscal year, funded by the fee charged.

(4)(a) An LEA that has multiple schools shall establish a procedure to identify and address potential inequities due to the impact of the number of students who receive fee waivers within each of the LEA's schools.

(b) For an LEA with multiple schools, the LEA shall distribute the impact of fee waivers across the LEA so that no school carries a disproportionate share of the LEA's total fee waiver burden.

R277-407-13. Fee Waiver Reporting Requirements.

(1) An LEA shall collect the following information, which may be requested by the Superintendent as part of the Superintendent's monitoring of the LEA's school fees practices:

(a) a summary of:

(i) the number of students in the LEA given fee waivers;

(ii) the number of students who worked in lieu of a waiver;

(iii) the number of students denied fee waivers; and

(iv) the total dollar value of student fees waived by the LEA; and

(b) the total dollar amount of all fees charged to students within all schools within the LEA.

(2) An LEA shall submit school fee revenue information in the Utah Public Education Financial System as provided in Rule R277-113.

R277-407-14. LEA Required Policies -- Superintendent and LEA Policy and Training Requirements.

(1) An LEA that charges fees shall adopt policies that include at least the following:

(a) a process for obtaining waivers or pursuing alternatives that is administered fairly, objectively, and without delay, and avoids stigma and unreasonable burdens on students and families;

(b) a process with no visible indicators that could lead to identification of fee waiver applicants;

(c) a process that complies with the privacy requirements of The Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA);

(d) a student may not collect fees or assist in the fee waiver approval process;

(e) a standard written decision and appeal form is provided to every applicant; and

(f) during an appeal the requirement that the fee be paid is suspended.

(2) An LEA may allow a student to perform service in lieu of a fee as described in Section R277-407-9 if:

(a) the LEA establishes a service policy that ensures that a service assignment is appropriate to the:

(i) age of the student;

(ii) physical condition of the student; and

(iii) maturity of the student;

(b) the LEA's service policy is consistent with state and federal laws, including:

(i) Section 53G-7-504; and

(ii) the Federal Fair Labor Standards Act, 29 U.S.C. 201;

(c) the service can be performed within a reasonable period; and

(d) the service is at least equal to the minimum wage for each hour of service.

(3) The Superintendent shall provide ongoing training, informational materials, and model policies, as available, for use by LEAs.

(4) The Superintendent shall provide online training and resources for LEAs regarding:

(a) an LEA's fee approval process;

(b) LEA notification requirements;

(c) LEA requirements to establish maximum fees; and

(d) fee waiver eligibility requirements, including requirements to maintain student and family confidentiality.

(5) An LEA governing board shall annually review the LEA's policies on school fees and fee waivers.

(6) An LEA shall develop a plan for, at a minimum, annual training of LEA and school employees on fee related policies enacted by the LEA specific to each employee's job function.

R277-407-15. Enforcement.

- (1) The Superintendent shall monitor LEA compliance with this rule.
 - (2) If an LEA fails to comply with the terms of this rule or request of the Superintendent, the Superintendent shall send the LEA a first written notice of non-compliance, which shall include a proposed corrective action plan.
 - (3) Within 45 days of the LEA's receipt of a notice of non-compliance, the LEA shall:
 - (a) respond to the allegations of non-compliance described in Subsection (2); and
 - (b) work with the Superintendent on the Superintendent's proposed corrective action plan to remedy the LEA's non-compliance.
 - (4)(a) Within 15 days after receipt of a proposed corrective action plan described in Subsection (3)(b), an LEA may request an informal hearing with the Superintendent to respond to allegations of non-compliance or to address the appropriateness of the proposed corrective action plan.
 - (b) The form of an informal hearing described in Subsection (4)(a) shall be as directed by the Superintendent.
 - (5) The Superintendent shall send an LEA a second written notice of non-compliance and request for the LEA to appear before a Board standing committee if:
 - (a) the LEA fails to respond to the first notice of non-compliance within 60 days; or
 - (b) the LEA fails to comply with a corrective action plan described in Subsection (3)(b) within the time period established in the LEA's corrective action plan.
 - (6) If an LEA receives a second written notice of non-compliance, the LEA may:
 - (a)(i) respond to the notice of non-compliance described in Subsection (5); and
 - (ii) work with the Superintendent on a corrective action plan within 30 days of receiving the second written notice of non-compliance;
- or
- (b) within 15 days after receipt of the second notice seek an appeal before a Board standing committee.
 - (7) If an LEA that fails to respond to a first notice of non-compliance, and fails to respond to a second notice of non-compliance, nor seeks an appeal as described in Subsection (6)(b), the Superintendent shall impose one of the financial consequences described in Subsection (10).
 - (8)(a) Before imposing a financial consequence described in Subsection (10), the Superintendent shall provide an LEA 30 days' notice of any proposed action.
 - (b) The LEA may, within 15 days after receipt of a notice described in Subsection (8)(a), request an appeal before a Board standing committee.
 - (9) If the LEA does not request an appeal described in Subsection (8)(b), or if after the appeal the Board finds that the allegations of non-compliance are substantially true, the Superintendent may continue with the suggested corrective action, formulate a new form of corrective action or additional terms and conditions which must be met and may proceed with the appropriate remedy which may include an order to return funds improperly collected.
 - (10) A financial consequence may include:
 - (a) requiring an LEA to repay an improperly charged fee, commensurate with the level of non-compliance;
 - (b) withholding all or part of an LEA's monthly Minimum School Program funds until the LEA comes into full compliance with the corrective action plan; and
 - (c) suspending the LEA's authority to charge fees for an amount of time specified by the Superintendent or Board in the determination.
 - (11) The Board's decision described in Subsection (9) is final and no further appeals are provided.

R277-407-16. Distribution of Legislative Funds for School Fees.

- (1) When funds are appropriated by the Legislature for school fees, the Superintendent shall determine LEA allocations by the April 30 prior to distributing the funds as described in Subsection (2) and using prior year average daily membership.
- (2) The Superintendent shall distribute available funds to LEAs with students enrolled in grades 7-12, proportionately based on an LEA's number of students in the applicable grades, weighting each student in grade 7 or 8 at .99 and each student in grade 9, 10, 11, or 12 at 1.2.
- (3) For funds appropriated by the Legislature during the 2024 Legislative General Session, the Superintendent shall distribute the following to LEAs in operation with enrolled students before July 1, 2025:
 - (a) 50% of the funds to LEAs for the fiscal year beginning on July 1, 2025;
 - (b) 30% of the funds to LEAs for the fiscal year beginning on July 1, 2026; and
 - (c) 20% of the funds to LEAs for the fiscal year beginning on July 1, 2027.

KEY: education, school fees, policies, training

Date of Last Change: 2025[August 7, 2024]

Notice of Continuation: August 19, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 2; Art X Sec 3; 53E-3-401(4); 53G-7-503

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R277-417	Filing ID: 57074

Agency Information

1. Title catchline:	Education, Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Elisse Newey	801-538-7550	elisse.newey@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-417. Prohibiting LEAs and Third-Party Providers from Offering Incentives or Disbursement for Enrollment or Participation
3. Purpose of the new rule or reason for the change:
This rule is being amended in order to add an oversight category.
4. Summary of the new rule or change:
The amendments specifically add an oversight "Category 2".

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 oversight framework categorization is part of the USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself for the USBE or Local Education Agencies (LEAs).
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The oversight framework categorization is part of the USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself for the USBE or 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 the USBE and 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 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. The oversight framework categorization is part of the USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself for the USBE or LEAs. This does not impact any 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 oversight framework categorization is part of the USBE's effort through Section Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself for the USBE or 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:

Article X, Section 3	Subsection 53E-3-401(4)	
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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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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:	Elisse Newey, Deputy Superintendent of Policy	Date:	03/14/2025
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R277. Education, Administration.

R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation.

R277-417-1. Authority, ~~and~~ Purpose, and Oversight Category.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to provide standards and procedures for prohibiting LEAs and third party providers from offering incentives for student enrollment.
- (3) This rule is categorized as Category 2 as described in Rule R277-111.

R277-417-2. Definitions.

- (1)(a) "Disbursement" means the payment of money or provision of other item of value greater than \$10, per school year, offered as payment or compensation to a student or to a parent or guardian for:
 - (i) a student's enrollment in an LEA; or
 - (ii) a student's participation in an LEA's program.
- (b) "Disbursement" does not include a reimbursement paid by an LEA to a student, parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf of the LEA if:
 - (i) the expenditure is for an item that will be the property of the LEA; and
 - (ii) the expenditure was preauthorized by the LEA, as evidenced by preauthorization documentation.
- (2) "Educational good or service" means the same as that term is defined in Section 53E-3-401.
- (3) "Incentive" means one of the following given to a student or to the student's parent or guardian by an LEA or by a third-party provider as a condition of the student's enrollment in an LEA or specific program for any length of time, during any school year:
 - (a) money greater than \$10; or
 - (b) an item of value greater than \$10.
- (4) "Program" means a program within a school that is designed to accomplish a predetermined curricular objective or set of objectives.
- (5) "Section 504 accommodation plan" required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.
- (6) "Third-party provider" means a third-party who provides an educational good or service on behalf of an LEA.

R277-417-3. LEA and Third-Party Provider Use of Public Funds for Incentives and Disbursement.

- (1) An LEA or a third-party provider may not use public funds, as defined under Subsection 51-7-3(26), to provide the following to a student, parent or guardian, individual, or group of individuals:
 - (a) an incentive for a student's:
 - (i) enrollment in an LEA; or
 - (ii) participation in an LEA's program; or
 - (b) a referral bonus for a student's:
 - (i) enrollment in an LEA; or
 - (ii) participation in an LEA's program.
- (2) An LEA or third-party provider may not use public funds to provide a disbursement to a student or the student's parent or guardian for:
 - (a) curriculum exclusively selected by a parent;
 - (b) instruction not provided by the LEA;
 - (c) private lessons or classes not provided by:
 - (i) an employee of the LEA; or
 - (ii) a third-party provider who meets all of the requirements of Rule R277-115;
 - (d) technology devices exclusively selected by a parent; or
 - (e) other educational expense exclusively selected by a parent.
- (3) An LEA may use public funds to provide:
 - (a) uniforms, technology devices, curriculum, or materials and supplies to a student if the uniforms, technology devices, curriculum, or materials and supplies are:
 - (i) available to all students enrolled in the LEA or program within the LEA; or

- (ii) authorized by the student's college and career readiness plan, IEP, or Section 504 accommodation plan; or
- (b) internet access for instructional purposes to a student:
 - (i) in kindergarten through grade 6; or
 - (ii) in grade 7 through grade 12 if:
 - (A) the internet access is provided in accordance with the fee waiver policy requirements of Section R277-407-8; or
 - (B) failure to provide the internet access will cause economic hardship on the student or parent.
- (4) An LEA or third-party provider shall ensure that equipment purchased or leased by the LEA or third party provider remains the property of the LEA and is subject to the LEA's asset policies if:
 - (a) the LEA or third-party provider purchases equipment; and
 - (b) provides the equipment to a student or to the student's parent or guardian.

KEY: students, enrollment, incentives
Date of Last Change: 2025[July 2, 2019]
Notice of Continuation: April 16, 2020
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R277-714	Filing ID: 57075

Agency Information

1. Title catchline:	Education, Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Elisse Newey	801-538-7550	elisse.newey@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-714. Unsafe School Choice Option
3. Purpose of the new rule or reason for the change:
This rule is being amended to add an oversight category.
4. Summary of the new rule or change:
The amendments specifically add an oversight "Category 2" and make a few other nonsubstantive technical changes.

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 oversight framework categorization is part of the Utah State Board of Education's (USBE) effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself for the USBE or Local Education Agencies (LEAs).

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The oversight framework categorization is part of the USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself for the USBE or 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 the USBE and 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 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. The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself for the USBE or LEAs. This does not impact any 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 oversight framework categorization is part of the USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by the USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself for the USBE or 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:

Article X, Section 3	Subsection 53E-3-401(4)	
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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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Elisse Newey, Deputy Superintendent of Policy	Date:	03/14/2025
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R277. Education, Administration.

R277-714. Unsafe School Choice Option.

R277-714-1. Authority, ~~and~~ Purpose, and Oversight Category.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to provide:
 - (a) a definition of persistently dangerous school as required by 20 [USC]U.S.C. 7912; and
 - (b) a process for complying with federal law when a school within the LEA is designated as persistently dangerous.
- (3) This rule is categorized as Category 2 as described in Rule R277-111.

R277-714-2. Definitions.

- (1) "Persistently dangerous school" means a school where at least 3% of students for three consecutive school years have been suspended or expelled for:
 - (a) a reported violent criminal offense that took place:
 - (i) on school property; or
 - (ii) at a school sponsored activity[-]; or
 - (b) a federal gun free school violation as defined in 20 [USC]U.S.C. 7961.
- (2) "Violent criminal offense" means any of the following if the crime has been reported to law enforcement and a charge has been filed:
 - (a) actual or attempted criminal homicide as defined in Section 76-5-201;
 - (b) rape as defined in Sections 76-5-402 through 76-5-402.3;
 - (c) aggravated sexual assault as defined in Section 76-5-405;
 - (d) forceable sexual abuse as defined in Section 76-5-404;
 - (e) aggravated sexual abuse of a child as defined in Section 76-5-404.1;
 - (f) aggravated assault as defined in Section 76-5-103; or
 - (g) robbery as defined in Section 76-6-301.

R277-714-3. LEA Notification to Parents -- Transfer.

- (1) If an LEA has a school designated by the Superintendent as persistently dangerous, the LEA or school shall provide to the Superintendent:
 - (a) a copy of the school and LEA's safety plan;
 - (b) a document outlining the local efforts to address school safety concerns; and
 - (c) relevant school safety data requested by the Superintendent.

NOTICES OF PROPOSED RULES

(2) An LEA shall provide the designated school's information described in Subsection [R277-714-3](1) within 30 days of receiving notice that the school has been designated as persistently dangerous.

(3) If an LEA has a school that is designated persistently dangerous, the LEA shall provide written notice to parents within 15 days of the school's notice that the school is persistently dangerous:

(a) that the school has been designated as persistently dangerous, including the criteria that caused the school to be designated as persistently dangerous;

(b) that a parent may transfer the parent's student to a safer school within the LEA if the parent chooses; and

(c) the timeline and deadline for transfer of the parent's student, which may not exceed 30 days after a parent's receipt of notice of a school's designation.

R277-714-4. Action Plan Content and Implementation.

(1) An LEA with a school that has been designated as persistently dangerous shall create an action plan and submit the plan to the Superintendent as specified by the Superintendent.

(2) At minimum, the LEA's action plan shall include how the LEA will:

(a) provide additional personnel and staff to supervise students;

(b) provide conflict resolution training and additional discipline training for staff of the school designated as persistently dangerous;

(c) collaborate with the applicable local law enforcement agency; and

(d) implement additional security measures for the school.

(3) An LEA with a school designated as persistently dangerous that fails to comply with any portion of this Rule R277-714 may be subject to a corrective action plan as described in Rule R277-114.

KEY: school choice; persistently dangerous school

Date of Last Change: 2025[April 9, 2020]

Notice of Continuation: March 14, 2025

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: New

Rule or Section Number:

R317-17

Filing ID: 57079

Agency Information

1. Title catchline:	Environmental Quality, Water Quality	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W, DEQ 3rd floor	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144870	
City, state and zip:	Salt Lake City, UT 84114-4870	
Contact persons:		
Name:	Phone:	Email:
Jim Harris	801-541-3069	jamesharris@utah.gov
Jake Vander Laan	801-536-4350	jvander@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R317-17. Great Salt Lake Mineral Extraction Salinity Discharge Limits
3. Purpose of the new rule or reason for the change:
Section 73-33-203 requires the Division of Water Quality (DWQ) to set a limit for the salinity of water or brine that a person may discharge into the Great Salt Lake (GSL) as part of the mineral or element extraction process and establish procedures to modify, revoke and reissue, or terminate any permit if those limits are exceeded.

4. Summary of the new rule or change:

This new rule establishes limits for the salinity of water or brine that a person may discharge into the GSL as part of the mineral or element extraction process that prevent potential negative effects of high salinity discharges on the GSL chemistry or biota, and establishes procedures to modify, revoke and reissue, or terminate any permit if those limits are exceeded.

DWQ will develop corresponding guidance to be updated regularly with the latest scientific information to guide implementation decisions or written determinations.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

No state agency is a constrained party under this new rule, so no direct or indirect costs or savings will be incurred to the state budget.

B) Local governments:

No local government is a constrained party under this new rule, so no direct or indirect costs or savings will be incurred to local governments.

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

No small business is a constrained party under this new rule, so no direct or indirect costs or savings will be incurred to small businesses.

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

Two non-small businesses are constrained parties under this new rule.

One constrained party represents a net decrease of salt load to Gilbert Bay, so there are no costs or savings for that party.

DWQ requested a cost estimate from the other party but did not receive additional information.

This rule includes two requirements that could result in costs or savings for these parties, a salinity discharge limit and requirements for monitoring and reporting.

The potential costs incurred under the discharge limits established by this rule are triggered by specific environmental conditions within the GSL that may or may not occur within the next three fiscal years, so the costs or savings are inestimable. The discharge limits in this rule would not be triggered by current or three year anticipated conditions in the GSL, so costs within the next three fiscal years are anticipated to be zero.

Under this rule, both parties will be required to conduct and report monitoring data for discharge salinity and volume. Based on recent GSL sample analysis and labor costs, DWQ estimates that this monitoring and reporting will result in an increased annual cost of \$7,500 per constrained party.

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

No persons other than small businesses, non-small businesses, state, or local government entities are constrained parties under the new rule, so no direct or indirect costs or savings will be incurred 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?):

The potential costs incurred under the discharge limits established by this rule are triggered by specific environmental conditions within the GSL that may or may not occur within the next three fiscal years, so the costs or savings are inestimable. The discharge limits in this rule would not be triggered by current or three year anticipated conditions in the GSL, so costs within the next three fiscal years are anticipated to be zero.

Based on recent GSL sample analysis and labor costs, DWQ estimates that compliance with monitoring and reporting requirements will result in an increased annual cost of \$7,500 per constrained party, totaling \$45,000 over three years.

Compliance costs and the timing of those costs for affected persons are inestimable because they would be wholly dependent on environmental conditions which at this time cannot be predicted.

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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$7,500	\$7,500	\$7,500
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$15,000	\$15,000	\$15,000
Fiscal Benefits	FY2025	FY2026	FY2027
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	\$(15,000)	\$(15,000)	\$(15,000)

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

The Executive Director of the Department of Environmental Quality, Tim Davis, 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 73-33-203		
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Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	Standard operating procedure--Great Salt Lake water density measurement and salinity calculation
Publisher	Great Salt Lake Salinity Advisory Committee
Issue Date	June 2020
Issue or Version	Utah Geological Survey Open File Report 728

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:	05/01/2025
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9. This rule change MAY become effective on:	05/28/2025
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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:	John K. Mackey, Division Director	Date:	03/14/2025
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R317. Environmental Quality, Water Quality.

R317-17. Great Salt Lake Mineral Extraction Salinity Discharge Limits.

R317-17-1. Purpose and Authority.

- (1) Authority. This rule is promulgated pursuant to Section 73-33-203.
- (2) Purpose. To set a limit for the salinity of water or brine that a person may discharge into the Great Salt Lake as part of the mineral or element extraction process according to Section 73-33-203 and establish procedures to modify, revoke and reissue, or terminate any permit if those limits are exceeded.
- (3) Applicability. This rule applies to discharges derived from the extraction of minerals or elements from the brines of Great Salt Lake.

R317-17-2. Definitions.

As used in this rule:

- (1) "Current salinity" means the maximum daily mean salinity level in Gilbert Bay observed within the past 90 days, measured and calculated following the Great Salt Lake Salinity Advisory Committee, 2020, Standard operating procedure---Great Salt Lake water density measurement and salinity calculation: Utah Geological Survey Open-File Report 728, incorporated by reference, collected from multiple United States Geological Survey monitoring locations representative of Gilbert Bay using standardized sampling methods, excluding deep brine layer and freshwater lenses.
- (2) "De minimis discharge" means a discharge that results in a negligible increase in salinity concentration or load, as determined by the director.
- (3) "Director" means the director of the Utah Division of Water Quality.
- (4) "Discharge" means any water, substance, or pollution placed into a receiving water; which may include any combination of treated, processed, or returned waters.
- (5) "Division" means the Utah Division of Water Quality.
- (6) "FFSL" means the Utah Department of Natural Resources, Division of Forestry, Fire, and State Lands.
- (7) "GSL" means Great Salt Lake, and includes Gilbert Bay, Gunnison Bay, Bear River Bay, Farmington Bay, and Transitional Waters, as defined in Subsection R317-2-6(6.5).
- (8) "Salinity" means the amount of dissolved salts in water expressed as grams per liter (g/L).
- (9) "Salinity Advisory Committee" means an advisory committee formed and co-chaired by the division and FFSL that makes recommendations to the division and FFSL regarding the short-term and long-term management of the salinity of GSL.
- (10) "UPDES" means Utah Pollutant Discharge Elimination System, as defined in Rule R317-8.

R317-17-3. Permit Discharge Limits for Salinity into Great Salt Lake.

- (1) If the current salinity of Gilbert Bay exceeds 150 g/L, no person, as part of the mineral or element extraction process, may discharge water or brine into Gilbert Bay, Bear River Bay, Farmington Bay, or the Transitional Waters associated with those bays, except as provided in Subsection R317-17-3(5).
- (2) If the current salinity of Gilbert Bay is below 150 g/L, a person, as part of the mineral or element extraction process, may discharge water or brine, including water or brine exceeding 150 g/L salinity into Gilbert Bay, Bear River Bay, Farmington Bay, or the Transitional Waters associated with those bays.
- (3) For discharges of water or brine into Gunnison Bay, as part of the mineral or element extraction process, there is no limit for the maximum salinity.
- (4) The director may disallow discharges of water or brine as part of the mineral or element extraction process, when, in consultation with the GSL Salinity Advisory Committee and the GSL Commissioner's office, the director determines that discharges will cause the salinity of Gilbert Bay to exceed 150 g/L.
- (5) Upon request, the director shall allow a discharge into Gilbert Bay, Bear River Bay, Farmington Bay or the Transitional Waters associated with those bays at any time if:
- (a) the director determines, in writing, as part of an UPDES permit, that the discharge is a de minimis discharge; or
- (b) the director determines, in writing, as part of an UPDES permit, that the discharge represents a net decrease of salt load to Gilbert Bay as a result of the extraction process.
- (6) The discharge limits for salinity specified in this section and monitoring requirements for salinity and discharge volume will be incorporated into the discharger's UPDES permit as effluent limits.

R317-17-4. Compliance.

- (1) If a person discharges water or brine that exceeds the limit imposed under Section R317-17-3, the director may modify, revoke and reissue, or terminate any permit issued by the director related to the discharge, consistent with the processes provided in Subsection 19-5-106(2)(g) and Subsection R317-8-6(6.2).

(2) It is a violation of the discharger's UPDES permit to discharge water or brine that exceeds the discharge limits for salinity identified in Section R317-17-3.

KEY: great salt lake, salinity, extraction

Date of Last Change: 2025

Authorizing, and Implemented or Interpreted Law: 73-33-203

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R414-507	Filing ID: 57068

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 143325	
City, state and zip:	Salt Lake City, UT 84114-3325	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-507. Ground Ambulance Service Provider Assessments
3. Purpose of the new rule or reason for the change:
Based on internal review, the Department of Health and Human Services (Department) determined it was necessary to update this rule to clarify information regarding provider assessments for ground ambulance services.
4. Summary of the new rule or change:
This amendment updates and clarifies provider assessment information in this rule, regarding notice, changes in status, payments, collections, penalties, and interest. It additionally makes style and formatting changes to comply with the Rulewriting Manual for Utah and align with other rules under the Department.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated fiscal impact to the state budget, as current funding for assessments cover payment rates and this amendment does not change those rates or associated penalties. This amendment updates this rule to clarify information regarding provider assessments.
B) Local governments:
There is no anticipated fiscal impact to local governments, as there are no changes to existing payment rates or penalties. This amendment updates this rule to clarify information regarding provider assessments.

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

There is no anticipated fiscal impact to small businesses, as there are no changes to existing payment rates or penalties. This amendment updates this rule to clarify information regarding provider assessments.

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

There is no anticipated fiscal impact to non-small businesses, as there are no changes to existing payment rates or penalties. This amendment updates this rule to clarify information regarding provider assessments.

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 fiscal impact to other persons, as there are no changes to existing payment rates or penalties. This amendment updates this rule to clarify information regarding provider assessments.

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 to affected persons, as there are no changes to existing payment rates or penalties. This amendment updates this rule to clarify information regarding provider assessments.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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-1-213	Section 26B-3-108	
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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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Tracy S. Gruber, Executive Director	Date:	03/13/2025
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R414. Health and Human Services, Integrated Healthcare~~[Health Care Financing, Coverage and Reimbursement Policy].~~

R414-507. Ground Ambulance Service Provider Assessments.

R414-507-1. ~~Introduction and~~ Authority and Purpose.

~~[This]~~(1) Sections 26B-1-213 and 26B-3-108 authorize this rule~~[-].~~

~~_____~~(2) This rule defines the scope of the ground ambulance service provider assessment.~~[This rule is authorized under Title 26, Chapter 37a.]~~

R414-507-2. Definitions.

~~[The definitions]~~Terms used in this rule are defined in Section ~~[26-37a-102 apply to this rule]~~26B-3-801.

R414-507-3. Change in Ground Ambulance Provider Status.

(1)(a) If a ground ambulance provider's status changes during any given quarter and ~~[it]~~no longer falls under the definition of a ground ambulance provider ~~[that is]~~subject to the assessment ~~[outlined in Section 26-37a-103]~~set forth under Title 26B, Chapter 3, Part 8, Ambulance Service Provider Assessment, or is no longer entitled to Medicaid ground ambulance provider payments~~[-]~~ within 30 days of the change in status, the ~~[ground ambulance-]~~provider ~~[must]~~shall submit ~~[in writing to the Division of Medicaid and Health Financing (DMHF)]~~a written notice of the status change and the effective date ~~[of that change.]~~to the Reimbursement Unit.

~~_____~~(b) The provider shall mail the notice ~~[must be mailed-]~~to the correct address, as ~~[follows, and is]~~outlined in Subsection (d).

~~_____~~(c) The notice shall only be considered effective upon the Reimbursement Unit's timely receipt ~~[by]~~of the ~~[Reimbursement Unit]~~notice.

~~[Via]~~ (d)(i) The Reimbursement Unit's mailing address via the United States Postal Service is:

Utah ~~[Department of Health]~~Medicaid

~~[DMHF, BCRP~~

Attn: Reimbursement Unit

P.O. Box 143~~[40]~~325

Salt Lake City, UT 84114-3~~[40]~~325

~~[Via]~~ (ii) The Reimbursement Unit's mailing address via United Parcel Service, Federal Express, ~~[and]~~or similar is:

Utah ~~[Department of Health]~~Medicaid

~~[DMHF, BCRP~~

Attn: Reimbursement Unit

288 North 1460 West

Salt Lake City, UT 84116-3231

(2) For any quarter whe~~[re]~~n a ground ambulance provider is no longer subject to the assessment and notice has been given under Subsection ~~[R414-507-3]~~(1):

(a) the ~~[D]~~department shall require payment of the assessment from that ground ambulance provider for the full quarter in which the status change occurred; and

(b) the ground ambulance provider ~~[is]~~shall be exempt from future assessment in the ~~[first]~~quarter immediately following the quarter when the status changed.

R414-507-4. Payments to Ground Ambulance Providers.

(1) ~~[Ground-]~~The department shall reimburse a ground ambulance ~~[providers shall be reimbursed]~~provider an enhanced rate for any ground emergency medical ~~[transports]~~transport and mileage up to the level approved by the Centers for Medicare and Medicaid Services.

(2)(a) The reimbursement rate ~~[shall]~~may not exceed the ~~[ground]~~emergency medical services ambulance rates published and periodically updated in ~~[Section R426]~~Rule R911-8~~[-2]~~ or the provider's usual and customary charge to private pay individuals.~~[Providers shall]~~

~~_____~~(b) A provider may not bill Medicaid more than the provider's usual and customary charge to private pay individuals.

R414-507-5. Quarterly ~~[n]~~Notice -- Collection.

~~[Quarterly assessments imposed by this chapter]~~A ground ambulance provider shall ~~[be paid]~~pay each quarterly assessment to ~~[DMHF]~~Medicaid within 15 business days after the original invoice date that appears on the invoice issued by ~~[DMHF]~~Medicaid.

R414-507-6. Penalties and Interest.

(1) If ~~[DMHF]Medicaid~~ audits a ground ambulance provider's records to determine the correct transports for the assessment and determines the provider failed to accurately report correct transports, ~~[DMHF]Medicaid~~ shall fine the ~~[ground ambulance]provider~~ ~~[five percent]5%~~ of ~~[its]the provider's~~ annual calculated assessment. The fine is payable within 30 days of invoice.

(2)(a) If a ground ambulance provider fails to fully pay ~~[its]that provider's~~ assessment on or before the due date, ~~[DMHF]Medicaid~~ shall fine the provider ~~[five percent]5%~~ of ~~[its]the provider's~~ quarterly calculated assessment. ~~[-]The fine is payable within 30 days of invoice.~~

(b) The ~~[D]department~~ shall suspend~~[-at]~~ Medicaid payments to a ground ambulance provider until the provider pays the assessment and fine due in full or until the provider and the ~~[D]department~~ reach a negotiated settlement.

(3) If a Medicaid-enrolled ground ambulance provider fails to submit reporting required in Rule R911-8, Medicaid may suspend payment until the provider submits the reporting.

R414-507-7. Rule Repeal.

The ~~[D]department~~ shall repeal this rule in conjunction with the repeal of ~~[the]Title 26B, Chapter 3, Part 8, Ambulance Service Provider Assessment[Act outlined in], set forth under~~ Section ~~[26-37a-108]26B-3-806~~.

KEY: Medicaid

Date of Last Change: ~~[July 1, 2015]2025~~

Notice of Continuation: April 8, 2020

Authorizing[;] and Implemented or Interpreted Law: ~~26B-1-[5; 26-18]213; 26B-3[; 26-37a-102]-108; 26B-3-801~~

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R501-3	Filing ID: 57067

Agency Information

1. Title catchline:	Health and Human Services, Human Services Program Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@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 Emergency Enforcement
3. Purpose of the new rule or reason for the change:
S.B. 229 passed in the 2024 General Session standardized the office's authority in Section 26B-2-700, and as a result, the content of Rule R501-3 in its entirety has been moved to Rule R380-600.
This repeal eliminates this stand-alone rule for human services, as provisions for enforcement for all licensed entities served under the Division of Licensing and Background Checks (DLBC) will be housed in Rule R380-600, and keeping Rule R501-3 would be repetitive and redundant.
4. Summary of the new rule or change:
Rule R501-3 is being repealed in its entirety, as its content is being moved into Rule R380-600.
(EDITOR'S NOTE: The change in proposed rule filing for Rule R380-600 is under ID 56883 in this issue, April 1, 2025, of the Bulletin.)

Fiscal Information

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

A) State budget:

There is no anticipated fiscal impact to the state budget, as this repeal will not change the current process for licensure and re-licensure inspections.

Each entity under DLBC has previously had administrative rule authority to take emergency actions, and an amendment filing for Rule R380-600 places all authority to do so into one centralized rule, rendering Rule R501-3 unnecessary.

B) Local governments:

This proposed repeal is not anticipated to have a fiscal impact on local governments, as local governments do not regulate DLBC-licensed facilities. This repeal does not add, remove, or modify requirements for local business licensing or any other process with which local government is involved, as all the requirements previously in this rule are being moved to Rule R380-600.

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

There is no anticipated fiscal impact to small businesses as a result of this repeal, as all the requirements previously in this rule are being moved to Rule R380-600.

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

There is no anticipated fiscal impact to non-small businesses as a result of this repeal, as all the requirements previously in this rule are being moved to Rule R380-600.

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 fiscal impact to other persons as a result of the repeal of this rule, as all the requirements previously in this rule are being moved to Rule R380-600.

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 compliance cost for affected persons as a result of this repeal, as all the requirements previously in this rule are being moved to Rule R380-600.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	10/30/2024
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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: November 1, 2023~~

~~Authorizing, and Implemented or Interpreted Law: 26B-2-104~~

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R512-2	Filing ID: 57080

Agency Information

1. Title catchline:	Health and Human Services, Child and Family Services	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT	
Mailing address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Corey Blythe	801-891-9068	coblythe@utah.gov
Cosette Mills	385-242-5482	cwmills@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R512-2. Title IV-B Child and Family Services and Title IV-E Foster Care, Prevention, and Permanency
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to reinstate a federal requirement in 42 U.S.C. 671(a)(14) that must be addressed in rule or statute in order to comply with federal law.
This language was deleted from Rule R512-300 in error, and the Department of Health and Human Services (Department) determined that the appropriate placement for this provision is in Rule R512-2.
4. Summary of the new rule or change:
This rule amendment specifies a federally required goal for the maximum number of children that will be in foster care longer than 24 months, stated as a percentage, and specifies how that information will be reviewed.
Additionally, this amendment makes style and formatting changes to comply with the Rulewriting Manual for Utah and align this rule with other rules under the Department.

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 as a result of this amendment. Necessary administrative provisions are already in place for the Division of Child and Family Services (Division) and the statewide quality improvement committee to comply with any additional requirements in this amendment.

B) Local governments:			
There is no anticipated cost or savings to local governments, as this rule does not apply to local governments.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses, as this rule does not apply to small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses, as this rule does not apply to non-small businesses.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.			
This amendment adds provisions for state compliance with a federal requirement, and implementation of that federal requirement is an administrative function that falls to the state.			
This amendment does not add to, remove, or modify existing responsibilities or processes through which other persons participate in division programs.			
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 for affected persons.			
This amendment adds provisions for state compliance with a federal requirement, and implementation of that federal requirement is an administrative function that falls to the state, and necessary administrative provisions are already in place for the Division and the statewide quality improvement committee to comply with any additional requirements in this amendment.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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 80-2-301	Section 80-2-302	
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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:	05/15/2025
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9. This rule change MAY become effective on:	05/22/2025
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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:	Tracy S. Gruber, Executive Director	Date:	03/17/2025
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R512. Health and Human Services, Child and Family Services.

R512-2. Title IV-B Child and Family Services and Title IV-E Foster Care, Prevention, and Permanency.

R512-2-1. ~~Purpose and Authority and Purpose.~~

(1) Sections 80-2-301 and 80-2-302 authorize this rule.

(2) This rule adopts federal requirements applicable to Title[s] IV-B and Title IV-E of the Social Security Act. [

~~(2) This rule is authorized by Section 80-2-302.]~~

R512-2-2. Title IV-B Child and Family Services.

The Division of Child and Family Services (Child and Family Services) adopts the following federal requirements applicable to Title IV-B, Subparts 1 and 2 for child and family services:

(1) The Public Health and Welfare, 42 U.S.C. 621, 622, 623, 624, 626, 627, 629, 629a, 629b, 629c, 629d, 629e, 629f, 629g, and 629m as amended by Consolidated Appropriations Act, Pub[li]c L[aw] No. 116-260 [December 27, 2020], incorporated by reference in this rule; and

(2) Public Welfare, 45 CFR ~~[Parts]~~ 1355 (May 12, 2020) and 1357 (January 20, 2016), incorporated by reference in this rule.

R512-2-3. Title IV-E Foster Care, Prevention, and Permanency.

Child and Family Services adopts the following federal requirements applicable to Title IV-E Foster Care, Prevention, and Permanency:

(1) The Public Health and Welfare, 42 U.S.C. 670, 671, 672, 673, 673b, 674, 675, 675a, 676, 677, 679, 679b, 1320a--2, 1320a-2a, and 1320a-9 as amended by Consolidated Appropriations Act, Pub[li]c L[aw] No. 116-260 [December 27, 2020], incorporated by reference in this rule; and

(2) Public Welfare, 45 CFR ~~[Parts]~~ 1355 (May 12, 2020) and 1356 (June 2, 2016), incorporated by reference in this rule.

R512-2-4. Title IV-E Administrative Hearings.

(1) An individual whose claim for benefits under the Title IV-E plan is denied or not acted upon with reasonable promptness may be granted a fair hearing.

(2) The request for a fair hearing shall be submitted in writing to Child and Family Services.

(3) ~~[F]Each~~ fair hearing request[s] for adoption assistance shall meet the requirements specified in Rule R512-43.

R512-2-5. Goal for Maximum Number of Children in Out-of-Home Care.

(1) The goal for the proportion of children in out-of-home care for more than 24 months is that the proportion be 33% or fewer of the total number of children in out-of-home care during each federal fiscal year.

(2)(a) The statewide quality improvement committee shall annually review data on:

(i) the proportion of children in out-of-home care for more than 24 months; and

(ii) the steps taken by Child and Family Services to ensure that the 33% proportion is not exceeded.

(b) The committee may submit written recommendations for improvement to Child and Family Services administration.

KEY: child welfare, foster care, prevention, permanency

Date of Last Change: ~~August 15, 2023~~ 2025

Notice of Continuation: August 19, 2021

Authorizing, and Implemented or Interpreted Law: 80-2-30[2]1; 80-2-30[4]2

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Amendment**Rule or Section Number:****R728-403****Filing ID: 57069****Agency Information**

1. Title catchline:	Public Safety, Peace Officer Standards and Training	
Street address:	410 W 9800 S	
City, state:	Sandy, UT 84070	
Contact persons:		
Name:	Phone:	Email:
Marcus Yockey	801-965-4275	myockey@agutah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R728-403. Procedures for Certification
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted to amend this rule as recommended by the Utah Peace Officer Standards and Training (POST) Council to ensure best practices are followed and to address minor errors that were identified in the previous version of this rule.
4. Summary of the new rule or change:
This rule adds a provision that allows POST to deny an application for certification if POST becomes aware of a falsification of an application; includes provisions to address cheating or plagiarism; clarifies that a cadet has an 18 month period, rather than one year, to complete the requirements for certification to mirror statutory language; clarifies, according to current practices, that if a cadet fails the test twice they must complete the course again; and cleans up language to conform with rule writer guidelines.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed rule is not expected to have any fiscal impact on state budgets. This rule only adds provisions to address falsification and cheating, clarifies language to align with statutory language, and cleans up language to conform with rule writer guidelines.
B) Local governments:
The proposed rule is not expected to have any fiscal impact on local governments. This rule only adds provisions to address falsification and cheating, clarifies language to align with statutory language, and cleans up language to conform with rule writer guidelines.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed rule is not expected to have any fiscal impact on small businesses. This rule only adds provisions to address falsification and cheating, clarifies language to align with statutory language, and cleans up language to conform with rule writer guidelines.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule is not expected to have any fiscal impacts on non-small businesses. This rule only adds provisions to address falsification and cheating, clarifies language to align with statutory language, and cleans up language to conform with rule writer guidelines.

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

The proposed rule is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. The rule only adds provisions to address falsification and cheating, clarifies language to align with statutory language, and cleans up language to conform with rule writer guidelines.

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

The proposed rule is not expected to result in additional compliance costs for affected persons. This rule only adds provisions to address falsification and cheating, clarifies language to align with statutory language, and cleans up language to conform with rule writer guidelines.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Department of Public Safety, Jess L. Anderson, 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 53-6-203	Section 53-6-205	Section 53-6-206
Section 53-6-208	Section 53-6-302	Section 53-6-303
Section 53-6-304	Section 53-6-306	

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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	Travis Rees, POST Director	Date:	03/13/2025
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R728. Public Safety, Peace Officer Standards and Training.**R728-403. Procedures for Certification.****R728-403-1. Authority.**

This rule is authorized by Subsection 53-6-105(1)(k) [~~which provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6, Peace Officer Standards and Training Act~~].

R728-403-2. Purpose.

[~~The purpose of it~~] This rule [~~is to~~] provides procedures for a dispatcher or peace officer to become certified or reactivate certification.

R728-403-3. Definitions.

- (1) Terms used in this rule are defined in Section 53-6-102.
- (2) In addition:
 - (a) "Actively Engaged" means a currently certified peace officer as defined in Sections 53-13-102 through 53-13-105 who works while on duty as defined in Section 53-13-101 for a minimum of 60 hours per reporting year and receives annual training as defined in Subsection 53-6-306(3)(a);
 - (b) "Applicant" means a person seeking to become certified or reinstate certification as a dispatcher or peace officer;
 - (c) "Certification examination" means the written test given to an applicant to become certified or to reactivate certification as a dispatcher or peace officer;
 - (d) "Physical fitness test" means the physical fitness standards adopted by the council [~~on June 4, 2009~~], which must be met to become a peace officer;
 - (e) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103;
 - (f) "Reporting year" means an annual period starting on July 1, and ending on June 30 of the following year;
 - (g) "Training program" means the basic training courses offered by the division or one of the certified academies, which are required to become a:
 - (i) special function officer;
 - (ii) correctional officer;
 - (iii) law enforcement officer; or
 - (iv) dispatcher; and
 - (h) "Training year" means the same as reporting year.

R728-403-4. Application for Training and Certification.

- (1) An applicant seeking to become certified as a dispatcher or peace officer shall submit a completed application packet to the division that includes:
 - (a) a written or electronic application form provided by the division;
 - (b) a photocopy of a government-issued identification card;
 - (c) evidence that the applicant is a United States citizen or lawful permanent resident to include:
 - (i) a photocopy of a birth certificate;
 - (ii) a photocopy of a United States passport;
 - (iii) in the case of naturalized citizen, a naturalization number; or
 - (iv) in the case of a lawful permanent resident, a photocopy of a lawful permanent resident card that identifies residence for five years immediately preceding the day on which the application is made;
 - (d) one completed FBI applicant fingerprint card, form FD-258, with the applicant's legible fingerprints;
 - (e) one recent color photograph of passport quality with the applicant's name written on the back of the photograph;
 - (f) evidence that the applicant has completed high school or obtained the educational equivalent; and
 - (g) the application fee, unless the applicant has been hired as a dispatcher or peace officer by a governmental entity.
- (2) An applicant seeking to become a certified peace officer shall also submit a medical evaluation from a medical doctor indicating the applicant is able to participate in each aspect of the training program.
- (3)(a) The applicant must submit the application packet four weeks [~~prior to~~] before the start of a training program to allow the division adequate time to process the application packet.
 - (b) The division [~~shall~~] may not accept nor process any application that is not complete or fails to include required attachments.
 - (4) An application [~~shall be considered~~] is valid for one year from the time the application is completed by the applicant.
- (5)(a) Once a completed application packet is received by the division, the packet shall be reviewed to determine if the applicant meets the requirements in Section[s] 53-6-203 or 53-6-302.
 - (b) If the division does not have sufficient information to make this determination, the division may request the applicant provide additional information.
 - (6)(a) In determining whether an applicant has demonstrated good moral character as required by Section[s] 53-6-203 or 53-6-302, the division shall conduct a criminal history background check of local, state, and national criminal history files to determine if the applicant has a criminal record.

NOTICES OF PROPOSED RULES

(b) An applicant with a criminal history that contains any of the following shall be denied entrance into a training program and ~~shall~~may not receive certification:

- (i) a conviction of a felony under state or federal law in this or any other state;
- (ii) dismissal from the armed services under dishonorable conditions; or
- (iii) a conviction of domestic violence, unless the conviction has been dismissed, expunged, or set aside.

(c) An applicant who has been convicted of, or involved in conduct that is a state or federal criminal offense, may not be allowed to attend a basic training program or receive POST certification for a period ~~[of time]~~ consistent with the POST Council disciplinary guidelines as approved by the council.

(i) The waiting period shall run from the date of the involvement, unless the applicant is still under court supervision for the violation, in which case the applicant will not be allowed to ~~[make application]~~apply until the probation has been successfully completed or the applicant is no longer under court supervision.

(ii) Waiting periods shall run concurrently for applicants who have been convicted of or involved in multiple violations.

(d) Any activity involving the abuse of alcohol or drugs may be considered in determining whether an applicant will be allowed to attend a basic training program or receive POST certification.

(e) An applicant convicted of or involved in minor crimes not otherwise identified in this rule, including traffic violations that reflect a willful disregard for lawful behavior as evidenced by repetitiveness of conduct or other aggravating factors, may not be allowed to attend a basic training program or receive POST certification ~~[prior to]~~before one year from the latest conviction or involvement.

(f) In cases where arrest warrants are issued, the one year waiting period will begin ~~[at the time]~~when the warrant is served on the applicant.

(g) If an applicant is found to have falsified any information to gain admittance into a basic training program, a ~~[two]~~one-year waiting period shall be applied from the date the division becomes aware of the falsification.

(i) If the falsified information is covered by other sections of this rule, including a state or federal criminal offense, and a specific waiting period is required, the division shall require the applicant to wait the longer of the two periods. ~~[Waiting periods will not be combined to run concurrently.]~~

(ii) ~~[If an applicant completes the basic training program and prior to taking the certification examination the division becomes aware of a falsification, the applicant shall not be allowed to take the certification examination.]~~ If the division becomes aware of a falsification before the applicant takes the certification examination, the division shall prohibit the applicant from taking the certification exam.

(iii) An applicant who is dismissed during ~~[the course of]~~ a basic training program for falsifying any information to obtain certification ~~shall~~is not [be] eligible for further POST training or certification until the two-year waiting period has been met.

(iv) If an applicant becomes certifiable and then is subsequently discovered to have falsified information to obtain certified status, that individual may be subject to suspension of their POST certification.

(7) An applicant who is dismissed from a basic training program for cheating or plagiarism is not eligible for further POST training or certification until a two-year waiting period has been met.

~~[(7)](8)~~ If the applicant is the subject of an [ongoing]open investigation by the division or a law enforcement agency, the applicant shall not be deemed eligible to]may not attend a training program until the investigation is completed[-], unless the investigation is for a traffic offense that is a class C misdemeanor or infraction.

~~[(8)](9)~~ If the division determines that the applicant meets the requirements in Section[s] 53-6-203 or 53-6-302, the division shall notify the applicant that the applicant is eligible to attend a training program.

~~[(9)](10)~~ If the division determines that the applicant does not meet the requirements in Section[s] 53-6-203 or 53-6-302, the applicant shall be denied admission to a training program.

~~[(10)](11)~~ Applicants who are accepted into a peace officer training program shall pass the POST physical fitness requirements for entrance into the specific training program as approved by the council and outlined in POST policy and procedure 2390, Physical Training Requirements.

~~[(11)](12)~~ Applicants who are accepted into a peace officer training program shall be subject to random and "for cause" drug testing as outlined in POST policy and procedure 2400, Drug Testing for Applicants and Cadets.

~~[(12)](13)~~ Applicants seeking dispatcher certification must also provide evidence of Utah Emergency Medical Dispatcher certification.

R728-403-5. Completion of a Training Program.

(1) An applicant seeking to become certified as a peace officer successfully completes the training program by:

- (a) attending required training courses;
 - (b) obtaining passing scores on intermediate and subject specific tests; and
 - (c) participating in required physical fitness, practical skill training and other required activities.
- (2) Applicants shall be subject to officially published policy at the training academy they attend.

(3) An applicant who fails to complete any portion of the academic training program may not take the certification examination.

(4) An applicant may take the certification examination ~~[prior to]~~before passing the physical fitness, defensive tactics, firearms, or emergency vehicle operations tests.

(5) An applicant must pass [who is unable to pass]the certification examination, physical fitness, defensive tactics, emergency vehicle operations [or]and firearms tests, within ~~[one year]~~18 months after completing the training program ~~[or within one year of taking the certification examination shall be denied certification]~~to be certified as a peace officer.

(6) ~~[An applicant who is unable to pass the emergency vehicle operations tests within one year from completion of the emergency vehicle operations training program shall be denied certification.]~~

~~[(7)(a)] An applicant who fails the certification examination twice shall be denied certification and may not take the certification examination again until the applicant satisfactorily completes another approved basic training program. ~~[shall have one opportunity to take a make-up examination within one year of the first examination.]~~~~

~~(b) An applicant who fails the certification examination after two attempts shall be denied certification and shall not be permitted to take the certification examination again until the applicant satisfactorily completes another approved basic training program.]~~

~~[(8) An applicant who successfully completes the training program shall be certified as a peace officer.]~~

R728-403-6. Waiver of Basic Training Program.

(1) An applicant who has not attended a training program offered by the division or a satellite academy, may seek to waive a training program by submitting a completed waiver packet to the division that includes:

(a) a completed application packet as provided in Section R728-403-4;

(b) documentation showing that the applicant has completed training equivalent to the training program the applicant is seeking to waive, such as:

(i) a copy of the training curriculum;

(ii) the number of hours completed; and

(iii) the date the training was completed; and

(c) evidence of any prior employment as a dispatcher or peace officer that includes:

(i) a detailed job description; and

(ii) verification from the applicant's employer of the last date the applicant worked as a dispatcher or peace officer.

(2)(a) ~~[Once the division has received]~~ Upon receiving a completed waiver packet, the division shall review the packet to determine if the training completed by the applicant is the equivalent of the training program the applicant seeks to waive.

(b) If the division does not have sufficient information to make this determination, the division may request that the applicant submit additional information.

(3) If the division determines the peace officer training completed by the applicant is the equivalent of the peace officer training program the applicant seeks to waive, and the program was completed less than four years ~~[prior to]~~ before the date the applicant will take the certification examination, or the applicant has been actively engaged in performing the duties of a peace officer within the past four years, and the applicant meets the requirements in Section R728-403-4 and Sections 53-6-203 and 53-6-206, the applicant may take the physical fitness test and the certification examination.

(a) If the applicant passes both the physical fitness test and the certification examination, the applicant shall be certified as a peace officer.

(b) If the applicant fails to pass the certification examination, the applicant shall be given one additional opportunity to pass the certification examination, which must be completed within one year from the time the application is completed by the applicant ~~[of the first examination].~~

(c) An applicant who fails the certification examination after two attempts shall be denied certification and ~~[shall]~~ may not be permitted to take the certification examination again until the applicant satisfactorily completes an approved basic training program.

(d) If the applicant fails to pass the physical fitness test, the applicant may be given additional opportunities to pass during regularly scheduled fitness tests provided by POST.

(e) The applicant must pass the certification examination and the physical fitness test within four years from the date of completion of the original training program, or four years from the date they were last actively engaged in the duties of a peace officer.

(f) An applicant who successfully completes the waiver process for law enforcement officer certification or correctional officer certification shall be deemed to have also completed requirements for special functions officer certification.

(g) An applicant seeking to be certified as both a law enforcement officer and a correctional officer must complete the waiver process and pass the certification examinations for each of those peace officer classifications.

(4) If the division determines that the dispatcher training completed by the applicant is the equivalent of the training program the applicant seeks to waive, and the program was completed less than four years ~~[prior to]~~ before the date the applicant will take the certification examination, or the applicant has been actively engaged in performing the duties of a dispatcher within the past four years, and the applicant meets the requirements in Section R728-403-4 and Sections 53-6-302 and 53-6-304, the applicant may take the certification examination.

(a) If the applicant passes the certification examination, the applicant shall be certified as a dispatcher.

(b) If the applicant fails to pass the certification examination, the applicant shall be given one additional opportunity to pass the certification examination, which must be completed within one year from the time the application is completed by the applicant ~~[of the first examination].~~

(c) An applicant who fails the certification examination after two attempts shall be denied certification and ~~[shall]~~ may not be permitted to take the certification examination again until the applicant satisfactorily completes an approved basic training program.

(5) If the applicant fails to meet any of the requirements set forth in this rule, the applicant may not waive the training program.

R728-403-7. Reactivation of Certification.

(1) The certification of a peace officer or dispatcher that has been suspended for more than 18 consecutive months due to disciplinary action or failure to complete in-service training shall be considered "inactive".

(2) An applicant whose certification has become inactive may reactivate the applicant's peace officer or dispatcher certification by submitting a completed reactivation packet to the division that includes:

(a) a completed application packet as provided in Section R728-403-4; and

(b) evidence of the applicant's prior employment as a dispatcher or peace officer.

NOTICES OF PROPOSED RULES

- (3)(a) ~~[Once the division has received]~~ Upon receiving a completed reactivation packet, the division shall review the packet to determine if the applicant meets the requirements in Sections 53-6-203 and 53-6-208, or Sections 53-6-302 and 53-6-306.
- (b) If the division does not have sufficient information to make this determination, the division may request the applicant submit additional information.
- (4) If an applicant for reactivation of peace officer certification meets the requirements in Sections 53-6-203 and 53-6-208, the applicant may take the physical fitness test and the certification examination as provided in Section R728-403-5.
 - (a) If the applicant passes both the physical fitness test and the certification examination, the applicant shall be certified as a peace officer.
 - (b) If the applicant fails to pass the certification examination, the applicant shall be given one additional opportunity to pass the certification examination, which must be completed within one year from the time the application is completed by the applicant~~[of the first examination]~~.
 - (c) An applicant who fails the certification examination ~~[after two attempts]~~ twice shall be denied certification and ~~[shall not be permitted to]~~ may not take the certification examination again until the applicant satisfactorily completes an approved basic training program.
 - (d) If an applicant fails to pass the physical fitness test, the applicant may be given additional opportunities to pass during regularly scheduled fitness tests provided by POST.
- (5) If an applicant for reactivation of dispatcher certification meets the requirements in Sections 53-6-302 and 53-6-306, the applicant may take the certification examination, as provided in Section R728-403-5.
 - (a) If the applicant passes the certification examination, the applicant shall be certified as a dispatcher.
 - (b) If the applicant fails to pass the certification examination they will be given one additional opportunity to pass the certification examination which must be completed within one year from the time the application is completed by the applicant~~[of the first examination]~~.
 - (c) ~~[An applicants who fails the certification examination after two attempts shall be denied certification and shall not be permitted to take the certification examination again until the applicant satisfactorily complete an approved basic training program.]~~ An applicant who fails the certification examination twice shall be denied certification and may not take the certification examination again until the applicant satisfactorily completes an approved basic training program.
- (6) If the applicant for reactivation of peace officer or dispatcher certification fails to meet any of these requirements, the applicant's certification may not be reactivated.
- (7) The certification of a peace officer or dispatcher that has been suspended or inactive for more than four consecutive years shall be considered "lapsed" and the peace officer or dispatcher ~~[shall]~~ must comply with the requirements in Section[s] 53-6-208 or 53-6-306 before certification may be reinstated.

R728-403-8. Denial of Certification.

- (1) An applicant shall be denied certification for failing to satisfy any of the requirements under ~~[administrative]~~ Rule R728-403.
- (2) An applicant who is the subject of an ongoing investigation by the division, or who is under court supervision for a state or federal criminal offense, may not be certified until the investigation has been completed and the court supervision has been terminated.
- (3) If the division denies an applicant certification, the division shall issue a letter of denial by mail.
 - (a) The letter of denial shall state the reasons for denial and ~~[indicate]~~ state that the applicant may appeal the decision to the director by filing a written request for review within 30 days from the date of the division's decision as provided by Section 63G-4-301.
 - (b) Within a reasonable time after receiving the appeal, the director shall review the matter and determine whether the applicant may be certified.
 - (c) If upon further review the director denies the applicant's appeal, the director shall notify the applicant by letter and ~~[indicate]~~ state that the applicant has the right to appeal the director's decision by filing a petition for judicial review within 30 days as provided in Section 63G-4-402.
- (4) An applicant who has been denied certification shall meet the requirements in this rule before being certified.
- (5) Adjudicative proceedings under this rule shall be informal as provided in Sections 63G-4-202 through 63G-4-203.

KEY: dispatchers, peace officers, certifications, waivers

Date of Last Change: 2025~~[September 8, 2021]~~

Notice of Continuation: December 9, 2021

Authorizing, and Implemented or Interpreted Law: 53-6-203; 53-6-205; 53-6-206; 53-6-208; 53-6-302; 53-6-303; 53-6-304; 53-6-306

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R728-409	Filing ID: 57070
Agency Information		
1. Title catchline:	Public Safety, Peace Officer Standards and Training	
Street address:	410 W 9800 S	
City, state:	Sandy, UT 84070	

Contact persons:		
Name:	Phone:	Email:
Marcus Yockey	801-965-4275	myockey@agutah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov

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

General Information

2. Rule or section catchline:
R728-409. Suspension, Revocation, or Relinquishment of Certification
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted to incorporate recommendations made by the Utah Peace Officer Standards and Training (POST) Council concerning sexual offenses, and to address errors that were identified in the previous version of this rule.
4. Summary of the new rule or change:
This rule change clarifies the definition of sexual conduct to align with statutory language; removes unnecessary citations to traffic code; clarifies that POST may not take action for a policy violation, except in accordance with statute; clarifies the relinquishment process; and cleans up language to be in compliance with rule writer guidelines.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed rule is not expected to have any fiscal impact on state budgets. The rule filing only clarifies terms to align with statutory language, clarifies the relinquishment process and cleans up language to comply with rule writer guidelines.
B) Local governments:
The proposed rule is not expected to have any fiscal impact on local governments. The rule filing only clarifies terms to align with statutory language, clarifies the relinquishment process and cleans up language to comply with rule writer guidelines.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed rule is not expected to have any fiscal impact on small businesses. The rule filing only clarifies terms to align with statutory language, clarifies the relinquishment process and cleans up language to comply with rule writer guidelines.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule is not expected to have any fiscal impact on non-small businesses. The rule filing only clarifies terms to align with statutory language, clarifies the relinquishment process and cleans up language to comply with rule writer guidelines.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
The proposed rule is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. The rule filing only clarifies terms to align with statutory language, clarifies the relinquishment process and cleans up language to comply with rule writer guidelines.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The proposed rule will not result in any compliance costs for affected persons. The rule filing only clarifies terms to align with statutory language, clarifies the relinquishment process and cleans up language to comply with rule writer guidelines.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Department of Public Safety, Jess L. Anderson, 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 53-6-211	Section 53-6-211.5	Section 53-6-309
Section 53-6-311		

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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	Travis Rees, POST Director	Date:	03/13/2025
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R728. Public Safety, Peace Officer Standards and Training.
R728-409. Suspension, Revocation, or Relinquishment of Certification.
R728-409-1. Authority.

This rule is authorized by Subsection 53-6-105(1)(k).

R728-409-2. Purpose.

[The purpose of t]This rule [is to] establishes procedures for the suspension, revocation, or relinquishment of [a respondent's] an individual's peace officer or dispatcher certification.

R728-409-3. Definitions.

- (1) Terms used in this rule are defined in Section 53-6-102.
- (2) In addition:
- (a) "ALJ" means an administrative law judge who conducts administrative hearings as described in Subsections 53-6-211(3) and 53-6-309(3);
- (b) "On duty" means that a respondent is:
- actively engaged in any of the duties of the respondent's employment as a peace officer or dispatcher;
 - receiving compensation for activities related to the respondent's employment as a peace officer or dispatcher;
 - on the property of a law enforcement facility, correctional facility or dispatch center;
 - in a law enforcement vehicle that is located in a public place; or
 - in a public place and is wearing a badge or uniform, authorized by the respondent's employer, that readily identifies the wearer as a peace officer or dispatcher;
- (c) "Relinquish" means the permanent ~~[deprivation]~~surrender of the ~~[respondent's]~~individual's certification, to include each peace officer or dispatcher certification~~[-, pursuant to Section 53-6-211.5 or 53-6-311.],~~ that precludes ~~[a respondent]~~an individual from:
- admission into a training program conducted by the division, or an entity approved by the division; or
 - reinstatement or restoration of the ~~[respondent's]~~individual's certification by the division;
- (d) "Respondent" means a peace officer or dispatcher against whom the division has initiated an investigation or adjudicative proceeding under Section[s] 53-6-211 or 53-6-309;
- (e) "Revocation" means the permanent deprivation of a respondent's certification, to include each peace officer or dispatcher certification, that precludes a respondent from:
- admission into a training program conducted by the division, or an entity approved by the division; or
 - reinstatement or restoration of the respondent's certification by the division;
- (f) "Sexual conduct" means:
- ~~acts of masturbation, sexual intercourse, or any~~~~[the]~~ touching of the anus, buttocks, or any part of the genitals of a person, or the touching of the breast of a female, whether or not through clothing, with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant;~~[-or]~~
 - ~~soliciting, requesting, or directing another individual to engage in any of the acts described in Subsection R728-409-3(2)(f)(i);~~
- ~~or~~
- ~~[(ii)](iii)~~ the sending, transmitting, giving, exchanging, selling, soliciting, or posting, through any means, a sexual image as defined in Subsection R728-409-3(2)(g), by a certified peace officer or dispatcher:
- while on duty;
 - while off duty if the ~~[intimate]~~sexual image depicts the certified peace officer or dispatcher in uniform or depicts any official peace officer or dispatcher symbols, insignia, or clothing; ~~or~~
 - while off duty, to a certified peace officer or dispatcher while the recipient is on duty and the transmitting peace officer or dispatcher has reason to believe the recipient is on duty at the time of the transmission;~~[-or~~
 - ~~to an individual with whom the peace officer's relationship is based primarily upon the performance of the peace officer's law enforcement duties, including a confidential informant, witness, or victim, whether or not the intimate image depicts the certified peace officer in uniform.]~~
- ~~[(iii)](iv)~~ "Sexual conduct" does not mean ~~[sending, transmitting, giving, or posting a sexual image]~~any actions performed for a legitimate law enforcement purpose.
- (g) "Sexual image" means ~~[an image of]~~any visual depiction, photograph, film, video, records, or picture that depicts:
- exposed human male or female genitals or pubic area, with less than an opaque covering;
 - a female breast with less than an opaque covering or any portion of the female breast below the top of the areola;
 - an individual engaged in any sexually explicit conduct; or
 - a visual depiction of nudity or partial nudity.
- (h) "Suspension" means the temporary deprivation of a respondent's certification, to include each peace officer or dispatcher certification; and
- "Traffic offense" means an offense named in ~~[the following parts:~~
- ~~(i)]~~Title 41, Section 6a, Traffic Code, except for offenses named in:
- Title 41, Section 6a, Part 1, General Provisions;
 - Title 41, Section 6a, Part 2, Applicability and Obedience to Traffic Laws; and
 - Title 41, Section 6a, Part 5, Driving Under the Influence and Reckless Driving.~~[- Part 3, Traffic Control Devices;~~
 - Title 41, Section 6a, Part 6, Speed Restrictions;
 - Title 41, Section 6a, Part 7, Driving on Right Side of Highway and Passing;
 - Title 41, Section 6a, Part 8, Turning and Signaling for Turns;
 - Title 41, Section 6a, Part 9, Right of Way;
 - Title 41, Section 6a, Part 10, Pedestrians' Rights and Duties;
 - Title 41, Section 6a, Part 11, Bicycles, Regulations of Operation;
 - Title 41, Section 6a, Part 12, Railroad Trains, Railroad Grade Crossings, and Safety Zones;
 - Title 41, Section 6a, Part 13, School Buses and School Bus Parking Zones;
 - Title 41, Section 6a, Part 14, Stopping, Standing, and Parking;
 - Title 41, Section 6a, Part 15, Special Vehicles;

- ~~(xii) Title 41, Section 6a, Part 16, Vehicle Equipment;~~
- ~~(xiii) Title 41, Section 6a, Part 17, Miscellaneous Rules; and~~
- ~~(xiv) Title 41, Section 6a, Part 18, Motor Vehicle Safety Belt Usage Act.]~~

R728-409-4. Investigative Procedure.

(1) The division shall initiate an investigation when it receives information from any reliable source that a violation of Subsection[s] 53-6-211(1) or 53-6-309(1) has occurred, including when:

- (a) a respondent is charged with or convicted of a crime;
- (b) there is evidence a respondent has engaged in conduct that is a criminal act under law, but that has not been criminally charged or where criminal prosecution is not anticipated;
- (c) a respondent's employer notifies the division that the respondent has been investigated, disciplined, terminated, retired or resigned as a result of conduct in violation of Subsection[s] 53-6-211(1) or 53-6-309(1);
- (d) a person makes a complaint regarding a violation of Subsection[s] 53-6-211(1) or 53-6-309(1) and there is independent evidence to support the complaint;
- (e) violation of Subsection[s] 53-6-211(1) or 53-6-309(1) is reported in the media and there is independent evidence to confirm that the conduct occurred; or
- (f) a background investigation indicates that a respondent has engaged in conduct in violation of Subsection[s] 53-6-211(1) or 53-6-309(1).

(2) The division may not investigate conduct that is limited to:

- (a) a violation of an employer's policy or procedure, except for violations of Subsections 53-6-211(1)(g) and (h); or
- (b) sexual activity protected under the right of privacy recognized by the United States Supreme Court in *Lawrence v. Texas*, 539 U.S. 558 (2003).

(3) A person seeking to file a complaint against a respondent may be asked to sign a written statement, detailing the incident and swearing to the accuracy of the statement after being advised that providing a false statement may result in prosecution under Section 76-8-511, Falsification of Government Record.

(4) An investigator from the division shall be assigned to investigate the complaint and ensure that the investigation is fully documented in the investigative case file.

(5)(a) If a respondent under investigation is employed as peace officer or dispatcher, the division shall notify the respondent's employer concerning the complaint or investigation, unless the nature of the complaint would make such a course of action impractical.

(b) The division shall keep a record of the date the employer and the respondent are notified.

(6) The division shall refer any complaints of a criminal nature against a respondent to the appropriate law enforcement agency having jurisdiction over the crime for investigation and prosecution if such a referral has not already been made.

(7) If the respondent's employer has an open and active investigation, the division may wait until the employer has completed its investigation before taking action unless the division determines it is not in the public's best interest to delay the investigation.

(8) The division may use the information gathered by the respondent's employer in its investigation.

(9) The division shall take action based on the actual conduct of the respondent as determined by the division's own independent investigation, not on any findings or sanctions issued by the respondent's employer or the court.

(10) Witnesses and other evidence may be subpoenaed during an investigation pursuant to Sections 53-6-210 and 53-6-308.

(11) If ordinary investigative procedures cannot resolve the facts at issue, a respondent may be requested to submit to a polygraph examination.

(12) The director may immediately suspend a respondent's certification as provided in Section 63G-4-502 if the director believes it is necessary to ensure the safety and welfare of the public, the continued public trust or professionalism of law enforcement.

(13) Once the investigation is concluded, the division shall determine whether there is sufficient evidence to proceed with an adjudicative proceeding.

(14) If the division determines there is insufficient evidence to find that a respondent engaged in conduct in violation of Subsection[s] 53-6-211(1) or 53-6-309(1), the director shall issue a letter to the respondent indicating that the investigation has been concluded and that the division shall take no action.

R728-409-5. Purpose of Adjudicative Proceedings.

(1) The purpose of an adjudicative proceeding is to determine whether there is sufficient evidence to find that the respondent engaged in the conduct alleged in the Notice of Agency Action by clear and convincing evidence and whether such conduct falls within the grounds for administrative action enumerated in Subsection[s] 53-6-211(1) or 53-6-309(1).

(2) All adjudicative proceedings initiated by the division ~~[for the purpose of suspending or revoking]~~ to suspend or revoke a respondent's certification shall be formal proceedings as provided by Section 63G-4-202.

R728-409-6. Commencement of Adjudicative Proceedings - Filing of the Notice of Agency Action.

(1) Except as provided by Section 63G-4-502, all adjudicative proceedings initiated by the division ~~[for the purpose of suspending or revoking]~~ to suspend or revoke a respondent's certification shall be commenced by the filing of a Notice of Agency Action.

(2) The Notice of Agency Action shall be signed by the director and comply with the requirements of Section 63G-4-201.

(3) The Notice of Agency Action shall be filed with the division and a copy sent to the respondent by certified mail.

R728-409-7. Responsive Pleadings.

- (1) The respondent shall file a written response with the division, signed by the respondent or the respondent's attorney, within 30 days of the mailing date of the Notice of Agency Action.
- (2) The written response shall comply with the requirements in Section 63G-4-204.

R728-409-8. Hearing Waivers.

- (1) Once a Notice of Agency Action has been issued, the division shall send a hearing waiver form to the respondent.
- (2) The respondent shall have 30 days from the mailing date of the Notice of Agency Action to sign a hearing waiver.
- (3)(a) If the respondent does not waive the right to a hearing before the ALJ, the adjudicative proceeding will continue.
- (b) The period ~~[of time]~~ in which the respondent must file a responsive pleading to the Notice of Agency Action is not extended if the respondent does not sign a hearing waiver.
- (4) If the respondent signs a hearing waiver and files it with the division, the matter shall be heard at the next regularly scheduled council meeting.

R728-409-9. Default.

- (1) The ALJ may enter an order of default against a respondent if:
 - (a) the respondent fails to file the response required in Section R728-409-7; or
 - (b) the respondent fails to attend or participate in the hearing.
- (2) The order of default shall include a statement of the grounds for default and shall ~~[indicate]~~ state that the matter will be heard at the next regularly scheduled council meeting.
- (3) The order of default shall be filed with the division and a copy sent to the respondent by certified mail.
- (4)(a) The respondent may seek to set aside the default order by filing a motion within 90 days from the date of the order of default as provided in Section 63G-4-209.
- (b) The ALJ may set aside an order of default for good cause shown.

R728-409-10. Scheduling a Hearing ~~[b]~~ Before the ALJ.

- (1)(a) If the division receives a responsive pleading from the respondent, a notice containing the location, date and time for the hearing shall be issued by the division.
- (b) The notice of hearing shall be filed with the division and a copy sent to the respondent by certified mail.
- (2) The hearing shall be held within a reasonable time after service of the responsive pleading unless a later scheduling is ordered by the ALJ, or mutually agreed upon by the respondent and the division.

R728-409-11. Discovery and Subpoenas.

- (1)(a) In formal POST adjudicative proceedings parties may conduct only limited discovery.
- (b) A respondent's right to discovery does not extend to interrogatories, requests for admissions, request for the production of documents, request for the inspection of items, or depositions.
- (2) Upon request, the respondent is entitled to a copy of the materials contained in the division's investigative file that the division intends to use in the adjudicative proceeding. The respondent is only entitled to those materials after filing a written response with the division as required by Section R728-409-7.
- (3)(a) The disclosure of all discovery materials is subject to ~~[the provisions in the]~~ Title 63G, Chapter 2, Government Records Access and Management Act ~~[, Section 63G-2-104]~~.
- (b) The division may charge a fee for discovery in accordance with Section 63G-2-203.
- (4) Subpoenas and other orders to secure the attendance of witnesses or the production of evidence for adjudicative proceedings shall be issued by the division pursuant to Sections 53-6-210 and 53-6-308, by the ALJ when requested by any party, or by the ALJ on ~~[his]~~ the ALJ's own motion pursuant to Section 63G-4-205.

R728-409-12. Hearing Procedures.

- (1) All hearings shall be conducted by the ALJ in accordance with Section 63G-4-206.
- (2)(a) At the hearing, the respondent ~~[has the right to]~~ may be represented by an attorney.
- (b) Legal counsel will not be provided to the respondent by the division and all costs associated with representation will be the sole responsibility of the respondent.

R728-409-13. ALJ Decision.

- (1) Within 30 days from the date a hearing is held, the ALJ shall sign and issue a written decision that includes a statement of:
 - (a) the ALJ's findings of fact based exclusively on the evidence of record in the adjudicative hearing or on facts officially noted;
 - (b) the ALJ's conclusions of law; and
 - (c) the reasons for the ALJ's decision.
- (2) If the ALJ determines there is sufficient evidence to find that the respondent engaged in conduct in violation of Subsection ~~[s]~~ s 53-6-211(1) or 53-6-309(1), the ALJ's decision shall ~~[indicate]~~ state that the matter will be heard at the next regularly scheduled council meeting.
- (3) If the ALJ determines there is insufficient evidence to find that the respondent engaged in conduct in violation of Subsection ~~[s]~~ s 53-6-211(1) or 53-6-309(1), the matter shall be dismissed.
- (4) The ALJ's decision shall be filed with the division and a copy sent to the respondent by certified mail.

R728-409-14. Action by the Council.

(1) If the respondent waives the right to a hearing with an ALJ, there has been an order of default, or a findings of fact is issued by the ALJ, the division shall present the matter to the council at its next regularly scheduled meeting.

(2) The division shall notify the respondent of the date, time, and location of the council meeting.

(3)(a) ~~[Prior to the council meeting, t]The division shall provide the council with the [pleadings]Notice of Agency Action, order of default, signed hearing waiver, and ALJ's findings of fact and conclusions of law~~ contained in the administrative file.

(b) The division shall also provide the council with any written information or comments provided by the respondent's employer.

(c) Any written comments from the respondent's employer should include discipline administered by the respondent's employer as a result of any violation of Section 56-6-211.

(4) At the council meeting the respondent or the respondent's attorney may address the council regarding whether the respondent[~~s~~] should receive a letter of caution or the respondent's certification should be suspended or revoked.

~~[—(5) The council shall consider the ALJ's findings of fact and conclusions of law in order to determine whether a letter of caution, or suspension or revocation of the respondent's certification is appropriate based upon the the ALJ's findings and the POST Disciplinary Guidelines adopted January 4, 2016, which this rule incorporates by reference.]~~

~~(6)~~(5) The council does not have appellate review authority of the ALJ's findings of fact and conclusions of law.

R728-409-15. Final Order.

(1) After the council has decided the matter, the council chair[~~person~~] shall issue a final order within 30 days of the council meeting.

(2) The final order shall ~~[indicate]state~~ the action taken by the council with regards to the respondent's certification and shall include information on the appeal process outlined in Section R728-409-16.

(3) The council's action shall be effective on the date that the final order is signed by the chair[~~person~~].

(4)(a) The final order shall be filed with the division.

(b) A copy of the final order shall be sent to:

(i) the respondent by certified mail; and

(ii) the respondent's employer by regular mail, if the respondent is employed as peace officer or dispatcher.

(c) The action taken by the council shall be entered into the International Association of Directors of Law Enforcement Standards and Training National Peace Officer De-Certification database, if the respondent is a peace officer.

R728-409-16. Judicial Review.

(1) A respondent may obtain judicial review of the council's action by filing a petition for judicial review with the Utah Court of Appeals within 30 days after the date that the final order is issued by the council chair[~~person~~].

(2) The petition must meet requirements specified in Sections 63G-4-401 and 63G-4-403.

R728-409-17. Relinquishment Procedures.

(1) ~~[At any time after the division receives a complaint that a respondent has engaged in conduct described in Subsections 53-6-211(1) or 53-6-309(1), a respondent who is the subject of the complaint.]A certified officer or dispatcher may voluntarily relinquish [the respondent's]their certification by submitting a Relinquishment of Certification form to the division.~~

(2) The Relinquishment of Certification form must be signed by the [~~respondent~~]certified officer or dispatcher and notarized.

(3) As soon as the division receives a properly executed Relinquishment of Certification form, the [~~respondent's~~]individual's certification shall be terminated and the [~~respondent~~]individual will no longer be a certified peace officer or dispatcher.

(4) Upon the termination of the [~~respondent's~~]individual's certification, the division's investigation into [~~the~~]any complaint and any adjudicative proceedings will cease.

(5) Notice of the termination of the [~~respondent's~~]individual's certification shall be provided to:

(a) the [~~respondent~~]individual;

(b) the [~~respondent's~~]individual's employer if the respondent is employed as a peace officer or dispatcher; and

(c) the National Peace Officer De-Certification database administered by the International Association of Directors of Law Enforcement Standards and Training, if the [~~respondent~~]individual is a peace officer.

R728-409-18. Reporting Violations of Subsection[s] 53-6-211(1) or 53-6-309(1).

(1) A chief, sheriff, or administrative officer of an agency who is made aware of an allegation against a certified peace officer or dispatcher employed by that agency shall report the allegation to the division within ~~[90]30~~ days if the allegation is ~~[found to be true]substantiated~~ pursuant to Subsections 53-6-211(6) and 53-6-309(6).

(2) ~~[A chief, sheriff or administrative officer of an agency employing a certified peace officer or dispatcher who fails to report to the division within 90 days an allegation that is found to be true shall appear before the council at the next regularly scheduled council meeting to explain why the allegation was not reported.]If a peace officer or certified dispatcher resigns, retires, or otherwise separates from the agency while an investigation is pending, a chief, sheriff, or administrative officer of the agency shall report all findings within 30 days of the completion of the investigation pursuant to Subsections 53-6-211(6)(b) and 53-6-309(6)(b).~~

KEY: certifications, investigations, revocations, relinquishments

Date of Last Change: 2025[August 25, 2020]

Notice of Continuation: December 9, 2021

Authorizing, and Implemented or Interpreted Law: 53-6-211; 53-6-211.5; 53-6-309; 53-6-311

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R728-508	Filing ID: 57076
Agency Information		
1. Title catchline:	Public Safety, Peace Officers Standards and Training	
Street address:	410 W 9800 S	
City, state:	Sandy, UT 84070	
Contact persons:		
Name:	Phone:	Email:
Marcus Yockey	801-965-4275	myockey@agutah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		
General Information		
2. Rule or section catchline:		
R728-508. Police Service Patrol and SWAT Canine Training, Certification, and Recertification Standards		
3. Purpose of the new rule or reason for the change:		
This rule filing is being submitted to incorporate recommendations made by the Utah Peace Officers Standards and Training (POST) Council to clarify the definition of "qualifying canine certifying entity" to align with current practices.		
4. Summary of the new rule or change:		
This rule change clarifies the definition of "qualifying canine certifying entity" to align with current practices.		
Fiscal Information		
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:		
A) State budget:		
The proposed rule is not expected to have any fiscal impact on state budgets. The rule filing only clarifies the definition of "qualifying canine certifying entity" to align with current practices.		
B) Local governments:		
The proposed rule is not expected to have any fiscal impact on local governments. The rule filing only clarifies the definition of "qualifying canine certifying entity" to align with current practices.		
C) Small businesses ("small business" means a business employing 1-49 persons):		
The proposed rule is not expected to have any fiscal impact on small businesses. The rule filing only clarifies the definition of "qualifying canine certifying entity" to align with current practices.		
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):		
The proposed rule is not expected to have any fiscal impact on non-small businesses. The rule filing only clarifies the definition of "qualifying canine certifying entity" to align with current practices.		
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):		
The proposed rule is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. The rule filing only clarifies the definition of "qualifying canine certifying entity" to align with current practices.		

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

The proposed rule will not result in any compliance costs for affected persons. The rule filing only clarifies the definition of "qualifying canine certifying entity" to align with current practices.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Department of Public Safety, Jess L. Anderson, 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 53-6-102	Section 53-6-401	Section 53-6-402
Section 53-6-403	Section 76-9-306	

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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	Travis Rees, POST Director	Date:	03/13/2025
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R728. Public Safety, Peace Officers Standards and Training.

R728-508. Police Service Patrol and SWAT Canine Training, Certification, and Recertification Standards.

R728-508-1. Authority.

~~(1) This rule establishes training, certification, and recertification standards for police service agency police service canine teams.~~

~~(2) This rule is authorized by Section 53-6-403.~~

R728-508-2. Purpose.

This rule establishes training, certification, and recertification standards for police service agency police service canine teams.

R728-508-[2]3. Definitions.

(1) Terms in this rule are defined in Sections 53-6-102, 53-6-401, and 76-9-306.

(2) In addition:

(a) "police service canine team" includes the "handler" and "police service canine" as defined in Section 76-9-306; and

~~[(b) "qualifying canine certifying entity" includes the Utah POST Police Service Dog Program, or any other canine training entity approved by the POST Council and maintained on a list by the POST Director that satisfies the standards provided in this rule.]~~

(b) "qualifying canine certifying entity" includes:

(i) the Utah POST Police Service Dog Program; or

(ii) any entity that satisfies the standards provided in this rule, is approved by the POST Council, and meets the following criteria:

(A) demonstrates adherence to nationally recognized and proven best practices in canine training, assessments, and certification methodologies;

(B) employs certified canine judges who adhere to nationally recognized and proven best practices in canine training, assessments, and certification methodologies;

(C) qualifies as a nonprofit organization; and

(D) is nationally recognized or nationally accredited in the canine field.

R728-508-[3]4. Purpose.

This rule provides minimum standards for training, certifying, and recertifying patrol and SWAT police service canine teams.

(1) Each police service canine team shall be initially certified and annually recertified by POST or a qualifying canine certifying entity.

(2) It is not the intent nor legal purpose of these minimum standards to be exhaustive on this subject.

R728-508-[4]5. Police Service Canine Certification.

(1) A police service canine candidate seeking to become certified shall successfully demonstrate the following behaviors during a certification test administered by POST or a qualifying canine certifying entity:

(a) yard-to-yard search for subjects, on-leash and off-leash;

(b) building search for subjects, on-leash and off-leash, to ensure barking indication at doors or inaccessible hiding spots;

(c) open area search for subjects, on-leash and off-leash;

(d) open area pursuit and capture in which a subject refuses to surrender and physically engages with the canine followed by release after receiving a verbal release command at the earliest reasonable opportunity;

(e) open area pursuit and capture of a subject who surrenders prior to physical contact by the pursuing canine by use of a verbal command, such that the surrendering subject is not injured;

(f) wind scenting or scouting, on-leash and off-leash, exhibited by a non-barking indication;

(g) release of a subject after receiving a verbal release command at the earliest reasonable opportunity during any type of physical engagement, with a maximum of three commands to obey; and

(h) gun-sure, or remaining on task during gunfire, to ensure a neutral response to handler gunfire, backup officer gunfire, or suspect gunfire.

(2) It is recommended that a police service canine candidate demonstrate the following behaviors during a certification test administered by POST or any qualifying canine certifying entity:

(a) tracking to include footstep-to-footstep, street-tracking, or trailing; and

(b) evidence search, on-leash and off-leash, to ensure non-contaminating evidence indication.

R728-508-[5]6. Police Service Canine Handler Certification.

A police service canine handler candidate seeking to become certified shall successfully demonstrate the following behavior, skills, and knowledge during a certification test administered by POST or a qualifying canine certifying entity:

(1) knowledge of foundational state and federal statutes, constitutional law, and essential controlling judicial precedent guiding appropriate deployment of a police service canine;

(2) ability to properly document the police service canine performance behaviors to establish the canine's reliability;

(3) ability to distinguish the diverse proper functions of a police service canine as a locating tool or force option;

(4) the necessity of pre-deployment warnings;

(5) ability to recognize the circumstances in which a police service canine should be recalled or commanded to disengage from a subject;

(6) understanding of technical information that includes canine psychology, emergency canine first aid, daily care and maintenance; and

(7) understanding of patrol canine basic training that includes the ability to execute common scent work training exercises, obedience and agility training exercises, and apprehension training exercises.

NOTICES OF PROPOSED RULES

R728-508-[6]7. Police Service Canine Team Recertification.

(1) A police service canine candidate seeking to recertify shall successfully demonstrate the behaviors and skills established in Section R728-508-4 in an annual recertification exam.

(2) A police service canine handler candidate seeking to recertify shall successfully demonstrate the behavior, knowledge, and skills established in Section R728-508-5 in an annual recertification exam.

KEY: canine, standards, training, certification

Date of Last Change: 2025[December 27, 2021]

Authorizing, and Implemented or Interpreted Law: 53-6-102; 53-6-401; 53-6-402; 53-6-403; 76-9-306

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal

Rule or Section Number:

R926-8

Filing ID: 57055

Agency Information

1. Title catchline:	Transportation, Program Development	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state:	Taylorsville, UT 84129	
Contact persons:		
Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
Marlene Galindo	801-965-4026	mgalindo1@utah.gov
James Godin	801-573-7181	jamesjgodin@agutah.gov
Lori Edwards	385-341-3414	loriedwards@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R926-8. Guidelines for Partnering with Local Governments
3. Purpose of the new rule or reason for the change:
The Department of Transportation (Department) is repealing this rule and reenacting it in the form of Rule R940-11. This rule must be converted to a Transportation Commission (Commission) rule because Section 72-2-123 requires the Commission, not the Department, to make the 'Guidelines for Partnering with Local Governments' 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:
There are no anticipated cost or savings as the result of this repeal because it is merely being reenacted in Rule R940-11. Anticipated costs or savings from that rule are outlined in the business analysis for that rule.
B) Local governments:
There are no anticipated cost or savings as the result of this repeal because it is merely being reenacted in Rule R940-11. Anticipated costs or savings from that rule are outlined in the business analysis for that rule.

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

There are no anticipated cost or savings as the result of this repeal because it is merely being reenacted in Rule R940-11. Anticipated costs or savings from that rule are outlined in the business analysis for that rule.

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

There are no anticipated cost or savings as the result of this repeal because it is merely being reenacted in Rule R940-11. Anticipated costs or savings from that rule are outlined in the business analysis for that 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**):

There are no anticipated cost or savings as the result of this repeal because it is merely being reenacted in Rule R940-11. Anticipated costs or savings from that rule are outlined in the business analysis for that rule.

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

There are no compliance costs as the result of this repeal because it is merely being reenacted in Rule R940-11. Compliance costs from that rule are outlined in the business analysis for that 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Transportation, Carlos M. Bracerias, P.E., 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 72-2-123

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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Carlos M. Braceras, PE, Executive Director	Date:	02/25/2025
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R926. Transportation, Program Development.

~~**R926-8. Guidelines for Partnering with Local Governments.**~~

~~**R926-8-1. Purpose and Authority.**~~

~~The purpose of this rule is to increase the State's ability to carry out improvements on State highways by allowing counties and municipalities to provide local matching dollars or participate through other methods, such as providing right of way. This rule is required by Section 72-2-123(1) and is enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act and Section 72-1-201.~~

~~**R926-8-2. Process for Approving or Denying Proposals.**~~

~~(1) If a county or municipality wishes to participate in a State highway improvement program, it shall notify the department and the Transportation Commission, in writing, at the earliest available opportunity and provide the information listed in Paragraphs (a) through (e). The county or municipality is encouraged to work with the department in formulating and developing the necessary information.~~

- ~~(a) Details of the specific improvement.~~
- ~~(b) A statement indicating whether the improvement has already been programmed into the Statewide Transportation Improvement Program (STIP) or Transportation Improvement Program (TIP) and, if not, whether it is in the Long Range Plan and the phase of the Long Range Plan.~~
- ~~(c) A textual description of the improvement, along with any engineering or technical information that may have been prepared.~~
- ~~(d) A statement indicating whether any environmental or other federal clearances or permits will be necessary and, if so, the status of any federal applications.~~
- ~~(e) The type of local participation being proposed and the source of any funding.~~
- ~~(f) A textual description of the benefit that the improvement will bring to the State highway system and the county or municipality along with its costs.~~

~~(2) Proposals for participation with local matching dollars will be accepted only if:~~

- ~~(a) environmental clearances are completed or highly probable; and~~
- ~~(b) the improvement is already programmed in the Statewide Transportation Improvement Program (STIP) or the Transportation Improvement Program (TIP); or~~
- ~~(c) the improvement is part of the Long Range Plan and the Transportation Commission determines that advancing the project will not defer other projects that are already prioritized and programmed in the Statewide Transportation Improvement Program (STIP) or Transportation Improvement Program (TIP).~~

~~(3) The Transportation Commission may not consider local matching dollars unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county, as required by Subsection 72-1-304(3)(b).~~

- ~~(4) Local matching dollars cannot be funded by federal funds, except with:~~
 - ~~(a) Federal transportation (highway) formula funds normally programmed by local entities; or~~
 - ~~(b) Federal discretionary funds with prior joint agreement by UDOT and the local entity. Nevertheless, earmarks in transportation authorizing legislation cannot be used for local match.~~

~~(5) Private sources or contributions may be considered part of local matching dollars if they pass through the local government.~~

~~(6) Upon receiving a partnering proposal, the Transportation Commission will be notified in a forthcoming public meeting. The department shall evaluate the proposal and all accompanying information to see whether it complies with this rule, is complete and feasible. The department shall also calculate an independent cost estimate.~~

~~(7) The department shall review the proposal and make a recommendation to the Transportation Commission at a public meeting along with the reasons for recommending denial or approval using the criteria listed in these rules for its review.~~

~~(8) At anytime in this process, the department may contact the county or municipality for additional information and may incorporate amendments requested by the county or municipality in its evaluation.~~

~~(9) The department shall notify the county or municipality of the date, time, and location of the Transportation Commission meeting that will hear the proposal. The department shall provide the county or municipality with at least 30 days written notice.~~

~~**R926-8-3. Factors Used to Consider Proposals.**~~

~~(1) In deciding whether to approve a county's or municipality's request for partnering, the Transportation Commission shall evaluate the proposal with the following factors in mind:~~

- ~~(a) whether the requested improvement is part of the Statewide Transportation Improvement Program (STIP), the Transportation Improvement Program (TIP), or the Long Range Plan and, if part of the Long Range Plan, will not delay any of the projects already included in the STIP;~~

- ~~_____ (b) the benefits of the improvement to the State highway system and the county or municipality;~~
- ~~_____ (c) the costs of the improvement;~~
- ~~_____ (d) level of local commitment, based on the amount or percentage of funding proposed;~~
- ~~_____ (e) whether the proposed improvement was subject to a local planning initiative;~~
- ~~_____ (f) whether the improvement will alleviate significant existing or future congestion or hazards to the traveling public or provide other substantial improvements to the transportation system;~~
- ~~_____ (g) whether the proposal has the potential to extend department resources to other needs; and~~
- ~~_____ (h) whether the proposed improvement fulfills a need widely recognized by the public, elected officials, and transportation planners.~~
- ~~_____ (2)(a) If a proposed improvement is to a surface street that approaches an interchange or ramp or for a new interchange or ramp and is being undertaken for economic development, the county or municipality shall provide at least a fifty percent (50%) local match. The match can include private contributions that are administered through the local entity. (Economic development may include such things as employment growth, employment retention, retail sales, tourism growth, freight movements, tax base increase, and traveler or user cost savings as compared to construction costs.)~~
- ~~_____ (b) If a proposed improvement is to a surface street that approaches an interchange or ramp or for a new interchange or ramp and is being undertaken to relieve traffic congestion or to improve safety, the local match, if any, may be determined based on the benefit derived by the local entity.~~

~~R926-8-4. Record of Proposal and Interlocal Agreements.~~

- ~~_____ (1) The department shall maintain a record on each partnering proposal. Except for individual records in the file that may be classified private or protected, the contents of the file shall otherwise be public.~~
- ~~_____ (2) If the Transportation Commission agrees to the partnering proposal, the department shall develop an interlocal agreement with the county or municipality that will set forth the proposal, the method of participation, the work that will be done, and projected timelines.~~

~~KEY: transportation, local governments, partnering, highways~~

~~Date of Last Change: June 22, 2006~~

~~Notice of Continuation: June 10, 2020~~

~~Authorizing, and Implemented or Interpreted Law: 72-2-123]~~

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends May 01, 2025.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through July 30, 2025, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R380-600	Filing ID: 56883
Date of Previous Publication (Only for CPRs):		11/15/2024

Agency Information

1. Title catchline:	Health and Human Services, Administration	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R380-600. Licensing General Provisions-Enforcement
3. Purpose of the new rule or reason for the change:
This change in proposed rule filing is necessary to address public comments that led the Office of Licensing (OL) to update practices for internal dispute resolution and clarify terms as they apply to each entity overseen by OL.
4. Summary of the new rule or change:
The change in proposed rule defines "adverse event" and delineates how the term applies for critical incident reporting. The filing additionally aligns the definition of exploitation to accurately reflect statutory citations. It defines internal dispute resolution as the process used to address disputes of any actions taken by OL on a provider's license or certification and includes a request for an administrative hearing. This filing also updates content to reflect OL's practice of considering a 36-month history of compliance when taking an agency action and updates which administrative changes need to be reported to OL by each category of licensee.
(EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 82. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This change in proposed rule is not anticipated to have a fiscal impact on the state budget, as it does not add, modify, or remove any requirements in the current process for licensure and re-licensure inspections. This amendment aligns enforcement practices across the Division of Licensing and Background Checks (DLBC) and adds clarifying language to enhance provider understanding of what is required for each license category (health, human services, and child care), as this rule applies to all providers overseen by OL. The change in proposed rule does not introduce new requirements but clarifies existing requirements to reduce ambiguity and provider confusion.

NOTICES OF CHANGES IN PROPOSED RULES

B) Local governments:			
This change in proposed rule is not anticipated to have a fiscal impact to local governments because facilities are regulated by the Department of Health and Human Services (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):			
There is no anticipated fiscal impact to small businesses because the change in proposed rule does not introduce new requirements but clarifies the existing requirements to reduce ambiguity and provider confusion.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated fiscal impact to non-small businesses because the change in proposed rule does not introduce new requirements but clarifies the existing requirements to reduce ambiguity and provider confusion.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):			
There is no anticipated fiscal impact to other persons, as this rule does not apply to them.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no anticipated compliance costs for affected persons because this change in proposed rule does not introduce new requirements but clarifies the existing requirements to reduce ambiguity and provider confusion.			
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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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	Section 26B-2-202	Section 26B-2-402
Section 26B-2-703		

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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	03/13/2025
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R380. Health and Human Services, Administration.

R380-600. Licensing General Provisions-Enforcement.

R380-600-1. Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Sections 26B-2-104, 26B-2-202, 26B-2-402, and 26B-2-703.

(2) This rule provides consolidated procedures and enforcements for the licensing entities within the Division of Licensing and Background Checks.

R380-600-2. Definitions.

(1) "Abuse" means the same as the term is defined in Sections 26B-6-201 and 80-1-102.

(2) "Adverse event" means any event that poses a risk to the health or safety of a client and includes any event that is the result of:

(a) a licensee or licensee's staff's failure to follow an administrative rule or statute; or

(b) an action taken by the licensee or licensee's staff.

(3) "Applicant" means the legally responsible individual, individuals, or business seeking to obtain a valid new or renewal license or certificate from OL.

~~(3)~~4 "Associated with the licensee" ~~[is]~~means the same as defined in Section 26B-2-101.

~~(4)~~5 "Category" means the type of license or certificate needed for the services offered by the provider.

~~(5)~~6 "Certificate" means a residential child care certificate in accordance with Section 26B-2-701.

~~(6)~~7 "Certification" is defined in Section 26B-2-701.

~~(7)~~8 "Certified" means an approval to operate in compliance with local or federal requirements or regulations completed by OL or on behalf of OL for another local or federal agency, in accordance with Section 26B-2-701.

~~(8)~~9 "Citation" means a notice for serious or repeat rule noncompliance.

~~(9)~~10 "Civil money penalty" or "CMP" means a penalty issued by OL as a fine for repeat citations or when an initial instance of noncompliance results in, or is likely to result in, harm to clients.

~~(10)~~11 "Client" means an individual, resident, or patient receiving services from a provider, in accordance with Section 26B-2-701.

~~(11)~~12 "Compliance" means adherence to governing rule and statute with no current penalty actions or pending resolution of noncompliance.

~~(12)~~13 "Covered individual" means:

(a) a caregiver;

(b) a director;

(c) a member of the administration or governing body;

(d) a volunteer who has unsupervised access to any client or any client's records, except a parent or legal guardian of a child or vulnerable adult enrolled in the program having access to their own child or vulnerable adult;

(e) an employee;

(f) an individual age 12 years or older who resides in the facility;

(g) an owner; and

(h) anyone who has unsupervised access to any client or any client's records.

~~(13)~~14 "Critical incident" means an event out of the range of normal experience~~[7]~~ in a child care or human services program, including:

NOTICES OF CHANGES IN PROPOSED RULES

- ~~(a) a death of a minor;~~
~~(b) a death related to an adverse event;~~
~~(c) a loss or impairment of the function of a bodily member, organ, or mental faculty or significant disfigurement;~~
~~(d) a medication error resulting in a telephone call to or a consultation with a poison control center, an emergency department visit, an urgent care visit, or hospitalization;~~
(e) a missing client;
(c) an adverse event causing loss or impairment of the function of a bodily member, organ, or mental faculty or significant disfigurement;
~~(f) an allegation or confirmation of abuse, neglect, or exploitation;~~
(g) an allegation or confirmation of waste, fraud or abuse of Medicaid funds;
(f) any death of a minor;
(g) any death related to an adverse event;
(h) any medical emergency requiring treatment beyond basic first aid;
(i) any prohibited practice in a congregate care program, as described in Section 26B-2-123, including misuse or unauthorized use of restrictive interventions, seclusion, or body cavity search[-];
(j) any property damage or infestation that jeopardizes services; or
(k) any significant criminal activity[-];
(1[4]5) "Department" means the Utah Department of Health and Human Services.
(1[5]6) "Division" means the Division of Licensing and Background Checks (DLBC) in the Department of Health and Human Services and includes OL and OBP.
(1[6]7) "Eligible" means an OBP determination of:
(a) direct access qualified for a human services program, in accordance with Section 26B-2-120;
(b) certified for direct patient access in a health care facility, in accordance with Section 26B-2-240; or
(c) no findings in a covered individual's background check that would prohibit that covered individual from being involved in child care, as outlined in rules under Titles R381 and R430.
(1[7]8)(a) "Emotional mistreatment" means verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation.
(b) Emotional mistreatment includes:
(i) alienating;
(ii) demeaning;
(iii) harassing a client;
(iv) intimidating;
(v) isolating;
(vi) terrorizing; or
(vii) threatening.
(1[8]9) "Exploitation" includes:
(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the gain of some person other than the client, including spending a client's funds for the benefit of another;
(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is inconsistent with therapeutic practices;
(c) engaging or involving a client in any sexual conduct; or
(d)(i) ~~sexual abuse of a minor as described in Section 76-5b-201 or vulnerable adult as described in Section 76-5b-202 and Subsection 76-5-111(2);~~ sexual exploitation of a minor as described in Section 76-5b-201;
(ii) sexual exploitation of a vulnerable adult as described in Section 76-5b-202; or
(iii) abuse of a vulnerable adult as described in Section 76-5b-202 and Subsection 76-5-111(2).
(1[9]20)(a) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal gain.
(b) Fraud also means any offenses identified as fraud in Title 76, Chapter 6, Offenses Against Property.
(2[0]1) "Harm" means financial, physical, or emotional pain, damage, injury, or fraud.
(21) ~~"Informal dispute resolution" means informal levels of discussion available to a provider to engage the division administration to review an action, except an NAA or NEAA, taken on their license or certificate.]~~
(22) "Inspection" means an announced or unannounced visit of the provider's site to monitor compliance.
(23) "Inspection report" means the written official description of any rule, statute, or requirement where the provider may be found out of compliance, that may include facts supporting the noncompliance, risk levels, corrective actions, and corrective time frames OL, or an OL-approved agency sends the provider once an inspection, survey, or investigation has been completed.
(24) "Internal dispute resolution" means an internal review that takes place once a provider has requested an administrative hearing for any action the agency takes that affects or may, in the future, affect the status of a provider's license.
(2[4]5) "Investigation" means an inspection to verify compliance with rule or statute.
(2[5]6) "Mistreatment" means conduct resulting in emotional or physical harm.

(2[6]7) "NAA" means a Notice of Agency Action that is issued by OL to place a sanction on a license or certification, including:

- (a) application denial;
- (b) conditions placed on a license~~[al status]~~;
- (c) revocation status; or
- (d) suspension status.

(2[7]8) "NEAA" means a Notice of Emergency Agency Action that is issued by OL to place~~[a provider license on a]~~ temporary, immediate condition~~[al]~~s on a license or certification, ~~[status]~~as authorized by Section 26B-2-703.

(2[8]9)(a) "Neglect" means abandonment or the failure to provide necessary care, including nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm.

(b) Neglect also means the same as the term is defined in Sections 26B-6-201, 76-5-110, and 80-1-102.

(1[29]30) "OBP" means the Office of Background Processing within the Department of Health and Human Services, Division of Licensing and Background Checks.

(3[0]1) "OL" means the Office of Licensing within the Department of Health and Human Services, Division of Licensing and Background Checks.

(3[1]2) "Owner" means any person or entity that:

- (a) is listed on a license or certificate as the license or certificate holder;
- (b) possesses the right to hold, use, benefit from, enjoy, convey, transfer, and otherwise dispose of a program or facility;
- (c) keeps the rights, participates in, or is ultimately responsible for operations and business decisions of a program or facility; or
- (d) operates or has engaged the services of others to operate the program or facility.

(3[2]3) "Penalty" means an action taken by OL to fine a licensee or certificate holder, deny a license, or place a condition on, suspend, or revoke a license due to the program or facility's noncompliance with statute or rule.

(3[3]4) "Person" means:

- (a) a business entity;
- (b) a corporation;
- (c) a governmental entity;
- (d) a partnership;
- (e) an agency;
- (f) an association; or
- (g) an individual.

(3[4]5) "Physical mistreatment" means conduct resulting in pain, injury, or death.

(3[5]6) "Plan of correction" means, except for the Center for Medicare and Medicaid Services (CMS) plan of correction as defined in 42 CFR 488.401 (2024), a temporary process for OL and the provider to work toward improved provider compliance and preventing further noncompliance.

(3[6]7) "Program or facility" means any setting, activity, service, procedure, and premises used by the provider to operate their license or certificate in accordance with Section 26B-2-701.

(3[7]8) "Provider" means the license or certificate holder or the legally responsible individual or individuals providing services regulated by OL.

(3[8]9) "Regular business hours" are the hours that the program or facility is available to the public or providing services to clients.

(1[39]40) "Risk levels" means likelihood and severity of harm between low, moderate, high, and extreme that may result if a rule is out of compliance.

(4[0]1) "Seclusion" means, except for medically approved quarantine, the involuntary confinement of an individual in an area:

- (a) away from the individual's peers; and
- (b) in a manner that physically prevents the individual from leaving the room or area.

(4[1]2) "Serious injury" means significant disfigurement or loss or impairment of function of a bodily member, organ, or mental faculty.

(4[2]3) "Significant criminal activity" means any unlawful activity by or against the program or facility's clients or on duty staff that poses a serious threat to the program or facility's clients or on duty staff's health, safety, or well-being including:

- (a) any criminal activity that involves law enforcement;
- (b) illegal physical or sexual misconduct or assault;
- (c) riot;
- (d) suspected exploitation; or
- (e) suspected fraud.

(4[3]4) "Significant medical emergency" means an acute injury or illness posing an immediate risk to a person's life or health or requires emergency medical care.

(4[4]5) "Unsupervised access" means being out of sight and hearing from an individual who has successfully passed the required OBP background check.

(4[5]6) "Variance" means any deviation from rule authorized in writing by OL.

(4[6]7) "Warning" means a licensing action that warns the provider that a rule noncompliance shall be corrected within a specified amount of time.

NOTICES OF CHANGES IN PROPOSED RULES

R380-600-3. New and Renewal Licensing Procedures.

- (1) Until a license or certificate is approved by OL, an applicant or provider may not:
 - (a) accept any fee;
 - (b) enter into any agreement to provide a client service; or
 - (c) provide any client service.
- (2) Each applicant and provider shall comply with any applicable rule, statute, zoning, fire, safety, sanitation, building and licensing law, regulation, ordinance, and code of the city and county where facility or agency will be or is located.
- (3) Except as outlined in Subsection 26B-2-107(3) for a foster home, an applicant or a provider shall permit OL to have immediate, unrestricted access to:
 - (a) any unaltered on and off-site program or facility and client records;
 - (b) each client who independently consents to speak to OL staff;
 - (c) each site subject to licensing or certification; and
 - (~~e~~d) each staff member~~[-and client]~~.
- (4) A provider may not permit a staff or client to threaten, verbally or physically abuse, or use violence of any kind while interacting with a representative of the department.
- (5) An applicant seeking an initial or renewal license or certificate to operate a program or facility shall submit:
 - (a) a complete application as provided by OL;
 - (b) any required fee for each category of program or facility application;
 - (c) except as described in Subsection 26B-2-120(12), a background check for each covered individual;
 - (d) any policy and procedure, or updates if already submitted, as required by OL;
 - (e) name and contact information for each responsible decision-maker, including any owner or program or facility director;
 - (f) ~~[for initial license applications only,]~~documentation that verifies the applicant's compliance with, or exemption from, fire and business license requirement; and
 - (g) as applicable for a healthcare facility, architectural plans and a description of the functional program or facility.
- (6) An applicant shall notify OL in writing of any changes to the application, including withdrawal of the application.
- (7) A provider may not implement a policy that requires OL approval without that OL approval.
- (8) The provider must submit:
 - (a) a renewal request and applicable fees at least 30 days before the expiration of their license or certificate;
 - (b) a renewal request and applicable late fees within 30 days after the expiration of their license or certificate; or
 - (c) a new application for a new license or certificate and applicable fees if the provider lets their license or certificate expire and 30 days have passed since their license or certificate expired.
- (9) A residential treatment program or facility provider applying for an initial license shall submit proof that the program or facility served notice of intent to operate in accordance with Section 26B-2-117.
- (10) A new applicant shall submit a new initial application and applicable fees if they have not successfully completed the application process six months from the date of the initial application.
- (11) OL may deny the initial or renewal application, issue a CMP, or place conditions on a renewal license or certificate if:
 - (a) the provider failed to achieve or maintain compliance with any applicable statute, rule, or ordinance;
 - (b) the applicant or provider has a compliance history that shows a pattern of noncompliance with any applicable statute, rule, or ordinance;
 - (c) the applicant or provider gives false or misleading information to OL;
 - (d) OL reasonably determines that the applicant or provider is not likely to operate in compliance with any applicable statute, rule, or ordinance;
 - (e) the applicant or provider received a notice from OBP that a covered individual in the program or facility is not eligible due to an OBP background check and that covered individual is still in the program or facility;
 - (f) OL finds a program or facility director, owner, or any individual involved in the program or facility's billing process on OL of Inspector General's List of Excluded Individuals and Entities; or
 - (g) OL finds that an applicant or provider maintains association with any individual with a license revoked by OL if the application is submitted within five years from the time of the revocation.
- (12) OL may deny renewal of a license or certificate for an applicant or provider that is no longer providing a service that requires them to have a license or certificate or if they have not provided any service for the past 24 months.
- (13) A provider approved by OL to certify their own program or facility site shall register each certified site using the licensing provider portal.
- (14) A denied applicant may not reapply for a minimum of a three-month period beginning on the date of denial.
- (15) The provider shall adhere to any individualized parameter on a program or facility license or certificate to promote the health, safety, and welfare of any client. [-]Parameters may include:
 - (a) adequate square footage to determine capacity.
 - (b) an admission or placement restriction; or
 - (c) an age restriction;

(16) The provider must resolve any outstanding balance, condition, or noncompliance status on any license or certificate before a license or certificate is granted by OL for any associated new site.

(17)(a) A provider may apply for a two-year license if the provider is not a residential or foster care program or facility.

(b) A provider may apply for a two-year license if the program or facility is a health care provider.

(c) A provider applying for a two-year license shall ensure:

(i) the program or facility is in good standing with OL for the two consecutive license periods issued by OL immediately before the date of application;

(ii) the provider understands that required inspections will be conducted in the same manner as for annual licenses of the same license type;

(iii) OL reasonably determines that the provider is likely to maintain good standing for a two-year period;

(iv) the provider submits twice the annual fee required for each category of license sought; and

(v) there are no other statutory restrictions that will disqualify the license type for a two-year license.

(18) Unless previously approved by OL to provide services before receiving a license or certificate for special circumstances, a provider must submit an application, any required fee, and obtain a new or a renewed license or certificate before providing any service that requires a license or certificate.

(19) A license or certificate expires at midnight on the last day of the same month the license or certificate was issued, one year after its effective date, except when the license or certificate has been:

(a) revoked by OL before expiration;

(b) extended by OL beyond the date of expiration;

(c) relinquished by the provider;

(d) received a shortened expiration time frame as requested by the provider;

(e) issued as a two-year license; or

(f) issued as a three-year license for a foster parent in accordance with Subsection 26B-2-105(4)(d).

(20) A two-year license expires at midnight on the last day of the same month the license was issued, two years after the effective date on the license.

(21) A provider may request an extension of up to 90 days if:

(a) any applicable fees are paid;

(b) any noncompliance issues are resolved to the satisfaction of OL;

(c) the provider submits a written request for an extension to OL; and

(d) the provider understands that an extended license will reduce the dates for the subsequent renewal license to start on the date compliance is achieved and end on the original license renewal date.

(22) A provider who voluntarily relinquishes a license or certificate shall:

(a) notify OL and the patients or their next of kin or legal guardian, as applicable, at least 30 days before the effective date of closure;

(b) ensure safe keeping of records; and

(c) as applicable, return any patients funds and valuables during discharge.

(23) The provider may voluntarily relinquish their license or certificate except when OL has issued a notice of agency action revoking the license or certificate.

(24) Each license or certificate is not transferable.

(25) The provider shall post their current license or certificate, except in a foster home, on the premises in a place readily visible and accessible to the public.

(26) OL may deny renewal of a license or certificate for a program or facility who is no longer providing services.

R380-600-4. Program or Facility Changes.

(1) A provider must submit a complete program change application to amend an existing license at least 30 days before any of the following changes:

(a) an increase or decrease of capacity, including any change to the amount of space used to provide services;

(b) a change in the name of the program or facility;

(c) a change of:

(i) administrator or management company in a health care facility;

(ii) director in a child care facility; or

(iii) responsible decision maker or parent program in a human services program;

(d) the move of an administrative site where no clients are served; or

(e) a change that transfers less than 50% ownership or controlling interest to a new owner.

(2) A provider may proceed with any changes or make them public after approval by OL.

(3) A provider must submit a complete OL application for a new license and fees at least 30 days before any of the following changes:

(a) a change of location;

(b) a change in the population served;

(c) a change in the regulation type of the program or facility;

(d) a change that transfers 50% or more ownership or controlling interest to a new owner; or

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- (e) an additional license category.
- (4) For a change that requires a new license or certificate, the provider shall adhere to the following conditions:
 - (a) no new clients may be served until a new license or certificate is issued;
 - (b) the status and any noncompliance history of the previous license or certificate will continue;
 - (c) the application fee for any additional license category will be prorated so that it expires on the same date as any other facility existing license; and
 - (d) if a foster child is placed in a foster home, the licensed foster parent shall ensure the health and safety of the foster child during the transition to licensure or certification at the new site.

R380-600-5. Fees.

- (1) Except for a foster home, division of the department, or certified home for the Division of Services for People with Disabilities, the applicant must pay any required application fee before OL performs any on-site visit or document review.
- (2) The applicant shall pay a new application fee if the applicant has not completed the application process 12 months after the date of initial application if the applicant desires to continue with the application process.
- (3) The applicant shall pay an initial application fee for each category of program or facility offered at each program or facility site.
- (4) The applicant shall pay an application fee for any program change request that requires OL to perform an on-site inspection and complete a comprehensive compliance review.
- (5) The provider shall pay a renewal license or certificate fee for each license or certificate that is renewed at each program or facility site.
- (6) The provider shall pay any applicable capacity fee based on OL-approved client or bed capacity.
- (7) The provider must pay any fines and fees owed to OL before OL issues a new or renewal license or certificate.
- (8) A provider with more than one building, unit, or suite located at a single site may choose between the following methods of assessing a fee and issuing a license:
 - (a) each category of license includes each on-site building, unit, or suite; or
 - (b) each category of license is issued separately for each individual on-site building, unit, or suite.
- (9) The provider shall pay OL fees for any monitoring inspection and, if required by OL for extreme noncompliance, the costs of placing a licenser to monitor provider's compliance or a temporary manager to ensure the health and safety of the population served.
- (10) The provider shall pay OL an additional follow-up inspection fee each time OL has to conduct an additional follow-up inspection for lack of compliance with the same rule.
- (11) The provider shall pay any applicable fees within the time frames required by the division.
- (12) The division may grant an account credit or deny a refund request.

R380-600-6. Variances.

- (1) The division director, OL director, or the director's designee, may grant a variance after determining that a variance is not likely to:
 - (a) compromise client health and safety; or
 - (b) provide an opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.
- (2) The provider may not deviate from any rule before receiving written approval signed by the OL director or the director's designee.
- (3) A provider seeking a variance shall submit a written request to OL on an OL-approved variance request form.
- (4) The provider must submit a variance request at least 30 days before the proposed start date unless the provider documents a need to expedite the request.
- (5) The provider shall sign the approved variance and comply with the terms of the written variance, including any conditions or modifications contained within the approved written variance.
- (6) If the variance is still needed, the provider must request renewal for a variance 30 days before the variance expires.

R380-600-7. Inspection and Investigation Process.

- (1) OL may schedule announced and unannounced inspections to follow statute, contract, and federal requirements according to each category.
- (2) OL may adopt the findings from an inspection conducted by another local or federal agency or by the department staff on behalf of another local or federal agency as part of the provider's compliance history.
- (3) The provider shall cooperate with OL to monitor rule compliance and rule compliance maintenance any time the program or facility is serving clients by giving to OL full access to:
 - (a) the building;
 - (b) any client[s] who independently consents to speak with OL staff;
 - (c) staff; and
 - (d) any program or facility record.
- (4) The provider shall cooperate with OL by ~~promptly~~immediately responding to each request for information necessary to demonstrate rule compliance before, during, and after inspections.

(5) The provider shall make available and permit reproduction of program or facility records and documents by, or on behalf of, the department as necessary to ascertain compliance with any applicable law, rule, and regulation.

(6) The provider shall ensure that the integrity of OL's information gathering process is not compromised by withholding or manipulating information or influencing any specific response of staff or clients.

(7) The provider shall allow OL to access any program or facility record or staff at an administrative or certified location that is not located at the licensed site.

(8) Except for when an inspection is conducted by another local or federal agency, or by the department staff on behalf of another local or federal agency, OL shall serve a written inspection report to the provider once the inspection process is complete and approved by OL management.

(9) If the provider is out of compliance with any applicable rule, statute, or requirement, the provider shall:

(a) come into compliance within the required correction time frames as stated in the respective inspection report;

(b) pay any applicable penalty and inspection fee; and

(c) maintain compliance with each applicable rule, statute, or requirement.

(10) OL may require immediate compliance with any rule that is found out of compliance and that represents an imminent risk to any client.

(11) Once an inspection is completed and the inspection report is produced by OL, OL shall post each citation from each inspection and each substantiated noncompliance from a complaint investigation on the division website for no less than 36 months.

(12) The provider shall follow OL's directions when OL requires a plan of correction.

~~(13) Except for certified facilities following a CMS plan of correction, OL may allow the provider to have one plan of correction in a 36-month period.~~

(14) OL may require additional inspections as part of the plan of correction.

(15) OL may investigate any complaint or incident that suggest noncompliance with any rule or statute, except for:

(a) an anonymous complaint against a provider within child care licensing; or

(b) a complaint against a provider within child care licensing that alleges an issue that happened six or more months before the complaint is received.

(16) Except as noted for child care complaints in Subsection R380-600-9(15), OL reserves discretion to decline investigation of a complaint that is anonymous, unrelated to current conditions of the program, or not an alleged violation of a rule or statute.

(17) When a critical incident occurs under the direct responsibility and supervision of the program or facility, the provider shall:

(a) submit a report of the critical incident to OL in a format required by OL within one business day of the critical incident occurrence;

(b) additionally ensure any allegation of an incident of abuse, neglect, or exploitation of a client is [made]reported to the Division of Child and Family Services for a minor client or Adult Protective Services for an adult client and law enforcement [as appropriate]within 24 hours;

(c) notify the parent or legal guardian of each involved client within a 24-hour period from the time of the incident;

(d) if the critical incident involves any client in the custody of the department or under contract with the department, notify the involved department division immediately; and

(e) collect, maintain, and submit original witness statements and supporting documentation, including video footage if available, regarding each critical incident to OL upon request.

R380-600-8. Rule Compliance, Penalties, Informal Dispute Resolution, and Appeals.

(1) The provider shall:

(a) comply and maintain compliance with each applicable rule, statute, or requirement;

(b) ensure each staff member complies with each applicable rule, statute, or requirement; and

(c) comply with and ensure each staff member complies with the department Provider Code of Conduct as established in Rule R380-80.

(2) Based on OL findings or the findings of any OL authorized agency, OL may:

(a) deny a new or renewal of a license or certificate;

(b) issue an NEAA as outlined in Section R380-600-9;

(c) issue an immediate closure;

(d) issue a warning;

(e) issue a citation;

(f) issue a CMP;

(g) require a plan of correction;

(h) suspend a license or certificate;

(i) ~~[set]place [the]conditions [for and place the]on a program or facility license or certificate[on a conditional status];~~

(j) increase monitoring inspections;

(k) restrict or prohibit admissions; and

(l) revoke a license or certificate.

(3) When taking any agency action against a provider, OL may consider the provider's previous 36-month history of:

(a) compliance with any applicable rule, statute, or requirement;

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- (b) chronic, ongoing noncompliance with any applicable rule, statute, or requirement;
 - (c) any unpaid fee or penalty;
 - (d) serious noncompliance that places any client's health and safety at immediate risk of harm;
 - (e) failure to meet ~~the~~ conditions while there are conditions placed on the program or facility ~~is on a conditional status~~;
 - (f) false or misleading information submitted to OL;
 - (g) actions to intentionally alter any document provided to or issued by the department;
 - (h) failure to allow an authorized representative from the department access to the program or facility to ensure compliance with any rule;
 - (i) failure to submit or make available to the department any documentation or report required to ensure compliance with any rule;
 - (j) actions to knowingly employ, be employed by, contract with, or in any way relate to business with a person whose license has been revoked by OL within the previous five years;
 - (k) serious noncompliance with any rule that results in the death or serious harm to a client, or that places the client at risk of death or serious harm; or
 - (l) commission of an illegal act that would exclude a person from having a license. ~~;~~
 - ~~(m) need to be investigated by OL as an emergency temporary measure, until compliance or noncompliance is properly substantiated by OL.~~
- (4) Any official OL action on any provider, except for a foster home, is considered public record, and OL shall make it available to the public including posting citations, substantiated complaint allegations, and other penalties on the division website for at least 36 months.
- (5) OL may choose to amend any penalty or action taken against a provider at any point during the action process.
- (6) If a rule noncompliance resulted in a CMP and there is a repeat instance of the same rule noncompliance within a 36-month period, the provider shall pay double the amount of the original CMP and, for each subsequent noncompliance of the same rule issued, double the amount of the previous CMP not to exceed \$10,000.
- (7) The provider shall demonstrate compliance with each noncompliant rule according to the timelines established in the inspection report produced by OL to avoid any further penalties.
- (8) If OL places conditions on or suspends the license of a foster parent, the foster parent may keep any current placements if the placing department entity approves to allow the foster child to remain in the current placement during the time of condition or suspension.
- (9) Except as authorized by OL in writing, a program or facility that has had its license or certificate suspended or revoked shall:
- (a) not accept new clients;
 - (b) only provide any service necessary to maintain client health and safety during the client's transition out of the program or facility;
 - (c) develop and comply with a plan to transition each client out of the program or facility and into an equivalent, safe, currently licensed program or facility or into the custody of the client's legal guardian; and
 - (d) maintain program or facility staffing to maintain the health and safety needs of each client while an appeal of the suspension or revocation is pending or until each client is removed from the program.
- (10) Unless otherwise stated on the conditions set by a conditional license, OL may conduct increased monitoring inspections for a facility on a conditional status until the facility demonstrates substantial compliance.
- (11) Any owner identified in a license or certificate revocation action may not be approved for a license or certification of any other program or facility overseen by OL for five years from the date the revocation was made effective.
- (12) If OL places a program or facility on a conditional license or issues a suspension or a revocation, the provider shall, within five days of receiving the notice:
- (a) post the notice on-site where it is easily viewable by the public;
 - (b) notify each client, guardian, and prospective client of the notice;
 - (c) post a copy of the notice on the program or facility website, if the program or facility has a website; and
 - (d) keep the notice posted for as long as OL notice is in effect.
- (13) If an appeal of a revocation, suspension, or conditional status that restricts admissions is pending, a provider may not accept any new clients without prior written authorization from OL.
- (14) OL may, in addition to any other actions, refer any noncompliance concern to any other local and federal agency and seek criminal penalties.
- (15)(a) An applicant or provider may request an administrative hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act for any agency action within 15 calendar days of being informed in writing of the OL action, except for an NEAA. ~~;~~
- ~~(a) an informal dispute resolution of any OL decision, except an NAA or NEAA, within ten calendar days of being informed in writing of the decision by submitting a request to OL through the licensing provider portal;~~
- ~~(b) an appeal of any OL NAA decision within 15 calendar days of being informed in writing of the decision by following the department appeal process; or~~
- ~~(e) b) [a] An applicant may request an administrative hearing [appeal] of any [OL]-NEAA [decision-] within five calendar days of being informed in writing of the [decision by following the department appeal process] NEAA.~~
- (c) An internal dispute resolution shall automatically take place when a provider requests an administrative hearing.

R380-600-9. Notice of Emergency Agency Actions.

- (1) A provider that experiences a serious injury or death of a client shall report a critical incident to OL in accordance with Subsection R380-600-7(17).
- (2) OL shall make the determination of whether or not to issue an NEAA with consideration of:
 - (a) any known facts of the event;
 - (b) the provider's adherence to any licensing rule 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.
- (4)(a) If OL determines that an NEAA is necessary for the protection of clients, [i]OL may place emergency conditions on the license to include restricting new admissions and increased monitoring of provider operations.
 - (b) An NEAA shall expire 30 days after the date of issuance.
 - (c) OL may dismiss the NEAA at any time before the 30-day expiration.
 - (d) Issuance of an NEAA does not prevent OL from issuing a subsequent notice of agency action or any other sanction.
- (5) The provider may appeal an NEAA by filing a written request for an administrative hearing with OL within five calendar days of receipt of the NEAA.
- (6) NEAA conditions are immediately in effect and the provider shall adhere to any listed conditions unless reversed by[~~a hearing with~~] the department's Office of Administrative Hearings or under written authorization from OL.

R380-600-10. Immediate Closure.

OL may order the immediate closure of a program or facility if conditions create a clear and present danger to any client and may require immediate action to protect the client's health or safety.

R380-600-11. Unlicensed Program or Facilities.

In accordance with Section 26B-2-702, a person operating a program or facility that requires a license, certificate, or certification is subject to the following parts under Title 26B, Chapter 2, Licensing and Certifications, regardless of whether they hold a license, certificate, or certification:

- (1) Part 1, Human Services Programs and Facilities;
- (2) Part 2, Health Care Facilities Licensing and Inspection; or
- (3) Part 4, Child Care Licensing.

R380-600-12. Compliance.

- (1) If a federal requirement or state contract requirement presents a conflict with any rule governing a provider under the division, the federal requirement or state contract requirement shall prevail.
- (2) Any provider found in noncompliance with any rule or statute governing the division may be subject to the penalties enumerated in this rule and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: licensing, human services, health care facility, child care

Date of Last Change: ~~2024~~2025

Authorizing, and Implemented or Interpreted Law: 26B-2-104; 26B-2-202; 26B-2-402; 26B-2-703

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R381-40	Filing ID: 56910
Date of Previous Publication (Only for CPRs):	11/15/2024	

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov

Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R381-40. Commercial Preschool Programs
3. Purpose of the new rule or reason for the change:
Based on internal discussions and discussions with stakeholders, this change in proposed rule (CPR) updates language regarding background checks to transparently outline background check processes and align with the background checks conducted for health care facility and human services program staff. The CPR also makes nonsubstantive changes to terminology. The child care licensing committee has approved this CPR filing.
4. Summary of the new rule or change:
This CPR updates to Section R381-40-8 regarding background checks to align with other Division of Licensing and Background Check (DLBC) rules. It also addresses OBP's statutory authority to review information, explains when OBP can issue a finding, limits re-application time to two years following an application denial, and clarifies when OBP may consider pending convictions. These processes are already in effect, but are required in rule for provider reference and clarity in administrative proceedings. Finally, it updates Subsection R381-40-6(13) by changing "a child who is homeless" to the accepted industry term "a child experiencing homelessness". (EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 93. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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 as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR. No changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.
B) Local governments:
There is no anticipated cost or savings to local government, as local governments do not have any involvement in the background check requirements of OBP.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses as a result to this change in proposed rule, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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

There is no anticipated cost or savings to non-small businesses as a result to this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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

There is no anticipated cost or savings to any person other than small businesses, non-small businesses, state, or local government entities as a result to this change in proposed rule, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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 a result to this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Tracy S. Gruber, Executive Director	Date:	03/13/2025
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R381. Health and Human Services, Child Care Center Licensing.

R381-40. Commercial Preschool Programs.

R381-40-1. Authority and Purpose.

- (1) Section 26B-2-402 authorizes this rule.
- (2) This rule establishes the foundational standards necessary to protect the health and safety of children in commercial preschool programs and defines the general procedures and requirements to get and maintain a license to provide this type of child care.

R381-40-2. Definitions.

- (1) Terms used in this rule are defined in Rule R380-600. Additionally:
- (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure 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 day" means a day of the week the facility is open for business.
- (6) "Business hours" means the hours the facility is open for business.
- (7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (9) "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.
- (10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.
- (11) "Child care" means continuous care and supervision of at least one qualifying child that:
 - (a) is in place of care ordinarily provided by a parent in the parent's home;
 - (b) occurs for less than 24 hours a day; and
 - (c) is provided for direct or indirect compensation.
- (12) "Child care program" means a person or business that offers child care.
- (13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.
- (14) "Covered individual" means as defined in Rule R380-600.
- (15) "Department" means the Utah Department of Health and Human Services.
- (16) "Designated play surface" means any:
 - (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
 - (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.
- (17) "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 CCL rules.
- (18) "Early childhood education" means a program of study that prepares an individual to teach children in their early years, normally from birth up to the age of eight years old.
- (19) "Eligible" means as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (21) "Facility" means a program or premises approved by OL to be used for child care.

- (22) "Group" means the children who the provider assigns to one or more caregivers for ~~their~~the children's care and supervision.
- (23) "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.
- (24) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (25) "Inaccessible" means out of reach for children by being:
 - (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - (c) located at least 36 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (26) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (27) "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) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (28) "License" means a license issued by OL to provide child care services.
- (29) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (30) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (31) "OBP" means as defined in Rule R380-600.
- (32) "OL" means as defined in Rule R380-600.
- (33) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (34) "Parent" means the parent or legal guardian of a child in care.
- (35) "Person" means as defined in Rule R380-600.
- (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 a child can move freely.
- (37) "Preschooler" means a child age two through four years old.
- (38) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.
- (39) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.
- (40) "Qualifying child" means a child:
 - (a) who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (b) who is younger than four years old and is the child of the provider or a caregiver; or
 - (c) with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (41) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (42) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:
 - (a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:
 - (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;
 - (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;
 - (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 including with a child safety gate, including a diaper changing station that is located behind a closed gate;
 - (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 including with a child safety gate; or
 - (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) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:
 - (i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or

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- (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) if in outdoor areas separated by interior fences, OL considers it:
 - (i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;
 - (ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;
 - (iii) two areas if the interior fence is higher than 24 inches and there is no opening; or
 - (iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.
- (43) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (44) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.
- (45) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (46) "Stationary play equipment" means equipment, 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) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;
 - (b) sandbox;
 - (c) sensory table; or
 - (d) stationary circular tricycle.
- (47) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or in which a child could become entangled, including:
 - (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or
 - (c) hardware that forms a hook or leaves a gap or space between components, including a protruding open S-hook.
- (48) "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.
- (49) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.
- (50) "Working day" means any day of the week the department is open for business.

R381-40-3. License Required.

- (1) A person shall obtain a preschool program license from OL if the person provides care:
 - (a) for direct or indirect compensation;
 - (b) for each child for less than four hours a day;
 - (c) for five or more qualifying children between the ages of two and four years old;
 - (d) for five or more qualifying children between the ages of two and five years old if the children are not attending school;
 - (e) in a place other than the provider's home or a child's home;
 - (f) in the absence of a child's parent;
 - (g) on an ongoing basis for more than two days a week and for four or more weeks in a year; and
 - (h) where care does not include preparing any meal for a child.
- (2) OL will not issue a license if care is only for related children or on a sporadic basis.
- (3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.
- (4) A commercial preschool program licensee shall comply with Rule R380-600.

R381-40-4. Fire and Other Health Inspections.

- (1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:
 - (a) address numbers and letters are readable from the street;
 - (b) boiler, mechanical, and electrical panel rooms are not used for storage;
 - (c) exit doors are unlocked from the inside during business hours;
 - (d) exit doors operate properly and are well maintained;
 - (e) exits are clearly identified;
 - (f) there are no obstructions in exits, aisles, corridors, and stairways;
 - (g) there are working smoke detectors that are properly installed on each level of the building; and
 - (h) there is at least one unobstructed fire extinguisher on each level of the building that is charged and serviced and mounted not more than five feet above the floor.
- (2) 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, OL shall verify the applicant's compliance by ensuring:
 - (a) any chemical is stored away from food and food service items;
 - (b) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;

- (c) food is properly stored, kept to the proper temperature, and in good condition;
- (d) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
- (e) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink; and
- (f) there is a working thermometer in the refrigerator.

R381-40-5. Immediate Closure.

(1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.

(2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.

(3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-40-6. Administration and Children's Records.

(1) The provider shall:

- (a) be at least 21 years old;
- (b) be considered eligible by an OBP background check before becoming involved with child care; and
- (c) complete the new provider training offered by OL.

(2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with Subsection R381-40-6(1).

(3) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.

(4) The provider shall know and comply with 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 ~~the~~the provider's 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 OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.

(8) The provider shall inform each parent and OL 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 ~~the~~a 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:

- (a) the child's name;
- (b) the child's date of birth;
- (c) each parent's name, address, and phone number, including a daytime phone number;
- (d) the names of individuals authorized by the parent to sign the child out from the facility;
- (e) the 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) the parent's permission for emergency transportation and emergency medical treatment;

(h) any known allergy of the child;

(i) any known food sensitivity of the child;

(j) any chronic medical condition that the child may have;

(k) any instructions for special or nonroutine daily health care of the child;

(l) any current ongoing medication 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 OL.

(13) Before admitting any child into the program, including the provider's or an employee's own child, the provider shall obtain the following documentation from the child's parent:

(a) current immunizations;

(b) a medical schedule to receive required immunizations;

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- (c) a legal exemption; or
- (d) a 90-day exemption for any foster child or child who is ~~homeless~~ experiencing homelessness.

(14) For each child younger than five years old, including the provider's or employee's own child, the provider shall keep the child's current immunization records on-site for review by OL.

(15) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.

(16) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-40-7. Personnel and Training Requirements.

- (1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:
 - (a) meet the needs of each child; and
 - (b) comply with this rule.
- (2) The provider shall ensure that the preschool program has a qualified director.
- (3) The provider shall ensure that the director:
 - (a) completes at least 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;
 - (b) completes the new director training offered by OL within 60 working days of assuming director duties;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;
 - (d) is at least 21 years old;
 - (e) is considered eligible by an OBP background check before becoming involved with child care; and
 - (f) knows and follows any applicable law and this rule.
- (4) The provider shall ensure that each new director has at least one of the following educational credentials:
 - (a) a currently valid national certification, including:
 - (i) a Certified Childcare Professional issued by the National Child Care Association;
 - (ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition;
 - (iii) a National Administrator Credential; or
 - (iv) another equivalent credential as approved by OL;
 - (b) any bachelor's or higher degree in education with at least 60 hours of coursework in child development, social and emotional development, and the child care environment, or 60 hours of equivalent training as approved by OL;
 - (c) at least an associate degree in early childhood development or a related field;
 - (d) at least 12 college credit hours of child development courses; or
 - (e) at least five years of early childhood education teaching experience.
- (5) The provider shall ensure that the director is on duty at the facility for at least half the time every week the facility is open.
- (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) completes at least 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;
 - (b) completes the director designee training offered by OL;
 - (c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-40-7(20) and (21);
 - (d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (e) is at least 18 years old;
 - (f) is considered eligible by an OBP background check before becoming involved with child care; and
 - (g) knows and follows any applicable law and this rule.
- (8) The provider shall ensure that the director or the director designee is present at the facility during business hours.
- (9) The provider shall ensure that each caregiver:
 - (a) completes at least 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;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care;
 - (e) is introduced to other program staff and to the caregiver's assigned group;
 - (f) knows and follows any applicable law and this rule; and
 - (g) reviews the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs.
- (10) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

- (b) knows and follows any applicable law and this rule; and
- (c) is considered eligible by an OBP background check before becoming involved with child care.
- (11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
 - (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that any individual who provides an Individualized Educational Plan or Individualized Family Service plan services, including a physical, occupational, or speech therapist:
 - (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
 - (a) administration of medication;
 - (b) applicable laws and requirements under Rule R381-40;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
 - (a) Sections R381-40-7 through R381-40-22; and
 - (b) Subsections R381-40-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
 - (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training; and
 - (d) training topic.
- (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 a child is in care:
 - (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (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 on-site for review by OL:
 - (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.

R381-40-8. Background Checks.

- (1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:
 - (a) associate that individual with the provider's 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.

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(2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for any individual 12-17 years old who is only listed as a household member and:

- (a) authorize the individual's background check through the licensing provider portal;
- (b) pay any required fee; and
- (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.

(3) To keep a covered individual's background check eligibility current, the provider shall require the covered individual to submit a new background check application, fingerprints, and any fee if the covered individual has:

- (a) not been associated with an active, CCL approved child care facility within the past 180 days;
- (b) resided outside of Utah since ~~their~~ the individual's last background check was completed; or

(c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application is required.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:

- (a) authorize the child's background check through the licensing portal; and
- (b) pay any required fee.

(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 electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.

(7) OBP may consider a covered individual not eligible for ~~any of the following reasons~~:

(a) ~~any~~ a pending conviction for a felony offense;

(b) any felony conviction;

~~(b)~~ (c) any of the reasons listed under Subsection [R381-40-](8)(8);

~~(e)~~ (d) any LIS supported finding[s] that occurred no more than 15 years from the date the application was submitted;

~~(e)~~ (e) the covered individual knowingly making a false statement related to ~~their~~ that individual's background check;

~~(e) the covered individual refusing to consent to the criminal background check; or~~

~~(f) the covered individual's name appearing on the Utah or national sex offender registry[-]; or~~

~~(g) the covered individual refusing to consent to the criminal background check.~~

(8) OBP may also consider a covered individual not eligible if the individual has been convicted, has pleaded no contest, or is currently subject to a plea and abeyance or diversion agreement for any of the following ~~criminal findings~~ pending charges or convictions, regardless of severity:

- (a) child pornography;
- (b) driving under the influence while a child is present in the vehicle;
- (c) lewdness involving a child;

~~(d) pornographic material or performance;~~

~~(e)~~ (e) providing dangerous weapons or firearms to a minor;

~~(e)~~ (f) sexual battery;

~~(g) sexual enticing of a minor;~~

~~(f)~~ (h) sexual exploitation;

~~(g)~~ (i) voyeurism; or

~~(h)~~ (j) any crime against an individual.

(9) OBP 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 OBP conducted the background check.

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

(11) If a covered individual is considered not eligible by OBP, including if 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 OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

(14) The ~~executive~~ OBP director or designee ~~[of the department]~~ may ~~overturn~~ consider any additional relevant background information to grant, deny, or continue an [OBP] eligible determination on a background check ~~decision if the executive director or designee determines that the nature of the background finding or mitigating~~, including:

- ~~(a) intervening circumstances~~ (a) regarding an offense or finding;

- (b) steps taken to correct or improve since any offense or finding;
- (c) surrounding circumstances of an offense or finding;
- (d) the length of time since an offense or finding; and
- (e) the type and number of offenses or findings.
- (15)(a) OBP shall rely on relevant information from Subsections (7) and (8) as conclusive evidence and may deny a covered individual based on that information.
- (b) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.
- (16) If OBP determines evidence exists that a covered individual has been arrested or charged with an offense that may be denied under Subsections (7) and (8), the Division of Licensing and Background Checks may act to protect the health and safety of a child.
- (17) OBP may allow a covered individual access to a child with conditions, until the arrest or criminal charges are resolved, if the covered individual can demonstrate the work arrangement does not pose a [risk to a]threat to the health and safety of the child.
- (18) A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.

R381-40-9. Facility.

- (1) 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 for lead. If there is lead-based paint at the facility, the provider shall contact the[~~#~~] local health department within five working days and follow required procedures for remediation of the lead hazard.
- (2) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.
- (3) 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.
- (4) 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.
- (5) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
- (6) The provider shall ensure that there is a working telephone:
 - (a) at the facility;
 - (b) during any offsite activity; and
 - (c) in each vehicle while transporting a child.
- (7) The provider shall ensure that there is:
 - (a) at least one working toilet and one working sink when there are up to 15 children in the facility; and
 - (b) at least two working toilets and two working sinks when there are more than 15 children present in the facility.
- (8) If there is an outdoor area at the facility, the provider shall ensure that the outdoor area:
 - (a) has a fence, wall or solid natural barrier that is at least four feet high to enclose the outdoor area;
 - (b) has no gaps five by five inches or greater in or under any fence or barrier; and
 - (c) is safely accessible to any child.
- (9) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
 - (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) 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.
- (10) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
 - (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (11) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (12) 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, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (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.

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R381-40-10. Capacity and Ratio.

- (1) OL may limit the maximum allowed capacity for a child care facility based on local ordinances.
- (2) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.
- (3) OL may determine the total capacity based on the number of rooms and the ages of any child cared for in those rooms.
- (4) As listed in Table 1 for a single-age group of children, the provider shall:
 - (a) maintain at least the number of required caregivers; and
 - (b) not exceed the number of children in the caregiver-to-child ratio per room.

TABLE 1 Caregiver-to-Child Ratios		
Number of Caregivers	Ages of Children	Number of Children
At least 1	2 years old	8
At least 1	3 years old	12
At least 1	4 years old	15
At least 1	5 years old	20

- (5) As listed in Tables 2 through 4 for a mixed-age group of children, the provider shall:
 - (a) maintain at least the number of required caregivers; and
 - (b) not exceed the number of children in the caregiver-to-child ratio per room.

TABLE 2 Two-to-Five-Year-Olds		
Number of Caregivers Required	Ages of Children	Number of Children Present
At least 1	2 years old	1-7
	3, 4, and 5 years old	1-10
Maximum Total of Children in the Room: 11		

TABLE 3 Three-to-Five-Year-Olds		
Number of Caregivers Required	Ages of Children	Number of Children Present
At least 1	3 years old	1-11
	4 years old	1-14
	5 years old	1-14
Maximum Total of Children in the Room: 16		

TABLE 4 Four-to-Five-Year-Olds		
Number of Caregivers Required	Ages of Children	Number of Children Present
At least 1	4 years old	1-14
	5 years old	1-17
Maximum Total of Children in the Room: 18		

- (6) The provider may exclude the provider's or an employee's own child, age four years or older, from the caregiver-to-child ratio when the parent of the child is working at the facility.
- (7) The provider may include in the caregiver-to-child ratio any:
 - (a) caregiver;
 - (b) student intern who is registered in a high school or college child care course; and
 - (c) volunteer who is 16 years old or older.

R381-40-11. Child Supervision and Security.

- (1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:
 - (a) focusing attention on the children and not on caregivers' personal interests;
 - (b) knowing the number of children in ~~their~~the caregiver's care at any time;
 - (c) positioning themselves so each child in ~~their~~an assigned group is actively supervised;
 - (d) remaining aware of the entire group even when interacting with a smaller group or an individual child; and

- (e) remaining physically present in the room or area with the children.
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:
 - (a) the director or the director designee is physically present and available as needed;
 - (b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and
 - (c) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, and household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity and transportation.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with ~~their~~that parent's own child.
- (6) The provider shall ensure that a parent has access to ~~their~~that parent's child and the areas used to care for the~~ir~~ child when the~~ir~~ child is in care.
- (7) To maintain security and supervision of children, the provider shall ensure that:
 - (a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider; and
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves;
- (8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the person giving verbal authorization; and
 - (b) the person picking up the child.
- (9) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by OL.

R381-40-12. 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 each child, each parent, and anyone who interacts with any child in care of the program's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.
- (4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others or to stop a child from destroying property.
- (5) The provider shall ensure that each interaction with a child does not include:
 - (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
 - (e) forcing or withholding food, rest, or toileting;
 - (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
 - (g) shouting at children.
- (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 Section 80-2-602.

R381-40-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.
- (4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.
- (5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.
- (7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child younger than five years old.

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(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 any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:

- (a) disposed of properly;
- (b) inaccessible to any child;
- (c) stored in a container labeled with the contents of the container; and
- (d) used according to manufacturer instructions.

(10) The provider shall ensure that the following items are inaccessible to children:

- (a) cigarette lighters;
- (b) hot wax or other hot substances;
- (c) matches;
- (d) open flames; and
- (e) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to a child:

- (a) any live electrical wire; and
- (b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.

(12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:

- (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 any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.

(14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in a program vehicle any time a child is in care.

(15) If there is an outdoor area used by any child, the provider shall ensure that an outdoor source of drinking water, 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 Fahrenheit or higher.

(16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.

(17) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:

- (a) in a 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;
- (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
- (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-40-14. Emergency Preparedness and Response.

(1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

- (a) includes a procedure for:
 - (i) accommodating a child with a disability;
 - (ii) communication with and reunification of families;
 - (iii) continuity of operations;
 - (iv) evacuation;
 - (v) lockdown;
 - (vi) relocation; and
 - (vii) shelter in place.

(b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;

(c) is available for review by any parent, staff member, and OL during business hours; and

(d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.

(2) The provider shall post the facility's street address and any emergency number, including at least fire, police, and poison control, near each telephone in the facility or in an area clearly visible to anyone needing the information.

(3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.

(4) The provider shall conduct a fire evacuation drill at least quarterly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.

(5) The provider shall conduct a drill for disasters, other than fires, at least once every six months.

(6) The provider shall give each parent a written report of every incident, accident, or injury involving ~~their~~ that parent's child.

- (7) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.
- (8) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall submit a critical incident report to OL within one business day:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and
 - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (9) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall submit a critical incident report to OL within one business day.
- (10) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.
- (11) The provider shall ensure compliance with critical incident reporting in accordance with Subsection R380-600-7(16).

R381-40-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area, including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall ensure that any fabric toy and item, including any stuffed animal, cloth doll, pillow cover, and dress-up clothing, is machine washable and washed weekly, and as needed.
- (4) The provider shall clean and sanitize any toy and material used by a child:
 - (a) at least once a week or more often if needed; and
 - (b) after being contaminated by a body fluid.
- (5) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (6) The provider shall clean and sanitize each bathroom surface including any toilet, sink, faucet, and counter.
- (7) The provider shall ensure that toilet paper is accessible and kept in a dispenser.
- (8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (9) The provider shall ensure that each staff and volunteer washes their hands thoroughly with liquid soap and running water at required times, including:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after diapering a child;
 - (d) after using the toilet or helping a child use the toilet;
 - (e) before administering any medication to a child;
 - (f) before and after eating a meal or snack or feeding a child;
 - (g) upon arrival; and
 - (h) when coming in from outdoors.
- (10) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (11) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water at required times, including:
 - (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before eating a snack;
 - (d) before using a water play table or tub;
 - (e) upon arrival; and
 - (f) when coming in from outdoors.
- (12) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer are used to dry hands.
- (13) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (15) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
 - (a) not rinsed or washed at the facility;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent or thrown away with parental consent.

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- (16) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:
- clean the surface using a detergent solution;
 - rinse the surface with clean water;
 - sanitize the surface;
 - throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - wear waterproof gloves; and
 - wash their hands after cleaning up the body fluid.
- (17) The provider may not care for a child who is ill with an infectious disease at the facility, except when the child shows signs of illness after arriving at the facility.
- (18) If a child becomes ill while in care:
- 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
 - 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 any other child until the parent arrives.
- (19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
- (20) If any child or employee has an infectious disease or parasite, the provider shall post a notice at the facility that:
- does not disclose any personal identifiable information;
 - is posted and dated on the same day that the disease or parasite is discovered;
 - is posted in a conspicuous place where it can be seen by parents; and
 - remains posted for at least five business days.

R381-40-16. Food and Nutrition.

- The provider shall ensure that each child is offered a snack at least once every three hours when services are provided for three or more hours.
- The provider shall ensure that the person who serves food to a child:
 - is aware of each child in [~~their~~]an assigned group who has a food allergy or sensitivity; and
 - ensures that a child is not served the food that the child is allergic or sensitive to.
- If a parent brings food and drink for [~~their~~]a child's use, the provider shall ensure that the food and drink is:
 - consumed only by that child;
 - labeled with the child's name; and
 - refrigerated if needed.

R381-40-17. Medications.

- The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.
- The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - is labeled with the child's full name;
 - is stored in the original or pharmacy container; and
 - has the original label.
- The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for [~~their~~]a child.
- The provider shall ensure that the medication permission form includes at least:
 - a parent signature and the date signed;
 - any written instructions for administration;
 - the name of the child; and
 - the name of the medication.
- The provider shall ensure that instructions for administering the medication include at least:
 - how the medication will be given;
 - the disease or condition being treated;
 - the dosage; and
 - the times and dates to administer the medication.
- If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - written; or

- (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up ~~their~~ a child.
- (8) The provider shall ensure that the staff administering the medication:
 - (a) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) 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;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; and
 - (c) the ~~it~~ staff's 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 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 OL.

R381-40-18. 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 that children spend in the program.
- (3) The provider shall post a daily schedule that includes activities that support a child's healthy development.
- (4) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (5) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is limited to 30 minutes a day or 2-1/2 hours per week.
- (6) If the provider offers swimming activities or if a wading pool is used, the provider shall ensure that:
 - (a) a caregiver stays 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;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;
 - (d) each wading pool is emptied and sanitized after use by each group of children;
 - (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
 - (f) the parent gives permission before ~~their~~ a child uses the pool.
- (7) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (8) 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 a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R381-40-19. Play Equipment.

- (1) The provider shall ensure that each child using play equipment uses it safely and as intended by the manufacturer.
- (2) The provider shall ensure that:
 - (a) stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment; and
 - (b) with the exception of a swing, stationary play equipment has at least a six-foot use zone, if any designated play surface is higher than 20 inches.

NOTICES OF CHANGES IN PROPOSED RULES

(3) 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.

(4) 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.

(5) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.

(6) 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.

(7) 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.

(8) The provider shall ensure that each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:

(a) in front of a slide;

(b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;

(c) that of a multi-axis swing; and

(d) that of a merry-go-round, if the platform diameter measures 20 inches or more.

(9) Unless prohibited in Subsection R381-40-19(8), the provider shall ensure that the use zones of play equipment only overlap when:

(a) there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower; or

(b) there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.

(10) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface, including concrete, asphalt, dirt, and the bare floor.

(11) 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.

(12) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that:

(a) the depth of the material meets the guidelines in Table 5;

(b) the cushioning is periodically checked for compaction and, if compacted, loosened to the depth listed in Table 5; and

(c) if the material cannot be loosened to the depth listed in Table 5 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth.

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"

(13) If the provider uses shredded wood products as protective cushioning, the provider shall:

(a) ensure the depth of the shredded wood meets the guidelines in Table 6;

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

(c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

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

(14) If the provider uses a unitary cushioning, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.

(15) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:

- (a) displaced when a child jumps, runs, walks, lands, or moves on it; or
- (b) moved or picked up by a child.

(16) The provider shall ensure that a play equipment platform more than 30 inches above the floor or ground has a protective barrier that is at least 29 inches high.

(17) 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.

(18) The provider shall ensure that stationary play equipment is stable or securely anchored.

(19) The provider shall ensure that there is no trampoline on the premises that is accessible to any child in care.

(20) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.

(21) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.

(22) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there is no tripping hazard, including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

(24) For a preschool program operating before January 1, 2021 that needs to make compliance modifications to existing play equipment, OL may facilitate a phase-in schedule for up to five years from the initial inspection.

R381-40-20. Transportation.

(1) For each child that the licensee transports, the provider shall obtain a transportation permission form that is:

- (a) signed by a parent; and
- (b) on-site for review by OL.

(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 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 emergency contact information outlined in Subsection R381-40-18(8), for each child being transported;
- (d) ensures that each child being transported is in an individual safety restraint, as required by law;
- (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
- (f) ensures that each child stay seated while the vehicle is moving;
- (g) ensures that the vehicle is locked during transport;
- (h) never leaves a child in the vehicle unattended by an adult; and
- (i) never leaves the keys in the ignition when not in the driver's seat.

(5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:

- (a) each child being transported has a completed transportation permission form signed by ~~their~~ that child's parent;
- (b) a caregiver goes with and actively supervises each child;
- (c) a caregiver transporting a child has emergency contact information, as outlined in Subsection R381-40-18(8), and a release for

each child being transported; and

(d) the caregiver-to-child ratio is maintained.

(6) The provider shall:

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

R381-40-21. Animals.

(1) The provider shall inform each parent of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

- (a) has a history of biting even one individual;
- (b) has a history of dangerous, attacking, or aggressive behavior; or
- (c) is naturally aggressive.

NOTICES OF CHANGES IN PROPOSED RULES

- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (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 no child assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (7) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (8) The provider shall keep current animal vaccination records on-site for review by OL.

R381-40-22. Diapering.

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.
- (3) The provider shall ensure that each child's diaper is:
 - (a) checked at least once every two hours; and
 - (b) promptly changed when wet or soiled.
- (4) The provider shall ensure that a caregiver changes each child's diaper at a diapering station and not on a surface used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that a caregiver does not leave any child unattended on the diapering surface.
- (7) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (8) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (9) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (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) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.

R381-40-23. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, child care, commercial preschool programs

Date of Last Change: ~~2024~~2025

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R381-60	Filing ID: 56911
Date of Previous Publication (Only for CPRs):	11/15/2024	

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

<p>2. Rule or section catchline:</p> <p>R381-60. Hourly Child Care Centers</p>
<p>3. Purpose of the new rule or reason for the change:</p> <p>Based on internal discussions and discussions with stakeholders, this change in proposed rule (CPR) updates language regarding background checks to transparently outline background check processes and align the process with the background checks conducted for health care facility and human services program staff.</p> <p>The CPR updates terminology without any substantive change to requirements.</p> <p>The child care licensing committee has approved this CPR filing.</p>
<p>4. Summary of the new rule or change:</p> <p>This CPR updates Section R381-60-8 regarding background checks to align with other Division of Licensing and Background Check (DLBC) rules. It also addresses the Office of Background Processing's (OBP's) statutory authority to review information, explains when OBP can issue a finding, limits re-application time to two years following an application denial, and clarifies when OBP may consider pending convictions. These processes are authorized by statute and are being provided in rule for provider reference and clarity in administrative proceedings.</p> <p>It updates Section R381-40-6, altering language to the accepted industry term "a child experiencing homelessness", and reverts language back to the original rule wording due to a numeration fix in the previous filing that inadvertently changed supervision requirements in Subsection R381-60-11(1).</p> <p>(EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 127. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)</p>

Fiscal Information

<p>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</p>
<p>A) State budget:</p> <p>There is no anticipated cost or savings to the state budget as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.</p> <p>Other changes do not introduce any new processes or requirements.</p>
<p>B) Local governments:</p> <p>There is no anticipated cost or savings to local government, as local governments do not have any involvement in the background check requirements of OBP.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>There is no anticipated cost or savings to small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the proposed rule and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.</p> <p>Other changes do not introduce any new processes or requirements.</p>

NOTICES OF CHANGES IN PROPOSED RULES

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

There is no anticipated cost or savings to non-small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the proposed rule and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or 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 is no anticipated cost or savings to any person other than small businesses, non-small businesses, state, or local government entities as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the proposed rule and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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 compliance cost for affected persons as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the proposed rule and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Tracy S. Gruber, Executive Director	Date:	03/13/2025
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R381. Health and Human Services, Child Care Center Licensing.

R381-60. Hourly Child Care Centers.

R381-60-1. Authority and Purpose.

(1) Section 26B-2-402 authorizes this rule.

(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) Terms used in this rule are defined in Rule R380-600. Additionally:

(2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Barrier" means an enclosing structure 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 day" means a day of the week the facility is open for business.

(6) "Business hours" means the hours the facility is open for business.

(7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.

(8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.

(9) "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.

(10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.

(11) "Child care" means continuous care and supervision of at least one qualifying child that:

(a) is in place of care ordinarily provided by a parent in the parent's home;

(b) occurs for less than 24 hours a day; and

(c) is provided for direct or indirect compensation.

(12) "Child care program" means a person or business that offers child care.

(13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.

(14) "Covered individual" means the same as defined in Rule R380-600.

(15) "Crib" means an infant's bed with sides to protect them from falling, including a bassinet, porta-crib, or play pen.

(16) "Department" means the Utah Department of Health and Human Services.

(17) "Designated play surface" means any:

(a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or

(b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.

NOTICES OF CHANGES IN PROPOSED RULES

- (18) "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 CCL rules.
- (19) "Eligible" means the same as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (21) "Experiencing homelessness" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- ~~(22) "Facility" means a program or premises approved by OL to be used for child care.~~
- ~~(22)23~~ (23) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- ~~(23)24~~ (24) "Group size" means the total number of children in a group per room or area.
- ~~(24)25~~ (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.
- ~~(25)26~~ (26) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- ~~(26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- (27) "Inaccessible" means out of reach for children by being:
- behind a properly secured child safety gate;
 - if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - located at least 36 inches above the floor;
 - locked, including in a locked room, cupboard, or drawer; or
 - secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (28) "Infant" means a child who is younger than 12 months old.
- (29) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (30) "Involved with child care" means to do any of the following at or for a child care program:
- care for or supervise children;
 - count in the caregiver-to-child ratio;
 - have unsupervised contact with a child in care;
 - own, operate, direct;
 - reside; or
 - volunteer.
- (31) "License" means a license issued by OL to provide child care services.
- (32) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (33) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (34) "OBP" means the same as defined in Rule R380-600.
- (35) "OL" means the same as defined in Rule R380-600.
- (36) "Older toddler" means a child age 18 through 23 months old.
- (37) "Over-the-counter medication" means medication that an individual can purchase without a written prescription including any herbal remedy, vitamin, and mineral supplement.
- (38) "Parent" means the parent or legal guardian of a child in care.
- (39) "Person" means the same as defined in Rule R380-600.
- (40) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (41) "Preschooler" means a child age two through four years old.
- (42) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.
- (43) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.
- (44) "Qualifying child" means a child:
- who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - who is younger than four years old and is the child of the provider or a caregiver; or
 - with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (45) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (46) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:
- if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:
 - one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;
 - 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) 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 including with a child safety gate, including a diaper changing station that is located behind a closed gate;

(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 including with a child safety gate; or

(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) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or

(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas;

(c) if in outdoor areas separated by interior fences, OL considers it:

(i) one area, if the interior fence is 24 inches in height, or lower, whether or not the fence has an opening;

(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;

(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or

(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(47) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(48) "School-age child" means a child age five through 12 years old.

(49) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.

(50) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(51) "Stationary play equipment" means equipment designed to stay in one location when a child uses it, including a climber, merry-go-round, slide, spring rocker, or swing. Stationary play equipment does not include a:

(a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;

(b) sandbox;

(c) sensory table; or

(d) stationary circular tricycle.

(52) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled, including:

(a) a protruding bolt end that extends more than two threads beyond the face of the nut;

(b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or

(c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.

(53) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by OBP.

(54) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.

(55) "Working day" means any day of the week the department is open for business.

(56) "Younger toddler" means a child age 12 through 17 months old.

R381-60-3. License Required.

(1) A person shall obtain a license for an hourly child care center from OL if the person provides care:

(a) for direct or indirect compensation;

(b) for each child for less than 24 hours a day;

(c) for five or more unrelated children;

(d) for four or more hours a day, and no child is cared for on a regular schedule;

(e) in a place other than the provider's home or the child's home;

(f) in the absence of a child's parent; and

(g) on an ongoing basis for four or more weeks in a year.

(2) OL will not issue a license if care is only for related children or on a sporadic basis.

(3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.

(4) An hourly child care center licensee shall comply with Rule R380-600.

R381-60-4. Fire and Other Health Inspections.

(1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:

NOTICES OF CHANGES IN PROPOSED RULES

- (a) address numbers and letters are readable from the street;
- (b) boiler, mechanical, and electrical panel rooms are not used for storage;
- (c) exit doors are unlocked from the inside during business hours;
- (d) exit doors operate properly and are well maintained;
- (e) exits are clearly identified;
- (f) there are no obstructions in exits, aisles, corridors, and stairways;
- (g) there are working smoke detectors that are properly installed on each level of the building; and
- (h) there is at least one unobstructed fire extinguisher on each level of the building, that is charged and serviced, and mounted not more than five feet above the floor.

(2) 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, OL shall verify the applicant's compliance by ensuring:

- (a) any chemical is stored away from food and food service items;
- (b) any cook has a current food handler's permit that is available on-site for review by OL;
- (c) any cook uses hair restraints and wears clean clothing;
- (d) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
- (e) food is properly stored, kept to the proper temperature, and in good condition;
- (f) only necessary staff are present in the kitchen;
- (g) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
- (h) there is a working handwashing sink in the kitchen, and handwashing instructions posted by the sink;
- (i) there is a working stem thermometer available to check cooking and hot-hold temperatures; and
- (j) there is a working thermometer in the refrigerator.

R381-60-5. Immediate Closure.

(1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.

(2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.

(3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-60-6. Administration and Children's Records.

(1) The provider shall:

- (a) be at least 21 years old;
- (b) be considered eligible by an OBP background check before becoming involved with child care; and
- (c) complete the new provider training offered by OL.

(2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with [-]Subsection R381-60-6(1).

(3) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.

(4) The provider shall know and comply with 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 OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.

(8) The provider shall inform each parent and OL 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:

- (a) the child's name;
- (b) the child's date of birth;
- (c) each parent's name, address, and phone number, including a daytime phone number.
- (d) the name of any individual authorized by the parent to sign the child out from the facility; and

- (e) the 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;
- (g) certification that immunizations for the child are current or an exemption for foster children and children who are ~~homeless~~ experiencing homelessness;
- (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 OL; and
- (13) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-60-7. Personnel and Training Requirements.

- (1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:
 - (a) meet the needs of each child; and
 - (b) comply with this rule.
- (2) The provider shall ensure that the center has a qualified director.
- (3) The provider shall ensure that the director:
 - (a) completes at least 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;
 - (b) completes the new director training offered by OL within 60 working days of assuming director duties;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;
 - (d) is at least 21 years old;
 - (e) is considered eligible by an OBP background check before becoming involved with child care; and
 - (f) knows and follows any applicable law and this rule.
- (4) The provider shall ensure that each new director has at least one of the following educational credentials:
 - (a) a currently valid national certification including:
 - (i) a Certified Childcare Professional issued by the National Child Care Association;
 - (ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition; or
 - (iii) other equivalent credential as approved by OL;
 - (b) a National Administrator Credential and at least 60 hours of course work in child development, social and emotional development, and the child care environment, or 60 hours of equivalent training as approved by OL;
 - (c) any bachelor's or higher education degree, with at least 60 hours of coursework in child development, social and emotional development, and the child care environment, or 60 hours of equivalent training as approved by OL;
 - (d) at least 12 college credit hours of child development courses; or
 - (e) at least an associate degree in early childhood development or related field.
- (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) completes at least 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;
 - (b) completes the director designee training offered by OL;
 - (c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-100-7(20) and (21);
 - (d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (e) is at least 18 years old;
 - (f) is considered eligible by an OBP background check before becoming involved with child care; and
 - (g) knows and follows any applicable law and this rule.
- (7) The provider shall ensure that the director or the director designee is present at the facility during business hours.
- (8) The provider shall have on-site for review by OL 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 each caregiver:
 - (a) completes at least 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;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care;
 - (e) is introduced to other program staff and to the caregiver's assigned group;
 - (f) knows and follows any applicable law and this rule; and

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- (g) reviews the information in each child's health assessment in the caregiver's assigned group, including any allergies, food sensitivities, and other individual needs.
- (10) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) knows and follows any applicable law and this rule;
 - (c) is considered eligible by an OBP background check before becoming involved with child care.
- (11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
 - (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services, including any physical, occupational, or speech therapist:
 - (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides proper identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
 - (a) administration of medication;
 - (b) applicable laws and requirements under this rule;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
 - (a) Sections R381-60-7 through R381-60-24; and
 - (b) Subsections R381-60-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
 - (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training; and
 - (d) training topic.
- (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 a child is in care:
 - (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child;.
- (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 on-site for review by OL:
 - (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, the provider shall use the licensing provider portal search to verify that the individual is eligible and:

- (a) associate that individual with the provider's 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 licensing provider portal search becomes involved with child care in the program, the provider must~~[-]~~ require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for individuals 12-17 years old who are only listed as household members, and;
- (a) authorize the individual's background check through the licensing provider portal;
 - (b) pay any required fees; and
 - (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep a covered individual's background check eligibility current, the provider shall require a covered individual to submit a new background check application, fingerprints, and fees if the covered individual has:
- (a) not been associated with an active, CCL approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application will be required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and;
- (a) authorize the child's background check through the licensing provider portal; and
 - (b) pay any required fee.
- (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 electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.
- (7) OBP may consider a covered individual not eligible for any of the following reasons:
- (a) ~~[any] a pending charge for a felony offense;~~
 - (b) ~~any felony conviction;~~
 - (~~b~~)~~c~~) any of the reasons listed under Subsection ~~[R381-60-](8)(8)~~;
 - (~~e~~)~~d~~) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (~~e~~)~~e~~) the covered individual knowingly mak~~ing~~~~s~~ a false statement related to their background check;
 - ~~[-] (e) the covered individual refusing to consent to the criminal background check; or~~
 - (f) the covered individual's name appear~~ing~~~~s~~ on the Utah or national sex offender registry~~[-]; or~~
 - (g) ~~the covered individual refuses to consent to the criminal background check.~~
- (8) OBP may also consider a covered individual not eligible if the individual has been convicted, has pleaded no contest, or is currently subject to a plea and abeyance or diversion agreement for any of the following ~~[criminal findings] pending charges or convictions~~, regardless of severity:
- (a) child pornography;
 - (b) driving under the influence while a child is present in the vehicle;
 - (c) lewdness involving a child;
 - (d) ~~pornographic material or performance;~~
 - (~~e~~)~~e~~) providing dangerous weapons or firearms to a minor;
 - (~~e~~)~~f~~) sexual battery;
 - (g) sexual enticing of a minor;
 - (~~f~~)~~h~~) sexual exploitation;
 - (~~g~~)~~i~~) voyeurism; or
 - (~~h~~)~~j~~) any crime against an individual.
- (9) OBP 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 OBP conducted the background check.
- (10) If the provider is not eligible by OBP, OL 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 OBP, including if 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 OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.
- (13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

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(14) The ~~executive~~OBP director or designee ~~[of the department]~~may ~~overturn~~consider any additional relevant background information in making the decision to grant, deny, or continue an ~~[OBP]~~eligible determination on a background check~~[decision if]~~, including:

- (a) intervening circumstances regarding an offense or finding;
- (b) steps taken to correct or improve since any offense or finding;
- (c) surrounding circumstances of an offense or finding;
- (d) the ~~executive director or designee~~length of time since an offense or finding; and
- (e) the type and number of offenses or findings.

(15)(a) OBP shall rely on relevant information from Subsections (7) and (8) as conclusive evidence and may deny a covered individual based on that information.

(b) When a covered individual is no longer associated with the program, the provider shall separate that employee from the program's roster in the online system within five days of the covered individual's separation from the program.

(c) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.

(16) If OBP determines ~~[that the nature of the background finding or mitigating circumstances do]~~evidence exists that a covered individual has been arrested or charged with an offense under Subsections (7) and (8), the Division of Licensing and Background Checks may act to protect the health and safety of a child.

(17) The provider may only allow a covered individual with a pending arrest or criminal charge to access a child when:

(a) OBP has authorized conditional access; and

(b) the provider can demonstrate to OBP that the work arrangement does not pose a ~~[risk to a]~~threat to the health or safety of any child.

(18) A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.

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 or employee's own child.

(2) The provider 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) When measuring indoor space for children's use, the provider may not include any:

- (a) bathroom;
- (b) closet and staff locker;
- (c) hallway;
- (d) kitchen;
- (e) lobby and entryway; and
- (f) staff office.

(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.

(5)(a) 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 for lead.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation, or by windows that open and have screens.

(7) The provider shall ensure that each room and area has adequate light intensity for the safety of the children and the type of activity the provider is conducting.

(8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(9) The provider shall ensure that there is a working telephone:

- (a) at the facility;
- (b) during any offsite activity; and
- (c) in each vehicle while transporting a child.

(10) The provider shall ensure that there is at least one working handwashing sink used exclusively for handwashing that is accessible to any child.

(11) 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.

(12) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.

(13) If there is an outdoor area used by a child in care, the provider shall ensure that the area:

- (a) has a fence, wall or solid natural barrier that is at least four feet high encloses the outdoor area;
- (b) has at least 40 square feet of space for each child using the area at one time;
- (c) has no gaps five by five inches or greater in or under any fence or barrier; and
- (d) is safely accessible to any child.
- (14) The provider shall ensure that when outdoors:
 - (a) each child is in an enclosed area, except during offsite activities; and
 - (b) there is shade available to protect each child from excessive sun and heat.
- (15) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
 - (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) 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.
- (16) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
 - (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards; and
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (17) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (18) 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, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (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 required caregivers;
 - (b) not exceed the maximum group sizes; and
 - (c) not exceed the number of children in the caregiver-to-child ratio.

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) the group has more than six children total;
 - (b) there are more than six children in the facility; and
 - (c) there are more than two infants or toddlers included in the mixed-age group.
- (3) When caring for children younger than two years old, the provider shall ensure that:
 - (a) children are cared for in an area that is physically separated from older children;
 - (b) there are no more than four children with one caregiver.
- (4) If there is only one caregiver in the facility and no children younger than two years old are present, the provider can be temporarily out of ratio if:
 - (a) a second caregiver arrives within 20 minutes from when the 13th child arrived; and
 - (b) the total number of children present does not exceed 16.
- (5) The provider shall include the provider's and employees' children age four years old or older in care:
 - (a) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility; and

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(b) in the group size when the parent of the child is working at the facility.

(6) The provider may include each caregiver, student intern who is registered in a high school or college child care course, and volunteer who is 16 or 17 years old in the caregiver-to-child ratio.

(7) The provider shall ensure that a guest does not count in a caregiver-to-child ratio.

R381-60-11. Child Supervision and Security.

(1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:

(a) for children younger than five years old, remaining physically present in the room or area with the children; and

(b) for school-age children, a caregiver can hear the children and is close enough to intervene:

~~(i) being able to hear the children;~~

~~(ii) being close enough to intervene if needed;~~

~~(iii) [c] focusing attention on the children and not on the caregiver's[?] personal interests;~~

~~(iv) [c] interacting in-person with the children at least every 15 minutes;~~

~~(v) [d] knowing the number of children in their care at any time;~~

~~(vi) [e] positioning themselves so each child in their assigned group is actively supervised; and~~

~~(vii) [f] remaining aware of the entire group of children even when interacting with a smaller group or an individual child.~~

(2) The provider shall ensure a 16- or 17-year-old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:

(a) the director or the director designee is physically present and available as needed;

(b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and

(c) the staff or household member is not a volunteer.

(3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.

(4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity and transportation.

(5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.

(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) the staff member moves children who wake up to the non-napping room;

(c) there is a camera or mirror positioned so that the staff member can see and hear the child;

(d) there is a staff member in the non-napping room; and

(e) there is an open door without a barrier, including a gate, between the napping room and 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 a parent has 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) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;

(b) each child is signed in and out in accordance with this section;

(c) only a child's parent or an individual with written authorization from the parent may sign-out a child;

(d) photo identification is required if the individual signing the child out is unknown to the provider;

(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 person giving verbal authorization; and

(b) the person 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 OL.

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 each child, each parent, and anyone who interacts with any child in care of the center's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.

(4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.

- (5) The provider shall ensure that each interaction with a child does not include:
 - (a) any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
 - (e) forcing or withholding food, rest, or toileting;
 - (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
 - (g) shouting at children.
- (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 Section 80-2-602.

R381-60-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.
- (4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.
- (5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.
- (7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child 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 any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:
 - (a) disposed of properly;
 - (b) inaccessible to any child;
 - (c) stored in a container labeled with the contents of the container; and
 - (d) used according to manufacturer instructions.
- (10) The provider shall ensure that the following items are inaccessible to children:
 - (a) cigarette lighters;
 - (b) hot wax or other hot substances;
 - (c) matches;
 - (d) open flames; and
 - (e) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to a child:
 - (a) any live electrical wire; and
 - (b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.
- (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:
 - (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 any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.
- (14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any center vehicle any time a child is in care.
- (15) The provider shall ensure that an outdoor source of drinking water, 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 Fahrenheit or higher.
- (16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (17) The provider shall ensure that hot water accessible to a child 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.

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(20) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:

- (a) in a 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;
- (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
- (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-60-14. Emergency Preparedness, Response, and Recovery.

(1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

(a) includes a procedure for:

- (i) accommodating a child with a disability;
- (ii) accommodating a child with a chronic medical condition;
- (iii) accommodating any infant and toddler;
- (iv) communication with and reunification of families;
- (v) continuity of operations;
- (vi) evacuation;
- (vii) lockdown;
- (viii) relocation; and
- (ix) shelter in place.

(b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;

(c) is available for review by any parent, staff member, and OL during business hours; and

(d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.

(2) The provider shall post the center's street address and any 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 a fire evacuation drill monthly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.

(5) The provider shall document each fire drill, including:

- (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the total time to complete the evacuation.
- (6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.

(7) The provider shall document each disaster drill, including:

- (a) any problems encountered and remediation;
- (b) the date and time of the drill;
- (c) the name of the individual supervising the drill;
- (d) the number of children participating; and
- (e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;

(8) The provider shall vary the days and times 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 OL.

(10) The provider shall:

- (a) give each parent 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 a school-age child signs 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 [-]submit a completed critical incident [-]report [-]to the OL within the next business day of the incident.

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

(15) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

R381-60-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area clean and sanitary, including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds 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 toy and material used by a child:
 - (a) after being contaminated by a body fluid;
 - (b) after being put in a child's mouth and before another child plays with the toy; and
 - (c) at least once a week or more often if needed.
- (4) The provider shall ensure that any fabric toy and item, including any stuffed animal, cloth doll, pillow cover, and dress-up clothing, is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each highchair tray before each use.
- (6) The provider shall clean and sanitize each water play table or tub daily if used by a child.
- (7) The provider shall clean and sanitize each bathroom surface, including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (8) The provider shall clean and sanitize each potty chair after each use.
- (9) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.
- (10) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (11) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food or bottles;
 - (f) upon arrival; and
 - (g) when coming in from outdoors.
- (12) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (13) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
 - (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before and after eating meals and snacks;
 - (d) before using a water play table or tub;
 - (e) upon arrival; 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 ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:
 - (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 prompt change of a child's clothing if the child has a toileting accident.
- (18) The provider shall ensure that a child'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 ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
 - (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;

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- (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
- (f) wear waterproof gloves; 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 any other child 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.
 - (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 and dated on the same day that the disease or parasite is discovered;
 - (c) is posted in a conspicuous place where it can be seen by parents; 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) a caregiver who cares for any diapered child only prepares food for the children in their care, and they do not:
 - (i) prepare food outside of the room used by any diapered child; or
 - (ii) prepare food for any other child and adult in the facility;
 - (b) an individual who prepares food in the kitchen does not change diapers or help in toileting any child; and
 - (c) an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R381-60-16. Food and Nutrition.

- (1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours.
- (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that the individual who serves food to children:
 - (a) ensures that a child is not served the food or drink they are allergic or sensitive to; and
 - (b) is aware of each child in their assigned group who has any food allergy or sensitivity.
- (3) The provider may not place a child's food on a bare table and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
- (4) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:
 - (a) consumed only by that child;
 - (b) labeled with the child's name; and
 - (c) refrigerated if needed.

R381-60-17. Medications.

- (1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.
- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
- (4) The provider shall obtain 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) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.

- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication 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) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) 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;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
- (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; 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 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 OL.

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 that children spend in the program.
- (4) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (5) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
- (a) not allowed for a child zero to 17 months old;
 - (b) limited for a child 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 a child five to 12 years old.
- (6) If the provider offers swimming activities or if a wading pool is used, the provider shall ensure that:
- (a) a caregiver stays 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;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each wading pool is emptied and sanitized after use by each group of children;
 - (d) 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;
 - (e) lifeguards and pool personnel do not count toward the caregiver-to-child ratio; and
 - (f) the parent gives permission before their child in care uses the pool.
- (7) If the provider offers offsite activities, the provider shall ensure that:
- (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (8) 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 a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

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R381-60-19. Play Equipment.

- (1) The provider shall ensure that each child using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that the highest designated play surface on any stationary play equipment used by infants or toddlers does not exceed three feet in height.
- (3) The provider shall ensure that any swings used by an infants or toddler has an enclosed seat.
- (4) The provider shall ensure that any stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of a swing, stationary play equipment that is:
 - (a) used by an infant or toddler has at least a three-foot use zone if any designated play surface is higher than 18 inches;
 - (b) used by a preschooler has at least a six-foot use zone if any designated play surface is higher than 20 inches; and
 - (c) used by a school-age child 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, 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 each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:
 - (a) in front of a slide;
 - (b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) that of a multi-axis swing; and
 - (d) [-]that 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 an infant or toddler, and there is at least three feet between each piece of equipment; or
 - (b) the equipment is used by a preschooler or school-age child and there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between each piece 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 including concrete, asphalt, dirt, and 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 as protective cushioning, the provider shall ensure that:
 - (a) the depth of the material meets the guidelines in Table 2.
 - (b) the cushioning is periodically checked for compaction and if compacted, loosened to the depth listed in Table 2; and
 - (c) if the material cannot be loosened to the depth listed in Table 2 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth.

TABLE 2
Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires 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 as protective cushioning, the provider shall:
 - (a) ensure the depth of the shredded wood meets the guidelines in Table 3;
 - (b) ensure there is adequate drainage under the material; and

- (c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

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, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.

(17) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:

- (a) displaced when a child jumps, runs, walks, lands, or moves on it; or
- (b) moved or picked up by a child.

(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 an infant or toddler has a protective barrier that is at least 24 inches high;
- (b) 30 inches above the floor or ground and used by a preschooler has a protective barrier that is at least 29 inches high; and
- (c) 48 inches above the floor or ground and used by a school-age child 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 is no trampoline on the premises that is accessible to any child in care.

(22) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.

(24) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

(25) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R381-60-20. Transportation.

(1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:

- (a) signed by a parent; and
- (b) on-site for review by OL.

(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 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 emergency contact information for each child being transported;
- (d) ensures that each child being transported is in an individual safety restraint as required by law;
- (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
- (f) ensures that each child stay seated while the vehicle is moving;
- (g) ensures that the vehicle is locked during transport;
- (h) never leaves a child in the vehicle unattended by an adult; and
- (i) never leaves the keys in the ignition when not in the driver's seat.

(5) If the provider walks or uses public transportation to transport a child to or from a 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 and actively supervises each child;

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- (c) a caregiver transporting a child has emergency contact information and a release for each child being transported; and
- (d) the caregiver-to-child ratio is maintained.
- (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 each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (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 no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R381-60-22. Rest and Sleep.

- (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 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;
 - (c) 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;
 - (d) has slats spaced no more than 2-3/8 inches apart; and
 - (e) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child.
- (3) When in use, the provider shall place sleeping equipment, including a crib, cot, and mat, at least two feet apart.
- (4) The provider shall ensure that sleeping equipment does not block any exit.
- (5) The provider must clean and sanitize sleeping equipment before each use.

R381-60-23. Diapering.

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.
- (3) The provider shall ensure that each child's diaper is:
 - (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.
- (4) The provider shall ensure that a caregiver changes each child's diaper at a diapering station and not on a surface used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.
- (7) The provider shall ensure that a caregiver does not leave any child unattended on the diapering surface.
- (8) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (9) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (10) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (11) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.

- (12) If cloth diapers are used, the provider shall:
 - (a) not rinse cloth diapers at the facility; and
 - (b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
 - (ii) place the cloth diapers in a leakproof diapering service container.

R381-60-24. Infant and Toddler Care.

- (1) This section only applies to a provider that accepts an infant or toddler.
- (2) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 minutes.
- (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.
- (4) The provider shall ensure that a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:
 - (a) a wet or soiled diaper;
 - (b) fatigue;
 - (c) fear;
 - (d) hunger;
 - (e) illness; or
 - (f) teething.
- (5) To stimulate healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (6) The provider shall ensure that each mobile infant and toddler has freedom of movement in a safe area.
- (7) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (8) 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.
- (9) The provider shall make any object made of styrofoam inaccessible to any infant and toddler.
- (10) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (11) 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, 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.
- (12) 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 a bottle is not propped.
- (13) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.
- (14) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (15) The provider shall ensure that a caregiver cuts solid food for:
 - (a) an infant into pieces no larger than 1/4 inch in diameter; and
 - (b) a toddler into pieces no larger than 1/2 inch in diameter.
- (16) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (17) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (18) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

R381-60-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care, child care facilities, hourly child care centers

Date of Last Change: 2024|5

Notice of Continuation: April 14, 2020

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R381-70	Filing ID: 56885
Date of Previous Publication (Only for CPRs):	11/15/2024	

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R381-70. Out-of-School-Time Child Care Programs
3. Purpose of the new rule or reason for the change:
Based on internal discussion and discussion with stakeholders, this change in proposed rule (CPR) updates language regarding background checks to transparently outline background check processes and align with the background checks conducted for health care facility and human services program staff. The child care licensing committee has approved this change in proposed rule filing.
4. Summary of the new rule or change:
This CPR updates Section R381-70-8 regarding background checks to align with other Division of Licensing and Background Check (DLBC) rules. It also addresses the Office of Background Processing's (OBP's) statutory authority to review information, explains when OBP can issue a finding, limits re-application time to two years following an application denial, and clarifies when OBP may consider pending convictions. These processes are authorized by statute and are being provided in rule for provider reference and clarity in administrative proceedings. (EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 166. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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 as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.			
B) Local governments:			
There is no anticipated cost or savings to local government, as local governments do not have any involvement in the background check requirements of OBP.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no anticipated cost or savings to any person other than small businesses, non-small businesses, state, or local government entities as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.			
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 compliance cost for affected persons as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.			
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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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

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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 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:	05/01/2025

9. This rule change MAY become effective on:	05/08/2025
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:	03/13/2025
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R381. Health and Human Services, Child Care Center Licensing.

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

R381-70-1. Authority and Purpose.

- (1) Section 26B-2-402 authorizes this rule.
- (2) This rule establishes the foundational standards necessary to protect the health and safety of children in out-of-school-time programs and defines the general procedures and requirements to get and maintain a license.

R381-70-2. Definitions.

- (1) Definitions in this rule are found in Rule R380-600. Additionally:
- (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure 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 day" means a day of the week the facility is open for business.
- (6) "Business hours" means the hours the facility is open for business.
- (7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (9) "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.
- (10) "Covered Individual" means the same as defined in Rule R380-600.
- (11) "Department" means the Utah Department of Health and Human Services.
- (12) "Designated play surface" means any:
 - (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
 - (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.

- (13) "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 CCL rules.
- (14) "Eligible" means the same as defined in Rule R380-600.
- (15) "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 entrapment and strangulation.
- ~~(16) "Experiencing homelessness" means anyone who lacks a fixed, regular, and adequate regular nighttime residence.~~
- (16) "Facility" means a program or the premises approved and licensed by OL to be used for child care.
- (17) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- (18) "Group size" means the total number of children in a group per room or area.
- (19) "Guest" means an individual who is not a covered individual and is at the child care facility with the provider's permission.
- (20) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- ~~(21) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- (22) "Inaccessible" means out of reach of children by being:
- (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, locked or secured with a safety device;
 - (c) located in a cupboard or on a shelf that is at least 48 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a safety device, including a child safety cupboard lock or doorknob device.
- (23) "Infectious disease" means an illness that is capable of being spread from one person to another.
- (24) "Involved with child care" means to do any of the following at or for an out-of-school-time program:
- (a) count in the staff-to-child ratio;
 - (b) have unsupervised contact with a child in care;
 - (c) own, operate, direct;
 - (d) reside;
 - (e) supervise or be assigned to work with children; or
 - (f) volunteer.
- (25) "License" means a license issued by OL to provide out-of-school-time program services.
- (26) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (27) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (28) "OBP" means the same as defined in Rule R380-600.
- (29) "OL" means the same as defined in Rule R380-600.
- (30) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (31) "Parent" means the parent or legal guardian of a child in the program.
- (32) "Person" means the same as defined in Rule R380-600.
- (33) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (34) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.
- (35) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.
- (36) "Qualifying child" means a child:
- (a) who is between five and 13 years old and is the child of a person other than the provider or a staff member; and
 - (b) with a disability who is between five and 18 years old and is the child of a person other than the provider or a staff member.
- (37) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (38) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:
- (a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:
 - (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;
 - (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;
 - (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 including with a child safety gate, including a diaper changing station that is located behind a closed gate;

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(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 including with a child safety gate; or

(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) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or

(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; and

(c) if in outdoor areas separated by interior fences, OL considers it:

(i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;

(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;

(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or

(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(39) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(40) "School-age child" means a child age five through 12 years old.

(41) "Services" means the supervision and response to the needs of five or more qualifying children:

(a) in the absence of the children's parents;

(b) in a place other than the provider's home or the child's home;

(c) for less than 24 hours a day; and

(d) for direct or indirect compensation.

(42) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.

(43) "Staff-to-child ratio" means the number of staff responsible for a specific number of children.

(44) "Stationary play equipment" means equipment, 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) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;

(b) sandbox;

(c) sensory table; or

(d) stationary circular tricycle.

(45) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or in which a child could become entangled, including:

(a) a protruding bolt end that extends more than two threads beyond the face of the nut;

(b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or

(c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.

(46) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a staff member who is at least 18 years old and is considered eligible by OBP.

(47) "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.

(48) "Working day" means any day of the week the department is open for business.

R381-70-3. License Required.

(1) A person shall obtain a license for an out-of-school-time program from OL if the person provides services:

(a) for direct or indirect compensation;

(b) for each individual child for less than 24 hours a day;

(c) for five or more qualifying children;

(d) in a place other than the provider's home or the child's home;

(e) in the absence of a child's parent;

(f) on an ongoing basis, on three or more days a week and for 30 or more days in a calendar year; and

(g) to children who are at least five years of age.

(2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.

(4) An out of school time child care program licensee shall comply with Rule R380-600.

R381-70-4. Fire and Other Health Inspections.

(1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance with the following:

- (a) address numbers and letters are readable from the street;
- (b) boiler, mechanical, and electrical panel rooms are not used for storage;
- (c) exit doors are unlocked from the inside during business hours;
- (d) exit doors operate properly and are well maintained;
- (e) exits are clearly identified;
- (f) there are no obstructions in exits, aisles, corridors, and stairways;
- (g) there are working smoke detectors that are properly installed on each level of the building; and
- (h) there is at least one unobstructed fire extinguisher on each level of the building that is charged and serviced and mounted not more than five feet above the floor.

(2) 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, OL shall verify the applicant's compliance by ensuring:

- (a) any chemical is stored away from food and food service items;
- (b) any cook has a current food handler's permit that is available on-site for review;
- (c) any cook uses hair restraints and wears clean clothing;
- (d) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
- (e) food is properly stored, kept to the proper temperature, and in good condition;
- (f) only necessary staff are present in the kitchen;
- (g) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
- (h) there is a working handwashing sink in the kitchen, and handwashing instructions posted by the sink;
- (i) there is a working stem thermometer available to check cooking and hot-hold temperatures; and
- (j) there is a working thermometer in the refrigerator.

R381-70-5. Immediate Closure.

(1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.

(2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.

(3) If there is a severe injury or death of a child while in the program, OL may order a provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-70-6. Administration and Children's Records.

(1) The provider shall:

- (a) be at least 21 years old;
- (b) be considered eligible by an OBP background check before becoming involved with child care; and
- (c) complete the new provider training offered by OL.

(2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with [-]Subsection R381-70-6(1).

(3) The provider shall protect children from conduct that endangers any child in the program or is contrary to the health, welfare, and safety of the public.

(4) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.

(5) The provider shall comply with licensing rules any time a child is present.

(6) The provider shall post their unaltered license on the facility premises in a place readily visible and accessible to the public.

(7) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.

(8) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.

(9) The provider shall:

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

(10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the program.

(11) The provider shall ensure that each child's admission and health assessment form includes:

- (a) the child's name;
- (b) the child's date of birth;

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- (c) each parent's name, address, and phone number, including a daytime phone number;
 - (d) the names of individuals authorized by the parent to sign the child out from the facility;
 - (e) the 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) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;
 - (k) any instructions for special or nonroutine daily health care of the child;
 - (l) any current ongoing medication 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 OL.
- (13)(a) If a child's immunization documentation is not maintained by a school or another organization, the provider shall ensure there is documentation of current immunizations for each child in care available for review by OL staff.
- (b) the provider may have a 90-day exemption from the immunization documentation requirement if the children being served are experiencing homelessness or are in foster care.
- (14) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-70-7. Personnel and Training Requirements.

- (1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:
 - (a) meet the needs of the children as required by rule; and
 - (b) comply with this rule.
- (2) The provider shall ensure that the center has a qualified director.
- (3) The provider shall ensure that the director:
 - (a) completes at least ten hours of child-related training each year based on the facility's license date, or at least 45 minutes of child-related training each month they work, if hired partway through the facility's licensing year.
 - (b) completes the new director training offered by OL within 60 working days of assuming director duties;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;
 - (d) is at least 21 years old;
 - (e) is considered eligible by an OBP background check before becoming involved with child care; and
 - (f) knows and follows any applicable laws and requirements under Rules R381-70 and R380-600.
- (4) The provider shall ensure that each new director has at least one of the following educational credentials:
 - (a) a currently valid national certification, including:
 - (i) a Certified Childcare Professional issued by the National Child Care Association;
 - (ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition; or
 - (iii) other equivalent credential as approved by OL;
 - (b) a National Administrator Credential with at least 60 hours of equivalent training as approved by OL;
 - (c) any bachelor's or higher education degree with at least 60 hours of coursework in child development, social and emotional development and the child care environment, or 60 hours of equivalent training as approved by OL;
 - (d) at least 12 college credit hours of child development courses; or
 - (e) at least an associate degree in early childhood development or related field.
- (5) The provider shall ensure that the director is on duty at the facility at least half of time the facility is open and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.
- (6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.
- (7) The provider shall ensure that the director designee:
 - (a) completes at least ten hours of child-related training each year based on the facility's license date, or at least 45 minutes of child-related training each month they work if hired partway through the facility's licensing year;
 - (b) completes the director designee training offered by OL;
 - (c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-70-7(20) and (21);
 - (d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (e) is at least 18 years old;
 - (f) is considered eligible by a CCL background check before becoming involved with child care; and
 - (g) knows and follows any applicable law and this rule.

- (8) The provider shall ensure that the director or the director designee is present at the facility during business hours.
- (9) The provider shall ensure that each staff member working with a child:
 - (a) completes at least 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;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care;
 - (e) is introduced to other program staff and to the staff member's assigned group;
 - (f) knows and follows any applicable law and this rule; and
 - (g) reviews the information in each child's health assessment in the staff member's assigned group, including allergies, food sensitivities, and other individual needs.
- (10) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) knows and follows any applicable law and this rule; and
 - (c) is considered eligible by an OBP background check before becoming involved with child care.
- (11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
 - (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
 - (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
 - (a) administration of medication;
 - (b) applicable laws and requirements under Rule R381-70;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
 - (a) Sections R381-70-7 through R381-70-22; and
 - (b) Subsections R381-70-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by the OL and includes the:
 - (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training; and
 - (d) training topic.
- (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 a child is in care:
 - (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.

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- (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 on-site for review by OL:
 - (a) the date of initial employment or association with the program;
 - (b) a current pediatric first aid and CPR certification, if required in this rule; and
 - (c) a six-week record of the times worked each day.

R381-70-8. Background Checks.

(1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:

- (a) associate that individual with the provider's 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 licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for individuals 12-17 years old who are only listed as household members, and:

- (a) authorize the individual's background check through the licensing provider portal;
- (b) pay any required fees; and
- (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.

(3) To keep a covered individual's background check eligibility current, the provider shall require a covered individual to submit a new background check application, fingerprints, and fees if the covered individual has:

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

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:

- (a) authorize the child's background check through the licensing provider portal; and
- (b) pay any required fee.

(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 electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the OBP's fingerprinting requirements.

(7) OBP may consider a covered individual not eligible for any of the following reasons:

(a) a pending charge for a felony offense;

~~(a)~~ (b) any felony conviction;

~~(b)~~ (c) any of the reasons listed under Subsection ~~[R381-70-8]~~(8);

(d) LIS supported findings that occurred no more than 15 years from the date the application was submitted;

~~(d)~~ (e) the covered individual knowingly making a false statement related to their background check;

~~(e)~~ (f) the covered individual refusing to consent to the criminal background check; or

~~(f)~~ (g) the covered individual's name appearing on the Utah or national sex offender registry.

(8) OBP may also consider a covered individual not eligible if the individual has been convicted, has pled no-contest, or is currently subject to a plea and abeyance or diversion agreement for any of the following ~~[criminal findings]~~ pending charges or convictions, regardless of severity:

(a) child pornography;

(b) driving under the influence while a child is present in the vehicle;

(c) lewdness involving a child;

~~(c)~~ (d) pornographic material or performance;

~~(d)~~ (e) providing dangerous weapons or firearms to a minor;

(f) sexual battery;

~~(f)~~ (g) sexual enticing of a minor;

~~(g)~~ (h) sexual exploitation;

~~(h)~~ (i) voyeurism; or

~~(i)~~ (j) any crime against an individual.

(9) OBP 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 OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL 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 OBP, including if 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 OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.[]

~~(14) The executive director, or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.[]~~

(14) The OBP director or designee may consider any additional relevant background information in making the decision to grant, deny, or continue an eligible determination on a background check, including:

(a) intervening circumstances regarding an offense or finding;

(b) steps taken to correct or improve since any offense or finding;

(c) surrounding circumstances of an offense or finding;

(d) the length of time since an offense or finding; and

(e) the type and number of offenses or findings.

(15)(a) OBP shall rely on relevant information from Subsections (7) and (8) as conclusive evidence and may deny a covered individual based on that information.

(b) When a covered individual is no longer associated with the program, the provider shall separate that employee from the program's roster in the online system within five days of the covered individual's separation from the program.

(c) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.

(16) If OBP determines evidence exists that a covered individual has been arrested or charged with an offense that may be denied under Subsections (7) and (8), the Division of Licensing and Background Checks may act to protect the health and safety of a child.

(17) The provider may only allow a covered individual with a pending arrest or criminal charge to access a child when:

(a) OBP has authorized conditional access; and

(b) the provider can demonstrate to OBP that the work arrangement does not pose a threat to the health or safety of any child.

(18) A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.

R381-70-9. Facility.

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in the program, including the provider's or employee's own child.

(2) The provider 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 use of children; or

(c) to store materials for children.

(3) When measuring indoor space for children's use, the provider may not include any:

(a) bathroom;

(b) closet and staff locker;

(c) hallway;

(d) kitchen;

(e) lobby and entryway; and

(f) staff office.

(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.

(5)(a) 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 for lead.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.

(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.

(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.

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- (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
- (10) The provider shall ensure that there is a working telephone:
 - (a) at the facility;
 - (b) during any offsite activity; and
 - (c) in each vehicle while transporting a child.
- (11) The provider shall ensure that there are at least two working toilets and two working handwashing sinks accessible to children in the center.
- (12) The provider shall ensure that there is at least one additional working toilet and one additional handwashing sink for each additional group of one to 25 children.
- (13) The provider shall ensure that there is a bathroom that provides privacy available for use by any child.
- (14) The provider shall ensure that any child outdoors is in an enclosed area, except during offsite activities.
- (15) The provider shall ensure that the outdoor area:
 - (a) has a fence, wall or solid natural barrier that is at least four feet high encloses the outdoor area;
 - (b) has at least 40 square feet of space for each child using the area at one time;
 - (c) has no gaps five by five inches or greater in or under any fence or barrier;
 - (d) has shade available to protect any child from excessive sun and heat when in the outdoor area;
 - (e) is safely accessible to any child; and
 - (f) 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.
- (16) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
 - (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.
- (17) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
 - (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (18) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (19) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (a) there is a separate entrance for the program;
 - (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
 - (c) there is no shared access to the outdoor area used for the program.

R381-70-10. Ratios and Group Size.

- (1) The provider shall maintain the staff-to-child ratio of at least one staff member for every 20 children.
- (2) The provider may not exceed the maximum group size of 40 children per group.
- (3) The provider shall ensure that there are at least two staff members present when there are more than eight children on the premises.
- (4) The provider shall include any child of the provider or an employee:
 - (a) in the group size when the parent of the child is working at the facility; and
 - (b) in the group size and the staff-to-child ratio when the parent of the child is not working at the facility.
- (5) The provider may include the following in the staff-to-child ratio any:
 - (a) caregiver;
 - (b) student intern who is registered in a high school or college child care course; and
 - (c) volunteer who is 16 or 17 years old.
- (6) The provider shall ensure that any guest does not count in caregiver-to-child ratios.

R381-70-11. Child Supervision and Security.

- (1) The provider shall ensure that each staff member provides and maintains active supervision of each child, including:
 - (a) being able hear the children;
 - (b) being aware of the entire group even when interacting with a smaller group or an individual child;

- (c) being close enough to intervene;
 - (d) focusing attention on the children and not on the staff's personal interests;
 - (e) knowing the number of children in their assigned group at any time; and
 - (f) positioning themselves so each child in their assigned group is actively supervised.
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:
- (a) the director or the director designee is physically present and available as needed;
 - (b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and
 - (c) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, and household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity and transportation.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.
- (6) The provider shall ensure that a parent has access to their child and the areas used to care for their child when their child is in care.
- (7) To maintain security and supervision of children, the provider shall ensure that:
- (a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.
- (8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
- (a) the person giving verbal authorization; and
 - (b) the person picking up the child.
- (9) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the OL.

R381-70-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in the program.
- (2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the center's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.
- (4) The provider shall ensure that each staff uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.
- (5) The provider shall ensure that each interaction with the child does not include:
 - (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
 - (e) forcing or withholding food, rest, or toileting;
 - (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
 - (g) shouting at children.
- (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 Section 80-2-602.

R381-70-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any razor and any other similar blade is inaccessible to children.
- (4) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (5) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.

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- (6) The provider shall ensure that exits are free of any blocking objects.
- (7) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- (8) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:
 - (a) disposed of properly;
 - (b) inaccessible to any child;
 - (c) stored in a container labeled with the contents of the container; and
 - (d) used according to manufacturer instructions.
- (9) The provider shall ensure that the following items are inaccessible to children:
 - (a) cigarette lighters;
 - (b) hot wax or other hot substances;
 - (c) matches;
 - (d) open flames; and
 - (e) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (10) The provider shall ensure that any live electrical wire is inaccessible to children.
- (11) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:
 - (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
 - (b) stored unloaded and separate from ammunition.
- (12) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.
- (13) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any center vehicle any time a child is present.
- (14) The provider shall ensure that an outdoor source of drinking water, 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 Fahrenheit or higher.
- (15) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (16) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.
- (17) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
 - (a) in a 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) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (d) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-70-14. Emergency Preparedness, Response, and Recovery.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
 - (a) includes a procedure for:
 - (i) accommodating a child with a chronic medical condition;
 - (ii) accommodating a child with a disability;
 - (iii) communication with and reunification of families;
 - (iv) continuity of operations;
 - (v) evacuation;
 - (vi) lockdown;
 - (vii) relocation; and
 - (viii) shelter in place.
 - (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
 - (c) is available for review by any parent, staff member, and OL during business hours; and
 - (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the center's street address and any 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 a fire evacuation drill monthly and make sure each drill includes a complete exit of each child, staff, and volunteer, from the building.
- (5) The provider shall document each fire drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;

- (c) the name of the individual supervising the drill;
- (d) the number of children participating; and
- (e) the total time to complete the evacuation.
- (6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.
- (7) The provider shall document each disaster drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;
- (8) The provider shall vary the days and times 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 OL.
- (10) The provider shall:
 - (a) give each parent 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 staff members involved, the center director or director designee, and the individual picking up the child; and
 - (c) if a school-age child signs 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 submit a critical incident report to OL within one business day and 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 submit a critical incident report to OL within one business day and:
 - (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 submit a critical incident report to OL within one business day.
- (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.
- (15) The provider shall ensure compliance with critical incident reporting in accordance with Subsection R380-600-7(16).

R381-70-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds 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 toy and material used by a child:
 - (a) at least once a week or more often if needed; and
 - (b) after being contaminated by a body fluid.
- (4) The provider shall ensure that any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (6) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (7) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.
- (8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (9) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage.
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food;
 - (f) upon arrival;
 - (g) when coming in from outdoors; and

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- (10) The provider shall ensure that each staff member teaches each child how to wash their hands thoroughly and oversee handwashing when possible.
- (11) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
- after contact with a body fluid;
 - after using the toilet;
 - before and after eating meals and snacks;
 - before using a water play table or tub;
 - upon arrival; and
 - when coming in from outdoors.
- (12) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer are used to dry hands.
- (13) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (15) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
- not rinsed or washed at the center;
 - placed in a leakproof container that is labeled with the child's name; and
 - returned to the parent or thrown away with parental consent.
- (16) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
- clean the surface using a detergent solution;
 - rinse the surface with clean water;
 - sanitize the surface;
 - throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - wear waterproof gloves; and
 - wash their hands after cleaning up the body fluid.
- (17) 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.
- (18) If a child becomes ill while in care:
- 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
 - 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 any other child until the parent arrives.
- (19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
- (20) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:
- does not disclose any personal identifiable information;
 - is posted and dated on the same day that the disease or parasite is discovered;
 - is posted in a conspicuous place where it can be seen by parents; and
 - remains posted for at least five business days.
- (21) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:
- an individual who cares for any diapered child only prepares food for the children in their care, and they do not:
 - prepare food outside of the room used by any diapered child; or
 - prepare food for any other child and adult in the facility;
 - an individual who prepares food in the kitchen does not help in toileting any child; and
 - an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R381-70-16. Food and Nutrition.

- The provider shall ensure that each child is offered a meal or snack at least once every three hours when services are provided for three or more hours.
- If the provider supplies food for a child's meals or snacks, the provider shall ensure that:
 - the meal service meets local health department food service rules;
 - 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;
 - the provider uses the CACFP meal pattern requirements, the standard OL-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;
 - the current week's menu is posted for review by parents and OL; 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 a child:
 - (a) is aware of each child in their assigned group who has any food allergy or sensitivity; and
 - (b) ensures that a child is not served the food that the child is allergic or sensitive to.
- (4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
- (5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:
 - (a) consumed only by that child;
 - (b) labeled with the child's name; and
 - (c) refrigerated if needed.

R381-70-17. Medications.

- (1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.
- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
 - (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
 - (4) The provider shall obtain 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) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication..
 - (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
 - (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication 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) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) 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;
 - (c) washes their hands; and
 - (d) administers the medication.
 - (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; 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 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 OL.

R381-70-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.
- (4) The provider shall post a daily schedule that includes:
 - (a) activities that support a child's healthy development; and

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- (b) the times activities occur including at least meal, snack, and outdoor play times.
- (5) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (6) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is planned to address the needs of each child.
- (7) If the provider offers swimming activities or if a wading pool is used, the provider shall ensure that:
 - (a) a staff member stays 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;
 - (b) each lifeguard and pool personnel does not count toward the staff-to-child ratio;
 - (c) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
 - (d) the parent gives permission before their child uses the pool;
- (8) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and staff member to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (9) The provider shall ensure that a staff member with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify if an emergency happens and the parent cannot be contacted;
 - (d) the names of people authorized by the parents to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R381-70-19. Play Equipment.

- (1) The provider shall ensure that each child using play equipment uses it safely and as intended by the manufacturer.
- (2) The provider shall ensure that:
 - (a) stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment; and
 - (b) with the exception of a swing, stationary play equipment has at least a six-foot use zone if any designated play surface is higher than 30 inches.
- (3) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- (4) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.
- (5) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.
- (6) The provider shall ensure that the use zone for a spring rocker extends:
 - (a) at least three feet from the outermost edge of the rocker when at rest; or
 - (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.
- (7) The provider shall ensure that each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:
 - (a) in front of a slide;
 - (b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) that of a multi-axis swing; and
 - (d) that of a merry-go-round, if the platform diameter measures 20 inches or more.
- (8) Unless prohibited in Subsection R381-70-19(7), the provider shall ensure that the use zones of play equipment only overlap when:
 - (a) there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower; or
 - (b) there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.
- (9) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface, including concrete, asphalt, dirt, and the bare floor.
- (10) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.
- (11) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that:
 - (a) the cushioning is periodically checked for compaction and if compacted, loosened to the depth listed in Table 1;

- (b) if the material cannot be loosened to the depth listed in Table 1 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth; and
- (c) the depth of the material meets the guidelines in Table 1.

TABLE 1 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"

- (12) If the provider uses shredded wood products as protective cushioning, the provider shall:
 - (a) ensure the depth of the shredded wood meets the guidelines in Table 2;
 - (b) ensure there is adequate drainage under the material; and
 - (c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

TABLE 2 Depths of Protective Cushioning Required for Shredded Wood Products			
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
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

- (13) If the provider uses a unitary cushioning, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.
- (14) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:
 - (a) displaced when a child jumps, runs, walks, lands, or moves on it; or
 - (b) moved or picked up by a child.
- (15) The provider shall ensure that a play equipment platform more than 48 inches above the floor or ground has a protective barrier that is at least 38 inches high.
- (16) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.
- (17) The provider shall ensure that stationary play equipment is stable or securely anchored.
- (18) The provider shall ensure that there is no trampoline on the premises that is accessible to any child in care.
- (19) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.
- (20) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.
- (21) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.
- (22) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R381-70-20. Transportation.

- (1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:
 - (a) signed by a parent; and
 - (b) on-site for review by OL.
- (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;

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- (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 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 emergency contact information outlined in Subsection R381-70-18(9) for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:
 - (a) each child being transported has a completed transportation permission form signed by their parent;
 - (b) a staff member goes with and actively supervises each child;
 - (c) a staff member transporting a child has emergency contact information outlined in Subsection R381-70-18(9) and a release for each child being transported; and
 - (d) the staff-to-child ratio is maintained.
- (6) The provider shall:
 - (a) have transport liability insurance; or
 - (b) inform parents in writing that the provider does not have transport liability insurance.
- (7) Section R381-70-20 only applies to providers who offer transportation services.

R381-70-21. Animals.

- (1) The provider shall inform each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) If children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (6) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (7) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (8) The provider shall keep current animal vaccination records on-site for review by OL.

R381-70-22. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

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

Date of Last Change: ~~2024~~2025

Notice of Continuation: April 14, 2020

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R381-100	Filing ID: 56903
Date of Previous Publication (Only for CPRs):	11/15/2025	

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@utah.gov
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:
<p>Based on internal discussion and discussion with stakeholders, this change in proposed rule (CPR) updates language regarding background checks to transparently outline background check processes and align with the background checks conducted for health care facility and human services program staff.</p> <p>Lastly, the CPR fixes an inadvertent substantive change regarding supervision from the last filing amendment.</p> <p>The child care licensing committee has approved this amendment filing.</p>
4. Summary of the new rule or change:
<p>This CPR updates Section R381-100-8 regarding background checks to align with other Division of Licensing and Background Check (DLBC) rules. It also addresses the Office of Background Processing's (OBP's) statutory authority to review information, explains when OBP can issue a finding, limits re-application time to two years following an application denial, and clarifies when OBP may consider pending convictions.</p> <p>These processes are authorized by statute and are being provided in rule for provider reference and clarity in administrative proceedings.</p> <p>It updates Section R381-100-6, altering language to the accepted industry term "a child experiencing homelessness", adds a guardian as an individual who can provide required paperwork for a child's admission, and reverts language back to the original rule wording due to a numeration fix in the previous filing that inadvertently changed supervision requirements in Subsection R381-100-11(1).</p> <p>(EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 200. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)</p>

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
<p>There is no anticipated cost or savings to the state budget as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.</p>

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Other changes do not introduce any new processes or requirements.

B) Local governments:

There is no anticipated cost or savings to local government, as local governments do not have any involvement in the background check requirements of OBP.

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

There is no anticipated cost or savings to small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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

There is no anticipated cost or savings to non-small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or 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 is no anticipated cost or savings to any person other than small businesses, non-small businesses, state, or local government entities as a result of CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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 compliance cost for affected persons as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025
 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:	03/13/2025
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R381. Health and Human Services, Child Care Center Licensing.

R381-100. Child Care Centers.

R381-100-1. Authority and Purpose.

- (1) Section 26B-2-402 authorizes this rule.
- (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) Terms used in this rule are defined in Rule R380-600. Additionally:
- (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure 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 day" means a day of the week the facility is open for business.
- (6) "Business hours" means the hours the facility is open for business.
- (7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (9) "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.
- (10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.

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- (11) "Child care" means continuous care and supervision of at least one qualifying child that:
 - (a) is in place of care ordinarily provided by a parent in the parent's home;
 - (b) occurs for less than 24 hours a day; and
 - (c) is provided for direct or indirect compensation.
- (12) "Child care program" means a person or business that offers child care.
- (13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.
- (14) "Covered individual" means the same as defined in Rule R380-600.
- (15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.
- (16) "Department" means the Utah Department of Health and Human Services.
- (17) "Designated play surface" means any:
 - (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
 - (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.
- (18) "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 CCL rules.
- (19) "Eligible" means the same as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- ~~(22) "Experiencing homelessness" means anyone who is lacking a fixed, regular, and adequate nighttime residence.~~
- ~~(24) "Facility" means a program or premises approved by OL to be used for child care.~~
- ~~(25) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.~~
- ~~(26) "Group size" means the total number of children in a group per room or area.~~
- ~~(27) "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.~~
- (28) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- ~~(29) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- (30) "Inaccessible" means out of reach for children by being:
 - (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - (c) located at least 36 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (31) "Infant" means a child who is younger than 12 months old.
- (32) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (33) "Involved with child care" means to do any of the following at or for a child care program:
 - (a) care for or supervise children;
 - (b) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (34) "License" means a license issued by OL to provide child care services.
- (35) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (36) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (37) "OBP" means the same as defined in Rule R380-600.
- (38) "OL" means the same as defined in Rule R380-600.
- (39) "Older toddler" means a child age 18 through 23 months old.
- (40) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (41) "Parent" means the parent or legal guardian of a child in care.
- (42) "Person" means the same as defined in Rule R380-600.
- (43) "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 a child can move freely.
- (44) "Preschooler" means a child age two through four years old.
- (45) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.

(43) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.

(44) "Qualifying child" means a child:

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

(c) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.

(45) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(46) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:

(a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:

(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;

(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;

(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 including with a child safety gate, including a diaper changing station that is located behind a closed gate;

(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 including with a child safety gate; or

(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) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or

(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas;

(c) if in outdoor areas separated by interior fences, OL considers it:

(i) one area, if the interior fence is 24 inches in height, or lower, whether or not the fence has an opening;

(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;

(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or

(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(47) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(48) "School-age child" means a child age five through 12 years old.

(49) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.

(50) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(51) "Stationary play equipment" means equipment, 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) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;

(b) sandbox;

(c) sensory table; or

(d) stationary circular tricycle.

(52) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled, including:

(a) a protruding bolt end that extends more than two threads beyond the face of the nut;

(b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or

(c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.

(53) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.

(54) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.

(55) "Working day" means any day of the week the department is open for business.

(56) "Younger toddler" means a child age 12 through 17 months old.

R381-100-3. License Required.

(1) A person shall obtain a license for a child care center from OL if the person provides care:

(a) for direct or indirect compensation;

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- (b) for each child for less than 24 hours a day;
 - (c) for five or more unrelated children;
 - (d) in a place other than the provider's home or the child's home;
 - (e) in the absence of a child's parent; and
 - (f) on an ongoing basis for four or more weeks in a year.
- (2) OL will not issue a license if care is only for related children or on a sporadic basis.
- (3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.
- (4) A child care center licensee shall comply with Rule R380-600.

R381-100-4. Fire and Other Health Inspections.

- (1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:
- (a) address numbers and letters are readable from the street;
 - (b) boiler, mechanical, and electrical panel rooms are not used for storage;
 - (c) exit doors are unlocked from the inside during business hours;
 - (d) exit doors operate properly and are well maintained;
 - (e) exits are clearly identified;
 - (f) there are no obstructions in exits, aisles, corridors, and stairways;
 - (g) there are working smoke detectors that are properly installed on each level of the building; and
 - (h) there is at least one unobstructed fire extinguisher on each level of the building that is charged and serviced and mounted not more than five feet above the floor.
- (2) 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, OL shall verify the applicant's compliance by ensuring:
- (a) any chemical is stored away from food and food service items;
 - (b) any cook has a current food handler's permit that is available on-site for review;
 - (c) any cook uses hair restraints and wears clean clothing;
 - (d) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
 - (e) food is properly stored, kept to the proper temperature, and in good condition;
 - (f) only necessary staff are present in the kitchen;
 - (g) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (h) there is a working handwashing sink in the kitchen, and handwashing instructions posted by the sink;
 - (i) there is a working stem thermometer available to check cooking and hot-hold temperatures; and
 - (j) there is a working thermometer in the refrigerator.

R381-100-5. Immediate Closure.

- (1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.
- (2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.
- (3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-100-6. Administration and Children's Records.

- (1) The provider shall:
- (a) be at least 21 years old;
 - (b) be considered eligible by an OBP background check before becoming involved with child care; and
 - (c) complete the new provider training offered by OL.
- (2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with Subsection R381-100-6(1).
- (3) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.
- (4) The provider shall know and comply with 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 OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.
- (8) The provider shall inform each parent and OL 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:
 - (a) the child's name;
 - (b) the child's date of birth;
 - (c) each parent's name, address, and phone number, including a daytime phone number;
 - (d) the names of individuals authorized by the parent to sign the child out from the facility;
 - (e) the 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) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;
 - (k) any instructions for special or nonroutine daily health care of the child;
 - (l) any current ongoing medication 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 OL.
- (13) Before admitting any child younger than five years old into the program, including the provider's or an employee's own child, the provider shall obtain the following documentation from the child's parent or guardian:
 - (a) current immunizations;
 - (b) a medical schedule to receive required immunizations;
 - (c) a legal exemption; or
 - (d) a 90-day exemption for any foster child or child who is experiencing homelessness.
- (14) For each child younger than five years old, including the provider's or employee's own child, the provider shall keep the child's current immunization records on-site for review by OL.
- (15) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.
- (16) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-100-7. Personnel and Training Requirements.

- (1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:
 - (a) meet the needs of each child; and
 - (b) comply with this rule.
- (2) The provider shall ensure that the center has a qualified director.
- (3) The provider shall ensure that the director:
 - (a) completes at least 20 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;
 - (b) completes the new director training offered by OL within 60 working days of assuming director duties;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;
 - (d) is at least 21 years old;
 - (e) is considered eligible by an OBP background check before becoming involved with child care; and
 - (f) knows and follows any applicable law and this rule.
- (4) The provider shall ensure that each new director has at least one of the following educational credentials:
 - (a) a currently valid national certification, including:
 - (i) a Certified Childcare Professional issued by the National Child Care Association;
 - (ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition; or
 - (iii) other equivalent credential as approved by OL;
 - (b) a National Administrator Credential with at least 60 hours of equivalent training as approved by OL;

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- (c) any bachelor's or higher education degree with at least 60 hours of coursework in child development, social and emotional development and the child care environment, or 60 hours of equivalent training as approved by OL;
- (d) at least 12 college credit hours of child development courses; or
- (e) at least an associate degree in early childhood development or related field.
- (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) 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;
 - (b) completes the director designee training offered by OL;
 - (c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-100-7(20) and (21);
- (d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (e) is at least 18 years old;
 - (f) is considered eligible by an OBP background check before becoming involved with child care; and
 - (g) knows and follows any applicable law and this rule.
- (8) The provider shall ensure that the director or the director designee is present at the facility during business hours.
- (9) The provider shall ensure that each caregiver:
 - (a) 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;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care;
 - (e) is introduced to other program staff and to the staff member's assigned group;
 - (f) knows and follows any applicable law and this rule; and
 - (g) reviews the information in each child's health assessment in the staff member's assigned group, including allergies, food sensitivities, and other individual needs.
- (10) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) knows and follows any applicable law and this rule; and
 - (c) is considered eligible by an OBP background check before becoming involved with child care.
- (11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
 - (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
 - (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
 - (a) administration of medication;
 - (b) applicable laws and requirements under Rule R381-70;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;

- (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) Sections R381-100-7 through R381-100-24; and
 - (b) Subsections R381-100-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
- (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training; and
 - (d) training topic.
- (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 a child is in care:
- (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (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 on-site for review by OL:
- (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, the provider shall use the licensing provider portal search to verify that the individual is eligible and:
- (a) associate that individual with the provider's 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 licensing provider portal search becomes involved with child care in the program, the provider must ~~[-]~~require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for individuals 12-17 years old who are only listed as household members, and:
- (a) authorize the individual's background check through the licensing provider portal;
 - (b) pay any required fees; and
 - (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep a covered individual's background check eligibility current, the provider shall require a covered individual to submit a new background check application, fingerprints, and fees if the covered individual has:
- (a) not been associated with an active, CCL approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application will be required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:
- (a) authorize the child's background check through the licensing provider portal; and
 - (b) pay any required fee.
- (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 electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.
- (7) OBP may consider a covered individual not eligible for any of the following reasons:
- (a) a pending charge for a felony offense;
 - (b) any felony conviction;
 - (~~b~~)c) any of the reasons listed under Subsection ~~[R381-100-8]~~(8);
 - (~~e~~)d) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (~~d~~)e) the covered individual knowingly making a false statement related to their background check;
 - (~~e~~)f) the covered individual refusing to consent to the criminal background check; or
 - (~~f~~)g) the covered individual's name appearing on the Utah or national sex offender registry.

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(8) OBP may also consider a covered individual not eligible ~~if the individual has been convicted, has pled no contest, or is currently subject to a plea and abeyance or diversion agreement~~ for any of the following ~~[criminal findings]~~ pending charges or convictions, regardless of severity:

- (a) child pornography;
- (b) driving under the influence while a child is present in the vehicle;
- ~~(c) lewdness involving a child;~~
- ~~([e]d) pornographic material or performance;~~
- ~~([e]e) providing dangerous weapons or firearms to a minor;~~
- ~~(f) sexual battery;~~
- ~~([e]g) sexual enticing of a minor;~~
- ~~([f]h) sexual exploitation;~~
- ~~([g]i) voyeurism; or~~
- ~~([h]j) any crime against an individual.~~

(9) OBP 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 OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL 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 OBP, including if 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 OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

~~[(14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.]~~ (14) The OBP director or designee may consider any additional relevant background information in making the decision to grant, deny, or continue an eligible determination on a background check, including:

- (a) intervening circumstances regarding an offense or finding;
- (b) steps taken to correct or improve since any offense or finding;
- (c) surrounding circumstances of an offense or finding;
- (d) the length of time since an offense or finding; and
- (e) the type and number of offenses or findings.

(15)(a) OBP shall rely on relevant information from Subsections (7) and (8) as conclusive evidence and may deny a covered individual based on that information.

(b) When a covered individual is no longer associated with the program, the provider shall separate that employee from the program's roster in the online system within five days of the covered individual's separation from the program.

(c) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.

(16) If OBP determines evidence exists that a covered individual has been arrested or charged with an offense that may be denied under Subsections (7) and (8), the Division of Licensing and Background Checks may act to protect the health and safety of a child.

(17) The provider may only allow a covered individual with a pending arrest or criminal charge to access a child when:

- (a) OBP has authorized conditional access; and
- (b) the provider can demonstrate to OBP that the work arrangement does not pose a threat to the health or safety of any child.

(18) A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.

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 or employee's own child.

(2) The provider 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) When measuring indoor space for children's use, the provider may not include any:

- (a) bathroom;

- (b) closet and staff locker;
 - (c) hallway;
 - (d) kitchen;
 - (e) lobby and entryway; and
 - (f) staff office.
- (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.
- (5)(a) 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 for lead.
- (b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.
- (6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.
- (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.
- (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.
- (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
- (10) The provider shall ensure that there is a working telephone:
- (a) at the facility;
 - (b) during any offsite activity; and
 - (c) in each vehicle while transporting a child.
- (11) The provider shall ensure that there is at least one working handwashing sink in each classroom or next to each classroom in any building constructed after July 1, 1997.
- (12) The provider shall ensure that in any room where an infant or toddler is cared for has:
- (a) one sink that is used exclusively for the preparation of food, 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.
- (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.
- (14) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.
- (15) The provider shall ensure that any child outdoors is in an enclosed area, except during offsite activities.
- (16) The provider shall ensure that the outdoor area:
- (a) has a fence, wall or solid natural barrier that is at least four feet high encloses the outdoor area;
 - (b) has at least 40 square feet of space for each child using the area at one time;
 - (c) has no gaps five by five inches or greater in or under any fence or barrier;
 - (d) has shade available to protect any child from excessive sun and heat when in the outdoor area;
 - (e) is safely accessible to any child; and
 - (f) 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.
- (17) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
- (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) 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.
- (18) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
- (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (19) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
- (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.

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(20) 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, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:

- (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 a single-age group of children, the provider shall:
 - (a) maintain at least the number of required caregivers;
 - (b) not exceed the maximum group sizes; and
 - (c) not exceed the number of children in the caregiver-to-child ratio.

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	1:8	16
3 years - threes	1:12	24
4 years - fours	1:15	30
5 years and older - school-age	1:20	40

- (2) For a mixed-age group 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.
- (3) For a mixed-age group of children including any infant and toddler, the provider shall ensure that:
 - (a) an infant is only mixed with a toddler if:
 - (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 an older toddler and a two-year-old child are mixed, the provider shall ensure:
 - (i) there is at least one caregiver for up to seven children; and
 - (ii) there are at least two caregivers for eight and up to 14 children in the group; and
 - (c) an older toddler and an older child may only be mixed, except when only mixed with a two-year-old child, 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 a mixed-age group of children, not including any infant and toddler, 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) each child in the group is at least 18 months old;
 - (b) each child in the group is 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 employee's own child 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 in the caregiver-to-child ratio any:
 - (a) caregiver;
 - (b) student intern who is registered in a high school or college child care course; and
 - (c) volunteer who is 16 years old or older.
- (9) The provider shall ensure that any guest does not count in caregiver-to-child ratios.
- (10) OL 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 each caregiver provides and maintains active supervision of each child, including:
 - (a) for children younger than five years old, remaining physically present in the room or area with the children; and
 - (b) for school-age children, a caregiver can hear the children and is close enough to intervene:
 - ~~[(i) being able to hear the children;~~
 - ~~[(ii) being close enough to intervene if needed;]~~
 - ~~[(iii) c] focusing attention on the children and not on caregiver's['] personal interests;~~
 - ~~[(iv) d] interacting in-person with the children at least every 15 minutes;~~
 - ~~[(v) e] knowing the number of children in their care at any time;~~
 - ~~[(vi) f] positioning themselves so each child in their assigned group is actively supervised; and~~
 - ~~[(vii) g] remaining aware of the entire group of children even when interacting with a smaller group or an individual child.~~
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:
 - (a) the director or the director designee is physically present and available as needed;
 - (b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and
 - (c) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.
- (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) the staff member moves children who wake up to the non-napping room;
 - (c) there is a camera or mirror positioned so the staff member can see and hear the child;
 - (d) there is a staff member in the non-napping room; and
 - (e) there is an open door without a barrier, including a gate, between the napping room and 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 a parent has 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) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.
- (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 person giving verbal authorization; and
 - (b) the person 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 OL.

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.

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(2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the center's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.

(4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.

(5) The provider shall ensure that each interaction with a child does not include:

(a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;

(b) any form of corporal punishment;

(c) any form of emotional mistreatment;

(d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;

(e) forcing or withholding food, rest, or toileting;

(f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or

(g) shouting at children.

(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 Section 80-2-602.

R381-100-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.

(3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.

(4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.

(5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.

(6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.

(7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child 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 any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:

(a) disposed of properly;

(b) inaccessible to any child;

(c) stored in a container labeled with the contents of the container; and

(d) used according to manufacturer instructions.

(10) The provider shall ensure that the following items are inaccessible to children:

(a) cigarette lighters;

(b) hot wax or other hot substances;

(c) matches;

(d) open flames; and

(e) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to a child:

(a) any live electrical wire; and

(b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.

(12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:

(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 any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.

(14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any center vehicle any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, 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 Fahrenheit or higher.

- (16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (17) The provider shall ensure that hot water accessible to a child 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 any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
 - (a) in a 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;
 - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-100-14. Emergency Preparedness, Response, and Recovery.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
 - (a) includes a procedure for:
 - (i) accommodating a child with a disability;
 - (ii) accommodating a child with a chronic medical condition;
 - (iii) accommodating any infant and toddler;
 - (iv) communication with and reunification of families;
 - (v) continuity of operations;
 - (vi) evacuation;
 - (vii) lockdown;
 - (viii) relocation; and
 - (ix) shelter in place.
 - (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
 - (c) is available for review by any parent, staff member, and OL during business hours; and
 - (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the center's street address and any 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 a fire evacuation drill at least quarterly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.
- (5) The provider shall document each fire drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the total time to complete the evacuation.
- (6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.
- (7) The provider shall document each disaster drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;
- (8) The provider shall vary the days and times 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 OL.
- (10) The provider shall:
 - (a) give each parent 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 a school-age child signs 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 submit a critical incident report to OL within one business day and 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 submit a critical incident report to OL within one business day and:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and

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(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 submit a critical incident report to OL within one business day.

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

(15) The provider shall ensure compliance with critical incident reporting in accordance with Subsection R380-600-7(16).

R381-100-15. Health and Infection Control.

(1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:

(a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;

(b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;

(c) each surface free of rotting food or a build-up of food;

(d) each wall and floor clean and free of spills, dirt, and grime;

(e) the building and grounds free of a build-up of litter and garbage; and

(f) the building and grounds 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 toy and material used by a child:

(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 any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.

(5) The provider shall clean and sanitize each highchair tray before each use.

(6) The provider shall clean and sanitize each water play table or tub daily, if used by a child.

(7) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.

(8) The provider shall clean and sanitize each potty chair after each use.

(9) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.

(10) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.

(11) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:

(a) after cleaning up or taking out garbage;

(b) after contact with a body fluid;

(c) after using the toilet or helping a child use the toilet;

(d) before and after eating meals and snacks or feeding a child;

(e) before handling or preparing food or bottles;

(f) upon arrival; and

(g) when coming in from outdoors.

(12) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.

(13) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:

(a) after contact with a body fluid;

(b) after using the toilet;

(c) before and after eating meals and snacks;

(d) before using a water play table or tub;

(e) upon arrival; 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 ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.

(16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:

(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 prompt change of a child's clothing if the child has a toileting accident.

(18) The provider shall ensure that a child'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 ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:

- (a) clean the surface using a detergent solution;
- (b) rinse the surface with clean water;
- (c) sanitize the surface;
- (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
- (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
- (f) wear waterproof gloves; 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 any other child 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.

(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 and dated on the same day that the disease or parasite is discovered;
- (c) is posted in a conspicuous place where it can be seen by parents; 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) an individual who cares for any diapered child only prepares food for the children in their care, and they do not:
 - (i) prepare food outside of the room used by any diapered child; or
 - (ii) prepare food for any other child and adult in the facility;
- (b) an individual who prepares food in the kitchen does not help in toileting any child; and
- (c) an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R381-100-16. Food and Nutrition.

(1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours when services are provided for three or more hours.

(2) If the provider supplies food for children's meals or snacks, 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 OL-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 OL; 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 a child:

- (a) is aware of each child in their assigned group who has any food allergy or sensitivity; and
- (b) ensures that a child is not served the food that the child is allergic or sensitive to.

(4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.

(5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:

- (a) consumed only by that child;
- (b) labeled with the child's name; and
- (c) refrigerated if needed.

R381-100-17. Medications.

(1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.

(2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.

(3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:

- (a) is labeled with the child's full name;

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- (b) is stored in the original or pharmacy container; and
- (c) has the original label.
- (4) The provider shall obtain 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) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication 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) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) 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;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; 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 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 OL.

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 that 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 a child'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 any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (6) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
 - (a) not allowed for a child zero to 17 months old;
 - (b) limited for a child 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 a child five to 12 years old.
- (7) If the provider offers swimming activities, or if a wading pool is used, the provider shall ensure that:
 - (a) a caregiver stays 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;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;
 - (d) each wading pool is emptied and sanitized after use by each group of children;
 - (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and

- (f) the parent gives permission before their child uses the pool.
- (8) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (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 a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent 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 each child using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that the highest designated play surface on any stationary play equipment used by infants or toddlers does not exceed three feet in height.
- (3) The provider shall ensure that any swings used by an infants or toddler has an enclosed seat.
- (4) The provider shall ensure that any stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of a swing, stationary play equipment that is:
 - (a) used by an infant or toddler has at least a three-foot use zone if any designated play surface is higher than 18 inches;
 - (b) used by a preschooler has at least a six-foot use zone if any designated play surface is higher than 20 inches; and
 - (c) used by a school-age child 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, 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 each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:
 - (a) in front of a slide;
 - (b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) that of a multi-axis swing; and
 - (d) that 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 an infant or toddler, and there is at least three feet between each piece of equipment; or
 - (b) the equipment is used by a preschooler or school-age child and there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between each piece 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 including concrete, asphalt, dirt, and 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 as protective cushioning, the provider shall ensure that:
 - (a) the depth of the material meets the guidelines in Table 2.
 - (b) the cushioning is periodically checked for compaction and if compacted, loosened to the depth listed in Table 2; and

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(c) if the material cannot be loosened to the depth listed in Table 2 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth.

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 as protective cushioning, the provider shall:
- (a) ensure the depth of the shredded wood meets the guidelines in Table 3;
 - (b) ensure there is adequate drainage under the material; and
 - (c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

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, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.

(17) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:

- (a) displaced when a child jumps, runs, walks, lands, or moves on it; or
- (b) moved or picked up by a child.

(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 an infant or toddler has a protective barrier that is at least 24 inches high;
- (b) 30 inches above the floor or ground and used by a preschooler has a protective barrier that is at least 29 inches high; and
- (c) 48 inches above the floor or ground and used by a school-age child 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 is no trampoline on the premises that is accessible to any child in care.

(22) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.

(24) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

(25) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R381-100-20. Transportation.

- (1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:
 - (a) signed by a parent; and
 - (b) on-site for review by OL.
- (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 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 emergency contact information outlined in Subsection R381-100-18(9) for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a 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 and actively supervises each child;
 - (c) a caregiver transporting a child has emergency contact information outlined in Subsection R381-100-18(9) and a release for each child being transported; and
 - (d) the caregiver-to-child ratio is maintained.
- (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 each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (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 no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R381-100-22. Rest and Sleep.

- (1) The provider shall offer a child in care a daily opportunity for rest or sleep in an environment with:
 - (a) a low noise level;
 - (b) freedom from distractions; and
 - (c) subdued lighting.
- (2) The provider may not schedule a nap or rest time 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, and ensure that any mat and mattress has smooth, waterproof surfaces.
- (5) The provider shall ensure that each crib:
 - (a) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child;
 - (b) has a tight-fitting mattress;
 - (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;

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- (d) 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; and
- (e) has slats spaced no more than 2-3/8 inches apart.
- (6) The provider shall place sleeping equipment, including a crib, cot, and mat at least two feet apart when they are in use.
- (7) The provider shall ensure that sleeping equipment does not block any exit.
- (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 each item is:
 - (a) clearly assigned to one child;
 - (b) laundered as needed, but at least once a week, and before use by another child; and
 - (c) stored separately from other children's bedding.
- (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) clean and sanitize sleeping equipment before each use; or
 - (b) store sleeping equipment in a way the surfaces children sleep on do not touch each other.

R381-100-23. Diapering.

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.
- (3) The provider shall ensure that each child's diaper is:
 - (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.
- (4) The provider shall ensure that a caregiver changes each child's diaper at a diapering station and not on a surface used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.
- (7) The provider shall ensure that a caregiver does not leave any child unattended on the diapering surface.
- (8) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (9) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (10) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (11) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.
- (12) If cloth diapers are used, the provider shall:
 - (a) not rinse cloth diapers at the facility; and
 - (b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
 - (ii) place the cloth diapers in a leakproof diapering service container.

R381-100-24. Infant and Toddler Care.

- (1) This section only applies to a provider that accepts an infant or toddler.
- (2) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 minutes.
- (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.
- (4) The provider shall ensure that any infant and toddler area is not used to pass through or access any other indoor or outdoor area.
- (5) The provider shall ensure that an infant and toddler plays in the same enclosed outdoor space with an older child only when there are eight or fewer children in the group.
- (6) The provider shall ensure that a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:
 - (a) a wet or soiled diaper;
 - (b) fatigue;
 - (c) fear;
 - (d) hunger;
 - (e) illness; or
 - (f) teething.

- (7) To stimulate healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (8) The provider shall ensure that any mobile infant and toddler has freedom of movement in a safe area.
- (9) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (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.
- (11) The provider shall make any object made of styrofoam inaccessible to any infant and toddler.
- (12) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (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, 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.
- (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 a bottle is not propped.
- (15) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.
- (16) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (17) The provider shall ensure that a caregiver cuts solid food for:
 - (a) an infant into pieces no larger than 1/4 inch in diameter; and
 - (b) a toddler into pieces no larger than 1/2 inch in diameter.
- (18) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (19) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (20) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.
- (21) The provider shall document each infant's eating and sleeping patterns each day the infant is at the facility, and shall ensure 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.
- (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.
- (23) The provider shall maintain on-site for review by OL a six-week record of:
 - (a) the eating and sleeping patterns for each infant; and
 - (b) the diaper changes for each infant and toddler.

R381-100-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, child care, child care centers
Date of Last Change: ~~2024~~2025
Notice of Continuation: April 14, 2020
Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R430-8	Filing ID: 56909
Date of Previous Publication (Only for CPRs):	11/15/2024	

Agency Information	
1. Title catchline:	Health and Human Services, Residential Child Care Licensing
Building:	Multi-Agency State Office Building

NOTICES OF CHANGES IN PROPOSED RULES

Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@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:
Based on internal discussions and discussions with stakeholders, this change in proposed rule (CPR) updates language regarding background checks to transparently outline background check processes and align the process with other background checks conducted by the Office of Background Processing (OBP). The change also updates terminology without any substantive change to requirements. The child care licensing committee has approved this change in proposed rule filing.
4. Summary of the new rule or change:
This CPR updates Section R430-8-5 regarding background checks to align with other Division of Licensing and Background Check (DLBC) rules. It also addresses OBP's statutory authority to review information, explains when OBP can issue a finding, limits re-application time to two years following an application denial, and clarifies when OBP may consider pending convictions. These processes are authorized by statute and are being provided in rule for provider reference and clarity in administrative proceedings. (EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 308. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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 as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.
B) Local governments:
There is no anticipated cost or savings to local government, as local governments do not have any involvement in the background check requirements of OBP.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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

There is no anticipated cost or savings to non-small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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

There is no anticipated cost or savings to any person other than small businesses, non-small businesses, state, or local government entities as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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 compliance cost for affected persons as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Tracy S. Gruber, Executive Director	Date:	03/13/2025
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R430. Health and Human Services, Residential Child Care Licensing.

R430-8. Exemptions From Child Care Licensing.

R430-8-1. Authority and Purpose.

- (1) 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) Terms used in this rule are defined in Rule R380-600. Additionally:
- (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Calendar week" means from Sunday through Saturday.
- (4) "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.
- (5) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (6) "Child care" means continuous care and supervision of at least one qualifying child that:
 - (a) is in place of care ordinarily provided by a parent in the parent's home;
 - (b) occurs for less than 24 hours a day; and
 - (c) is provided for direct or indirect compensation.
- (7) "Child care program" means a person or business that offers child care.
- (8) "Covered individual" means the same as defined in Rule R380-600.
- (9) "Department" means the Utah Department of Health and Human Services.
- (10) "Eligible" means the same as defined in Rule R380-600.
- (11) "Facility" means a program or premises approved by OL to be used for child care.
- (12) "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) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (13) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (14) "OBP" means the same as defined in Rule R380-600.
- (15) "OL" means the same as defined in Rule R380-600.
- (16) "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.

(17) "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.

(18) "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.

(19) "Qualifying child" means a child:

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

(c) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.

(20) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(21) "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.

R430-8-3. License, Certificate, or Exemption Not Required.

(1) A provider of any of the following types of care is not subject to a child care license, certificate, exemption, or the submission of background checks to OL:

(a) a facility or program owned or operated by an agency of the United States government;

(b) a health care facility that is licensed by OL;

(c) a residential support program that is licensed by OL; or

(d) group counseling provided by a mental health therapist who is licensed to practice in this state.

(2) A residential child care provider caring for eight or less qualifying children who is not subject to a child care license, certificate, or exemption, shall submit background checks in accordance with Sections R430-50-3 and 26B-2-405.

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 OL, 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:

(i) the boards of education of this state;

(ii) a private education institution that provides education in lieu of that provided by the public education system, or

(iii) 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 related to 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), 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

NOTICES OF CHANGES IN PROPOSED RULES

- (iii) provides care to a child who is over the age of four and under the age of 13;
- (f) care provided to a qualifying child at a facility where:
 - (i) the parent or guardian of the qualifying child is physically present in the building where the care is provided while the child is in care and the parent or guardian is near enough to reach the child within five minutes if needed;
 - (ii) the duration of the care is less than four hours for an individual qualifying child in any one day;
 - (iii) the care is provided on a sporadic basis;
 - (iv) the care does not include diapering a qualifying child; and
 - (v) the care does not include preparing or serving meals to a qualifying child;
- (2) A provider listed in this subsection shall submit to OL, each year the program is open for business, an application for verification of license exempt status on the form provided by OL.
- (3) A provider listed in this subsection shall post, in a conspicuous location near the entrance of the provider's facility, a notice prepared by OL that:
 - (a) states that the facility is exempt from licensure and certification; and
 - (b) provides OL'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 OL on the Division of Licensing and Background Checks website.

R430-8-5. Background Checks~~[Requirements and 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 Child Care and Development Block Grant, 42 U.S.C. Sec. 9857-9858r.
- (2) Except as outlined in Subsection R430-8-5(1), the requirements of this section apply to:
 - (a) each facility listed in Section R430-8-4; and
 - (b) any unlicensed residential child care provider, except for sporadic care, who provides care:
 - (i) for eight or less qualifying children at one time or for up to ten qualifying children including their own;
 - (ii) for more than two days a week; and
 - (iii) in the provider's home for four or more hours a day.
- (3) In addition to the requirements of this subsection, each provider as described in Subsection R430-8-5(2)(b) shall:
 - (a) register with OL to facilitate the OBP background check process in accordance with this section; and
 - (b) care for no more than two children under the age of three.
- (4) The provider shall submit to OBP background checks and fees for each covered individual as defined in Subsection R430-8-2(7).
- (5) Before a new covered individual becomes involved with child care, the provider must use the licensing 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.
- (6) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must:
 - (a) have the individual submit an online background check form and fingerprints for individuals age 16 years old and older, except for individuals 12-17 years old who are listed as household members;
 - (b) authorize the individual's background check through the licensing provider portal;
 - (c) pay any required fees; and
 - (d) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (7) 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) not been associated with an active, OBP-approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check. If the 18-year-old has previously submitted fingerprints for an OBP background check, only a new background check application will be required.
- (8) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (9) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the OBP's guidelines.
- (10) OBP may consider a covered individual not eligible for any of the following reasons:
 - ~~(a) a pending charge for a felony offense;~~
 - ~~(b) any felony conviction;~~
 - ~~(c) any of the reasons listed under Subsection ~~[R430-8-5](1[0]1)~~;~~
 - ~~(d) LIS supported findings that occurred no more than 15 years from the date the application was submitted;~~
 - ~~(e) the covered individual knowingly makes a false statement related to their background check;~~

~~([e]f)~~ the covered individual's name appears on the Utah or national sex offender registry; or

~~([f]g)~~ the covered individual refuses to consent to the criminal background check~~[3]~~.

(11) ~~[OBP may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~

~~(a) a sexual exploitation act;~~

~~(b) any crime against an individual;~~

~~(c) child pornography;~~

~~(d) driving under the influence while a child is present in the vehicle;~~

~~(e) pornographic material or performance;~~

~~(f) providing dangerous weapons or firearms to a minor;~~

~~(g) sexual enticing of a minor; or~~

~~(h) voyeurism.]OBP may also consider a covered individual not eligible if the individual has been convicted, has pled no contest, or is currently subject to a plea and abeyance or diversion agreement for any of the following pending charges or convictions, regardless of severity:~~

~~(a) child pornography;~~

~~(b) driving under the influence while a child is present in the vehicle;~~

~~(c) lewdness involving a child;~~

~~(d) pornographic material or performance;~~

~~(e) providing dangerous weapons or firearms to a minor;~~

~~(f) sexual battery;~~

~~(g) sexual enticing of a minor;~~

~~(h) sexual exploitation;~~

~~(i) voyeurism; or~~

~~(j) any crime against an individual.~~

(12) OBP 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 OBP background check was conducted.

(13) If the provider is deemed not eligible by OBP, OL may suspend or deny their license until the reason for the background check finding is resolved.

(14) If a covered individual is deemed not eligible by OBP, 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.

(15) If OBP denies a covered individual a license or employment based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), they may appeal the information to the ~~[Department of Public Safety]DPS~~.

(16) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of the covered individual's arrest warrant, felony, or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including revocation of the license.

~~[(17) The Executive Director or designee of the department may overturn an OBP background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.]~~

~~(17) The OBP director or designee may consider any additional relevant background information in making the decision to grant, deny, or continue an eligible determination on a background check, including:~~

~~(a) intervening circumstances regarding an offense or finding;~~

~~(b) steps taken to correct or improve since any offense or finding;~~

~~(c) surrounding circumstances of an offense or finding;~~

~~(d) the length of time since an offense or finding; and~~

~~(e) the type and number of offenses or findings.~~

~~(18)(a) OBP shall rely on relevant information from Subsections (10) and (11) as conclusive evidence and may deny a covered individual based on that information.~~

~~(b) When a covered individual is no longer associated with the program, the provider shall separate that employee from the program's roster in the online system within five days of the covered individual's separation from the program.~~

~~(c) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.~~

~~(19) If OBP determines evidence exists that a covered individual has been arrested or charged with an offense that may be denied under Subsections (10) and (11), the Division of Licensing and Background Checks may act to protect the health and safety of a child.~~

~~(20) The provider may only allow a covered individual with a pending arrest or criminal charge to access a child when:~~

~~(a) OBP has authorized conditional access; and~~

~~(b) the provider can demonstrate to OBP that the work arrangement does not pose a threat to the health or safety of any child.~~

~~[(18)21] [An applicant or exempt provider may request an agency review for any OBP decision within ten working days of being informed in writing of the decision.]A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.~~

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R430-8-6. Voluntary Licensure.

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:

- (1) care provided in the home of the child on a sporadic basis only;
- (2) care provided in the home of the provider on a sporadic basis only; or
- (3) relative care only.

R430-8-7. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, exemptions from Child Care Licensing

Date of Last Change: ~~2025~~[2024]

Notice of Continuation: April 15, 2024

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R430-50	Filing ID: 56908
Date of Previous Publication (Only for CPRs):	11/15/2024	

Agency Information

1. Title catchline:	Health and Human Services, Residential Child Care Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@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:
Based on internal discussion and discussion with stakeholders, this change in proposed rule (CPR) updates language regarding background checks to transparently outline background check processes and align with the background checks conducted for health care facility and human services program staff.
The child care licensing committee has approved this CPR filing.
4. Summary of the new rule or change:
This filing updates Section R430-50-8 regarding background checks to align with other Division of Licensing and Background Check (DLBC) rules.
It also addresses the Office of Background Processing's (OBP's) statutory authority to review information, explains when OBP can issue a finding, limits re-application time to two years following an application denial, and clarifies when OBP may consider pending convictions. These processes are authorized by statute and are being provided in rule for provider reference and clarity in administrative proceedings.

It updates Section R430-50-6, altering language to the accepted industry term "a child experiencing homelessness".

(EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 317. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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 as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

B) Local governments:

There is no anticipated cost or savings to local government, as local governments do not have any involvement in the background check requirements of OBP.

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

There is no anticipated cost or savings to small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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

There is no anticipated cost or savings to non-small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or 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 is no anticipated cost or savings to any person other than small businesses, non-small businesses, state, or local government entities as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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 compliance cost for affected persons as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025

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:	03/13/2025
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R430. Health and Human Services, Residential Child Care Licensing.

R430-50. Residential Certificate Child Care.

R430-50-1. Authority and Purpose.

- (1) Section 26B-2-402 authorizes this rule.
- (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) Terms used in this rule are defined in Rule R380-600. Additionally:

- (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure 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 day" means a day of the week the facility is open for business.
- (6) "Business hours" means the hours the facility is open for business.
- (7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (9) "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.
- (10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.
- (11) "Child care" means continuous care and supervision of at least one qualifying child that:
 - (a) is in place of care ordinarily provided by a parent in the parent's home;
 - (b) occurs for less than 24 hours a day; and
 - (c) is provided for direct or indirect compensation.
- (12) "Child care program" means a person or business that offers child care.
- (13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.
- (14) "Covered individual" means the same as defined in Rule R380-600.
- (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:
 - (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
 - (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.
- (19) "Eligible" means the same as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (21) "Experiencing homelessness" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (2~~1~~)² "Facility" means a program or premises approved by OL to be used for child care.
- (2~~2~~)³ "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- (2~~3~~)⁴ "Group size" means the total number of children in a group per room or area.
- (2~~4~~)⁵ "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.
- (2~~5~~)⁶ "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- ~~(26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- (27) "Inaccessible" means out of reach for children by being:
 - (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - (c) located at least 36 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (28) "Infant" means a child who is younger than 12 months old.
- (29) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (30) "Involved with child care" means to do any of the following at or for a child care program:
 - (a) care for or supervise children;
 - (b) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (31) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.

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- (32) "OBP" means the same as defined in Rule R380-600.
- (33) "OL" means the same as defined in Rule R380-600.
- (34) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (35) "Parent" means the parent or legal guardian of a child in care.
- (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 a child can move freely.
- (37) "Preschooler" means a child age two through four years old.
- (38) "Qualifying child" means a child:
 - (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) child who is younger than four years old and is the child of the provider or a caregiver; or
 - (c) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (39) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (40) "Residential child care" means care that takes place in a child care provider's home.
- (41) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (42) "School-age child" means a child age five through 12 years old.
- (43) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.
- (44) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (45) "Stationary play equipment" means equipment, 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) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;
 - (b) sandbox;
 - (c) sensory table; or
 - (d) stationary circular tricycle.
- (46) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled, including:
 - (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or
 - (c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.
- (47) "Toddler" means a child age 12 through 23 months old.
- (48) "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 OBP.
- (49) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.
- (50) "Working day" means any day of the week the department is open for business.

R430-50-3. Residential Certificate.

- (1) In accordance with Section 26B-2-404, an individual may become certified as a residential child care provider if they provide care:
 - (a) for direct or indirect compensation;
 - (b) for each child for less than 24 hours a day;
 - (c) for eight or fewer qualifying children or up to ten children including the provider's own children in accordance with Subsection 26B-2-405(1)(b)(i);
 - (d) for four or more hours a day;
 - (e) in the absence of the child's parent;
 - (f) in the provider's home; and
 - (g) on a regularly scheduled, ongoing basis.
- (2) An individual shall become licensed by OL as a child care provider in accordance with Rule R430-90 when the number of unrelated children in care is nine or more.
- (3)(a) 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.
- (b) A person who is not required to become certified as a residential child care provider, but provides child care services listed in Subsection R430-50-3(1) shall:
 - (i) care for no more than two children under the age of three; and
 - (ii) register with OL to facilitate a background check in accordance with Sections R430-50-8 and 26B-2-405.

R430-50-4. Fire and Other Health Inspections.

(1) 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, OL shall verify the applicant's compliance with the following:

- (a) address numbers and letters are readable from the street;
- (b) boiler, mechanical, and electrical panel rooms are not used for storage;
- (c) exit doors operate properly and are well maintained;
- (d) there are no obstructions in exits, aisles, corridors, and stairways;
- (e) there are working smoke detectors that are properly installed on each level of the building; and
- (f) there is at least one unobstructed fire extinguisher that is currently charged, serviced, and mounted not more than five feet above the floor.

(2) If an applicant for a new residential certificate serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:

- (a) any chemical is stored away from food and food service items;
- (b) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
- (c) food is properly stored, kept to the proper temperature, and in good condition;
- (d) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
- (e) there is a working handwashing sink in the kitchen;
- (f) there is a working stem thermometer available to check cooking and hot hold temperatures; and
- (g) there is a working thermometer in the refrigerator.

R430-50-5. Immediate Closure.

(1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.

(2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.

(3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R430-50-6. Administration and Children's Records.

(1) The provider shall:

- (a) be at least 18 years old;
- (b) be considered eligible by an OBP background check before becoming involved with child care;
- (d) complete at least 10 hours of child care training each year, based on the facility's residential certificate date; and
- (c) complete the new provider training offered by OL.

(2) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.

(3) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.

(4) The provider shall comply with licensing rules any time a child in care is present.

(5) The provider shall post their unaltered child care residential certificate on the facility premises in a place readily visible and accessible to the public during business hours.

(6) The provider shall post a current copy of OL'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 each parent and OL 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:

- (a) the child's name;
- (b) the child's date of birth;
- (c) each parent's name, address, and phone number, including a daytime phone number;
- (d) the names of individuals authorized by the parent to sign the child out from the facility;
- (e) the 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;

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- (g) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;
 - (k) any instructions for special or nonroutine daily health care of the child;
 - (l) any current ongoing medication 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 OL.
- (12) Before admitting any child younger than five years old into the program, including the provider's or an employee's own child, the provider shall obtain 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 any foster child or child who is experiencing homelessness.
- (13) For each child younger than five years old, including the provider's or employee's own child, the provider shall keep the child's current immunization records on-site for review by OL.
- (14) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.
- (15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R430-50-7. Personnel and Training Requirements.

- (1) The provider shall 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 each child; and
 - (b) comply with this rule.
- (4) The provider shall ensure that each caregiver working with a child:
 - (a) completes at least 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;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care; and
 - (e) knows and follows any applicable law and this rule.
- (5) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) is considered eligible by an OBP background check before becoming involved with child care;
 - (c) is introduced to other staff and to the caregiver's assigned group;
 - (d) knows and follows any applicable law and this rule; and
 - (e) reviews 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 each volunteer is considered eligible by an OBP 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 each household member who is:
 - (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (9) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
 - (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (10) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:

- (a) administration of medication;
 - (b) applicable laws and requirements under Rule R430-50;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (12) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) Sections R430-50-7 through R430-50-24; and
 - (b) 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 a child is in care:
- (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (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 on-site for review by OL.

R430-50-8. Background Checks.

- (1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:
- (a) associate that individual with the provider's 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 licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check form and fingerprints for any individual age 16 years old and older, except for any individual 12-17 years old who is only listed as a household member; and
- (a) authorize the individual's background check through the licensing provider portal;
 - (b) pay any required fee; and
 - (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep a covered individual's background check eligibility current, the provider shall require the covered individual to submit a new background check application, fingerprints, and any fee if the covered individual has:
- (a) not been associated with an active, CCL approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application is required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:
- (a) authorize the child's background check through the licensing portal; and
 - (b) pay any required fee.
- (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 electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.
- (7) OBP may consider a covered individual not eligible for any of the following reasons:
- (a) a pending charge for a felony offense;
 - (~~a~~)b any felony conviction;
 - (~~b~~)c any of the reasons listed under Subsection [~~R381-100-8~~](8);
 - (~~e~~)d LIS supported findings that occurred no more than 15 years from the date the application was submitted;

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~~([d]e)~~ the covered individual knowingly making a false statement related to their background check;

~~([e]f)~~ the covered individual refusing to consent to the criminal background check; or

~~([f]g)~~ the covered individual's name appearing on the Utah or national sex offender registry.

(8) OBP may also consider a covered individual not eligible if the individual has been convicted, has pled no-contest, or is currently subject to a plea and abeyance or diversion agreement for any of the following ~~[criminal findings]~~ pending charges or convictions, regardless of severity:

(a) child pornography;

(b) driving under the influence while a child is present in the vehicle;

~~(c) lewdness involving a child;~~

~~([e]d)~~ pornographic material or performance;

~~([d]e)~~ providing dangerous weapons or firearms to a minor;

~~(f) sexual battery;~~

~~([e]g)~~ sexual enticing of a minor;

~~([f]h)~~ sexual exploitation;

~~([g]i)~~ voyeurism; or

~~([h]j)~~ any crime against an individual.

(9) OBP 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 OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL 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 OBP, including if 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 OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

~~[(14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.]~~

~~(14) The OBP director or designee may consider any additional relevant background information in making the decision to grant, deny, or continue an eligible determination on a background check, including:~~

~~(a) intervening circumstances regarding an offense or finding;~~

~~(b) steps taken to correct or improve since any offense or finding;~~

~~(c) surrounding circumstances of an offense or finding;~~

~~(d) the length of time since an offense or finding; and~~

~~(e) the type and number of offenses or findings.~~

~~(15)(a) OBP shall rely on relevant information from Subsections (7) and (8) as conclusive evidence and may deny a covered individual based on that information.~~

~~(b) When a covered individual no longer works for the program, the provider shall separate that employee in the program's roster in the online system within five days of the employee's separation from the program.~~

~~(c) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.~~

~~(16) If OBP determines evidence exists that a covered individual has been arrested or charged with an offense that may be denied under Subsections (7) and (8), the Division of Licensing and Background Checks may act to protect the health and safety of a child.~~

~~(17) The provider may only allow a covered individual with a pending arrest or criminal charge to access a child when:~~

~~(a) OBP has authorized conditional access; and~~

~~(b) the provider can demonstrate to OBP that the work arrangement does not pose a threat to the health or safety of any child.~~

~~(18) A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.~~

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 or employee's own child.

(2) The provider 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) When measuring indoor space for children's use, the provider may not include any:
 - (a) bathroom;
 - (b) closet;
 - (c) entryway;
 - (d) hallway; and
 - (e) lobby.
- (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.
- (5)(a) 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 for lead.
- (b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.
- (6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.
- (7) 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.
- (8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
- (9) The provider shall ensure that there is a working telephone:
 - (a) at the facility;
 - (b) during any offsite activity; and
 - (c) in each vehicle while transporting a child.
- (10) The provider shall ensure that there is at least one working toilet and one working handwashing sink accessible to each nondiapered child in care.
- (11) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.
- (12) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
 - (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) 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.
- (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 locked and that separates the hot tub from any other areas on the premises.
- (14) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
 - (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (15) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (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, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (a) there are no connecting interior doorways that can be used by an unauthorized individual;
 - (b) there is a separate entrance for the child care program;
 - (c) there is a separate mailing address for the rented area;
 - (d) there is a signed rental or lease agreement for the rented area; 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.
- (17) If there is an outdoor area used by children in care, the provider shall comply with Subsections R430-50-9(18) through R430-50-9(23).
- (18) The provider shall ensure that the outdoor area is safely accessible to any child.
- (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.

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(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.

(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) a drop-off of more than five feet on or within 50 yards of the property line;
- (b) a water hazard, including:
 - (i) a creek;
 - (ii) a ditch;
 - (iii) a lake;
 - (iv) a pond;
 - (v) a pool;
 - (vi) a reservoir;
 - (vii) a river;
 - (viii) a swimming pool; or
- (ix) an animal watering trough, on or within 100 yards of the property line;
- (c) any barbed wire that is within 30 feet of the children's play area;
- (d) any dangerous machinery, including farm equipment, on or within 50 yards of the property line; and
- (e) any livestock on or within 50 yards of the property line.

(22) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(23) The provider shall ensure that there is shade available to protect any child from excessive sun and heat when 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) 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 employee's own child 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 each caregiver provides and maintains active supervision of each child, including:

- (a) focusing attention on the children and not on caregivers' personal interests;
- (b) interacting in-person with the children at least every 15 minutes;
- (c) knowing the number of children in their care at any time;
- (d) remaining in the outdoor area when a child younger than five years old is in the outdoor area; and
- (e) remaining inside the home when a child in care is inside the home.

(2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:

- (a) the director or the director designee is physically present and available as needed; and
- (b) the staff or household member is not a volunteer.

(3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.

(4) The provider shall ensure that any guest does not have unsupervised contact with any child in care, including during any offsite activity and transportation.

(5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.

(6) The provider may allow school-age children to 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) personally observing each sleeping infant at least once every 15 minutes; or
- (b) placing each infant to sleep within the sight and hearing of a caregiver.

(8) The provider may allow a child to participate in supervised offsite activities without a caregiver if:

- (a) 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; and
- (b) the provider has prior written permission from the child's parent for the child's participation.
- (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) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.
- (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 person giving verbal authorization; and
 - (b) the person picking up the child.

R430-50-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the facility's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.
- (4) The provider shall ensure that each caregiver uses use gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.
- (5) The provider shall ensure that each interaction with a child does not include:
 - (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
 - (e) forcing or withholding food, rest, or toileting;
 - (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
 - (g) shouting at children.
- (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 Section 80-2-602.

R430-50-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.
- (4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.
- (5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.
- (7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child 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 any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:
 - (a) disposed of properly;
 - (b) inaccessible to any child;
 - (c) stored in a container labeled with the contents of the container; and
 - (d) used according to manufacturer instructions.
- (10) The provider shall ensure that the following items are inaccessible to children:
 - (a) cigarette lighters;
 - (b) hot wax or other hot substances;

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- (c) matches;
 - (d) open flames; and
 - (e) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to a child:
- (a) any live electrical wire; and
 - (b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.
- (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:
- (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 any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.
- (14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any facility vehicle any time a child is in care.
- (15) The provider shall ensure that an outdoor source of drinking water, 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 Fahrenheit or higher.
- (16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (17) The provider shall ensure that hot water accessible to a child 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 any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
- (a) in a 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;
 - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R430-50-14. Emergency Preparedness, Response, and Recovery.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
- (a) includes a procedure for:
 - (i) accommodating a child with a disability;
 - (ii) accommodating a child with a chronic medical condition;
 - (iii) accommodating any infant and toddler;
 - (iv) communication with and reunification of families;
 - (v) continuity of operations;
 - (vi) evacuation;
 - (vii) lockdown;
 - (viii) relocation; and
 - (ix) shelter in place.
 - (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
- and
- (c) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the home's street address and any emergency numbers, including at least fire, police, and poison control, near each 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 a fire evacuation drill every six months and make sure each drill includes a complete exit of each child, staff member, and volunteer from the building.
- (5) The provider shall conduct a drill for disasters, other than fires, at least once every 12 months.
- (6) The provider shall vary the days and times when fire and other disaster drills are held.
- (7) The provider shall:
- (a) give each parent 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 a school-age child signs 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.

- shall:
- (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; and
 - (b)(i) contact the parent after emergency personnel are called; or
 - (ii) 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 submit a critical incident report to OL within the next business day 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 must 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 OBP for review.
 - (14) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

R430-50-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds 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 toy and material used by a child:
 - (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 any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each highchair tray before each use.
- (6) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (7) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (8) The provider shall clean and sanitize each potty chair after each use.
- (9) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.
- (10) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food or bottles;
 - (f) upon arrival; and
 - (g) when coming in from outdoors.
- (11) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (12) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
 - (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before and after eating meals and snacks;
 - (d) before using a water play table or tub;

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- (e) upon arrival; 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 ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
 - (16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:
 - (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 prompt change of a child's clothing if the child has a toileting accident.
 - (18) The provider shall ensure that a child'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.
 - (19) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
 - (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - (f) wear waterproof gloves; 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 any other child 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 an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R430-50-16. Food and Nutrition.

- (1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours.
- (2) If the provider supplies food for children's meals or snacks, 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 OL-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 OL; 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 a child:
 - (a) is aware of each child in their assigned group who has any food allergy or sensitivity; and
 - (b) ensures that a child is not served the food that the child is allergic or sensitive to.
- (4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
- (5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:
 - (a) consumed only by that child;
 - (b) labeled with the child's name; and
 - (c) refrigerated if needed.

R430-50-17. Medications.

- (1) The provider shall make medications inaccessible to children in care.
- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
- (4) The provider shall obtain 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) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication 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) administers the medication;
 - (b) 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;
 - (c) checks the medication label to confirm the child's name if the parent supplied the medication; and
 - (d) washes their hands.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; 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 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 OL.

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 that children spend in the program.
- (3) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (4) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
 - (a) not allowed for a child zero to 17 months old;
 - (b) limited for a child 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 a child five to 12 years old.
- (5) If the provider offers swimming activities, or if a wading pool is used, the provider shall ensure that:
 - (a) a caregiver stays 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;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;
 - (d) each wading pool is emptied and sanitized after use by each group of children;

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- (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
- (f) the parent gives permission before their child uses the pool.
- (6) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (c) the child's parent gives written consent before each activity;
 - (d) the required caregiver-to-child ratio and supervision are maintained during the entire activity; and
 - (e) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (7) The provider shall ensure that a caregiver with the children takes the 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 a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent 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 as intended by the manufacturer.
- (2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface 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) OL may consider a trampoline on the premises 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 must obtain 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 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 is no strangulation hazard on or within the use zone of any piece of stationary play equipment.
 - (14) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.
 - (15) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R430-50-20. Transportation.

- (1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:
 - (a) signed by a parent; and
 - (b) on-site for review by OL.
- (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 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 emergency contact information outlined in Subsection R381-50-18(7) for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a 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 and actively supervises each child;
 - (c) a caregiver transporting a child has emergency contact information outlined in Subsection R381-50-18(7) and a release for each child being transported; and
 - (d) the caregiver-to-child ratio is maintained.
- (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 each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (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 no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R430-50-22. Rest and Sleep.

- (1) The provider shall offer a child in care a daily opportunity for rest or sleep in an environment with:
 - (a) a low noise level;
 - (b) freedom from distractions; and
 - (c) subdued lighting.
- (2) The provider shall ensure that each crib:
 - (a) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child;

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- (b) has a tight-fitting mattress;
 - (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) 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; and
 - (e) has slats spaced no more than 2-3/8 inches apart.
- (3) The provider shall ensure that sleeping equipment does not block any exit
- (4) The provider shall ensure that sleeping equipment and bedding items are:
- (a) clearly assigned to one child; and
 - (b) laundered as needed, but at least once a week, and before use by another child.
- (5) The provider shall clean and sanitize sleeping equipment, that is not clearly assigned to and used by an individual child, before each use.

R430-50-23. Diapering.

- (1) If the provider accepts children who wear diapers, the provider shall ensure that each child's diaper is:
- (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.
- (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 a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (5) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (6) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
- (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) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.
- (8) If cloth diapers are used, the provider shall:
- (a) not rinse cloth diapers at the facility; and
 - (b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
 - (ii) place the cloth diapers in a leakproof diapering service container.

R430-50-24. Infant and Toddler Care.

- (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 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 a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:
- (a) a wet or soiled diaper;
 - (b) fatigue;
 - (c) fear;
 - (d) hunger;
 - (e) illness; or
 - (f) teething.
- (4) To stimulate 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 any mobile infant and toddler has freedom of movement in a safe area.
- (6) The provider may not confine an awake infant or toddler in any piece of equipment, 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 any object made of styrofoam inaccessible to any infant and toddler.
- (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 use is:
- (a) labeled with the child's name;

- (b) labeled with the date and time of preparation or opening of the container, 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 is within arm's reach of each infant during bottle feeding and that a bottle is not propped.
- (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.
- (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 a caregiver cuts solid food for:
 - (a) an infant into pieces no larger than 1/4 inch in diameter; and
 - (b) a toddler into pieces no larger than 1/2 inch in diameter.
- (15) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (16) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (17) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

R430-50-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, residential certification

Date of Last Change: ~~2024~~2025

Notice of Continuation: May 4, 2023

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R430-90	Filing ID: 56906
Date of Previous Publication (Only for CPRs):	11/15/2024	

Agency Information

1. Title catchline:	Health and Human Services, Residential Child Care Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@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:
Based on internal discussion and discussion with stakeholders, this change in proposed rule (CPR) updates language regarding background checks to transparently outline background check processes and align with the background checks conducted for health care facility and human services program staff.
The child care licensing committee has approved this change in proposed rule filing.

4. Summary of the new rule or change:

This filing updates Section R430-90-8 regarding background checks to align with other Division of Licensing and Background Check (DLBC) rules.

It also addresses the Office of Background Processing's (OBP's) statutory authority to review information, explains when OBP can issue a finding, limits re-application time to two years following an application denial, and clarifies when OBP may consider pending convictions. These processes are authorized by statute and are being provided in rule for provider reference and clarity in administrative proceedings.

It updates Section R430-90-6, altering language to the accepted industry term "a child experiencing homelessness."

(EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 351. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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 as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

B) Local governments:

There is no anticipated cost or savings to local government, as local governments do not have any involvement in the background check requirements of OBP.

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

There is no anticipated cost or savings to small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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

There is no anticipated cost or savings to non-small businesses as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or 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 is no anticipated cost or savings to any person other than small businesses, non-small businesses, state, or local government entities as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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 compliance cost for affected persons as a result of this CPR, as background checks are already statutorily authorized to be processed as outlined in the CPR and no changes to the background check process will occur as a result of the clarifying content that aligns child care background check rules with other OBP rules.

Other changes do not introduce any new processes or requirements.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Tracy S. Gruber, Executive Director	Date:	03/13/2025
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NOTICES OF CHANGES IN PROPOSED RULES

R430. Health and Human Services, Residential Child Care Licensing.

R430-90. Licensed Family Child Care.

R430-90-1. Authority and Purpose.

(1) Section 26B-2-402 authorizes this rule.

(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) Terms used in this rule are defined in Rule R380-600. Additionally:

(2) "Background finding" means information in a background check that the OBP uses to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Barrier" means an enclosing structure 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 day" means a day of the week the facility is open for business.

(6) "Business hours" means the hours the facility is open for business.

(7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.

(8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.

(9) "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.

(10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.

(11) "Child care" means continuous care and supervision of at least one qualifying child that:

(a) is in place of care ordinarily provided by a parent in the parent's home;

(b) occurs for less than 24 hours a day; and

(c) is provided for direct or indirect compensation.

(12) "Child care program" means a person or business that offers child care.

(13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.

(14) "Covered individual" means the same as defined in Rule R380-600.

(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:

(a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or

(b) accessible flat surface that is at least two by two inches in size and has 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 CCL rules.

(20) "Eligible" means the same as defined in Rule R380-600.

(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 entrapment and strangulation.

~~(22) "Experiencing homelessness" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~

~~(2[2]3) "Facility" means a program or premises approved by OL to be used for child care.~~

~~(2[3]4) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.~~

~~(2[4]5) "Group size" means the total number of children in a group per room or area.~~

~~(2[5]6) "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.~~

~~(2[6]7) "Health care provider" means a licensed health professional, 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 for children by being:

(a) behind a properly secured child safety gate;

(b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;

(c) located at least 36 inches above the floor;

(d) locked, including in a locked room, cupboard, or drawer; or

(e) secured with a child safety device, including a child safety cupboard lock or doorknob device.

- (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) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (32) "License" means a license issued by OL to provide child care services.
- (33) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (34) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (35) "OBP" means the same as defined in Rule R380-600.
- (36) "OL" means the same as defined in Rule R380-600.
- (37) "Older toddler" means a child age 18 through 23 months old.
- (38) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (39) "Parent" means the parent or legal guardian of a child in care.
- (40) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (41) "Preschooler" means a child age two through four years old.
- (42) "Provider Designee" means the adult delegated by the provider to take the provider's responsibility in the provider's absence.
- (43) "Qualifying child" means a child:
 - (a) child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (c) child who is younger than four years old and is the child of the provider or a caregiver; or
 - (b) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (44) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (45) "Residential child care" means care that takes place in a child care provider's home.
- (46) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (47) "School-age child" means a child age five through 12 years old.
- (48) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.
- (49) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (50) "Stationary play equipment" means equipment, 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) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;
 - (b) sandbox;
 - (c) sensory table; or
 - (d) stationary circular tricycle.
- (51) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled, including:
 - (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or
 - (c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.
- (52) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.
- (53) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.
- (54) "Working day" means any day of the week the department is open for business.
- (55) "Younger toddler" means a child age 12 through 17 months old.

R430-90-3. License Required.

- (1) A person shall obtain a license for a residential child care [~~center~~]certificate from OL if the person provides care:
 - (a) for direct or indirect compensation;
 - (b) for each individual child for less than 24 hours a day;
 - (c) for four or more hours a day;
 - (d) for nine or more unrelated children;
 - (e) in the absence of the child's parent;

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- (f) in the provider's home; and
- (g) on a regularly scheduled, ongoing basis.
- (2) OL will not issue a license if care is only for related children or on a sporadic basis.
- (3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility 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 OL 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.
- (6) A child care center licensee shall comply with Rule R380-600.

R430-90-4. Fire and Other Health Inspections.

- (1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:
 - (a) address numbers and letters are readable from the street;
 - (b) boiler, mechanical, and electrical panel rooms are not used for storage;
 - (c) exit doors operate properly and are well maintained;
 - (d) there are no obstructions in exits, aisles, corridors, and stairways;
 - (e) there are working smoke detectors that are properly installed on each level of the building; and
 - (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.
- (2) 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, OL shall verify the applicant's compliance by ensuring:
 - (a) any chemical is stored away from food and food service items;
 - (b) food is properly stored, kept to the proper temperature, and in good condition;
 - (c) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
 - (d) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (e) there is a working handwashing sink in the kitchen;
 - (f) there is a working stem thermometer available to check cooking and hot-hold temperatures; and
 - (g) there is a working thermometer in the refrigerator.

R430-90-5. Immediate Closure.

- (1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.
- (2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.
- (3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R430-90-6. Administration and Children's Records.

- (1) The provider shall:
 - (a) be at least 18 years old;
 - (b) be considered eligible by an OBP background check before becoming involved with child care;
 - (c) complete the new provider training offered by OL; 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 any child in care, or is contrary to the health, welfare, and safety of the public.
- (3) The provider shall know and comply with 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.
- (6) The provider shall post a current copy of OL'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 each parent and OL 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:
 - (a) the child's name;
 - (b) the child's date of birth;
 - (c) each parent's name, address, and phone number, including a daytime phone number;
 - (d) the names of individuals authorized by the parent to sign the child out from the facility;
 - (e) the 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) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;
 - (k) any instructions for special or nonroutine daily health care of the child;
 - (l) any current ongoing medication 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 OL.
- (12) Before admitting any child younger than five years old into the program, including the provider's or employees' own child, the provider shall obtain 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 any foster child and child who is experiencing homelessness.
- (13) For each child younger than five years old, including the provider's or employees' own child, the provider shall keep the child's current immunization records on-site for review by OL.
- (14) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.
- (15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

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.
- (2) The provider must ensure that, before being left alone with a child, the provider designee:
 - (a) completes OL'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 a child is supervised, qualified, and trained to:
 - (a) comply with licensing requirements under this rule; and
 - (b) meet the needs of any child as required by this rule.
- (4) The provider shall ensure that a caregiver:
 - (a) 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;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care;
 - (e) is introduced to other staff and to the caregiver's assigned group of children;
 - (f) knows and follows any applicable laws and requirements under this rule; and
 - (g) reviews the information in each child's health assessment in the caregiver's assigned group, including any allergy, food sensitivity, and other individual needs.
- (5) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) knows and follows any applicable law and this rule; and
 - (c) is considered eligible by an OBP background check before becoming involved with child care.
- (6) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.

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- (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 each household member who is:
- (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (9) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
- (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (10) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
- (a) administration of medication;
 - (b) applicable laws and requirements under Rule R381-70;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (12) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) administration of medication;
 - (b) building and physical premises safety;
 - (c) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (d) children with special needs;
 - (e) emergency preparedness, response, and recovery plan;
 - (f) pediatric first aid and CPR;
 - (g) prevention and control of infectious diseases including immunizations;
 - (h) precautions in transporting children;
 - (i) prevention of and response to emergencies due to food and allergy reactions;
 - (j) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (k) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (l) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (m) recognizing the signs of an individual experiencing homelessness and available assistance;
 - (n) safe handling and disposal of hazardous materials and bio contaminants; and
 - (o) Sections R430-90-7 through R430-90-24.
- (13) The provider shall ensure that at least half of the required annual training is interactive.
- (14) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
- (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training;
 - (d) training topic; and
 - (e) whether the training was interactive or not.
- (15) 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 a child is in care:
- (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (16) The provider shall ensure that CPR certification includes hands-on testing.
- (17) The provider shall ensure that the following records for each caregiver and volunteer are on-site for review by OL:

- (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, the provider shall use the licensing provider portal search to verify that the individual is eligible and:

- (a) associate that individual with the provider's 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 licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for any individual 12-17 years old who is only listed as a household member and:

- (a) authorize the individual's background check through the licensing provider portal;
- (b) pay any required fee; and
- (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.

(3) To keep a covered individual's background check eligibility current, the provider shall require the covered individual to submit a new background check application, fingerprints, and any fee if the covered individual has:

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

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:

- (a) authorize the child's background check through the licensing portal; and
- (b) pay any required fee.

(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 electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.

(7) OBP may consider a covered individual not eligible for any of the following reasons:

(a) a pending charge for a felony offense;

~~(a)~~ (b) any felony conviction;

~~(b)~~ (c) any of the reasons listed under Subsection [R381-100-8](8);

~~(c)~~ (d) LIS supported findings that occurred no more than 15 years from the date the application was submitted;

~~(d)~~ (e) the covered individual knowingly making a false statement related to their background check;

~~(e)~~ (f) the covered individual refusing to consent to the criminal background check; or

~~(f)~~ (g) the covered individual's name appearing on the Utah or national sex offender registry.

(8) OBP may also consider a covered individual not eligible if the individual has been convicted, has pled no-contest, or is currently subject to a plea and abeyance or diversion agreement for any of the following ~~[criminal findings]~~ pending charges or convictions, regardless of severity:

(a) child pornography;

(b) driving under the influence while a child is present in the vehicle;

(c) lewdness involving a child;

~~(c)~~ (d) pornographic material or performance;

~~(d)~~ (e) providing dangerous weapons or firearms to a minor;

~~(e)~~ (f) sexual battery;

~~(f)~~ (g) sexual enticing of a minor;

~~(g)~~ (h) sexual exploitation;

~~(h)~~ (i) voyeurism; or

~~(i)~~ (j) any crime against an individual.

(9) OBP 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 OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL 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 OBP, including if 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.

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(12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.[]

~~(14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.[]~~

(14) The OBP director or designee may consider any additional relevant background information in making the decision to grant, deny, or continue an eligible determination on a background check, including:

(a) intervening circumstances regarding an offense or finding;

(b) steps taken to correct or improve since any offense or finding;

(c) surrounding circumstances of an offense or finding;

(d) the length of time since an offense or finding; and

(e) the type and number of offenses or findings.

(15)(a) OBP shall rely on relevant information from Subsections (7) and (8) as conclusive evidence and may deny a covered individual based on that information.

(b) When a covered individual no longer works for the program, the provider shall separate that employee in the program's roster in the online system within five days of the employee's separation from the program.

(c) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.

(16) If OBP determines evidence exists that a covered individual has been arrested or charged with an offense that may be denied under Subsections (7) and (8), the Division of Licensing and Background Checks may act to protect the health and safety of a child.

(17) The provider may only allow a covered individual with a pending arrest or criminal charge to access a child when:

(a) OBP has authorized conditional access; and

(b) the provider demonstrates to OBP that the work arrangement does not pose a threat to the health or safety of any child.

(18) A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.

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 or employee's own child.

(2) The provider 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) When measuring indoor space for children's use, the provider may not include any:

(a) bathroom;

(b) closet;

(c) entryway;

(d) hallway; and

(e) lobby.

(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.

(5)(a) 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 for lead.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.

(7) 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.

(8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(9) The provider shall ensure that there is a working telephone:

(a) at the facility;

(b) during any offsite activity; and

(c) in each vehicle while transporting a child.

- (10) The provider shall ensure that there is at least one working toilet and one working handwashing sink accessible to each nondiapered child in care.
- (11) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.
- (12) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
- (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) 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.
- (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 locked and that separates the hot tub from any other areas on the premises.
- (14) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
- (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (15) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
- (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (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, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
- (a) there are no connecting interior doorways that can be used by an unauthorized individual;
 - (b) there is a separate entrance for the child care program;
 - (c) there is a separate mailing address for the rented area;
 - (d) there is a signed rental or lease agreement for the rented area; 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.
- (17) The provider shall ensure that there is an outdoor area that is safely accessible to any child.
- (18) 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.
- (19) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high 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.
- (20) 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) a drop-off of more than five feet on or within 50 yards of the property line;
 - (b) a water hazard, including:
 - (i) a creek;
 - (ii) a ditch;
 - (iii) a lake;
 - (iv) a pond;
 - (v) a pool;
 - (vi) a reservoir;
 - (vii) a river;
 - (viii) a swimming pool; or
 - (c) an animal watering trough, on or within 100 yards of the property line;
 - (d) any barbed wire that is within 30 feet of the children's play area;
 - (e) any dangerous machinery, including farm equipment, on or within 50 yards of the property line; and
 - (f) any livestock on or within 50 yards of the property line.
- (21) The provider shall ensure that there is no gap five by five inches or greater in or under the outdoor area fence or barrier.
- (22) The provider shall ensure that there is shade available to protect any child from excessive sun and heat when in the outdoor area.

R430-90-10. Ratios and Group Size.

- (1) The provider shall maintain at least:

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- (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 employee's own child 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 One 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
0-4 children	8 children	12 children
5 children	7 children	12 children
6 children	6 children	12 children
7 children	5 children	12 children
8 children	4 children	12 children
9 children	3 children	12 children
10 children	2 children	12 children
11 children	1 child	12 children

TABLE 2 Maximum Group Size With Two Caregivers		
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
0-8 children	16 children	24 children
9 children	15 children	24 children
10 children	14 children	24 children
11 children	13 children	24 children
12 children	12 children	24 children
13 children	11 children	24 children
14 children	10 children	24 children
15 children	9 children	24 children
16 children	8 children	24 children
17 children	7 children	24 children
18 children	6 children	24 children
19 children	5 children	24 children
20 children	4 children	24 children
21 children	3 children	24 children
22 children	2 children	24 children
23 children	1 child	24 children

- (5) The provider may include caregivers and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.
- (6) The provider shall ensure that guests do not count in caregiver-to-child ratio.

R430-90-11. Child Supervision and Security.

- (1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:
 - (a) being in the outdoor area when a child younger than five years old is in the outdoor area;
 - (b) being inside the home when a child in care is inside the home;

- (c) each child receives in-person interaction with a caregiver at least every 15 minutes;
 - (d) focusing attention on the children and not on caregivers' personal interests; and
 - (e) knowing the number of children in their care at any time.
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:
- (a) the director or the director designee is physically present and available as needed; and
 - (b) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest does not have unsupervised contact with any child in care, including during any offsite activity and transportation.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.
- (6) The provider may allow school-age children to 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) personally observing each sleeping infant at least once every 15 minutes; or
 - (b) placing each infant to sleep within the sight and hearing of a caregiver.
- (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) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.
- (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 person giving verbal authorization; and
 - (b) the person 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 on-site for review by OL.

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 each child, each parent, and anyone who interacts with any child in care of the facility's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.
- (4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.
- (5) The provider shall ensure that each interaction with a child does not include:
 - (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
 - (e) forcing or withholding food, rest, or toileting;
 - (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
 - (g) shouting at children.
- (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.

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R430-90-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.

(3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.

(4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.

(5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.

(6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.

(7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child 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 any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:

(a) disposed of properly;

(b) inaccessible to any child;

(c) stored in a container labeled with the contents of the container; and

(d) used according to manufacturer instructions.

(10) The provider shall ensure that the following items are inaccessible to children:

(a) cigarette lighters;

(b) hot wax or other hot substances;

(c) matches;

(d) open flames; and

(e) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to a child:

(a) any live electrical wire; and

(b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.

(12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:

(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 any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.

(14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any facility vehicle any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, 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 Fahrenheit or higher.

(16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.

(17) The provider shall ensure that hot water accessible to a child 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 any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:

(a) in a 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;

(d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;

(c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R430-90-14. Emergency Preparedness, Response, and Recovery.

(1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

(a) includes a procedure for:

(i) accommodating a child with a disability;

(ii) accommodating a child with a chronic medical condition;

- (iii) accommodating any infant and toddler;
 - (iv) communication with and reunification of families;
 - (v) continuity of operations;
 - (vi) evacuation;
 - (vii) lockdown;
 - (viii) relocation; and
 - (ix) shelter in place.
- (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
- and
- (c) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the facility's street address and any emergency numbers, including at least fire, police, and poison control, near each 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 a fire evacuation drill at least quarterly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.
- (5) The provider shall document each fire drill, including:
- (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the total time to complete the evacuation.
- (6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.
- (7) The provider shall document each disaster drill, including:
- (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;
- (8) The provider shall vary the days and times 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 OL.
- (10) The provider shall:
- (a) give each parent 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 a school-age child signs 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 OL within the next business day of the incident; or
 - (b) contact OL 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 OL.
- (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 must 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 OBP for review.
- (18) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

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R430-90-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds 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 toy and material used by a child:
 - (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 any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each highchair tray before each use.
- (6) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (7) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (8) The provider shall clean and sanitize each potty chair after each use.
- (9) The provider shall ensure that toilet paper is accessible and kept in a dispenser.
- (10) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food or bottles;
 - (f) upon arrival; and
 - (g) when coming in from outdoors.
- (11) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (12) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
 - (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before and after eating meals and snacks;
 - (d) before using a water play table or tub;
 - (e) upon arrival; 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 ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:
 - (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 prompt change of a child's clothing if the child has a toileting accident.
- (18) The provider shall ensure that a child'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 ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
 - (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;

- (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
- (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
- (f) wear waterproof gloves; 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 any other child 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 an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R430-90-16. Food and Nutrition.

- (1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours.
- (2) If the provider supplies food for children's meals or snacks, 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 OL-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 OL; 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 a child:
 - (a) is aware of each child in their assigned group who has any food allergy or sensitivity; and
 - (b) ensures that a child is not served the food that the child is allergic or sensitive to.
- (4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
- (5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:
 - (a) consumed only by that child;
 - (b) labeled with the child's name; and
 - (c) refrigerated if needed.

R430-90-17. Medications.

- (1) The provider shall make medications inaccessible to children in care.
- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
- (4) The provider shall obtain 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) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated; and
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

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- (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) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) 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;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; 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 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 OL.

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 that 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 any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (6) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
 - (a) not allowed for a child zero to 17 months old;
 - (b) limited for a child 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 a child five to 12 years old.
- (7) If the provider offers swimming activities, or if a wading pool is used, the provider shall ensure that:
 - (a) a caregiver stays 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;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;
 - (d) each wading pool is emptied and sanitized after use by each group of children;
 - (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
 - (f) the parent gives permission before their child uses the pool.
- (8) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (c) the child's parent gives written consent before each activity;
 - (d) the required caregiver-to-child ratio and supervision are maintained during the entire activity; and
 - (e) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (9) The provider shall ensure that a caregiver with the children takes the 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 a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent 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 as intended by the manufacturer.
- (2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface 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) OL may consider a trampoline on the premises 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 must obtain 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 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 is no strangulation hazard on or within the use zone of any piece of stationary play equipment.
 - (14) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.
 - (15) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R430-90-20. Transportation.

- (1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:
 - (a) signed by a parent; and
 - (b) on-site for review by OL.
- (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 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;

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- (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a 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 and actively supervises each child;
 - (c) a caregiver transporting a child has emergency contact information outlined in Subsection R430-90-18(9) and a release for each child being transported; and
 - (d) the caregiver-to-child ratio is maintained.
- (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 each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (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 no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R430-90-22. Rest and Sleep.

- (1) The provider shall offer a child in care a daily opportunity for rest or sleep in an environment with:
 - (a) a low noise level;
 - (b) freedom from distractions; and
 - (c) subdued lighting.
- (2) The provider shall ensure that each crib:
 - (a) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child;
 - (b) has a tight-fitting mattress;
 - (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) 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; and
 - (e) has slats spaced no more than 2-3/8 inches apart.
- (3) The provider shall ensure that sleeping equipment does not block any exit
- (4) The provider shall ensure that sleeping equipment and bedding items are:
 - (a) clearly assigned to one child; and
 - (b) laundered as needed, but at least once a week, and before use by another child.
- (5) The provider shall clean and sanitize sleeping equipment, that is not clearly assigned to and used by an individual child, before each use.

R430-90-23. Diapering.

- (1) If the provider accepts children who wear diapers, the provider shall ensure that each child's diaper is:
 - (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.

- (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 a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (5) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (6) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (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) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.
- (8) If cloth diapers are used, the provider shall:
 - (a) not rinse cloth diapers at the facility; and
 - (b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
 - (ii) place the cloth diapers in a leakproof diapering service container.

R430-90-24. Infant and Toddler Care.

- (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 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 a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:
 - (a) a wet or soiled diaper;
 - (b) fatigue;
 - (c) fear;
 - (d) hunger;
 - (e) illness; or
 - (f) teething.
- (4) To stimulate 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 any mobile infant and toddler has freedom of movement in a safe area.
- (6) The provider may not confine an awake infant or toddler in any piece of equipment, 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 any infant and toddler.
- (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 use is:
 - (a) labeled with the child's name;
 - (b) labeled with the date and time of preparation or opening of the container, 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 is within arm's reach of each infant during bottle feeding and that a bottle is not propped.
- (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.
- (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 a caregiver cuts solid food for:
 - (a) an infant into pieces no larger than 1/4 inch in diameter; and
 - (b) a toddler into pieces no larger than 1/2 inch in diameter.
- (15) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (16) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (17) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

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R430-90-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, licensed family child care

Date of Last Change: ~~2025~~[2024]

Notice of Continuation: May 4, 2023

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R432-45	Filing ID: 56889
Date of Previous Publication (Only for CPRs): 11/15/2024		

Agency Information

1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R432-45. Nurse Aide Training and Competency Evaluation Program
3. Purpose of the new rule or reason for the change:
Based on a stakeholder request, the Department of Health and Human Services (Department) is filing this change in proposed rule (CPR) to update terms and more clearly address and reference federal requirements.
4. Summary of the new rule or change:
This CPR updates terms and wording throughout the rule to better align with federal terminology, adds more specific language and citation references for provisions under 42 CFR 483.156, updates language in accordance with 42 CFR 483.152, and clarifies the time frames for expired certified nurse aide (CNA) certificates. It also fixes an incorrect citation. Additionally, this filing makes nonsubstantive style and formatting changes to comply with the Rulewriting Manual for Utah and align with other rules under the Department. (EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 414. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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, as this filing makes style and formatting changes and clarifies the language for existing federal requirements already in effect and enforced by the Office of Licensing (OL).

B) Local governments:

There is no anticipated cost or savings to local governments, as local governments do not have any involvement in the certification or training of nurse aides in Utah.

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

There is no anticipated cost or savings to small businesses, as this filing makes style and formatting changes and clarifies the language for existing federal requirements already in effect and enforced by OL.

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

There is no anticipated cost or savings to non-small businesses, as this filing makes style and formatting changes and clarifies the language for existing federal requirements already in effect and enforced by OL.

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

There is no anticipated cost or savings to persons other than small business, non-small business, state, or local government entities, as this filing makes style and formatting changes and clarifies the language for existing federal requirements already in effect and enforced by OL.

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 for affected persons, as this filing makes style and formatting changes and clarifies the language for existing federal requirements already in effect and enforced by OL.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:
 42 CFR 431.10(b)(2)(ii) (2024)

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: 05/01/2025

9. This rule change MAY become effective on: 05/08/2025
 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:	03/13/2025
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R432. Health and Human Services, Health Care Facility Licensing.

R432-45. Nurse Aide Training and Competency Evaluation Program.

R432-45-1. Authority and Purpose.

(1)(a) The ~~[Nurse Aide Training and Competency Evaluation Program (NATCEP) is authorized by the]~~ Omnibus Budget Reconciliation Act of 1987 (OBRA), Pub. L. No. 100 203, 101 Stat. 1330, Section 4211~~[z]~~ and Subsections (b)(5)(A) through (G), (c)(1) and (2), and f(2)(A) and (B) authorize the Nurse Aide Training and Competency Evaluation Program (NATCEP).

(b) 42 CFR 431.10(b)(2)(ii) (2024) authorizes the Department of Health and Human Services (department) to make and follow rules in the administration of the Utah State Medicaid Plan that are also binding upon the local contractors that administer the Utah State Medicaid Plan.

(2) The ~~[purpose of this program is for the Department of Health and Human Services (department)]~~ uses NATCEP to carry out the requirements of ~~[Subsection]42 U.S.C. Sec. 1396r(5), [that]which~~ specifies requirements for nursing facilities to ensure nurse aides are trained according to federal requirements. The Utah State Medicaid Plan requires that the department administer the NATCEP and Utah ~~[Nurse Aide]Nursing Assistant~~ Registry (UNAR) to certify and regulate certified ~~[nursing]nurse~~ aides (CNA) and approve the required training instructions. ~~[42 CFR 431.10(b)(2)(ii) (2024) authorizes the department to make and follow rules in the administration of the Utah State Medicaid Plan, that are also binding upon the local contractors that administer the Utah State Medicaid Plan.]~~

R432-45-2. Definitions.

~~[Definitions in this rule are found in]~~ Terms used in this rule are defined in Rules R380-600 and R432-1. Additionally:

(1) "Applicant" means an entity ~~[for whom an individual applies]~~ applying to the UNAR request[ing] approval to operate a NATCEP.

(2) "Candidate" means a student who is actively enrolled in a NATCEP or an individual who applies for certification as a nurse aide.

(3) "CMS" means the Centers for Medicare and Medicaid Services and is a federal agency that provides healthcare coverage and delegates healthcare oversight to state entities.

(4)~~[(a)]~~ "CNA" means certified nurse aide and is a person who:

(a) completes the NATCEP and passes the competency evaluation;

(b) is approved for certification through reciprocity; or

(c) is approved for a waiver as outlined in Section R432-45-3.

~~[(b) a CNA may also achieve certification through reciprocity or a waiver as outlined in Section R432-45-3.]~~

(5) "Competency evaluation" means a written or audio-narrated examination and a demonstration of the skills administered to verify the knowledge and abilities essential to carry out the duties of a nurse aide.

(6) "DACs" means the Direct Access Clearance System that is the Division of Licensing and Background Checks' (division) online background check system.

(7) "Instructor" means a UNAR-approved licensed nurse who is employed by a NATCEP that provides supervised and documented nurse aide training in accordance with state and federal requirements and UNAR policies to candidates in a classroom or ~~[clinical]~~supervised practical training setting.

(8) "Instructor-assistant" means a CNA in good standing with UNAR, and in each state where the individual is certified, who assists candidates with skills taught by the NATCEP and who works under the direct supervision of an instructor.

(9) "NAPP" means nurse aide proficiency performance and is a record maintained by the NATCEP for each candidate nurse aide to document each candidate's successful demonstration of competence of tasks generally performed by a nurse aide.

(10) "NAR" means the nurse aide registry that lists each individual who has completed the Utah certification requirements and holds active certification in Utah.

(11) "NATCEP" means the UNAR-approved nurse aide training and competency evaluation program that provides classroom, laboratory, and in-facility training and experience for a candidate for certification as a nurse aide.

(1[4]2) "NATCEP loss list" means a list maintained by CMS including the reason for NATCEP loss, the effective date of the loss, the effective date of any waiver issued, and the restore date, as applicable.

(13) "NATCEP loss waiver" means a waiver requested by a nursing care facility and submitted to OL for permission to allow separately approved training and competency evaluation programs to use the facility as a site location for supervised practical training.

(14)(a) "Nurse aide" means any individual who provides nursing or nursing-related services to residents in a nursing care facility.

(b) "Nurse aide" does not mean an individual who:

(i) is a licensed professional; or

(ii) who volunteers to provide services without monetary consideration.

(1[2]5) "Nursing care facility" means a skilled nursing facility, or an intermediate care facility, that provides long-term, 24-hour inpatient care and services through utilizing licensed healthcare professionals and ancillary staff to meet the complex physical, mental, and psychosocial needs of residents.

(1[3]6) "Program ~~[D]~~director" means a UNAR-approved registered nurse (RN), employed by a UNAR-approved NATCEP, who:

(a) has the primary responsibility for assuring the program is conducted in accordance with each regulation, rule, and UNAR policy;

(b) serves as the primary administrative contact with the UNAR; and

(c) holds authority over and serves as a mentor to program instructors.

(1[4]7) "Qualified personnel" means:

(a) ~~[activities specialist;~~

~~(b)]a dietitian;~~

~~(e)b] a fire safety expert;~~

~~(d)c] a gerontologist;~~

~~(e)d] a licensed practical or vocational nurse;~~

~~(f)e] a nursing home, or health care facility administrator;~~

~~(g)f] a pharmacist;~~

~~(h)g] a physical or occupational therapist;~~

~~(i)h] a psychologist;~~

~~(j)i] a registered health specialist or registered sanitarian;~~

~~(k)] registered nurse;~~

~~(l)] (i) a social worker; or~~

~~(m)] k) a speech and language therapist;~~

~~(l)] an activities specialist; or~~

~~(m)] an RN.~~

(1[5]8) "Renewal" means the process ~~[the]~~UNAR conducts every ~~[other year]~~24 months to verify that each CNA has provided at least 200 hours of compensated nursing or nursing-related services under the direction of a licensed nurse.

(1[6]9) "Resident" means an individual who resides~~[-in]~~ and receives services in a nursing care facility.

(1[7]20) "SSA" means the state survey agency and is the Office of Licensing (OL) in the ~~[Division of Licensing and Background Checks]~~division, within ~~[DHHS]~~the department that is responsible for the certification activities of Medicaid and Medicare health care providers, including nursing care facilities.

(1[8]21) "Supervised practical training" means training on individuals or mannequins in a laboratory setting or on residents in a nursing care facility where the ~~[trainee]~~candidate demonstrates knowledge, skills, and competence while performing tasks under the direct supervision of a licensed nurse, who is a UNAR-approved instructor.

(1[9]22) "Train-the-trainer program" means a UNAR-approved program designed to educate instructors on how to [provide training and education to adult learners and] use demonstrations and lectures to educate nurse aide candidates, ~~[, that consists of formal instructions regarding how to train a CNA candidate through demonstrations and lectures.]~~

(2[0]3) "UNAR" means the Utah Nursing Assistant Registry and is the state agency that:

(a) approves and monitors test sites;

(b) approves, monitors, and withdraws approval of NATCEPs;

(c) certifies nurse aides who have completed a NATCEP and passed the competency evaluation;

(d) develops, updates, and validates the competency evaluation;

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- (e) grants reciprocity to qualified individuals certified in other states;
 - (f) maintains ~~[a registry of each CNA with active certification in Utah]~~ the NAR;
 - (g) maintains an abuse registry for any substantiated allegations of resident neglect, abuse, or misappropriation of resident property by a CNA in a nursing care, Medicaid, or Medicare facility; and
 - (h) renews certifications of each qualified CNA[s].
- (2)~~[4]~~ "Waiver of NATCEP" means a provision allowing a qualified nursing student, nurse, or in-state expired CNA to challenge the competency evaluation requirement.

R432-45-3. Pathways to Become a CNA.

- (1) A nurse aide performing nursing or nursing-related services in a Medicare or Medicaid certified nursing facility shall meet necessary requirements and become certified within 120 days of the first date of employment.
- (2) An individual who was certified as a nurse aide on or before July 1, 1989, meets the OBRA requirement upon completion of the approved in-service training on intellectual disabilities and mental illness.
- (3) To become certified through a NATCEP, a candidate~~[-shall]:~~
 - (a) shall be at least 16 years old;
 - (b) shall enroll in a UNAR-approved NATCEP;
 - (c) shall fulfill each requirement in ~~[Subsections R432-45-4(1) and R432-45-5(9)]~~ this rule; and
 - (d) may not be an inmate, in accordance with Subsection 64-13-48(~~[7]~~8)~~[-may not be an inmate]~~.
- (4)(a) UNAR may grant a waiver of NATCEP and require only the competency evaluation when accompanied by an application for certification testing to:
 - (i) a nursing student who has successfully completed the first semester of nursing school within the past two years~~[-]~~ and can provide an official transcript demonstrating proof of a passing grade in a nurse fundamentals class;
 - (ii) a nurse with an expired license from any state or U.S. ~~[T]~~territory who can provide proof of previous licensure in good standing with the professional board; or
 - (iii) a CNA ~~[with]~~ who has no findings on UNAR's abuse registry and who:
 - (A) has a Utah certificate [that has expired for between six and 24 months] that has been expired for fewer than 24 months; or
 - (B) has not worked at least 200 hours under the direction of a licensed nurse in the previous 24 months [with no findings on UNAR's abuse registry].
- (b) UNAR shall grant the candidate three attempts to pass both the skills and written portion of the examination within:
 - (i) 12 months of submitting the waiver of NATCEP application for:
 - (A) a nursing student; or [-]
 - (B) a nurse with an expired license from any state or U.S. [T]territory; or
 - (ii) two years for any CNA with a Utah certificate that has been expired ~~[between six and]~~ for fewer than 24 months.
 - (c) If the candidate does not pass either portion, the candidate shall complete another NATCEP.
- (5) An individual may seek reciprocity from the UNAR if the individual provides the certification demonstrating ~~[they are]~~ that the individual is currently certified in another state with no findings in that state's abuse registry or on the UNAR abuse registry.
- (6) An individual with an expired certification from another state shall complete a NATCEP in Utah.
- (7) A CNA with a Utah certificate that has been expired for fewer than six months and who had met each requirement before the expiration date may pay a late fee and have the certification reinstated as active for the remainder of the original 24-month renewal time frame.

R432-45-4. Competency Evaluation.

- (1) A candidate shall pass, according to policy established by UNAR, both the written and skills portions of the competency evaluation.
- (2) For the written portion of the competency evaluation, UNAR shall ensure that:
 - (a) each written test is available with audio narration;
 - (b) ~~[#]~~ the evaluation addresses each course requirement as required in Subsection R432-45-5(6);
 - (c) ~~[#]~~ the evaluation is developed from a pool of test questions that:
 - (i) are maintained in a system that preserves the integrity of both the pool of questions and the individual evaluations;
 - (ii) are periodically updated and validated; and
 - (iii) only a portion of the pool of questions are used in any one evaluation.
- (3) UNAR shall use testing software to randomly select five tasks from the pool of the skills competency evaluation items and ensure the skills competency evaluation includes:
 - (a) a pool of skills as required in Subsection R432-45-5(9)(c); and
 - (b) a demonstration of the tasks the nurse aide is expected to perform as a CNA.
- (4) Only a UNAR-approved testing center may perform competency evaluations.
- (5) UNAR shall approve a testing center if ~~[#]~~ the testing center:
 - (a) ensures any remote location[s] can ~~[also-]~~ provide security[-] and integrity[-] and promote[s] a positive testing environment;
 - (b) has any items necessary to simulate a long-term resident care room;
 - (c) has appropriate audio-visual and technology support;

- (d) ~~has a comfortable temperature, ventilation, and lighting;~~
- (e) has headphones and computer capabilities;
- (~~e~~)f has reliable internet access;
- (~~f~~)g has seating~~[-, comfortable ventilation, lighting, and temperature];~~
- (~~g~~)h has systems to ensure the maintenance of the security of the examinations;
- (~~h~~)i is ADASAD-compliant;
- (~~i~~)j is available to provide testing for a qualified candidate from any approved NATCEP;
- (~~j~~)k is in a clean and safe condition;
- (~~k~~)l provides a quiet testing environment; and
- (~~l~~)m provides supervision for monitoring and discouraging cheating.

(6) UNAR shall approve an application for a testing center if the applicant meets the criteria specified in each regulation, rule, and UNAR policy.

(7) UNAR shall ensure that the competency evaluation is available through ~~applied~~-technical colleges, ~~or~~-community colleges, and universities throughout Utah.

(8) For testing center approval, UNAR shall ensure~~[the following staffing requirements are met for testing center approval]:~~

(a) an RN[-registered nurse] who has a current, active license in good standing with the Division of Professional Licensing to practice as an RN, is the skills observer who:

- (i) administers the examination;
- (ii) attends the UNAR mandatory training sessions; and
- (iii) has at least one year of experience in providing care for the elderly or chronically ill of any age;
- (b) each proctor and skill observer:
 - (i) recuses themself from observing any candidate who they have educated or trained in a nurse aide training program; and
 - (ii) signs a confidentiality disclosure and any other mandatory UNAR document[s]; and
- (c) there are enough proctors to ensure the integrity of the written or audio testing.

(9) UNAR shall:

(a) advise the candidate that a record of the outcome of the competency evaluation will be included in the ~~[nurse assistant registry]~~NAR indicated in this section;

(b) ensure the ~~[active CNA registry]~~NAR includes a:

- (i) name;
- (ii) certification number;
- (iii) city, state, and zip code;
- (iv) certification status, including issue and expiration dates;
- (v) history of misconduct that is publicly searchable indefinitely; and
- (vi) certification history publicly searchable while certification is active, plus two years;
- (c) establish a NAPP record of major skills and duties for each candidate for the skills component of the evaluation ~~[to]~~that includes:
 - (i) a list of the skills listed in Subsection R432-45-5(9)(e);
 - (ii) a record that documents when the candidate performed each skill;
 - (iii) a record of satisfactory or unsatisfactory performance;
 - (iv) the date of ~~[the]~~each performance; and
 - (v) the instructor supervising ~~[the]~~each performance;

(d) inform each candidate of ~~[the]~~any area[s] where ~~[they were]~~the candidate was deficient at each exam attempt and that after three failed attempts on the written, audio, or skills component of the competency evaluation, ~~[they]~~the candidate shall complete re-training with an approved NATCEP; and

(e) provide the candidate an opportunity to review and consent to the release of information UNAR requires for the ~~[nursing assistant registry]~~NAR.

(10) At the completion of the training, the NATCEP shall give the nurse aide candidate a copy of the ~~[performance]~~NAPP record.

~~[(11)(a) In accordance with 42 CFR 483.154 (2024), the UNAR shall ensure the demonstration aspect of the skills training portion of the competency evaluation has at least five performance tasks included in the NAPP record.~~

~~[(b) The UNAR shall utilize testing software to randomly select five tasks from the pool of evaluation items listed in Subsection R432-45-5(9).]~~

R432-45-5. Nurse Aide Training Program Requirements Under UNAR.

(1)(a) An applicant shall apply to UNAR on behalf of an entity, including~~[that may include]~~ a:

- (i) Medicare or Medicaid certified nursing facility;
- (ii) secondary~~[-]~~ or post-secondary educational institution; ~~or~~and
- (iii) private business.

(b) An entity may not include an educational program offered to an incarcerated inmate in accordance with Subsection 64-13-48(8).

(2) Within 90 days of receipt of an application for a NATCEP, UNAR shall advise the applicant of UNAR's:

- (a) approval;

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- (b) denial, including a summary of the reasons for denial; or
- (c) request for any additional information.
- (3) An entity may not operate a NATCEP without UNAR approval.
- (4) A NATCEP shall ensure the program director and any NATCEP instructor or employee who has direct patient access successfully completes a background check in accordance with Rule R432-35.
- (5) UNAR shall ensure DACS reflects the current status of each individual required to have a clearance.
- (6) ~~[The]~~ NATCEP shall provide at least 100 hours of supervised and documented training by a licensed nurse using curriculum containing:

- (a) basic nursing skills;
- (b) comprehensive orientation to the training program and the nursing assistant's role on the healthcare team;
- (c) communication and interpersonal skills;
- (d) infection control;
- (e) promoting resident independence;
- (f) respecting resident rights; and
- (g) safety and emergency procedures.

~~[(7)(a) A NATCEP shall ensure each candidate completes at least 24 of the required 100 hours of supervised practical training in a nursing care facility, except as follows:~~

~~(b) UNAR may approve a written request from a NATCEP to use a Type II assisted living facility for no more than eight of the 100 required hours of supervised practical training if the NATCEP:~~

~~(i) provides documentation of the lack of availability of sufficient nursing care facility locations to fulfill the required 24 hours supervised practical training for each of the NATCEP's candidates;~~

~~(ii) identifies the Type II assisted living facility the NATCEP intends to utilize; and~~

~~(iii) submits a request and receives UNAR approval before using a Type II assisted living facility for up to eight hours of the supervised practical training.~~

~~(8) UNAR will not approve an assisted living to be used by a NATCEP, if the facility has been issued a conditional license by OL within the 12 months before the NATCEP submits a request to the UNAR.~~

~~]~~ (7) A NATCEP shall ensure each candidate:

(a) completes at least 24 of the required 100 hours of supervised practical training in a nursing care facility; and

(b) completes the skill competencies and skill curriculum listed on the NAPP record before training in a facility.

(8)(a) UNAR may approve a written request from a NATCEP to use a Type II assisted living facility for no more than eight of the 24 required hours of supervised practical training if the NATCEP:

(i) identifies the Type II assisted living facility the NATCEP wishes to use; and

(ii) provides documentation of the lack of availability of nursing care facility locations to fulfill eight of the required 24 hours of supervised practical training for each NATCEP candidate.

(b) A NATCEP may not continue supervised practical training in a Type II assisted living or nursing care facility if that facility's supervised practical training approval has been withdrawn by UNAR.

(c) A nursing care facility listed on the NATCEP loss list may not allow separately approved NATCEPs to utilize the facility as a site location for supervised practical training unless the facility:

(i) obtains an approved NATCEP loss waiver from OL; or

(ii) is reinstated following the mandatory two-year ban following placement on the NATCEP loss list.

(9) NATCEP shall ensure the skills training requires demonstration of competencies in ~~the following areas~~:

(a) basic nursing skills, including:

(i) caring for a resident when death is imminent;

(ii) caring for ~~the~~ a resident's^['] environment;

(iii) measuring and recording weight and height;

(iv) recognizing abnormal changes in body functioning and the importance of reporting the changes to a supervisor; and

(v) taking and recording vital signs;

(b) basic restorative services including:

(i) bowel and bladder training;

(ii) care and use of prosthetic and orthotic devices;

(iii) maintenance of range of motion;

(iv) proper turning and positioning in bed and chair;

(v~~i~~) transfer techniques~~[-and]~~;

(vi~~i~~) training ~~the~~ a resident in self-care according to the resident's ability; and

(vii~~i~~) use of assistive devices in ~~transferring,~~ ambulating~~[on]~~, dressing, eating, and ~~dressing~~ transferring;

(c) care of cognitively impaired residents, including:

(i) appropriate responses to the behavior of a cognitively impaired resident;

(ii) communicating with a cognitively impaired resident;

(iii) methods for reducing the effects of cognitive impairments;

- (iv) techniques for addressing the unique needs and behaviors of a resident with dementia or Alzheimer's; and
- (v) understanding the behavior of a cognitively impaired resident;
- (d) mental health and social service skills, including:
 - (i) allowing ~~the~~ a resident to make personal choices and providing and reinforcing other behavior consistent with the resident's dignity;
 - (ii) awareness of developmental tasks associated with the aging process;
 - (iii) how to respond to resident behavior;
 - (iv) modifying the nurse aide's behavior in response to ~~the~~ a resident's behavior; and
 - (v) using ~~the~~ a resident's family as a source of emotional support;
 - (e) personal care skills, including:
 - (i) assisting with eating and hydration;
 - (ii) bathing;
 - (iii) dressing;
 - (iv) grooming that includes mouth care;
 - (v) proper feeding techniques;
 - (vi) skin care;
 - (vii) toileting; and
 - (viii) transferring[s], positioning, and turning;
 - (f) resident's['] rights including:
 - (i) aiding in getting to and participating in resident and family groups and other activities;
 - (ii) aiding in resolving grievances and disputes;
 - (iii) maintaining care and security of a resident's['] personal belongings;
 - (iv) promoting ~~the~~ a resident's right to be free from abuse, mistreatment, or neglect and the requirement to report any instances of abuse, mistreatment, or neglect to the appropriate staff, Adult Protective Services, and OL;
 - (v) promoting ~~the~~ a resident's right to be free from physical and chemical restraints, unless the use is required to treat a medical symptom and is not used for discipline or staff convenience[-];
 - (vi) promoting a resident's right to make personal choices to accommodate the resident's needs; and
 - (vii) providing privacy and confidentiality[?].
- (10) A candidate may not perform any services that ~~they have~~ the candidate has not been trained and found proficient to conduct by an instructor.
- (11) A NATCEP shall have:
 - (a) a program director who:
 - (i) is an ~~registered nurse~~ RN with an active license to practice nursing and is in good standing with the Division of Professional Licensing;
 - (ii) has two years of nursing experience with at least one year providing nursing care facility services, caring for the elderly, or caring for the chronically ill of any age;
 - (iii) establishes policies to ensure a minimum of three hours consulting time with ~~the~~ a NATCEP for a new program and can provide at least three hours consulting time per month at renewal application for an existing NATCEP; ~~and~~
 - (iv) may be the director of nursing in a nursing care facility-based NATCEP if the facility remains in compliance with OBRA requirements; and
 - (v) may be the instructor;
 - (b) one or more instructors, each of whom:
 - (i) holds an active license to practice nursing and is in good standing with the Division of Professional Licensing; and
 - (ii) has two years of nursing experience with at least one year of experience providing nursing care facility services, caring for the elderly, or caring for the chronically ill of any age.
- (12) Before approval of a NATCEP, the program director and any instructors shall successfully complete a UNAR-approved train-the-trainer program or demonstrate competence to teach candidates.
- (13) Each high school instructor shall complete the train-the-trainer program or become certified to teach as defined by the Utah State ~~Office~~ Board of Education before providing instruction in the classroom.
- (14)(a) A licensed UNAR-approved nurse instructor shall directly supervise each candidate[s] who provides services to a resident[s].
- (b) Each instructor's ~~clinical~~ supervised practical training oversight time is solely for the direct oversight of a candidate[s] and the instructor may not be used to perform other facility services simultaneously.
- (15)(a) Qualified personnel from the health professions may assist the program director and any instructor[s].
- (b) The program director or any instructor[s] shall be present during any training provided by another qualified professional.
- (16)(a) UNAR shall require qualified personnel to have at least one year of recent experience in the care of the elderly, in the care of the chronically ill of any age, or equivalent experience.
- (b) Qualified personnel shall meet current licensure requirements regardless of whether they are licensed, registered, or certified in ~~their~~ that person's field.

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(17)(a) A NATCEP shall maintain a candidate-to-instructor ratio of 12:1 for ~~[clinical instruction]~~supervised practical training and may not exceed a 30:1 ratio for theory instruction.

(b) A NATCEP shall ensure there is an instructor~~[-]~~ assistant when the program has more than 20 candidates.

(18) A NATCEP shall provide a classroom that:

(a) has a comfortable temperature, ventilation, and lighting;

~~(b) has adequate seating[~~-, comfortable ventilation, lighting and temperature~~];~~

~~(b)~~(c) has appropriate audio-visual and other necessary technology support;

~~(e)~~(d) has appropriate textbooks and reference materials;

~~(d)~~(e) has skills lab equipment to simulate a resident's living unit; and

~~(e)~~(f) is maintained in a clean and safe condition.

(19)(a) UNAR shall place a newly approved NATCEP on a one year probationary period.

(b) UNAR shall withdraw program approval if ~~[the]~~a NATCEP fails to comply with each regulation, rule and UNAR policy at any time~~[during the probationary period]~~.

(c) A NATCEP shall submit a self-evaluation to UNAR during any year that the UNAR does not complete an on-site review.

(20) Each UNAR on-site visit~~[s]~~ and NATCEP self-evaluation~~[s]~~ shall include a review of:

(a) any complaint~~[s]~~ received about the program;

~~(b) [classroom facilities and equipment meet the requirements of rule and UNAR policy.~~

~~(e)~~ documentation of candidate skill proficiency;

~~(d)~~(c) documentation of required theory and ~~[clinical]~~supervised practical training hours;

~~(e)~~(d) evidence that curriculum content meets the requirements of rule and UNAR policy; and

~~(f)~~(e) files for the program director, each instructor, each instructor~~[-]~~ assistant, and qualified personnel used by the NATCEP since the last review date;

~~(f) whether any classroom facilities and equipment meet the requirements of rule and UNAR policy.~~

(21) UNAR shall require a plan of correction for a NATCEP that fails to comply with rule, UNAR policy, or any state or federal requirement~~[s]~~.

(22) UNAR shall withdraw approval of a facility-based NATCEP~~[-]~~ that UNAR had approved within the last two years, if:

~~(a) the facility;~~

~~(a)~~(i) has closed or has had residents transferred to other facilities in an emergency;

~~(b)~~(ii) has been assessed a civil money penalty by CMS in an amount that compels approval withdrawal;

~~(e)~~(iii) has been subject to a partial extended or extended survey;

~~(d)~~(iv) has been subject to the enforcement remedy of a temporary manager;

~~(e)~~(v) has been subject to the enforcement remedy of denial of payment for new admissions; or

~~(f)~~(vi) has operated with an approved nurse staffing waiver; or

~~(g)~~(b) ~~[as]~~ otherwise directed by the SSA or CMS.

(23) Upon review of program performance standards, UNAR shall end a program that does not provide an acceptable plan to correct any deficiency~~[ies]~~.

R432-45-6. Nurse Aide Registry.

(1) ~~[U]~~UNAR is the central registry for ~~[certified nurse aide]~~CNAs in Utah. This registry shall identify each individual who has:

~~(a) successfully completed a NATCEP;~~

~~(b) passed the written competency evaluation with a [passing-]score of 75[-]; and~~

~~(c) passed the skills competency evaluation with a score of 80% for each skill performed, including 100% of the required key steps.~~

(2) A NATCEP shall report to UNAR, within five days after the program ends, the name~~[s]~~ of each individual who satisfactorily completed the program.

(3) UNAR shall process renewals for each ~~[nurse aide]~~CNA who has performed a paid service~~[s]~~ for at least 200 hours of nursing or nursing-related services under the direction of a licensed nurse during the 24 months following the completion date of the NATCEP or certification renewal.

(4) The SSA shall enforce the standards of UNAR described in ~~[OBRA, Secs. 4211 and 4212]~~Pub. L. No. 100-203, 101 Stat. 1330, Secs. 4211 and 4212.

(5)(a) The SSA shall investigate complaints of resident ~~[neglect,-]abuse, neglect,~~ or misappropriation of resident property by a CNA.

~~(b) A CNA may request a hearing through the Division of Medicaid and Health Financing before a substantiated claim [may be]is entered into the registry.~~

(6)(a) Upon notification by the SSA of a substantiated finding of resident abuse, neglect, or misappropriation of resident property, the UNAR shall include the following information on the abuse registry within ten working days of the finding, in accordance with 42 CFR 483.156(c)(1)(iv)(D) (2025):

(i) documentation of the SSA~~'[S]~~s investigation, including the nature of the allegation and the evidence that led the SSA to conclude that the allegation was valid;

(ii) the date of the hearing, if the individual chose to have one, and ~~[its]~~the hearing's outcome; and

(iii) a statement by the individual ~~[disputing]~~disputing the allegation, if applicable.

- (b) Information shall remain in the registry permanently unless:
 - (i) the finding was made in error;
 - (ii) the individual was found not[-] guilty in a court of law; or
 - (iii) the SSA is notified of the individual's death.

(7) In accordance with 42 CFR 483.156(c)(2), UNAR shall remove entries for each individual whose certification has been inactive for 24 consecutive months unless the individual's registry entry includes documented findings of resident abuse, neglect, or misappropriation of resident property.

R432-45-7. Limitations.

- (1) UNAR may only approve a facility-based NATCEP [~~only~~]if the facility's participation in the Medicare and Medicaid programs has not been terminated within the last two years.
- (2) UNAR [~~must~~shall] review and reapprove a NATCEP at least every two years.
- (3) A skilled nursing facility that participates in a Medicare or Medicaid facility may not administer the written and skills components of the competency evaluation.

R432-45-8. Compliance.

Any provider found in noncompliance with any statute or rule [~~or statute governing~~]under the division may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: health care facilities

Date of Last Change: ~~2024~~2025

Notice of Continuation: April 4, 2024

Authorizing, and Implemented or Interpreted Law: 42 CFR 431.10

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or Section Number:	R432-270	Filing ID: 56887
Date of Previous Publication (Only for CPRs): 11/15/2024		

Agency Information

1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@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 Facilities
3. Purpose of the new rule or reason for the change:
Upon review of the initial amendment to this rule and feedback from public comment, the Department of Health and Human Services (Department) determined it was necessary to file this change in proposed rule (CPR) to remove outdated requirements from this rule and to further clarify statutory requirements.

<p>4. Summary of the new rule or change:</p> <p>This CPR filing removes unnecessary and burdensome requirements in the renumbered Section R432-270-25 for the Department to coordinate with authorities regarding emergency heating and in the creation of emergency and disaster plans.</p> <p>In the same section, this filing removes an outdated requirement addressing the Silver Alert notification, as the burden for these notifications falls upon law enforcement.</p> <p>Additionally, this CPR makes style and formatting changes to comply with the Rulewriting Manual for Utah and to align with other rules under the Department.</p> <p>(EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the November 15, 2024, issue of the Utah State Bulletin, on page 457. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)</p>
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Fiscal Information

<p>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</p>
<p>A) State budget:</p> <p>There is no anticipated fiscal impact to the state budget, as this filing does not change the existing process for licensure and re-licensure inspections.</p> <p>This filing removes outdated language and burdensome requirements that are currently unenforceable and, therefore, have not been enforced.</p>
<p>B) Local governments:</p> <p>There is no anticipated fiscal impact to local governments because health care facilities are regulated by the Department and not local governments.</p> <p>There will be no change in local business licensing or any other processes with which local government is involved as a result of this filing.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>There is no anticipated fiscal impact to small businesses, as this filing does not change the existing process for licensure and re-licensure inspections.</p> <p>This filing removes outdated language and burdensome requirements that are currently unenforceable and, therefore, have not been enforced.</p>
<p>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</p> <p>There is no anticipated fiscal impact to non-small businesses, as this filing does not change the existing process for licensure and re-licensure inspections.</p> <p>This filing removes outdated language and burdensome requirements that are currently unenforceable and, therefore, have not been enforced.</p>
<p>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p> <p>There is no anticipated cost or savings to persons other than small businesses, non-small businesses, state or local government entities, as this filing does not change the existing process for licensure and re-licensure inspections.</p>

This filing removes outdated language and burdensome requirements that are currently unenforceable and, therefore, have not been enforced.

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 for affected persons, as this filing does not change the existing process for licensure and re-licensure inspections.

This filing removes outdated language and burdensome requirements that are currently unenforceable and, therefore, have not been enforced.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 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:	05/01/2025
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9. This rule change MAY become effective on:	05/08/2025
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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:	Tracy S. Gruber, Executive Director	Date:	03/13/2025
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R432. Health and Human Services, Health Care Facility Licensing.**R432-270. Assisted Living Facilities.****R432-270-1. Authority and Purpose.**

(1) ~~[This rule is authorized by]~~ Section 26B-2-202 authorizes this rule.

(2) This rule establishes the licensing and operational standards for assisted living facilities. Assisted living is intended to enable an individual experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with enough structure to meet the care needs in a safe manner.

R432-270-2. Compliance and Responsibility.

The licensee shall comply with each applicable section of Rules R380-600, R432-6, R432-35, and R432-270.

R432-270-3. Definitions.

~~[(1) Definitions]~~ Terms used in this rule are ~~[found]~~ defined in Rules R380-600, R432-1, and R432-6~~[-and R380-600]~~. Additionally:

~~[(2)1]~~(a) "Activities of daily living" or "ADLs" means those personal functional activities required for a resident for continued well-being, including:

- (i) administration of medication;
- (ii) bathing;
- (iii) dressing;
- (iv) eating and nutrition;
- (v) personal grooming, including oral hygiene and denture care;
- (vi) toileting and bathing; and
- (vii) transferring, ambulation, and mobility.

(b) ADLs 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.

~~[(3)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.

~~[(4)3]~~ "Assessment" means documentation of each resident's ability or current condition in the following areas:

- (a) ability to communicate effectively with others;
- (b) assistive devices;
- (c) continence;
- (d) leisure patterns and interests;
- (e) medical diagnoses that have a relationship to current ADL status, behavior status, medical treatments, or risk of death;
- (f) medication use and the ability to self-medicate;
- (g) memory and daily decision-making ability;
- (h) mood and behavior patterns;
- (i) physical functioning and ability to perform ADLs;
- (j) prosthetics;
- (k) special treatments and procedures; and
- (l) weight loss.

~~[(5)4]~~ "Certification in cardiopulmonary resuscitation" or "CPR" means a certification issued after completion of an in-person course, to include skills testing, and evaluation on-site with a licensed instructor.

~~[(6)5]~~ "Core competencies" mean:

- (a) communication;
- (b) community living skills and supports;
- (c) crisis prevention and intervention;
- (d) cultural competency and community inclusion;
- (e) dementia care competencies;
- (f) empowerment and advocacy;
- (g) health and wellness;
- (h) observation;
- (i) person-centered care principles and practices;
- (j) professionalism and ethics;
- (k) safety; and

- (l) training and self-development.
- (~~7~~6) "Facility" means the same as defined in Rule R432-1, and for this rule, includes the definition listed in Section 26B-2-236.
- (~~8~~7)(a) "Home-like" means a place of residence[-] that creates an atmosphere supportive of the resident's preferred lifestyle.
- (b) Home-like is also supported by the use of residential building materials and furnishings.
- (~~9~~8) "Hospice patient" means an individual who is admitted to a hospice program or agency.
- (~~10~~9) "Legal representative" means the same as defined in Section 26B-2-236.
- (~~11~~10) "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.
- (~~12~~11) "Monitoring device" means the same as defined in Section 26B-2-236.
- (~~13~~12) "OL" means the Office of Licensing in the Division of Licensing and Background Checks, under the Department of Health and Human Services.
- (~~14~~13) "Responsible person" means the same as defined in Rule R432-1.
- (~~15~~14) "Self-direct medication administration" means the resident can:
 - (a) recognize medications offered by color or shape; and
 - (b) identify and report differences in the usual routine of medications.
- (~~16~~15) "Service plan" means a written plan of care for services that meets the requirements of Section R432-270-14.
- (~~17~~16) "Services" means activities that help each resident develop skills to increase or maintain their level of psycho-social and physical functioning, or that assists them in ADLs.
- (~~18~~17) "Significant assistance" means the resident cannot perform any part of an ADL and depends on staff or others to accomplish the ADL.
- (~~19~~18) "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.
- (~~20~~19) "Social care" means:
 - (a) providing opportunities for social interaction in the facility or in the community; or
 - (b) providing services to promote independence or a sense of self-direction.
- (~~21~~20) "Type I assisted living" means the same as "Assisted Living Facility Type I," as defined in Rule R432-6.
- (~~22~~21) "Type II assisted living" means the same as "Assisted Living Facility Type II," as defined in Rule R432-6.
- (~~23~~22) "Unit" means the same as "resident living unit," as defined in Rule R432-6.
- (~~24~~23) "Vulnerable adult" means the same as defined in Subsection 26B-6-201(30).

R432-270-[5]4. Licensing.

- (1) A person or entity who offers or provides care to two or more unrelated individuals in a residential facility shall become licensed as an assisted living facility if:
 - (a) the individuals stay in the facility for more than 24 hours; and
 - (b) the person or entity provides or arranges for assistance with one or more ADLs for the individuals.
- (2) The shall ensure an assisted living facility is licensed as a type I assisted living facility if each resident can exit the facility without the assistance of another person.
- (3) A person or entity shall ensure an assisted living facility is licensed as a type II assisted living facility if each resident can exit the facility only with the limited assistance of one person.
- (4) A type I assisted living facility licensee shall provide social care to each resident.
- (5) A 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 that are available 24 hours a day to each resident who needs any of these services.
- (6)(a) Type I and II assisted living facility licensees shall provide each resident with a choice of an individual resident living unit or shared resident living unit unless the resident and responsible person have been informed through the signed admission agreement regarding the facility policy regarding mandatory placement in a shared unit.
 - (b) The licensee shall ensure each resident living unit provides accommodation for each resident to conduct or receive assistance with ADLs privately and in a way that preserves their dignity.
 - (c) The licensee shall ensure each resident in a shared resident living unit has access to a bathroom and additional living space as defined in Rule R432-6.
- (7) A resident may continue to remain in an assisted living facility if:
 - (a) the facility construction meets the resident's needs;
 - (b) the resident's physical and mental needs are appropriate to the assisted living criteria; and
 - (c) the licensee provides enough staff to meet the resident's needs.
- (8) The licensee shall ensure each assisted living facility is licensed as one of the following:
 - (a) a large assisted living facility housing 17 or more residents;
 - (b) a small assisted living facility housing six to 16 residents; or
 - (c) a limited capacity assisted living facility housing two to five residents.

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R432-270-[6]5. Licensee.

- (1) The licensee shall:
 - (a) assume responsibility for the overall organization, management, operation, and control of the facility;
 - (b) ensure compliance with each federal, state, and local law;
 - (c) establish policies and procedures for resident welfare, protection of resident rights, and the general operation of the facility; and
 - (d) implement and follow a policy that ensures the licensee may not discriminate on the basis of race, color, sex, or religion.
- (2)(a) The licensee shall implement a quality assurance program to include a quality assurance committee.
 - (b) The quality assurance committee shall:
 - (i) consist of at least the administrator and a health care professional; and
 - (ii) 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-[7]6. Administrator Qualifications.

- (1) The administrator shall:
 - (a) be 21 years of age or older;
 - (b) complete an OL-approved national certification program within six months of hire for a type II facility;
 - (c) be able to deliver, or direct the delivery of, appropriate care to each resident;
 - (d) know applicable laws and rules; and
 - (e) successfully complete the criminal background screening process in Rule R432-35.
- (2) The administrator of a type I assisted living facility shall have an associate degree or two years of experience in a health care facility.
 - (3) The administrator of a type II small or limited capacity assisted living facility shall have any of the following:
 - (a) an associate degree in a health care field;
 - (b) one year of experience in a health care field as a licensed health care professional; or
 - (c) two years or more of management experience in a health care field.
 - (4) The administrator of a type II large assisted living facility shall have any of the following:
 - (a) an associate degree and four years or more of management experience in a health care field;
 - (b) a bachelor's degree in a health care field that includes management training, or one or more years of management experience;
 - (c) a bachelor's degree in any field that includes management training, or one or more years of management experience and one year or more experience in a health care ~~field~~ field; or
 - (d) a health facility administrator license issued in Utah.

R432-270-[8]7. Administrator Duties.

- (1) The administrator shall:
 - (a) admit and only keep a resident who meets admissions criteria and whose needs can be met by the facility;
 - (b) be on-site enough hours in the business day, and at other times as necessary, to manage and oversee the facility;
 - (c) complete, submit, and file records and reports required by OL;
 - (d) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;
 - (e) designate, in-writing, a competent employee, 21 years of age or older, to serve as an acting administrator only for when the administrator is unavailable for immediate contact, and ensure an acting administrator does not replace designated administrator in the day-to-day functioning of the facility;
 - (f) maintain a log indicating any significant change in a resident's condition and the facility's action or response;
 - (g) maintain facility staffing records for the preceding 12 months;
 - (h) 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;
 - (i) participate in a quality assurance program;
 - (j) recruit, hire, maintain, and train the number of licensed and unlicensed staff needed to provide services;
 - (k) report any critical incident to OL in accordance with Rule R380-600;
 - (l) report any suspected abuse, neglect, or exploitation in accordance with Section 62A-3-305, and document appropriate action if the alleged violation is verified;
 - (m) review, at least quarterly, every injury, accident, and incident to a resident or employee and document appropriate corrective action;
 - (n) secure and update contracts for required professional and other services not provided directly by the facility;
 - (o) verify required licenses and permits of staff and consultants upon hire, or before the effective date of contract;
- (2) The licensee shall maintain the administrator's responsibilities in a written and signed job description on file in the facility.

R432-270-[9]8. Personnel.

(1) The licensee shall ensure that qualified direct-care personnel are on-site 24 hours a day to meet each resident's needs as determined by the resident's assessment and service plans.

(2) The licensee shall hire and keep additional staff as necessary to perform:

- (a) cooking;
- (b) general maintenance;
- (c) housekeeping;
- (d) laundering; and
- (e) office work.

(2) The licensee shall ensure qualified staff perform services in accordance with the resident's written service plan.

(3) The licensee shall ensure that any personnel who provide personal care to any resident in a type I and type II assisted living facility:

- (a) are at least 18 years of age; or
- (b) is a certified nurse aide in accordance with Section 58-31b-3, with related experience or on-the-job training for the job assigned;

(4) The licensee shall ensure that personnel are licensed, certified, or registered in accordance with applicable laws governing their professional licensure in Utah.

(5) The administrator shall maintain written job descriptions for each position, including each position's:

- (a) qualifications;
- (b) required skills;
- (c) responsibilities; and
- (d) title.

(6) The licensee shall make facility policies and procedures available to personnel.

(7)(a) The licensee shall provide and document each employee's orientation to the facility for their hired position.

(b) The licensee shall provide orientation to each employee within 30 days of hire that includes:

- (i) an explanation of ethics, confidentiality, and resident rights;
- (ii) an OL-approved core competency training;
- (iii) each relevant job description;
- (iv) employee responsibility for reporting abuse, neglect, and exploitation;
- (v) the facility fire and disaster plan; and
- (vi) the facility policy and procedures.

(8)(a) The licensee shall provide each direct-care employee with:

- (i) a demonstration of core competency skills;
- (ii) a facility orientation;
- (iii) 16 hours of one-on-one training with a direct-care employee who has at least three months experience and has completed the facility orientation.

(b) The licensee shall ensure training is not transferred to another facility, and includes:

- (i) ADLs; and
- (ii) transfer assistance and safety.

(c) The licensee shall ensure:

- (i) a direct-care employee hired from a staffing agency is a certified nurse aide; and
- (ii) each certified nurse aide is exempt from the 16 hours of one-on-one job training.

(9)(a) The licensee shall ensure each employee receives documented in-service training.

(b) The licensee shall ensure the in-service and annual trainings include the following subjects relevant to the employee's job responsibilities:

- (i) abuse and neglect reporting requirements;
- (ii) accident prevention, including safe bath and shower temperatures;
- (iii) communication skills that enhance resident dignity;
- (iv) dementia and Alzheimer's-specific training;
- (v) first aid;
- (vi) principles of good housekeeping;
- (vii) principles of good nutrition, menu planning, food preparation and food storage;
- (viii) principles of providing personal and social care;
- (ix) proper procedures in assisting a resident with medication;
- (x) recognizing early signs of illness and determining when there is a need for professional assistance;
- (xi) resident rights; and
- (xii) review of core competency training.

(10) The administrator shall annually complete a minimum of four hours of core competency training that includes dementia and Alzheimer's-specific training.

(11) In addition to core competency training, the administrator shall:

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- (a) complete a minimum of six hours of approved continuing professional education (CPE) annually that include a minimum of:
 - (i) five hours in-person;
 - (ii) one additional hour either in-person or online; and
 - (iii) calculate 50 minutes of CPE as one hour;
- (b) ensure CPE courses under this subsection are approved by:
 - (i) Utah Assisted Living Association;
 - (ii) Utah Health Care Association;
 - (iii) Beehive Homes; or
- (c) an entity listed in this subsection if the course is offered by another entity or organization.

(12) The licensee shall ensure employees who report suspected abuse, neglect, or exploitation are not subject to retaliation, disciplinary action, or termination by the licensee for that reason alone.

(13) The licensee shall ensure 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.

(14) The licensee shall:

- (a) ensure an employee health inventory is completed when an employee is hired;
- (b) use an OL-approved form for the health inventory evaluation or their own form if it includes at least the employee's history of:
 - (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 reactions to skin tests to be exempt from skin testing.

(15) The licensee shall develop and implement policies and procedures governing an infection control program that include task-related employee infection control procedures and practices that protect residents, family members, and personnel from infection.

(16) The licensee shall ensure compliance with 29 CFR 1910.1030 (2001), the Occupational Safety and Health Administration's Bloodborne Pathogen Standard.

R432-270-[10]9. Resident Rights.

(1) Assisted living facility licensees shall develop a written resident rights statement based on this section.

(2) The licensee shall ensure the administrator or designee gives each resident a written description of the resident's legal rights upon admission, that includes:

(a) a description of the manner of protecting personal funds; and

(b) a statement that the resident may file a complaint with the 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 the administrator or designee notifies the resident or the resident's responsible person in a language and manner the resident or resident's responsible person can understand, in-writing, upon admission, of the resident's rights and rules governing resident conduct and responsibilities during the stay in the facility.

(4) The licensee shall ensure the administrator or designee promptly notifies 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 resident rights include the right to:

- (a) be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;
- (b) be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;
- (c) be free of mental and physical abuse, and chemical and physical restraints;
- (d) refuse to perform work for the facility;
- (e) 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) privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;
- (g) share a resident living unit with a spouse if:

- (i) both spouses consent;
- (ii) both spouses are facility residents; and
- (iii) the unit meets the construction requirements of Rule R432-6 for a shared or semi-private resident living unit;
- (h) privacy when receiving personal care or services;
- (i) keep personal possessions and clothing as space permits;
- (j) participate in religious and social activities of the resident's choice;
- (k) interact with members of the community both inside and outside the facility;
- (l) send and receive mail unopened;
- (m) have access to telephones to make and receive private calls;
- (n) arrange for medical and personal care;
- (o) 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) leave the facility at any time and not be locked into any room, building, or on-site at the facility during the day or night, except:
 - (i) a type II assisted living resident is assessed to require a secure environment may be housed in a secure unit, if the secure unit is approved by the fire authority having jurisdiction; and
 - (ii) the right does not prohibit the locking of facility entrance doors if egress is maintained;
- (q) 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) be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;
- (s) 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) upon oral or written request, to access within 24 hours records pertaining to the resident, including clinical records;
- (u) 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) personal privacy and confidentiality of personal and clinical records;
- (w) 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) 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 are posted in a public area of the facility that is easily accessible and visible by each resident 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 rights.
- (7) The licensee shall post the link to the facility search section of the OL website at <https://dlbc.utah.gov/find-health-providers/> in a public area of the facility with an explanation that they may find compliance history and inspection results by searching for the facility's name on that link.
- (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.
 - (b) The licensee shall provide private space for resident groups or family groups.
 - (c) Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.
 - (d) The administrator shall designate an employee to assist with and respond to written requests that result from group meetings.

R432-270-~~11~~10. Admissions.

- (1) The licensee shall have written admission, retention, and transfer policies that are available to the public upon request.
- (2) Before accepting a resident, the licensee must ensure 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 OL determines during inspection or interview that the facility knowingly and willfully admits or keeps a resident who does not meet admission criteria, OL may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.
- (4) A type I assisted living licensee may accept and keep a resident who:
 - (a) does not require total assistance from another person with more than three ADLs;
 - (b) has stable health;

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- (c) is ambulatory or mobile and can take life-saving action in an emergency without the assistance of another person;
 - (d) is cognitively impaired or physically disabled, but can evacuate from the facility without the assistance of another person;
 - (e) requires and received intermittent care of treatment in the facility from a licensed health care professional, either through contract or by the licensee, if permitted in policy; or
 - (f) requires no assistance, or only limited assistance with ADLs.
- (5) A type II assisted living facility licensee may accept and keep a resident who:
- (a) is cognitively impaired or physically disabled, but can evacuate from the facility with the limited assistance of one person;
 - (b) is physically disabled, but can direct their own care; or
 - (c) requires total assistance from another person in more than three ADLs if:
 - (i) the resident can evacuate the facility with the limited assistance of one person; and
 - (ii) the staffing level and coordinate supportive health and social services meet the needs of the resident.
- (6) A type I and type II assisted living licensee may not admit or keep a person who:
- (a) 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;
 - (b) manifests behavior that is:
 - (i) assaultive;
 - (ii) poses a danger to self or others;
 - (iii) sexually or socially inappropriate; or
 - (iv) suicidal; and
 - (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) In accordance with Section 26B-2-236, a type I or type II assisted living licensee may not:
- (a) 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; and
 - (b) permit any employee, as outlined in the policy, to deactivate, reposition, or otherwise interfere with the operation of a monitoring device in a resident's room.
- (8)(a) The licensee shall ensure the prospective resident or the prospective resident's responsible person signs a written admission agreement before admission.
- (b) The licensee shall maintain the admission agreement on file.
 - (c) The licensee shall ensure the admission agreement specifies:
 - (i) a notification that OL has the authority to examine resident records to determine compliance with licensing requirements;
 - (ii) an outline of each condition that may end the agreement;
 - (iii) any reason for mandatory placement in a shared resident living unit;
 - (iv) any refund procedures for:
 - (A) a thirty-day notice provided by the licensee to the resident for a transfer or discharge;
 - (B) a transfer or discharge without notice;
 - (B) an emergency transfer or discharge; and
 - (C) the death of a resident;
 - (v) any room and board charge including any charge for any basic and optional service;
 - (vi) the facility's admission, retention, transfer, discharge, and eviction policies; and
 - (vii) the provision for a 30-day notice before any change in any established charge.
- (9)(a) A type I assisted living licensee may accept and retain resident who is admitted to a hospice program if:
- (i) the licensee keeps a copy of the physician's diagnosis and orders for care; and
 - (ii) the licensee makes the hospice services part of the resident's service plan that explains who is responsible to meet the resident's needs.
- (b) A type I assisted living licensee may keep a hospice patient resident who cannot exit the facility without assistance if:
- (i) a worker or individual is assigned to each specific hospice patient resident and is on-site to assist the resident in emergency evacuation 24 hours a day, seven days a week;
 - (ii) the assigned worker or individual is physically able to provide emergency evacuation assistance to the particular hospice patient resident;
 - (iii) the assigned worker or individual is trained to specifically assist in the emergency evacuation of the assigned hospice patient resident; and
 - (iv) the hospice patient residents who cannot evacuate without assistance does not comprise more than 25% of the facility resident census.
- (10) A type II assisted living licensee may accept and keep a hospice patient resident under the following conditions:
- (a) if the hospice patient resident cannot evacuate the facility without significant assistance, the licensee shall:
 - (i) develop an emergency plan to evacuate the hospice patient resident in the event of an emergency; and
 - (ii) integrate the emergency plan into the hospice patient resident's service plan;
 - (b) the licensee keeps a copy of the physician's diagnosis and orders for care; and

(c) the licensee makes the hospice services part of the hospice patient resident's service plan that explains who is responsible to meet the hospice patient resident's needs.

R432-270-~~12~~11. Transfer or Discharge Requirements.

(1) The licensee may discharge, transfer, or evict a resident for any of the following reasons:

- (a) the facility ceases to operate;
- (b) the resident fails to comply with written policies or rules of the facility;
- (c) the resident fails to pay for services as required by the admission agreement;
- (d) the resident wishes to transfer; or
- (e) the resident's needs cannot be met because the resident poses a threat to the health or safety of self or others, or the resident's required medical treatment cannot be provided.

(2) Before a resident transfer or discharge is initiated, the licensee shall ensure a transfer or discharge notice is served to the resident and the resident's responsible person.

(3) Before a resident transfer or discharge is initiated, the licensee shall:

- (a) ensure the notice is delivered either by hand or by certified mail; and
- (b) ensure the notice is served at least 30 days before the day of planned resident transfer or discharge, unless notice for a shorter period is necessary:
 - (i) if the resident's urgent medical needs require an immediate transfer or discharge;
 - (ii) if the resident has not resided in the facility for at least 30 days;
 - (iii) to protect the health of the individuals in the facility from endangerment due to the medical or behavioral status of the resident;

or

(iv) to protect the safety of the individuals in the facility from endangerment due to the resident's continued residency.

(4) The licensee shall ensure that the notice of transfer or discharge:

- (a) contains the name, mailing address, email address, and telephone number of Utah's long-term care ombudsman;
- (b) contains, for a developmentally disabled resident, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402;

_____ (c) contains, for a mentally ill resident, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under Protection and Advocacy for Mentally Ill Individuals Act of 1986, Pub. L. No. 99-319;

- (d) is in writing with a copy placed in the resident file;
- (e) is phrased in a manner and language that can be understood by the resident and the resident's responsible person;
- (f) states the effective date of transfer or discharge;
- (g) states the location where the resident will be transferred or discharged to if known;
- (h) states the reasons for transfer or discharge; and
- (i) states that the resident may request a conference within five calendar days of receipt of the notice to discuss the transfer or discharge.

(5) The licensee shall:

(a) provide the notice described in this section to the resident and the resident's responsible person at least 30-days before the day that the resident is transferred or discharged, unless notice of a shorter period is necessary to protect the health or safety of individuals in the facility due to the medical or behavioral status of the resident;

(b) send a copy of the notice described in this section to Utah's long-term care ombudsman on the same day that the licensee delivers the notice to the resident and resident's responsible person;

(c) 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; and

(d) verbally explain to the resident, the services available through the ombudsman and the contact information for the ombudsman.

(6) The licensee shall ensure the transfer or discharge notice is prepared, discussed, provided, and documented to ensure a safe and orderly transfer or discharge from the facility.

(7)(a) The resident or the resident's responsible person may contest a transfer or discharge.

(b) If the transfer or discharge is contested, the licensee shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

(c) 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.

(d) Participants in the conference shall include:

- (i) the facility representatives;
- (ii) the resident, or the resident's responsible person; and
- (iii) any others requested by the resident, or the resident's responsible person.

(8) If the facility closes, the licensee shall provide written notification of the closure to:

- (i) Utah's long-term care ombudsman;
- (ii) each resident of the facility; and

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(iii) each resident's responsible person.

(9) The 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 resident's room in accordance with Section 26B-2-236.

R432-270-~~13~~12. Resident Assessment.

(1) The licensee must ensure a signed and dated resident assessment is completed for each resident before admission and at least every six months thereafter.

(2) In each type I and type II assisted living facility, a licensed health care professional shall complete and sign the initial and six-month resident assessment.

(3) The licensee shall ensure that the resident assessment:

(a) accurately reflects the resident's status when assessed; and

(b) 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.

(4) The licensee shall ensure the resident assessment form is approved by the OL for documenting resident assessments.

(5)(a) The licensee shall ensure each resident's assessment is revised and updated when there is a significant change in the resident's:

(i) cognitive condition;

(ii) medical condition;

(iii) physical condition; or

(iv) social condition.

(b) The licensee shall update the resident's service plan to reflect any change in condition.

R432-270-~~14~~13. Service Plan.

(1)(a) The licensee shall ensure that each resident has an individualized service plan that is consistent with the resident's unique cognitive, medical, physical, and social needs.

(b) The licensee shall ensure the service plan is developed within seven calendar days of the day the facility admits the resident.

(c) The licensee shall ensure the service plan is periodically revised as needed.

(2) The licensee shall ensure 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 includes a written description of the services to be provided and:

(a) how services are provided;

(b) each change to services and reason for each change;

(c) the frequency of services; and

(d) who will provide the services, including the resident's significant others who may participate in the delivery of services.

R432-270-~~15~~14. Nursing Services.

(1) The licensee shall ensure written policies and procedures are developed defining the level of nursing services provided by the licensee.

(2) A type I assisted living licensee shall hire or contract with a registered nurse to provide or delegate medication administration for any resident who cannot ~~to~~ self-medicate or self-direct medication management.

(3) A type II assisted living licensee shall hire 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 per Section R156-31B-701.

(4) A type I assisted living licensee may provide nursing care per facility policy. If a type I assisted living licensee chooses to provide nursing services, the nursing services shall be provided per Subsections R432-270-15(3)(a) through (c).

(5)(a) Type I and type II assisted living licensees may not provide skilled nursing care, but shall assist the resident in obtaining required services.

(b) A nursing service is considered skilled nursing when:

(i) the complexity or specialized nature of the prescribed services can be safely or effectively performed only by, or under the close supervision of, a licensed health care professional personnel; or

(ii) care is needed to prevent, to the extent possible, deterioration of a condition or to sustain the current capacities of a resident.

(6) At least one certified nurse aide shall be on-duty in a type II assisted living facility 24 hours a day.

R432-270-~~16~~15. Secure Units.

(1) A type II assisted living licensee with approved secure units may admit a resident with a diagnosis of Alzheimer's or dementia if the resident can exit the facility with limited assistance from one person.

(2) The licensee shall ensure that each resident admitted to a secure unit has an admission agreement that is signed by the resident or their legal representative that acknowledges understanding and consent to reside in a facility where egress is controlled. The licensee shall ensure the secure admission agreement:

(a) documents that a wander risk management agreement has been negotiated with the resident or resident's responsible person; and

(b) identifies discharge criteria that would initiate a transfer of the resident to a higher level of care than the assisted living facility can provide.

(3) In addition to completing the facility orientation and demonstrating core competency skills, the licensee shall ensure each direct-care employee in the secure unit is provided 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 at least one direct-care staff in the secure unit 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 each resident in an emergency.

(6) The licensee shall ensure a secure unit is constructed in accordance with Section 15A-3-105 and no more than 30 residents may reside in an area enclosed for smoke and fire and with controlled egress.

R432-270-~~17~~16. Arrangements for Medical or Dental Care.

(1) The licensee shall ensure each resident is assisted in arranging access for any required ancillary services for medically related care including a:

- (a) dentist;
- (b) home health provider;
- (c) hospice provider;
- (d) pharmacist;
- (e) physician;
- (f) podiatrist;
- (g) therapist; and
- (h) provider of any other services necessary to support the resident.

(2) The licensee shall ensure 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 licensee shall notify a physician or other health care professional when the resident requires immediate medical attention.

R432-270-~~18~~17. Activity Program.

(1) The licensee shall ensure each resident is encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs.

(2) The licensee shall ensure opportunities for the following are provided:

- (a) community activities to promote resident participation in activities away from the facility;
- (b) independent living activities to foster and maintain independent functioning;
- (c) physical activities; and
- (d) socialization activities.

(3) The administrator shall designate an activity coordinator to direct the facility's activity program. The activity coordinator's duties include:

- (a) coordinating recreational activities, including volunteer and auxiliary activities;
- (b) developing and posting monthly activity calendars, including information on community activities based on resident needs and interests; and
- (c) planning, organizing, and conducting the resident activity program with resident participation.

(4) The licensee shall provide enough equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of the residents.

(5) The licensee shall ensure storage for recreational equipment and supplies is provided. The licensee shall ensure locked storage is provided for potentially dangerous items such as scissors, knives, and toxic materials.

R432-270-~~19~~18. 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 the level and type of assistance the health care professional provides in 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).

(3) A resident assessed to be able to self-administer medication may keep prescription medications in their room.

(4) If more than one resident resides in a resident living unit, the licensee shall ensure each person's ability is assessed to safely have medications in the resident living unit. If safety is a factor, the licensee shall ensure a resident stores their medication in a locked container in the resident living unit.

(5)(a) A resident may be assessed to be able to self-direct medication administration.

(b) Facility staff may assist a resident assessed to self-direct medication by:

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- (i) opening medication containers;
 - (ii) reminding the resident or the resident's responsible person when the prescription needs to be refilled; and
 - (iii) reminding the resident to take the medication.
- (6)(a) A resident may be assessed to allow family members or a designated responsible person to administer medications.
- (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.
- (7)(a) A resident may be assessed as unable to self-administer or self-direct medications.
- (b) Facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.
- (c) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the licensee shall ensure the delegation is in accordance with Title 58, Chapter 31b, Nurse Practice Act and Section R156-31B-701.
- (d) The licensee shall ensure medications are administered according to the prescribing order.
- (e) The delegating authority shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.
- (f) The delegating authority or another registered nurse shall be readily available either in-person or by telecommunication.
- (8) A resident 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~~6) through (~~6~~7).
- (9) Home health or hospice agency staff may provide medication administration to a facility resident exclusively, or in accordance with Subsections R432-270-19(2) through (9).
- (10) The licensee shall ensure a licensed health care professional or licensed pharmacist reviews resident medications at least every six months.
- (11) The licensee shall ensure that medication records include the:
- (a) medication name, including prescribed dosage;
 - (b) method of administration;
 - (c) name of the prescribing practitioner;
 - (d) review date;
 - (e) resident's name;
 - (f) signatures of personnel administering the medication; and
 - (g) time, dose, and dates administered.
- (12)(a) The licensee shall ensure that a licensed health care professional or licensed pharmacist documents any change in the dosage or schedule of medication in the medication record.
- (b) When the facility staff documents medication changes, the licensed health care professional must 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.
- (13) The licensee shall have access to a reference for possible reactions and precautions for prescribed medications in the facility.
- (14) The licensee shall ensure the licensed health care professional is notified when medication errors occur.
- (15) The licensee shall ensure that medication error incident reports are completed if a medication error occurs or is identified.
- (16) The licensee shall incorporate medication errors into the facility quality improvement process.
- (17) The licensee shall ensure that medications stored in a central storage area are:
- (a) available for the resident to have timely access to the medication; and
 - (b) locked to prevent unauthorized access.
- (18) The licensee shall ensure medications that require refrigeration are stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.
- (19) The licensee shall ensure policies governing the following are developed and implemented:
- (a) destruction and disposal of unused, outdated, or recalled medications; and
 - (b) security and disposal of controlled substances by the licensee or facility staff that are consistent with the Code of Federal Regulations, Title 21, Chapter II, Part 1317 (2014).
- (20) The licensee shall ensure the return of resident's medication to the resident or to the resident's responsible person is documented upon discharge.

R432-270-~~20~~19. Management of Resident Funds.

- (1)(a) Each resident has the right to manage and control their financial affairs.
- (b) The licensee may not require a resident to deposit their personal funds or valuables with the facility.
- (2) The licensee is not required to handle a resident's 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 this section.

(3) The licensee shall establish and maintain, on the resident's behalf, a system that 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:

(a) for records of a resident's 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;

(b) include a copy of the receipt that it furnished to the resident for funds received and other valuables entrusted to the licensee for safekeeping;

(c) 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 funds or valuables as their own;

(d) maintains a separate account for resident funds for each facility and does not commingle such funds with resident funds from another facility;

(e) separate a resident's 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; and

(f) keep each account with columns for debits, credits, and balance.

(4) The licensee shall ensure individual financial records are made available on request through quarterly statements to the resident or the resident's legal representative.

(5) The licensee shall purchase a surety bond or otherwise provide assurance satisfactory to OL that resident personal funds deposited with the facility are secure.

(6) The licensee shall ensure:

(a) each resident's share, including interest, has separate accounting in pooled accounts;

(b) interest earned on a resident's bank account is credited to the resident's account;

(c) 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; 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.

(7) Upon discharge of a resident with funds or valuables deposited with the facility, the licensee shall ensure 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.

(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.

(9) Within 30 days following the death of a resident, except in a medical examiner case, the licensee shall ensure 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-~~24~~20. Records.

(1) The licensee shall ensure accurate and complete records are maintained. The licensee shall safely file and store records and ensure they remain easily accessible to staff and OL.

(2) The licensee shall ensure records are protected against access by unauthorized individuals.

(3) The licensee shall ensure personnel records are maintained for each employee and are retained for at least three years following termination of employment. The licensee shall ensure personnel records include:

(a) a health inventory;

(b) a TB skin test documentation;

(c) documentation of CPR and first aid training;

(d) documentation of core competency initial and annual training;

(e) documentation of criminal background screening;

(f) food handlers permits;

(g) the date of employment;

(h) the employee application;

(i) the reason for leaving; and

(j) the termination date.

(4) The licensee shall ensure a separate record for each resident is maintained at the facility that includes:

(a) the admission agreement;

(b) the name, address, and telephone number of:

(i) the individual to be notified if there is an accident or death; and

(ii) the person who administers and obtains medications if this person is not facility staff;

(c) the resident assessment;

(d) the resident service plan; and

(e) the resident's name, date of birth, and last address.

(5) The licensee shall keep resident records for at least three years following discharge.

(6) The licensee shall ensure compliance with Rule R380-600 for critical incident reporting and documentation.

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R432-270-~~22~~21. Food Services.

- (1) The licensee shall ensure:
 - (a) 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) each resident is provided three meals a day, seven days a week, plus snacks;
 - (c) food service complies with the following:
 - (i) food is of good quality and is prepared by methods that keep nutritive value, flavor, and appearance;
 - (ii) food is palatable, attractively served, and delivered to the resident at the appropriate temperature; and
 - (iii) powdered milk may only be used as a beverage upon the resident's request but may be used in cooking and baking;
 - (d) no more than a 14-hour interval occurs between the evening meal and breakfast, unless a nutritious snack is available in the evening.
- (2) The licensee shall ensure adaptive eating equipment and utensils are provided for a resident as needed.
- (3) The licensee shall ensure a different menu is planned and followed for each day of the week and that:
 - (a) a certified dietitian approves and signs any menu;
 - (b) a cycle menu covers a minimum of three weeks;
 - (c) any substitution to the menu that is served to a resident is recorded and retained for three months for review by OL; and
 - (d) the current week's menu is posted for resident viewing.
- (4) The licensee shall ensure meals 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 is encouraged to eat their meals in the dining room with other residents.
- (6) The licensee shall ensure any inspection report by the local health department is maintained at the facility for review by OL.
- (7) If a resident is admitted requiring a therapeutic or special diet, the licensee shall ensure there is an approved dietary manual for reference when preparing meals. The licensee shall ensure dietitian consultation is provided at least quarterly and documented for any resident requiring a therapeutic diet.
- (8)(a) The licensee shall ensure food service personnel are employed to meet the needs of each resident.
- (b) While on-duty in food service, the cook and other kitchen staff may not be assigned concurrent duties outside the food service area.
- (c) The licensee shall ensure personnel who prepare or serve food have a current food handler's permit.
- (9) The licensee shall ensure compliance with Rule R392-100, Food Service Sanitation.
- (10) If food service personnel also work in housekeeping or provide direct resident care, the licensee shall ensure employee hygiene and infection control measures are developed and implemented to maintain a safe, sanitary food service.

R432-270-~~23~~22. Housekeeping Services.

- (1) The licensee shall hire and keep housekeeping staff to maintain both the exterior and interior of the facility.
- (2) The licensee shall designate a person to direct housekeeping services who shall:
 - (a) ensure furniture, bedding, linens, and equipment are clean before use by another resident; and
 - (b) post routine laundry, maintenance, and cleaning schedules for housekeeping staff.
- (3) The licensee shall ensure control odors by maintaining cleanliness.
- (4) The licensee shall provide a trash container in every occupied room.
- (5) The licensee shall ensure cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials are stored in a locked area to prevent unauthorized access.
- (6) The licensee shall ensure housekeeping personnel are trained regarding:
 - (a) cleaning procedures;
 - (b) preparing and using cleaning solutions;
 - (c) procedures for disposal of waste;
 - (d) proper handling of clean and soiled linen; and
 - (e) proper use of equipment.
- (7) The licensee shall ensure bathtubs, shower stalls, or sinks are not used as storage places.
- (8) The licensee ~~shall~~ may not use throw or scatter rugs that present a tripping hazard to a resident.

R432-270-~~24~~23. Laundry Services.

- (1) The licensee shall ensure:
 - (a) at least one washing machine and one clothes dryer are available for resident use;
 - (b) laundry services are provided to meet the need of each resident, including an adequate supply of linens; and
 - (c) the resident or resident's responsible person is informed in-writing of the facility's laundry policy for the resident's personal clothing.
- (2) The licensee shall ensure food is not stored, prepared, or served in any laundry area.

R432-270-~~25~~24. Maintenance Services.

(1) The licensee shall 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) The licensee shall ensure:

(a) an air filter installed in a heating, ventilation, or air conditioning system is inspected, cleaned, or replaced in accordance with manufacturer specifications;

(b) each electrical system, including appliances, cords, equipment call lights, and switches are maintained to guarantee safe functioning;

(c) each entrance, exit, step, and outside walkway is maintained in a safe condition and free of ice, snow, and other hazards; and

(d) fire-rated construction and assemblies are maintained in accordance with Rule R710-3.

(3) The licensee shall ensure that a pest control program is conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee, certified in Utah, to ensure the absence of vermin and rodents.

(4) The licensee shall document any maintenance work or pest control that is performed.

(5)(a) The licensee shall ensure that hot water temperature controls automatically regulate temperatures of hot water delivered to any plumbing fixture used by a resident.

(b) The licensee shall ensure hot water delivered to public and resident care areas is maintained at temperatures between 105 and 120 degrees Fahrenheit.

R432-270-~~26~~25. Disaster and Emergency Preparedness.

(1) The licensee is responsible for the safety and well-being of each resident during an emergency or disaster.

(2)(a) The licensee and the administrator are responsible ~~[to]for developing [and coordinate plans with state and local emergency disaster authorities]~~ an emergency and disaster response plan to respond to potential emergencies and disasters.

(b) The emergency and disaster response plan shall outline the protection or evacuation plan for each resident, including[:

~~(a)]~~ arrangements for staff response, or providing additional staff, to ensure the safety of any resident with a physical or mental limitation.]; ~~and~~

~~(b) when and how to notify the Silver Alert program for missing and endangered adults and the resident's emergency contacts.]~~

(3) The licensee shall ensure that the facility's emergency and disaster response plan is in-writing and distributed or made available to facility staff and each resident to ensure prompt and efficient implementation.

(4) An emergency and disaster includes:

(a) a bomb threat;

(b) a fire;

(c) a missing resident;

(d) a mass casualty;

(e) an earthquake;

(f) a windstorm;

(g) an epidemic;

(h) an explosion;

(i) an interruption of public utilities;

(j) severe weather; and

(k) the death of a resident.

(5) The licensee and the administrator shall review and update the plan as necessary to conform with local emergency plans. The licensee shall ensure the plan is available for review by OL.

(6) The licensee shall ensure the emergency and disaster response plan addresses the following:

(a) assignment of personnel to specific tasks during an emergency;

(b) delivery of essential care and services if additional persons are housed in the facility during an emergency;

(c) delivery of essential care and services to facility occupants by alternate means;

(d) delivery of essential care and services to facility occupants if personnel are reduced by an emergency;

(e) instructions on how to contain a fire and how to use the facility alarm systems;

(f) instructions on how to recruit additional help, supplies, and equipment to meet each resident's needs after an emergency or disaster;

(g) the procedure to evacuate and transport each resident and staff to a safe place within the facility or to other prearranged locations;

(h) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

(i) the names of the person in charge and persons with decision-making authority; and

(j) the names of persons who shall be notified in an emergency in order of priority.

(7)(a) The licensee shall maintain safe ambient air temperatures within the facility.

~~[(b) The local fire department shall approve the facility's emergency heating.~~

~~]~~ (e) b The person in charge shall take immediate action in the best interests of each resident to mitigate imminent danger to resident health and safety when the ambient air temperatures reach 58 degrees Fahrenheit or below.

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(~~d~~)c) The licensee shall have, and be able to implement, any contingency plan regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of a resident.

(8)(a) The licensee shall provide each personnel and resident with instruction and training per the plans regarding how to respond appropriately in an emergency.

(b) The licensee shall:

(i) annually review the procedures with each existing staff and resident and carry out unannounced drills using those procedures;

(ii) hold simulated disaster drills semi-annually;

(iii) hold simulated fire drills quarterly on each shift for each staff and resident in accordance with Rule R710-3; and

(iv) document drills, including:

(A) the date;

(B) a list of participants;

(C) any problems encountered; and

(D) the ability of each resident to evacuate.

(9)(a) The licensee shall ensure that the administrator is in charge during an emergency.

(b) If the administrator is not on-site, the administrator shall make every effort to report to the facility, relieve subordinates, and take charge.

(10) The licensee shall provide in-house equipment and supplies required in an emergency that includes:

(a) a first aid kit;

(b) an emergency radio;

(c) emergency lighting;

(d) extra blankets;

(e) food;

(f) heating equipment; and

(g) potable water.

(11) The licensee shall ensure the following information is posted in public locations throughout the facility:

(a) evacuation routes, location of fire alarm boxes, and fire extinguishers; and

(b) the name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems.

R432-270-~~27~~26. First Aid.

(1) The licensee shall ensure that there is always one staff person on-duty who has:

(a) CPR;

(b) training in basic first aid;

(c) training in emergency procedures to ensure each resident receives prompt first aid as needed; and

(d) training in the Heimlich maneuver.

(2) The licensee shall ensure there is a:

(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;

(b) clean-up kit for bloodborne pathogens; and

(c) first aid kit available at a specified location in the facility.

R432-270-~~28~~27. Pets.

(1) The licensee may allow a resident to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) The licensee shall ensure any pet is kept clean and disease-free.

(3) The licensee shall ensure any pet's environment is kept clean.

(4) The licensee shall ensure any small pet, such as a bird or hamster, is kept in an appropriate enclosure.

(5) The licensee may not permit a pet that displays aggressive behavior in the facility.

(6) The licensee shall ensure that any pet that is kept at the facility or is a frequent visitor has current vaccinations.

(7) Upon approval of the administrator, a family member may bring a resident's pets to visit.

(8) Each licensee that permits birds shall have procedures that prevent the transmission of psittacosis. The licensee shall ensure that procedures involve the minimum handling and placing of droppings into a closed plastic bag for disposal.

(9) The licensee may not permit pets 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-~~29~~28. Respite Services.

(1) Assisted living licensees may offer respite services and are not required to obtain any additional license from the OL.

(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 respite services 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.

(4) The 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 licensee shall ensure the person's response to the respite placement is documented and coordinated with each provider agency to ensure an uninterrupted service delivery program.

(6) The licensee shall ensure a service agreement is completed to serve as the plan of care. The licensee shall ensure the service agreement identifies the prescribed medications, physician treatment orders, need for assistance for ADLs and diet orders.

(7)(a) The licensee must ensure written policies and procedures are approved by OL before providing respite care.

(b) The licensee shall make policies and procedures available to staff regarding resident respite care that include:

(i) behavior management interventions;

(ii) handling personal funds;

(iii) medication administration;

(iv) notification of responsible person during an emergency;

(v) philosophy of respite services;

(vi) post-service summary;

(vii) service agreement and admission criteria; and

(viii) training requirements for employees.

(8) The licensee shall provide a copy of the resident rights document upon admission to a person receiving respite services.

(9) The licensee shall ensure a record for each person receiving respite services is maintained that includes any:

(a) accident and injury reports;

(b) a post-service summary;

(c) a service agreement;

(d) demographic information and resident identification data;

(e) nursing notes;

(f) physician treatment orders; and

(g) records made by staff regarding daily care of the person receiving the respite service.

(10) If a person has an advanced directive, the licensee shall ensure a copy is maintained in the respite record and inform staff of the advanced directive.

R432-270-~~30~~29. Adult Day Care Services.

(1)(a) An assisted living facility licensee may offer adult day care services and are not required to obtain a separate license from OL.

(b) If the licensee provides adult day care services, the licensee shall submit policies and procedures for OL approval.

(2) The licensee shall ensure that a qualified director is designated by the governing board to be responsible for the day-to-day program operation.

(3)(a) The licensee shall ensure that the director has written records on-site for each resident and staff person that include demographic information and an emergency contact, including a name, address, and telephone number.

(b) The licensee shall ensure resident health records, include a:

(i) current health assessment signed by a licensed practitioner;

(ii) level of care assessment;

(iii) record of medication, including dosage and administration; and

(iv) signed resident agreement and service plan.

(c) The licensee shall ensure the employment file for each staff person includes a:

(a) background check consent and release form;

(b) description of health history;

(c) verification of orientation completion; and

(d) verification of training requirements.

(4) The licensee shall ensure there is a written eligibility, admission, and discharge policy to include the:

(a) intake process;

(b) notification of responsible person;

(c) reasons for admission refusal that includes a written, signed statement;

(d) reasons for discharge or dismissal; and

(e) resident rights notification.

(5) The licensee shall ensure a written assessment is completed before a resident is admitted to evaluate the resident's current health and medical history, immunization status, legal status, and any social and psychological factors.

NOTICES OF CHANGES IN PROPOSED RULES

(6) The licensee shall ensure that the director or designee, resident, and resident's responsible person develop, complete, and sign a written resident agreement that includes the:

(a) arrangements regarding:

- (i) absenteeism;
- (ii) gifts;
- (iii) mail;
- (iv) telephone calls;
- (v) vacations; and
- (vi) visitation.

(b) rules of the program; and

(c) services to be provided and cost of each service, including refund policy.

(7)(a) The director, or designee, shall develop, implement, and review the individual resident service plan.

(b) The licensee shall ensure the resident service plan:

- (i) includes the specification of daily activities and services;
- (ii) is developed within three working days of admission; and
- (iii) is evaluated semi-annually.

(8) The licensee shall document and report each critical incident in accordance with Rule R380-600.

(9) The licensee shall ensure that the director and responsible person 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 shall ensure each resident is always directly supervised 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.

(b) The licensee may not include any hallway, office, storage, kitchen, or bathroom in the 50 square foot floor space calculation.

(c) The licensee shall ensure indoor and outdoor areas are maintained in a clean, secure, and safe condition.

(d) The licensee shall ensure at least one bathroom designated for resident use is provided during business hours.

(e) The licensee serving more than ten residents shall ensure there are separate male and female bathrooms designated for resident use.

(13) The licensee shall ensure;

(a) 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;

(b) a staff to resident ratio of one staff for every eight residents is maintained; and

(c) continual staff supervision is provided when a resident is present.

R432-270-~~34~~30. Penalties.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: health care facilities

Date of Last Change: ~~2024~~2025

Notice of Continuation: February 7, 2024

Authorizing, and Implemented or Interpreted Law: 26B-2-202

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE

Rule or Section Number:	R911-5	Filing ID: 57066
Effective Date:	03/12/2025	

Agency Information

1. Title catchline:	Public Safety, Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S 2700 W	
City, state	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:	R911-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards
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3. Purpose of the new rule or reason for the change:

This is a second emergency rule filing. The first emergency rule filing was submitted on 12/04/2024.

This second emergency rule filing is being submitted because the first emergency rule will expire before the permanent rule can be made effective.

This rule filing also incorporates changes that were made as a result of the passage of S.B. 209 during the 2025 General Session. A permanent rule filing will be submitted within the next few weeks, which will be made effective in May 2025.

This rule was moved from the Department of Health and Human Services to the Department of Public Safety in July 2024.

Upon further review of the language in the current rule, the Bureau of Emergency Medical Services (BEMS) has determined that it is not compliant with Title 63G, Chapter 4, the Administrative Procedures Act, and violates due process rights of licensees who have had action taken against their licenses.

In addition, this rule change ensures consistency with formatting and language throughout the rule and ensures compliance with the Rulewriting Manual for Utah guidelines.

4. Summary of the new rule or change:

Rule R911-5 is repealed and reenacted with the following changes:

- 1) clarifies the role of the Peer Review Board (PRB) in informal administrative hearings, clearly states that hearings before the PRB are informal, adds a procedure for reconsideration of the PRB's order, increases due process by designating the board as the trier of fact, removes the authority of the BEMS bureau chief to override the PRB recommendations, adds language that the PRB's decision is subject to judicial review, required licensee to be notified of hearing date when results of investigation will be presented to the PRB, makes license sanctions proceedings consistent with Utah administrative procedures act Section 63G-4-101, defines mitigating and aggravating circumstances the PRB may consider, and clarifies meaning of probation, suspension and revocation of licenses;
- 2) reorganizes licensing of CRT's into its own subsection and changes languages to be consistent throughout this rule and statute;
- 3) removes Utah specific references to convictions prohibiting licensure to increase safety by allowing BEMS to consider out of state convictions, and adds provisions allowing BEMS to deny registered sex offenders from being licensed as emergency medical personnel; and
- 4) Removes redundant and outdated references to statute, expands the number of definitions applicable from the statutory definitions, adds cheating on licensure exams as a basis for license sanctions, adds language that conduct which endangers public safety regardless of criminal conviction may be basis for license sanction, and removes language allowing licensure individuals convicted of felony sex offenses and other non-expungable violent felonies after 15 years.

- 5A) The agency finds that regular rulemaking would:**
- cause an imminent peril to the public health, safety, or welfare;
 - cause an imminent budget reduction because of budget restraints or federal requirements; or
 - place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:

This rule was moved from the Department of Health and Human Services to the Department of Public Safety in July 2024.

Upon further review of this rule, the BEMS has determined that the language is not compliant with Title 63G, Chapter 4, and violates due process rights of licensees who have had action taken against their EMS licenses.

This rule filing addresses compliance issues and ensures that the BEMS is no longer in violation of state law.

Fiscal Information

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

A) State budget:
The proposed rule is not expected to have any fiscal impact on the state budget because the amendment only addresses formatting and language inconsistencies, and resolves noncompliance issues with Title 63G, Chapter 4, with respect to due process rights of individuals who have had action taken against their EMS licenses.
B) Local governments:
The proposed rule is not expected to have any fiscal impact on local governments because the amendment only addresses formatting and language inconsistencies, and resolves noncompliance issues with Title 63G, Chapter 4, with respect to due process rights of individuals who have had action taken against their EMS licenses.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed rule is not expected to have any fiscal impact on small businesses because the amendment only addresses formatting and language inconsistencies, and resolves noncompliance issues with Title 63G, Chapter 4, with respect to due process rights of individuals who have had action taken against their EMS licenses.
D) Persons other than small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
The proposed rule is not expected to have any fiscal impact on persons other than small businesses, state, or local government entities because the amendment only addresses formatting and language inconsistencies, and resolves noncompliance issues with Title 63G, Chapter 4, with respect to due process rights of individuals who have had action taken against their EMS licenses.
E) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The proposed rule is not expected to result in any compliance costs for affected persons because the amendment only addresses formatting and language inconsistencies, and resolves noncompliance issues with Title 63G, Chapter 4, with respect to due process rights of individuals who have had action taken against their EMS licenses.
F) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
This rule is not expected to have any fiscal impacts on businesses. The rule amendment addresses formatting and language inconsistencies, and resolves noncompliance issues with Title 63G, Chapter 4, which will protect and ensure due process rights of individuals who have had action taken against their EMS licenses. Jess L. Anderson, Commissioner of the Department of Public Safety

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 53-2d-101.1

Incorporations by Reference Information

8. Incorporations by Reference:	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Course Coordinator Manual
Publisher	Bureau of Emergency Medical Services, Utah Department of Public Safety
Issue Date	October 15, 2024
Issue or Version	2024
B) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	EMT Student Handbook

NOTICES OF 120-DAY (EMERGENCY) RULES

Publisher	Bureau of Emergency Medical Services, Utah Department of Public Safety
Issue Date	October 2024
Issue or Version	2024

C) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	National EMS Scope of Practice Model 2019
Publisher	National Highway Traffic Safety Administration
Issue Date	February 2019
Issue or Version	2019

D) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	EMS Recertification Guide
Publisher	National Registry of Emergency Medical Technicians
Issue Date	2024
Issue or Version	Version 2024.01

E) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Highlights of the 2020 American Heart Association Guidelines for CPR and ECC
Publisher	American Heart Association
Issue Date	October 2020
Issue or Version	2020

F) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	2002 National Guidelines For Educating EMS Instructors
Publisher	National Association of EMS Educators, U.S. Department of Transportation, and U.S. Department of Health and Human Services
Issue Date	November 2001
Issue or Version	2002

G) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Training Officer Manual
Publisher	Bureau of Emergency Medical Services, Utah Department of Public Safety
Issue Date	October 2024
Issue or Version	2024

H) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions

Publisher	Commission on Accreditation of Allied Health Education Programs
Issue Date	January 1, 2024

Agency Authorization Information

Agency head or designee and title:	Darin Bushman, Director	Date:	03/12/2025
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R911. Public Safety, Emergency Medical Services.

R911-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards.

~~R911-5-100. Authority and Purpose.~~

- ~~(1) Authority for this rule is found in Title 53, Chapter 2d, Emergency Medical Services Act.~~
~~(2) The purpose of this rule is to:~~
~~(a) describe requirements for training, certification, endorsements, and licensing of individuals who provide emergency medical services; and~~
~~(b) provide uniform minimum standards to be met by those providing emergency medical services within the state.~~

~~R911-5-110. Definitions as Used in this Rule.~~

- ~~(1) "Advanced Emergency Medical Technician" (AEMT) as defined in Subsection R911-1-200(1).~~
~~(2) "Committee" as defined in Subsection 53-2d-101(8).~~
~~(3) "Crisis Response Technician" (CRT) is a person who provides "Behavioral Emergency Services" as defined in Subsection 53-2d-101(5)(a)(b).~~
~~(4) "Department" as defined in Subsection R911-1-200(13).~~
~~(5) "Emergency Medical Responder" (EMR) as defined in Subsection R911-1-200(16).~~
~~(6) "Emergency Medical Services" (EMS) as defined in Subsection R911-1-200(20).~~
~~(7) "Emergency Medical Technician" (EMT) as defined in Subsection R911-1-200(17).~~
~~(8) "Paramedic" as defined in Subsection R911-1-200(41).~~
~~(9) "Provider" as defined in Subsection R911-1-200(57).~~

~~R911-5-200. Scope of Practice.~~

- ~~(1) The department may license an individual as an EMR, EMT, AEMT, paramedic, or CRT who meets the requirements in this rule.~~
~~(2) The committee adopts the standard for EMR, EMT, AEMT, and paramedic training and competency as defined in the National Association of State EMS Officials' National EMS Scope of Practice Model 2019, Report No. DOT HS 812-666. Washington, DC: National Highway Traffic Safety Administration, which is incorporated by reference.~~
~~(3) An EMR, EMT, AEMT, paramedic, or CRT may perform the skills to their level of licensure, as adopted in this section.~~
~~(4) A CRT may perform skills including crisis response triage, discussion of available resources, and referral to appropriate mental health professions as determined by department approved training and local mental health authority approved protocols in the corresponding response area.~~

~~R911-5-210. Professional Conduct and Code of Ethics for EMS Personnel.~~

~~EMS personnel shall maintain professional conduct and follow the code of ethics from the 2023 EMT Student Handbook, incorporated by reference in this rule.~~

- ~~(1) The following are examples of conduct, while providing patient care and transport, that may result in investigation of an EMS personnel's license or a provider's license or designation pursuant to Subsection R911-5-3300(2):~~
~~(a) theft or inappropriate removal or possession of property;~~
~~(b) falsification of personal or hospital records;~~
~~(c) functioning under the influence of alcohol, illegal drugs, or medications that may impair judgment or capability;~~
~~(d) possession, distribution, sale, transfer, or use of alcohol or illegal drugs;~~
~~(e) fighting or threatening violence;~~
~~(f) negligence or improper conduct leading to damage of property;~~
~~(g) violation of safety or health rules that threatens the safety of patients receiving care;~~
~~(h) sexual or other unlawful or unwelcome harassment;~~
~~(i) possession of dangerous or unauthorized materials, such as explosives or illegal firearms;~~
~~(j) unauthorized access or disclosure of confidential information;~~
~~(k) misrepresentation of an individual's level of licensure;~~
~~(l) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure; and~~
~~(m) violation of laws pertaining to medical practice, drugs, or controlled substances.~~
~~(2) Complaints regarding EMS personnel's actions or behaviors, on or off duty, that can be interpreted as possible violations of this section:~~
~~(a) must be submitted to the department in writing; and~~
~~(b) if determined a potential violation, will be investigated pursuant to Section R911-5-3300.~~

NOTICES OF 120-DAY (EMERGENCY) RULES

~~_____ (3) Any EMS personnel who is found to have violated this section may be subject to license suspension or revocation.~~

~~R911-5-300. EMS Personnel Licensure for EMRs, EMTs, AEMTs, Paramedics, and CRTs.~~

~~_____ (1) The department may license an EMR, EMT, AEMT, paramedic, or CRT for a two-year period. The department may modify a license period to standardize renewal cycles.~~

~~_____ (2) An individual who wishes to become licensed as an EMR, EMT, AEMT, paramedic, or CRT shall:~~

~~_____ (a) successfully complete a department-approved EMR, EMT, AEMT, paramedic, or CRT course;~~

~~_____ (b) be able to perform the functions listed in the National EMS Education Standards referenced in Subsection R911-5-200(2) as verified by personal attestation and successful accomplishment by department-endorsed EMS instructors;~~

~~_____ (c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of training requirements for an EMR, EMT, AEMT, paramedic, or CRT licensure;~~

~~_____ (d) submit the applicable fees and a completed application, including Social Security number, to the department;~~

~~_____ (e) submit to and pass a background investigation, including an FBI background investigation; and~~

~~_____ (f) keep documentation of having completed a department-approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for the Level of Adult and Pediatric Healthcare Cardiopulmonary Resuscitation and Emergency Cardiac Care Basic Life Support.~~

~~_____ (3) An individual who wishes to become licensed as a CRT shall:~~

~~_____ (a) successfully complete a department-approved CRT course;~~

~~_____ (b) be able to perform the functions as described in Subsection R911-5-200(4);~~

~~_____ (c) submit the applicable fees and a completed application, including Social Security number, to the department; and~~

~~_____ (d) submit to and pass a background investigation, including an FBI background investigation.~~

~~_____ (4) Age requirements:~~

~~_____ (a) EMR may be licensed at 16 years of age or older;~~

~~_____ (b) EMT, AEMT, and paramedic may be licensed at 18 years of age or older; and~~

~~_____ (c) CRT may be licensed at 21 years of age or older.~~

~~_____ (5) Within two years after the official course end date, the applicant for EMR, EMT, AEMT, paramedic, or CRT licensure shall successfully complete the department's approved National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, or paramedic examinations, or re-examinations, if necessary.~~

~~_____ (6) Licensed personnel shall keep and submit upon request by the department any documentation required for licensure.~~

~~_____ (7) An individual who wishes to enroll in an AEMT or paramedic course shall have as a minimum a Utah EMT license, and the license shall remain current until the new license level is obtained.~~

~~_____ (8) An individual who wishes to enroll in a CRT course shall be a licensed EMS personnel or a law enforcement officer for at least two years before enrollment or have at least two years of equivalent experience before enrollment into a CRT course or program.~~

~~_____ (9) Upon successful completion of the program, written verification of the successful candidates shall be submitted to the department for review.~~

~~_____ (10) The department may extend time limits for an individual who has unusual circumstances or hardships.~~

~~R911-5-400. Licensure at a Lower Level.~~

~~_____ An individual who completed a paramedic course, but has not been recommended for licensure, may request to become licensed at the AEMT levels if:~~

~~_____ (1) the paramedic course coordinator submits to the department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and~~

~~_____ (2) the individual successfully completes other application and testing requirements for an AEMT.~~

~~R911-5-500. License Challenges for EMTs or AEMTs.~~

~~_____ (1) The department may license an individual as an EMT or AEMT, in consecutive order, who has military medical training, a Utah registered nurse license, a Utah nurse practitioner license, a Utah physician assistant license, or a Utah physician license, and:~~

~~_____ (a) can demonstrate knowledge, proficiency, and competency to perform the functions listed in the National EMS education standards as described in Subsection R911-5-200(2), as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director;~~

~~_____ (b) has a knowledge of:~~

~~_____ (i) medical control protocols;~~

~~_____ (ii) state and local protocols; and~~

~~_____ (iii) the role and responsibilities of an EMT or AEMT, respectively;~~

~~_____ (c) maintains and submits documentation of having completed a CPR course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular, which is incorporated by reference; and~~

~~_____ (d) is 18 years of age or older.~~

~~_____ (2) To become licensed as either an EMT or AEMT, the individual shall:~~

~~_____ (a) submit the applicable fees and a completed application, including Social Security number, signature, and proof of current Utah license as a registered nurse, a physician assistant, or a medical doctor, or military transcripts for training;~~

- ~~_____ (b) successfully complete the National Registry of Emergency Medical Technicians EMT or AEMT cognitive and psychomotor examinations, or re-examinations, if necessary; and~~
- ~~_____ (c) submit to and pass a background screening clearance, per Section R911-5-3200.~~
- ~~_____ (3) The department may license as a CRT an individual with military mental health training, or a licensed mental health professional in Utah, who:~~
 - ~~_____ (a) can demonstrate knowledge, proficiency, and competency to perform the functions as verified by personal attestation and successful demonstration to a county mental health authority or designee;~~
 - ~~_____ (b) has a knowledge of:~~
 - ~~_____ (i) crisis response protocols;~~
 - ~~_____ (ii) state and local protocols; and~~
 - ~~_____ (iii) the role and responsibilities of a CRT;~~
 - ~~_____ (c) maintains and submits documentation of having completed a cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular; and~~
 - ~~_____ (d) is 21 years of age or older.~~

R911-5-510. License Challenges for CRTs.

- ~~_____ To become licensed as a CRT, the individual shall:~~
- ~~_____ (1) submit the applicable fees and a completed application, including Social Security number, signature, and proof of current Utah license as a mental health professional, or military transcripts for training;~~
- ~~_____ (2) successfully complete the department approved written and practical CRT examinations, or re-examinations, if necessary; and~~
- ~~_____ (3) submit to and pass a background screening clearance, per Section R911-5-3200.~~

R911-5-600. License Renewal Requirements for EMRs, EMTs, AEMTs, and Paramedics.

- ~~_____ (1) The department may renew an individual license for a two-year period. The department may modify the period for a license to standardize renewal cycles.~~
- ~~_____ (2) An individual seeking license renewal shall:~~
 - ~~_____ (a) submit the applicable fees and a completed application, including Social Security number, to the department;~~
 - ~~_____ (b) submit a completed Utah EMS application to the department, no later than 30 days and no earlier than six months before the individual's current license expiration date;~~
 - ~~_____ (c) have a current National Registry of Emergency Medical Technicians certification for their current license level;~~
 - ~~_____ (d) submit to and pass a background screening clearance, per Section R911-5-3200;~~
 - ~~_____ (e) keep documentation and submit, upon request, proof of having completed a department approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular;~~
 - ~~_____ (f) provide documentation of completion of department approved continuing medical education requirements; and~~
 - ~~_____ (g) maintain cardiopulmonary resuscitation certification during licensure period.~~
- ~~_____ (3) The EMR, EMT, AEMT, and paramedic shall complete the required continuing medical education hours, as outlined in Recertification Guide Version 4, published by the National Registry of Emergency Medical Technicians, incorporated by reference in this rule. The hours shall be completed throughout the prior two years.~~
- ~~_____ (4) An individual is responsible to complete and submit required renewal material and the recertification application to the National Registry of Emergency Medical Technicians, per the guidance provided under "Renewal License" on the department website.~~
- ~~_____ (5) A department approved entity that provides continuing medical education may compile renewal materials on behalf of an EMR, EMT, AEMT, or paramedic; however, the individual EMR, EMT, AEMT, or paramedic is responsible for a timely and complete submission.~~
- ~~_____ (6) The department may not lengthen an individual's license period to more than two years, unless the individual is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires.~~

R911-5-700. License Renewal Requirements for CRTs.

- ~~_____ (1) A CRT applying for a renewal license shall be in good standing with the local mental health authority. The local mental health authority or designee may revoke a CRT's license upon written request to the department.~~
- ~~_____ (2) A CRT applying for a renewal license shall complete department approved continuous education requirements of no less than eight hours every two years.~~
- ~~_____ (3) An individual is responsible to complete and submit required renewal materials to the department at one time, no later than 30 days and no earlier than one year before the individual's current license expiration date. Renewal materials submitted less than 30 days before license expiration may result in license expiration. The department processes renewal material in the order received.~~
- ~~_____ (4) The department may shorten a CRT's license period.~~
- ~~_____ (5) The department may not lengthen an individual's license period to more than two years unless the individual is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires.~~

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~~R911-5-800. Reciprocity for EMRs, EMTs, AEMTs, and Paramedics.~~

~~(1) The department may license an individual as an EMR, EMT, AEMT, or paramedic who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.~~

~~(2) An individual seeking reciprocity for licensure in Utah based on out-of-state training and experience shall:~~

~~(a) submit the applicable fees and a completed application, including Social Security number, to the department; and~~

~~(b) complete the following within two years of submitting the application:~~

~~(i) submit to and pass a background screening clearance, per Section R911-5-3200;~~

~~(ii) keep and submit upon request documentation of having completed a department approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular;~~

~~(iii) successfully complete the National Registry of Emergency Medical Technician cognitive and psychomotor for EMR, EMT, AEMT, or paramedic examinations, or re-examinations, if necessary; and~~

~~(iv) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs.~~

~~(3) A paramedic candidate shall also keep documentation of successful completion of Advanced Care Life Support or equivalent.~~

~~(4) AEMT and paramedic licensed personnel shall keep documentation of PEPP, PALS, or equivalent courses within the prior two years.~~

~~R911-5-810. Reciprocity for CRTs.~~

~~(1) The department may license an individual as a CRT who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.~~

~~(2) An individual seeking reciprocity for CRT licensure in Utah based on out-of-state training and experience shall:~~

~~(a) submit the applicable fees and a completed application, including Social Security number, to the department; and~~

~~(b) complete the following within two years of submitting the application:~~

~~(i) submit to and pass a background screening clearance, per Section R911-5-3200;~~

~~(ii) keep documentation of having completed a CPR course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular; and~~

~~(iii) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution.~~

~~R911-5-900. Lapsed Licenses with National Registry of Emergency Medical Technician Certification.~~

~~(1) An individual whose EMR, EMT, AEMT, paramedic, or CRT license has expired for less than one year shall recertify with the National Registry of Emergency Medical Technicians.~~

~~(2) An individual whose license for EMR, EMT, AEMT, or paramedic has expired for more than one year shall:~~

~~(a) comply with the recertification requirements per the guidance of the National Registry of Emergency Medical Technicians;~~

~~(b) pay a late licensure fee; and~~

~~(c) complete renewal requirements.~~

~~(3) If an EMR, EMT, AEMT, or paramedic license for an individual remains expired for more than a year, any new license will be issued with an expiration date two years from the previous license's expiration.~~

~~(4) An individual whose license for CRT has expired for more than one year shall:~~

~~(a) submit a letter of recommendation including results of an oral examination, from a county mental health director or designee, verifying proficiency in behavioral health care skills at the licensure level;~~

~~(b) successfully complete the applicable department's approved written examination; and~~

~~(c) complete renewal requirements.~~

~~(5) If a CRT license for an individual remains expired for more than a year, any new CRT license will be issued with an expiration date two years from the completion of renewal materials.~~

~~(6) An individual whose certification or license has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, paramedic, or CRT until the individual completes the renewal process.~~

~~R911-5-1000. Emergency Medical Care During Clinical Training.~~

~~A student enrolled in a department approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require licensure to perform.~~

~~R911-5-1100. Instructor Requirements.~~

~~(1) The department may endorse an individual as an EMS instructor who:~~

~~(a) meets the initial licensure requirements in Section R911-5-1200;~~

~~(b) is currently in Utah as an EMR, EMT, AEMT, or paramedic; and~~

~~(c) has been a licensed EMR, EMT, AEMT, or paramedic for a minimum of two years.~~

~~(2) The department adopts the United States Department of Transportation's EMS Instructor Training Program as the standard for EMS instructor training and competency in the state, which is incorporated by reference in this rule.~~

- ~~_____ (3) An EMS instructor may only teach up to the license level to which the instructor is licensed.~~
- ~~_____ (4) An EMS instructor shall comply with the teaching standards and procedures in the March 2023 Course Coordinator Manual as incorporated by reference in this rule.~~
- ~~_____ (5) An EMS instructor shall maintain the EMS license for the level the instructor is endorsed to teach. If an individual's EMS license lapses, the instructor endorsement is invalid until the EMS license is renewed.~~

R911-5-1200. Instructor Endorsement.

- ~~_____ (1) The department may endorse an individual who is a licensed EMR, EMT, AEMT, or paramedic as an EMS instructor for a two-year period.~~
- ~~_____ (2) An individual who wishes to become endorsed as an EMS instructor shall:~~
 - ~~_____ (a) submit an application and pay applicable fees;~~
 - ~~_____ (b) submit one letter of recommendation regarding EMS skills and teaching abilities from a licensed or designated agency, which must be on department or agency letterhead and signed;~~
 - ~~_____ (c) submit documentation of 15 hours of teaching experience with teaching experience in EMS or other related medical discipline, such as first aid or CPR, being preferred; and~~
 - ~~_____ (d) successfully complete the department sponsored initial EMS instructor training course.~~
- ~~_____ (3) An individual who wishes to be endorsed as an EMS instructor to teach EMR, EMT, AEMT, or paramedic courses or CME shall provide documentation of a minimum of 25 patient contacts within the prior year with a licensed or designated agency or an emergency health care facility. Documentation must be on department or agency letterhead and signed.~~
- ~~_____ (4) An individual shall submit a completed and signed instructor contract to the department every two years agreeing to abide by the standards and procedures in the March 2023 Course Coordinator Manual.~~

R911-5-1300. Instructor Endorsement Renewal.

- ~~_____ An EMS instructor who wishes to renew an endorsement as an instructor shall:~~
 - ~~_____ (1) maintain current EMS licensure;~~
 - ~~_____ (2) attend the required department approved instructor seminar at least once in the two year endorsement renewal cycle; and~~
 - ~~_____ (3) submit an application and pay applicable fees.~~

R911-5-1400. Instructor Lapsed Endorsement.

- ~~_____ (1) An EMS instructor whose instructor endorsement expired less than one year ago may again become endorsed by:~~
 - ~~_____ (a) completing endorsement requirements;~~
 - ~~_____ (b) submitting an application; and~~
 - ~~_____ (c) paying any associated fees.~~
- ~~_____ (2) An EMS instructor whose instructor endorsement has expired for more than one year shall complete any initial instructor endorsement requirements and reapply as if there were no prior endorsement.~~

R911-5-1500. Training Officer Endorsement.

- ~~_____ (1) The department may endorse a licensed individual who is an endorsed EMS instructor as a training officer for a two year period.~~
- ~~_____ (2) An individual who wishes to become endorsed as an EMS training officer shall:~~
 - ~~_____ (a) have completed a minimum of 30 hours of EMS instruction within the past year and have a current EMS instructor endorsement;~~
 - ~~_____ (b) successfully complete the department's course for new training officers;~~
 - ~~_____ (c) submit an application and pay applicable fees; and~~
 - ~~_____ (d) submit biennially a completed and signed training officer contract to the department agreeing to abide by the standards and procedures in the July 2023 Training Officer Manual, incorporated by reference in this rule.~~
- ~~_____ (3) A training officer shall maintain an EMS instructor endorsement.~~
- ~~_____ (4) An EMS training officer shall abide by the terms of the training officer contract and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective training officer contract.~~

R911-5-1600. Training Officer Endorsement Renewal.

- ~~_____ A training officer who wishes to renew an endorsement as a training officer shall:~~
 - ~~_____ (1) attend a training officer seminar at least once in the two year endorsement renewal cycle;~~
 - ~~_____ (2) maintain a current EMS instructor endorsement and EMS license;~~
 - ~~_____ (3) submit an application and pay applicable fees; and~~
 - ~~_____ (4) submit a completed and signed new training officer contract to the department agreeing to abide by the standards and procedures in the current Training Officer Manual.~~

R911-5-1700. Training Officer Lapsed Endorsement.

- ~~_____ (1) An individual whose training officer endorsement expired less than one year ago may again become endorsed by completing the endorsement renewal requirements and paying applicable fees. The individual's new expiration date will be two years from the old expiration date.~~
- ~~_____ (2) An individual whose training officer endorsement expired more than one year ago shall complete each initial training officer endorsement requirement and reapply as if there were no prior endorsement.~~

R911-5-1800. Course Coordinator Endorsement.

- ~~(1) The department may endorse an individual as an EMS course coordinator for a two-year period.~~
- ~~(2) An individual who wishes to become endorsed as a course coordinator shall:~~
 - ~~(a) be endorsed as an EMS instructor;~~
 - ~~(b) be a co-coordinator of record for one department-approved course with an endorsed course coordinator;~~
 - ~~(c) co-coordinate a course equivalent to what they will be functioning as a course coordinator;~~
 - ~~(d) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;~~
 - ~~(e) complete endorsement requirements within one year of completion of the department's course for new course coordinators;~~
 - ~~(f) submit an application and pay applicable fees;~~
 - ~~(g) complete the department's course for new course coordinators;~~
 - ~~(h) sign and submit the course coordinator contract to the department agreeing to abide to the standards and procedures in the March 2023 Course Coordinator Manual; and~~
 - ~~(i) maintain EMS instructor endorsement.~~
- ~~(3) A course coordinator may only coordinate courses up to the licensure level to which the course coordinator is licensed.~~
- ~~(4) A course coordinator shall abide by the terms of the course coordinator contract and comply with the standards and procedures in the March 2023 Course Coordinator Manual as incorporated into the course coordinator contract.~~
- ~~(5) A course coordinator shall maintain an EMS instructor endorsement and the EMS license for the level that the course coordinator is endorsed to coordinate. If an individual's EMS license or EMS instructor endorsement lapses, the course coordinator endorsement is invalid until EMS license or EMS instructor endorsement is renewed.~~

R911-5-1900. Course Coordinator Endorsement Renewal.

- ~~A course coordinator who wishes to renew an endorsement as a course coordinator shall:~~
- ~~(1) maintain a current EMS instructor endorsement and EMR, EMT, AEMT, or paramedic license;~~
- ~~(2) coordinate or co-coordinate at least one department-approved course every two years;~~
- ~~(3) attend a course coordinator seminar at least once in the two-year endorsement renewal cycle;~~
- ~~(4) submit an application and pay applicable fees; and~~
- ~~(5) sign and submit a course coordinator contract to the department agreeing to abide by the policies and procedures in the March 2023 Course Coordinator Manual.~~

R911-5-2000. Course Coordinator Lapsed Endorsement.

- ~~(1) An individual whose course coordinator endorsement expired less than one year ago may again become endorsed by completing the renewal requirements. The individual's new expiration date will be two years from the old expiration date.~~
- ~~(2) An individual whose course coordinator endorsement has expired for more than one year shall complete each initial course coordinator endorsement requirement and reapply as if there were no prior endorsement. The department may waive the co-coordinator requirement if the candidate provides written verification they coordinated or co-coordinated a course within the past two years.~~

R911-5-2100. Critical Care Paramedic Endorsement.

- ~~(1) The department may endorse an individual as a critical care paramedic for up to a four-year period.~~
- ~~(2) An individual who wishes to become endorsed as a critical care paramedic shall:~~
 - ~~(a) be a licensed paramedic in Utah;~~
 - ~~(b) be certified by the International Board of Specialty Certification as a:~~
 - ~~(i) certified critical care paramedic (CCP-C); or~~
 - ~~(ii) certified flight paramedic (FP-C);~~
 - ~~(c) submit an application for critical care paramedic certification and pay applicable fees;~~
 - ~~(d) submit proof of certification from the International Board of Specialty Certification; and~~
 - ~~(e) maintain a paramedic license.~~
- ~~(3) Education cannot be used in lieu of a valid and current International Board of Specialty Certification critical care or flight paramedic certification to maintain the critical care endorsement.~~

R911-5-2200. Critical Care Paramedic Endorsement Renewal.

- ~~A critical care paramedic who wishes to renew shall:~~
- ~~(1) maintain a paramedic license;~~
- ~~(2) submit an application for critical care paramedic;~~
- ~~(3) pay applicable fees; and~~
- ~~(4) submit proof of certification from the International Board of Specialty Certification.~~

R911-5-2300. Course Approvals.

- ~~A course coordinator offering EMS training to individuals who wish to become licensed as an EMR, EMT, AEMT, or paramedic shall obtain department approval before initiating an EMS training course. The department shall approve a course if:~~
- ~~(1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days before commencing the course;~~

- ~~_____ (2) the applicant has sufficient equipment available for the training;~~
- ~~_____ (3) the department finds the course meets the department rules and contracts governing training;~~
- ~~_____ (4) the course coordinators and instructors hold current respective course coordinator and EMS instructor endorsements; and~~
- ~~_____ (5) the department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.~~

~~R911-5-2400. Paramedic Training Institutions Standards Compliance.~~

- ~~_____ (1) A person shall be authorized by the department to provide training leading to the licensure of a paramedic.~~
- ~~_____ (2) To become authorized and maintain authorization to provide paramedic training, a person shall follow:~~
 - ~~_____ (a) the March 2023 Course Coordinator Manual; and~~
 - ~~_____ (b) the 2023 Standard and Guidelines for the Accreditation of Education Programs in the Emergency Medical Services Professions, incorporated by reference in this rule.~~

~~R911-5-2500. Off-line Medical Director Requirements.~~

- ~~_____ (1) The department may certify an off-line medical director for a four-year period.~~
- ~~_____ (2) An off-line medical director shall be:~~
 - ~~_____ (a) a physician actively engaged in providing emergency medical care or meets this requirement at the discretion of the state EMS medical director;~~
 - ~~_____ (b) familiar with Title 53, Chapter 2b, Emergency Medical Services Act and applicable EMS administrative rules under Title R911; and~~
 - ~~_____ (c) familiar with medical equipment and medications required.~~

~~R911-5-2600. Off-line Medical Director Certification.~~

- ~~_____ (1) An individual who wishes to certify as an off-line medical director shall:~~
 - ~~_____ (a) complete an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the department's medical director training course within 12 months of becoming a medical director;~~
 - ~~_____ (b) submit an application; and~~
 - ~~_____ (c) pay applicable fees.~~
- ~~_____ (2) An individual who wishes to recertify as an off-line medical director shall:~~
 - ~~_____ (a) attend the medical directors annual workshop at least once every four years;~~
 - ~~_____ (b) submit an application; and~~
 - ~~_____ (c) pay applicable fees.~~

~~R911-5-2700. Epinephrine Auto-Injector and Stock Albuterol Use.~~

- ~~_____ (1)(a) Any qualified entity or qualified adult shall receive training approved by the department.~~
- ~~_____ (b) The epinephrine auto-injector training shall include:~~
 - ~~_____ (i) recognition of life-threatening symptoms of anaphylaxis;~~
 - ~~_____ (ii) appropriate administration of an epinephrine auto-injector;~~
 - ~~_____ (iii) proper storage of an epinephrine auto-injector;~~
 - ~~_____ (iv) disposal of an epinephrine auto-injector; and~~
 - ~~_____ (v) an initial and annual refresher course.~~
- ~~_____ (c) The stock albuterol training shall include:~~
 - ~~_____ (i) recognition of life-threatening symptoms of an asthma emergency;~~
 - ~~_____ (ii) appropriate administration of stock albuterol;~~
 - ~~_____ (iii) proper storage of stock albuterol;~~
 - ~~_____ (iv) disposal of stock albuterol; and~~
 - ~~_____ (v) an initial and annual refresher course.~~
- ~~_____ (2) The annual refresher course requirement may be waived if:~~
 - ~~_____ (a) the qualified entities or qualified adults are currently licensed at the EMR or higher level by the state; or~~
 - ~~_____ (b) the approved training is the Red Cross Anaphylaxis and Epinephrine Auto-Injector course, found within the online classes and training section of <https://redeross.org>.~~
- ~~_____ (3) Training in the school setting shall be based on approved department trainings found on <https://heal.utah.gov/SN-training/> pursuant to Sections 53-2d-207 and 53-2d-208.~~
- ~~_____ (4) To become qualified, a teacher or school employee who is 18 years of age or older shall successfully complete the training program listed in Subsection (1).~~
- ~~_____ (5) Any epinephrine auto-injector and stock albuterol shall be kept in a secure unlocked location for use in an emergency.~~
- ~~_____ (6) Devices shall be disposed of following the manufacturer's specifications.~~

~~R911-5-2800. Law Enforcement Blood Draws Authorized Individual Qualifications.~~

~~_____ Individuals who are not authorized to draw blood pursuant to Subsection 41-6a-523(1)(b), or individuals who are not licensed by the department, such as AEMTs, or paramedics, shall meet one of the following requirements as a prerequisite for authorization to withdraw blood to determine its alcohol or drug content when requested to do so by a peace officer:~~

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- ~~_____ (1) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit;~~
- ~~_____ (2) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course that prepares individuals to function in routine clinical or emergency medical situations; or~~
- ~~_____ (3) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.~~

R911-5-2900. Permits for Blood Draws.

- ~~_____ (1) The department may issue permits to withdraw blood to determine the alcohol or drug content therein, when requested by a peace officer, to qualified applicants, as determined by the department. Individuals described in Section R426-5-2800 are exempt from permit requirements.~~
- ~~_____ (2) An applicant shall submit to the department an application on forms the department provides.~~
- ~~_____ (3) When the permit holder is requested to withdraw blood for the purpose stated in Subsection (1), the permit holder shall have a valid permit card.~~
- ~~_____ (4) Permits shall be valid for a three-year period. The date the permit expires shall appear on the permit.~~
- ~~_____ (5) An individual shall submit an application to the department on department provided forms to renew permits within three months before the expiration date to ensure that it will not lapse. The permit holder shall either verify that they have been engaged in performing blood withdrawal procedures during the current permit period or submit verification signed by a physician attesting to their competence to perform blood withdrawal procedures.~~
- ~~_____ (6) Permit holders shall notify the department within 15 days of a change in name or mailing address.~~

R911-5-3000. Cause for Blood Draw Permit Termination or Revocation.

- ~~_____ Permits shall be subject to termination or revocation under any of the following conditions:~~
- ~~_____ (1) the permit holder has made a misrepresentation of a material fact in the application, or any other communication to the department or its representatives, which misrepresentation was material to the eligibility of the permit holder;~~
- ~~_____ (2) the permit holder is not qualified to hold a permit;~~
- ~~_____ (3) the permit holder after having received a permit has been convicted of a felony or of a misdemeanor that involves moral turpitude;~~
- ~~or~~
- ~~_____ (4) the permit holder does not comply with the possession requirements.~~

R911-5-3100. Published List of Individuals Permitted to Draw Blood.

- ~~_____ (1) The department shall make available to the public a list of individuals permitted to withdraw blood for determination of its alcohol or drug content.~~
- ~~_____ (2) The department may publish amended lists.~~

R911-5-3200. Background Screening Clearance for EMS Licensure.

- ~~_____ (1) The department shall conduct a background screening on each individual who seeks licensure or renewal as an EMR, EMT, AEMT, paramedic, or EMD. The department shall approve EMS licensure upon successful completion of a background screening. Background clearance indicates the individual does not pose an unacceptable risk to public health and safety.~~
- ~~_____ (2) The individual seeking licensure or renewal shall submit the completed applications, including fees, before submission of fingerprints.~~
- ~~_____ (3) The department may review relevant information obtained from the following sources:~~
 - ~~_____ (a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;~~
 - ~~_____ (b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;~~
 - ~~_____ (c) federal criminal background databases available to the state;~~
 - ~~_____ (d) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;~~
 - ~~_____ (e) child abuse or neglect findings described in Section 78A-6-3a;~~
 - ~~_____ (f) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; and~~
 - ~~_____ (g) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions.~~
- ~~_____ (4) If the department determines an individual is not eligible for licensure based upon the criminal background screening and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided in Title 77, Chapter 18a, The Appeal.~~
- ~~_____ (5) If the department determines an individual is not eligible for licensure based upon the noncriminal background screening and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.~~
- ~~_____ (6) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses within the past 15 years, they may not be approved for licensure:~~
 - ~~_____ (a) any felony or Class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;~~
 - ~~_____ (b) any felony or Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, excluding Sections 76-9-103 and 76-9-108;~~

- ~~(c) any felony or Class A or B misdemeanor under the following:~~
 - ~~(i) Section 76-9-301.8, Bestiality;~~
 - ~~(ii) Section 76-9-702.1, Sexual battery; or~~
 - ~~(iii) Section 76-9-702.5, Lewdness involving a child.~~
- ~~(7) If an individual has been convicted or has pleaded no contest for the following offenses, 15 years have passed since the last conviction, and the offense cannot be expunged, they shall be considered for licensure:~~
 - ~~(a) any felony or Class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;~~
 - ~~(b) any felony or Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, excluding Sections 76-9-103 and 76-9-108; or~~
 - ~~(c) any felony or Class A or B misdemeanor under the following:~~
 - ~~(i) Section 76-9-301.8, Bestiality;~~
 - ~~(ii) Section 76-9-702.1, Sexual battery; or~~
 - ~~(iii) Section 76-9-702.5, Lewdness involving a child.~~
- ~~(8) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses, they shall be considered for licensure:~~
 - ~~(a) any felony or Class A misdemeanor not listed in Subsections (6)(a) through (6)(c);~~
 - ~~(b) any class B or C misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;~~
 - ~~(c) any felony, Class A misdemeanor under Title 76, Chapter 6, Offenses Against Property;~~
 - ~~(d) any felony or Class A misdemeanor under Title 76, Chapter 6a, Pyramid Scheme Act;~~
 - ~~(e) any felony or Class A misdemeanor under Title 76, Chapter 8, Offenses Against the Administration of Government;~~
 - ~~(f) any felony, Class A misdemeanor under Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare and Morals;~~
 - ~~(g) any felony, Class A, B, or C misdemeanor under the following:~~
 - ~~(i) Sections 76-10-1201 through 79-10-1229.5, Pornographic and Harmful Materials and Performances; and~~
 - ~~(ii) Sections 76-10-1301 through 76-10-1314, Prostitution;~~
 - ~~(iii) any felony or Class A misdemeanor under Section 76-10-2301, Contributing to the Delinquency of a Minor;~~
 - ~~(h) any felony or Class A or B misdemeanor under Utah Motor Vehicles Traffic Code Sections 41-6a-502, 41-6a-502.5, and 41-6a-517.~~
 - ~~(i) any felony or Class A or B misdemeanor under Title 58, Chapter 37, Utah Controlled Substances Act;~~
 - ~~(j) any felony or Class A or B misdemeanor under Section 32B-4-409;~~
 - ~~(k) any criminal conviction or pattern of convictions that may represent an unacceptable risk to public health and safety.~~
- ~~(9) An individual seeking licensure who has been convicted or has pleaded no contest, is subject to a plea in abeyance, a diversion agreement, a warrant for arrest, arrested or charged for any of the identified offenses in Subsection R911-5-3200(8), shall be considered for licensure.~~
- ~~(10) A licensed EMS personnel who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in Subsection R911-5-3200(8), and after an investigation and peer review board process as established in Section R911-5-3400, the department may issue license, suspend or revoke a license, or place a license on probation.~~
- ~~(11) A licensed EMS personnel who is subject to a warrant of arrest, arrested, or charged for any of the identified offenses in Subsection R911-5-3200(6) shall immediately have the individual's EMS license placed on restriction pending the outcome of a department investigation as per the process established in Section R911-5-3300.~~
- ~~(12) As required by Subsection 53-2d-410(5)(b), juvenile court records shall be reviewed if an individual is:~~
 - ~~(a) under the age of 28; or~~
 - ~~(b) over the age of 28 and has convictions or pending charges identified in Subsection R911-5-3200(6).~~
- ~~(13) Adjudications by a juvenile court may exclude the individual from licensure if the adjudications refer to an act that, if committed by an adult, would be a felony or a misdemeanor of the identified offenses in Subsection R911-5-3200(6).~~
- ~~(14) The department may deny licensure based on a supported finding from:~~
 - ~~(a) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;~~
 - ~~(b) child abuse or neglect findings described in Section 78A-6-3a; or~~
 - ~~(c) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;~~
- ~~(15) The department may deny licensure based on a finding from licensing records of individuals licensed by the Division of Professional Licensing under Title 58, Occupations and Professions.~~
- ~~(16) Results of background screening review, as listed in Subsection R911-5-3200(7), (8), (12), or (14), may be reviewed to determine under what circumstance, if any, the individual may be granted licensure. The following factors may be considered:~~
 - ~~(a) types and number;~~
 - ~~(b) passage of time;~~
 - ~~(c) surrounding circumstances;~~
 - ~~(d) intervening circumstances; and~~
 - ~~(e) steps taken to correct or improve.~~
- ~~(17) The department shall rely on relevant information identified in Subsection R911-5-3200(2) as conclusive evidence and may deny licensure based on that information.~~

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~~(18) A licensed EMS personnel may appeal a department licensure decision as listed in Subsection R911-5-3200(16) to the department per the process established in Section R911-5-3400.~~

~~(19) A licensed EMS personnel who has been arrested, charged, or convicted shall notify the department and each employer or affiliated entity who utilizes the EMS personnel's license within seven business days. The licensed EMS personnel shall also notify the department of each entity they work for or are affiliated with.~~

~~(20) A licensed or designated EMS provider who is notified or becomes aware of a licensed EMS personnel's arrest, charge, or conviction shall notify the department within seven business days.~~

R911-5-3300. Review and Investigation of Complaints and Referrals.

~~(1) The department shall review each complaint filed against an EMS provider and a licensed EMS personnel.~~

~~(2)(a) The department may investigate designated or licensed provider complaints.~~

~~(b) The department may conduct interviews with a provider or EMS personnel.~~

~~(c) The department may allow the licensed EMS personnel or provider an opportunity to respond to the allegations and to provide supporting witnesses and documentation.~~

~~(d) Based on the investigation, the department shall make a recommendation to the department's office director.~~

~~(e) If the department's recommendation is that the licensed EMS personnel or provider is to be placed on probation or suspension, the department's recommendation shall include terms and conditions.~~

~~(f) The department may take action against a designated or licensed provider's license or designation based on the investigative findings.~~

~~(g) The department shall notify the licensed EMS personnel or provider in writing of the department's decision within 30 days of completion of the investigation.~~

~~(3)(a) Licensed EMS personnel complaints shall be investigated either by the department or by the primary affiliated provider (PAP).~~

~~(b) The department shall investigate and may take action if the department determines any of the following applies to a licensed EMS personnel:~~

~~(i) the licensed EMS personnel demonstrates a threat to themselves or to a coworker;~~

~~(ii) the licensed EMS personnel demonstrates a threat to the public health;~~

~~(iii) the licensed EMS personnel demonstrates a threat to the safety or welfare of the public;~~

~~(iv) the licensed EMS personnel potentially violated Subsection R911-5-3200(4); or~~

~~(v) the department determines the risk cannot be reasonably mitigated.~~

~~(c) The department may place the licensed EMS personnel on a restricted license while an investigation is pending until terms are reached for a provisional license using the process outlined in Subsection R911-5-3300(5)(f)(i).~~

~~(d) The department may conduct interviews with any individual necessary. The department may gather information and evidence, which may include requiring the licensed EMS personnel to submit to a drug or alcohol screening or any other appropriate evaluation.~~

~~(e) The licensed EMS personnel shall have an opportunity to respond to the allegations and to provide supporting witnesses and documentation.~~

~~(f) Once the department has completed its investigation, it shall submit the report with any findings and recommendations to the peer review board per Subsection R911-5-3400(4) for review.~~

~~(g)(i) The PAP shall investigate a complaint against the licensed EMS personnel who the department refers to the PAP.~~

~~(ii) The PAP investigation shall:~~

~~(A) be investigated by the licensed or designated EMS provider's EMS endorsed training officer or designee; and~~

~~(B) be completed and findings submitted to the department within 30 calendar days from receipt of complaint from the department;~~

~~(iii) If the department determines that the PAP actions are insufficient, the department may initiate an investigation of the licensed EMS personnel which follows the department and the peer review board process.~~

~~(4) The department shall investigate an EMS personnel's license, a provider's license or designation, or an individual's department endorsement for any of the following reasons:~~

~~(a) refusal to submit to a drug test requested by the EMS provider or the department;~~

~~(b) failure to report by an individual or any affiliated provider pursuant to Subsections R911-5-3200(19) and R911-5-3200(20);~~

~~(c) non-prescribed use of or addiction to narcotics or drugs;~~

~~(d) use of alcoholic beverages or being under the influence of alcoholic beverages at any level while on call or on duty as an EMS personnel or while driving an EMS vehicle;~~

~~(e) being under the influence of a prescribed or non-prescribed medication or drug, legal or illegal, while on call or on duty as a licensed EMS personnel that affects the person's ability to operate or function safely;~~

~~(f) failure to comply with the training, licensing, or relicensing requirements for the license;~~

~~(g) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator. Action taken by the department on this item shall only be against the individual's ability to perform this particular function and would not affect their base EMS license;~~

~~(h) fraud or deceit in applying for or obtaining a license;~~

~~(i) fraud, deceit, lack of professional competency, patient abuse, or theft in the performance of the duties as a licensed EMS personnel;~~

~~(j) false or misleading information or failure to disclose criminal background information during an investigation or an EMS personnel peer review board proceeding;~~

~~(k) unauthorized use or removal of narcotics, medications, supplies, or equipment from a provider, emergency vehicle, or health care facility;~~

- ~~(l) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure;~~
- ~~(m) violation of laws pertaining to medical practice, drugs, or controlled substances;~~
- ~~(n) mental incompetence as determined by a court of competent jurisdiction;~~
- ~~(o) demonstrated inability and failure to perform adequate patient care;~~
- ~~(p) inability to provide EMS with reasonable skill and safety because of illness, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated;~~
- ~~(q) misrepresentation of an individual's level of licensure;~~
- ~~(r) failure of a licensed EMS personnel to display a clearly identifiable level of EMS licensure during an EMS response;~~
- ~~(s) unsafe, unnecessary, or improper operation of an emergency vehicle that would likely cause concern or create a danger to the general public; or~~
- ~~(t) improper or unnecessary use of emergency equipment.~~
- ~~(5)(a) Background screening referrals may be submitted to the department for review and investigation.~~
- ~~(b) The department shall review any case referred under Section R911-5-3200.~~
- ~~(c) The department may require the licensed EMS personnel to provide the proper criminal background documentation.~~
- ~~(d) The licensed EMS personnel shall notify the department of each entity they work for or are affiliated with or that they may become affiliated with in connection with their EMS licensure.~~
- ~~(e) Failure to comply with any department requirements may result in disciplinary action against the EMS personnel's licensure.~~
- ~~(f)(i) The department may negotiate with the licensed EMS personnel and their PAP to determine terms and conditions of the EMS personnel's provisional licensure.~~
- ~~(ii) When the department determines an EMS personnel's license will be restricted, the department shall notify both the licensed EMS personnel and each licensed or designated provider the individual is affiliated with.~~
- ~~(iii) The department shall try to contact and begin negotiations with the PAP and the licensed EMS personnel. Each individual shall try to determine reasonable terms and conditions to the EMS personnel's license.~~
- ~~(iv) If terms and conditions are agreed upon between the parties, the licensed EMS personnel and each affiliated licensed or designated provider shall be notified immediately. This notification shall include information that the licensed EMS personnel is under a provisional license with terms and conditions until the resolution of any criminal charge or the completion of an investigation.~~
- ~~(v) If the licensed EMS personnel is not employed or affiliated with a licensed or designated provider or if terms and conditions are not agreed upon, the department may act as necessary to protect the public's best interest.~~
- ~~(vi) The department, the licensed EMS personnel, and the PAP, if applicable, shall sign the terms of the provisional licensure agreement. Any other affiliated licensed or designated EMS providers shall be notified of the provisional license and its terms and conditions.~~
- ~~(vii) Once the provisional license has been signed, the department shall notify any known EMS provider the licensed EMS personnel is affiliated with.~~
- ~~(viii) If an affiliated licensed or designated EMS provider or the licensed EMS personnel fail to abide by the terms and conditions of a provisional license, they may be subject to sanctions by the department.~~
- ~~(g) The department shall submit recommended background clearance actions for licensed EMS personnel to the peer review board under Section R911-5-3400.~~
- ~~(6) Appeal process:~~
- ~~(a)(i) If a licensed or designated EMS provider or a licensed EMS personnel chooses to appeal an action by the department, they may appeal to the EMS committee or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.~~
- ~~(ii) If the department action is appealed to the EMS committee, then the recommendation shall be given to the department executive director for a final decision.~~
- ~~(b) If a licensed EMS personnel chooses to appeal an action by the department, they may appeal to the executive director, or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.~~

R911-5-3400. EMS Personnel Peer Review Board.

- ~~(1) The EMS personnel peer review board is created under Subsection 53-2d-103(1)(d).~~
- ~~(2) The EMS personnel peer review board shall be composed of the following 15 members appointed by the executive director of the Department of Health and Human Services:~~
 - ~~(a) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the first or second class;~~
 - ~~(b) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the third through sixth class;~~
 - ~~(c) one educational representative from an accredited EMS training program;~~
 - ~~(d) one physician certified and practicing as an EMS medical director;~~
 - ~~(e) one EMD;~~
 - ~~(f) two representatives from professional employee groups, one fire-based, and one non-fire based;~~
 - ~~(g) two endorsed EMS training officers;~~
 - ~~(h) two non-supervisory licensed EMTs;~~
 - ~~(i) two non-supervisory licensed AEMTs; and~~
 - ~~(j) two non-supervisory licensed paramedics.~~

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- ~~_____ (3) The EMS personnel peer review board member's terms of office shall comply with the following criteria:~~
- ~~_____ (a) Except as provided in Subsection (2)(b), members shall be appointed for a six year term.~~
- ~~_____ (b) The department shall adjust the length of terms to ensure the terms of members of the board are staggered so about one third of the board is appointed every two years.~~
- ~~_____ (c) No member shall serve consecutive full terms.~~
- ~~_____ (d) When a vacancy occurs in the membership of the board for any reason, the executive director of the department shall appoint the replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.~~
- ~~_____ (e) The EMS personnel peer review board shall organize and select one of its members as chair and one of its members as vice chair to serve no more than two years in each position.~~
- ~~_____ (f) If a board member becomes ineligible for the EMS personnel peer review board membership position through promotion, an increase in level of licensure, or transfer out of the employment position that qualified them for the appointment, they shall be replaced at the next two year interval.~~
- ~~_____ (g) An equitable mix of urban and rural members is preferred.~~
- ~~_____ (4) The EMS personnel peer review board meeting shall take place quarterly.~~
- ~~_____ (a) Regular meetings shall be noticed and posted to employers and posted in accordance with the Utah Open and Public Meetings Act, Section 52-4-202.~~
- ~~_____ (b) Failure to attend three or more consecutive meetings by any member may be grounds for removal of that member and replacement in accordance with Subsection (2)(d).~~
- ~~_____ (c) A member may not receive compensation or benefits from the department for the member's service. The member may receive per diem and travel expenses in accordance with department rules and policies.~~
- ~~_____ (5) Once a complaint or background screening finding against a licensed EMS personnel is investigated, the department shall refer the case and provide a report with any findings and recommendations to the EMS personnel peer review board.~~
- ~~_____ (6) If the EMS personnel peer review board chooses to recommend any action that deviates from the department recommendation, the board shall provide written justification for that recommendation.~~
- ~~_____ (7) The EMS personnel peer review board may make recommendations to the department's office director of:~~
- ~~_____ (a) no department action;~~
- ~~_____ (b) a letter of notice;~~
- ~~_____ (c) probation of the licensed EMS personnel's license with specific terms and conditions for a period;~~
- ~~_____ (d) suspension of the licensed EMS personnel's license for a defined period;~~
- ~~_____ (e) permanent revocation of the licensed EMS personnel's license; or~~
- ~~_____ (f) a combination of any of these actions.~~
- ~~_____ (8) If the department's office director modifies the recommended action of the EMS personnel peer review board, the department's office director shall attach a written letter of dissent noting the reasoning for the decision. The department's office director shall then notify the EMS personnel peer review board of the dissent and action taken.~~
- ~~_____ (9) The department shall notify the licensed EMS personnel of any action taken within 15 days of the decision by mail.~~
- ~~_____ (10) An action to restrict, place on probation, suspend, or revoke the licensed EMS personnel's license shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~

R911 5 3500. EMS Rules Task Force.

- ~~_____ (1) The EMS rules task force is created under Subsection 53-2d-103(1)(c).~~
- ~~_____ (2) The EMS rules task force shall be composed of the following members appointed by the executive director of the Department of Health and Human Services:~~
- ~~_____ (a) a representative from the Utah Fire Chiefs' Association;~~
- ~~_____ (b) a representative from the Utah Rural EMS Directors' Association;~~
- ~~_____ (c) an EMS medical director;~~
- ~~_____ (d) a representative from a privately owned EMS agency;~~
- ~~_____ (e) a rural EMS medical dispatch representative;~~
- ~~_____ (f) a paramedic licensed representative;~~
- ~~_____ (g) an urban EMS medical dispatch representative;~~
- ~~_____ (h) an Emergency Nurses Association representative;~~
- ~~_____ (i) a course coordinator from an accredited EMS training program;~~
- ~~_____ (j) an endorsed EMS training officer;~~
- ~~_____ (k) a representative from the state EMS committee;~~
- ~~_____ (l) a designated trauma center representative;~~
- ~~_____ (m) a designated patient receiving facility representative; and~~
- ~~_____ (n) a designated nonemergency secured behavioral patient transport representative.~~
- ~~_____ (3) The EMS rules task force member's terms of office will comply with the following criteria:~~
- ~~_____ (a) Except as provided in Subsection (2)(b), members shall be appointed for a three year term.~~
- ~~_____ (b) The department shall adjust the length of terms to ensure the terms of members of the EMS rules task force are staggered so about one third of the EMS rules task force is appointed every two years.~~
- ~~_____ (c) Members may serve two consecutive full terms.~~

- ~~(d) When a vacancy occurs in the membership for any reason, the department shall solicit applications for replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.~~
- ~~(e) The EMS rules task force shall organize and select one of its members as chair and one of its members as vice chair to serve no more than two years in each position.~~
- ~~(f) If an EMS rules task force member becomes ineligible for the EMS rules task force membership position through promotion, an increase in level of license, or transfer out of the employment position that qualified them for the appointment, they shall be replaced at the next two year interval.~~
- ~~(g) An equitable mix of urban and rural members is preferred.~~
- ~~(4) Regular meetings of the EMS rules task force shall be scheduled as determined by the membership and the department.]~~

R911-5-100. Authority.

- (1) This rule is authorized by Title 53, Chapter 2d, Emergency Medical Services Act.

R911-5-105. Purpose.

The purpose of this rule is to:

- (1) describe requirements for training, certification, endorsements, and licensing of individuals who provide emergency medical services;
- (2) provide uniform minimum standards to be met by those providing emergency medical services within the state; and
- (3) establish grounds and procedures for disciplinary actions.

R911-5-110. Definitions.

- (1) Terms used in this rule are defined in Section 53-2d-101 and Section R911-1-200.
- (2) In addition:
- (a)(i) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee.
- (ii) "Aggravating circumstances" includes the following:
- (A) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;
- (B) dishonest or selfish motive;
- (C) pattern of misconduct;
- (D) multiple offenses;
- (E) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the bureau;
- (F) submission of false evidence, false statements, or engaging in other deceptive practices, including creating, destroying, or altering records;
- (G) refusal to acknowledge the wrongful nature of the misconduct involved;
- (H) vulnerability of the victim;
- (I) lack of good faith to make restitution or to rectify the consequences of the misconduct;
- (J) illegal conduct, including the use of controlled substances; or
- (K) intimidation or threats of withholding records or other detrimental consequences of any individual who reports, is a witness to or testifies regarding the unprofessional or unlawful conduct.
- (b) "Board" means the EMS Personnel Peer Review Board created under Subsection 53-2d-103(1)(d).
- (c) "Crisis Response Technician" or "CRT" means a person who provides "Behavioral Emergency Services" as defined in Section 53-2d-101.
- (d) "Licensee" means any individual or entity who has applied or is issued any certificate, designation, permit, or license under Title 53, Chapter 2d, Emergency Medical Services Act, and Title 53, Chapter 2e, EMS Personnel Licensure Interstate Compact.
- (e)(i) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.
- (ii) "Mitigating circumstances" include:
- (A) absence of prior record of disciplinary action, unlawful conduct or unprofessional conduct;
- (B) personal, mental, or emotional problems if the problems have not posed a risk to the health, safety, or welfare of the public or clients served, such as drug or alcohol abuse while working or similar situations where the licensee or applicant should know that they should refrain from engaging in activities that may pose such a risk;
- (C) timely and good faith effort to make restitution or rectify the consequences of the misconduct involved;
- (D) full and free disclosure to the client or bureau before the discovery of any misconduct;
- (E) inexperience in the practice of the profession, that is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain before beginning work on a particular matter;
- (F) imposition of other penalties or sanctions if the other penalties and sanctions have alleviated threats to the public health, safety, and welfare; and
- (G) remorse.
- (iii) The following factors may not be considered as mitigating circumstances:
- (A) forced or compelled restitution;
- (B) withdrawal of complaint by an individual;
- (C) resignation before disciplinary proceedings;
- (D) failure of injured party to complain;

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- (E) complainant's recommendation as to sanction;
- (F) disciplinary action taken by employer;
- (G) criminal penalties imposed for the conduct;
- (H) argument that a prior proceeding was conducted unfairly, contrary to law, or in violation of due process or any other procedural safeguard;
- (I) argument that a prior finding or sanction was contrary to the evidence or entered without due consideration of relevant evidence;
- (J) argument that a respondent was not adequately represented by counsel in a prior proceeding; or
- (K) argument or evidence that former statements of a respondent made in conjunction with a plea or settlement agreement are not true.
- (f) "Moral turpitude" means an act that:
 - (i) is done knowingly contrary to justice, honesty, or good morals;
 - (ii) is immoral in itself regardless of whether the act is punishable by law;
 - (iii) involves an element of falsification or fraud; or
 - (iv) involves an element of harm or injury directed to another person or another person's property.
- (g) "Probation" means the individual is required to complete rehabilitative terms to maintain licensure for a maximum period of one year.
- (h) "Provider" means "emergency medical service providers" as defined in Section 53-2d-101.
- (i) "Respondent" means an emergency medical service personnel, licensee, provider, or endorsed individual against whom the bureau has initiated an investigation or adjudicative proceeding under Sections 53-2d-603 or 53-2d-604, or this rule.
- (j) "Revoke" or "revocation" means the permanent termination of a license.
- (k) "Suspend" or "suspension" means the temporary removal of the license from an individual for a period of time.
- (l) "Unprofessional conduct" means the following:
 - (i) surrendering a license to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in any regulated profession while an investigation or inquiry into allegations of unprofessional conduct or unlawful conduct is in progress, or after a charging document has been filed against the applicant or licensee alleging unprofessional conduct or unlawful conduct;
 - (ii) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, or probation;
 - (iii) suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in any profession, if the conduct:
 - (A) bears a substantial relationship to the licensee's or applicant's ability to safely and competently practice as an EMS professional;
 - or
 - (B) would constitute grounds for denial of licensure or disciplinary proceedings under Title 53 Chapter 2d, Emergency Medical Procedures Act, or this rule;
 - (iv) engaging in cheating or otherwise dishonest conduct while taking any test or exam necessary for licensure;
 - (v) engaging in conduct or otherwise violating Section R911-5-210;
 - (vi) any conduct that renders a licensee unfit to perform as a licensee or endangers public safety; or
 - (vii) conduct that is a violation of standards of ethical conduct, performance, or professional competence.

R911-5-200. Licensure Standards.

- (1) The bureau may license individuals meeting qualifications of Title 53, Chapter 2d, Emergency Medical Services Act, and this rule as a paramedic, advanced emergency medical services technician, emergency medical services technician, emergency medical responder, crisis response technician, or advanced crisis response technician.
- (2) The committee shall advise the bureau concerning training and competency standards as defined in the National Association of State EMS Officials National EMS Scope of Practice Model 2019, Report No. DOT HS 812-666. Washington, DC: National Highway Traffic Safety Administration, which is incorporated by reference.

R911-5-201. Licensure of EMRs, EMTs, AEMTs, and Paramedics.

- (1) A license issued by the bureau is valid for no more than two years unless it is extended by the bureau to standardize the renewal cycle.
 - (a) The bureau may modify license periods to standardize renewal cycles.
 - (b) A suspension or probation of a license does not change the expiration date.
- (2) An individual seeking to become licensed shall submit to the bureau:
 - (a) documentation of successful completion of a bureau approved course for the respective license;
 - (b) a letter written and signed by a bureau endorsed EMS instructor stating that the applicant has competently and successfully performed the functions listed in the National EMS Education Standards referenced in Subsection R911-5-200;
 - (c) a completed application;
 - (d) applicable fees;
 - (e) information necessary for a background clearance, including social security number, fingerprints, and other information required by Section 53-2d-410;
 - (f) a certificate of completion of a bureau approved cardiopulmonary resuscitation course dated no more than two years before the date of application;

(g) a favorable written recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of training requirements for licensure no more than two years before the date of application; and

(h) documentation of successful completion of a bureau approved written examination or re-examination no more than two years after the date the course under Subsection R911-5-201(2)(d)(iv) was completed.

(3) An applicant shall satisfy the following age requirements for licensure:

(a) 16 years of age or older for an EMR license; and

(b) 18 years of age or older for an EMT, AEMT, and paramedic license.

(4) An individual enrolling in an AEMT or paramedic course shall maintain a current Utah EMT license or higher, until a new license level is granted.

(5) The course coordinator and course medical director shall submit written verification of the successful candidates to the bureau for review upon successful completion of a bureau approved course for a license.

(6) The bureau may extend a license recommendation and verification time limit for an individual who has unusual circumstances or hardships.

R911-5-202. Paramedic Graduates Not Recommended for Licensure.

An individual who successfully completed a paramedic course, but is not recommended for licensure, may request licensure as an AEMT if:

(1) the paramedic course coordinator submits to the bureau a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and

(2) the individual successfully completes the application and testing requirements for an AEMT license.

R911-5-203. Waiver of EMT Course Requirements.

(1) The bureau may license an individual as an EMT or AEMT, if the individual:

(a) provides documentation showing the individual:

(i) is currently licensed in the state and in good standing as a registered nurse, a nurse practitioner, a physician assistant, or a physician; or

(ii) is able to provide documentation showing completion of military training consistent with National EMS education standards;

(b) demonstrates knowledge, proficiency, and competency to perform the functions listed in the National EMS education standards as described in Subsection R911-5-200(2), as verified through a letter written and signed by a certified course coordinator and an off-line medical director; and

(c) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT or AEMT, respectively.

(2) In addition to the requirements outlined in R911-5-204(1), an individual seeking licensure through the waiver process shall comply with the requirements for licensure of an EMT or AEMT in Subsection R911-5-201(2).

R911-5-204. License Renewal Requirements for EMRs, EMTs, AEMTs, and Paramedics.

(1) An individual seeking license renewal for an EMR, EMT, AEMT, or paramedic license shall, no earlier than six months, but at least 30 days before the individual's current license expires, submit to the bureau:

(a) a completed Utah EMS renewal application;

(b) applicable fees;

(c) information necessary for a background clearance, including social security number, fingerprints, and other information required by Section 53-2d-410;

(d) a current National Registry of Emergency Medical Technicians certification for their current license;

(e) documentation of completion of a bureau approved cardiopulmonary resuscitation course completed no more than two years before the date of application; and

(f) documentation of completion of a pediatric course approved by the bureau completed no more than two years before the date of application, for an AEMT or Paramedic licensed individual.

(2) The licensee shall maintain cardiopulmonary resuscitation certification during the licensure period.

(3) An individual shall complete, no more than two years before the date of application, the required continuing medical education hours as outlined in EMS Recertification Guide (2024), published by the National Registry of Emergency Medical Technicians, and incorporated by reference in this rule.

(4) The bureau may not extend an individual's license period longer than two years.

(5) Notwithstanding the time limits in Subsection R911-5-205, an individual who is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires shall have the same number of days the individual was on orders, not to exceed 90 days, to comply with renewal requirements after discharge.

R911-5-205. Reciprocity for EMRs, EMTs, AEMTs, and Paramedics.

(1) The bureau may license an individual as an EMR, EMT, AEMT, or paramedic who is licensed or certified by another state or certifying body if the applicant provides documentation that the applicant's out-of-state training and experience requirements are equivalent to or greater than Utah's requirements.

(2) An individual seeking reciprocity for licensure in the state based on out-of-state training and experience shall submit to the bureau:

(a) the applicable fees and a completed reciprocity application;

(b) information necessary for a background clearance, including social security number, fingerprints, and other information required by Section 53-2d-410;

(c) documentation of having completed a cardiopulmonary resuscitation course, no more than two years before the date of application, that is consistent with a bureau approved course; and

(d) a current certification from the National Registry of Emergency Medical Technician for the current license level.

(3) A paramedic candidate shall also submit documentation of successful completion of Advanced Care Life Support or equivalent.

(4) AEMT and paramedic licensed personnel shall submit documentation of completion of a pediatric course approved by the bureau, completed no more than two years before the date of application.

R911-5-300. CRT Licensure.

(1) An applicant seeking CRT licensure shall:

(a) have completed a bureau approved CRT course;

(b) be at least 21 years old;

(c) have for a minimum of two years:

(i) held another license under this rule; or

(ii) been a certified law enforcement officer;

(d) submit to the bureau:

(i) a completed CRT license application;

(ii) applicable fees;

(iii) documentation showing a current Utah license as a mental health professional; and

(iv) information necessary for a background clearance, including social security number, fingerprints, and other information required by Section 53-2d-410.

(2) The bureau may grant credit for minimum licensure if:

(a) the applicant submits documentation showing equivalent experience; and

(b) the bureau, in its sole discretion, finds the experience sufficient for licensure.

R911-5-301. Waiver of CRT Course.

(1) An individual who has not completed a bureau approved CRT course may request waiver of the bureau approved CRT course by submitting documentation showing:

(a) current licensure as a mental health professional in the state in good standing or military mental health training;

(b) knowledge, proficiency, and competency to perform the functions as verified through a letter written and signed by a county mental health authority or designee;

(c) knowledge of:

(i) crisis response protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of a CRT; and

(d) completion of a bureau approved cardiopulmonary resuscitation course completed no more than two years before the date of application.

(2) An individual who is granted a course completion waiver must comply with Subsections R911-5-300 (1)(c) through (d) to be eligible for licensure.

R911-5-302. License Renewal Requirements for CRTs.

(1)(a) An individual applying to renew a CRT license must be in good standing with the local mental health authority.

(b) The local mental health authority or designee may revoke a CRT's license upon written request to the bureau.

(2) An individual applying for a renewal license shall complete at least 8 hours of bureau approved continuous education every two years.

(3) An individual must complete and submit the required renewal materials to the bureau, no sooner than one year but no less than 30 days before the individual's current license expiration date.

(a) Renewal materials submitted less than 30 days before license expiration may result in license expiration; and

(b) the bureau shall process renewal applications in the order received.

(4) The bureau may modify a CRT's license period to standardize renewal cycles.

(5) The bureau may not extend an individual's license period longer than two years.

(6) Notwithstanding the time limits in Subsection R911-5-302, an individual who is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires shall have the same number of days the individual was on orders, not to exceed 90 days, to comply with renewal requirements after discharge.

- (7) An individual whose license for CRT has been expired for more than one year shall submit to the bureau:
- (a) a letter of recommendation including results of an oral examination, from a county mental health director or designee, verifying proficiency in behavioral health care skills at the licensure level;
 - (b) documentation that shows successful completion of the bureau's approved written examination for CRT licensure;
 - (c) a completed renewal application; and
 - (d) applicable late and renewal fees.
- (8) A CRT license is valid for two years from the issuance date.

R911-5-303. Reciprocity for CRTs.

- (1) The bureau may license an individual as a CRT who is licensed or certified by another state or certifying body if the applicant demonstrates the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.
- (2) An individual seeking reciprocity for CRT licensure in the state based on out-of-state training and experience shall submit to the bureau:
- (a) applicable fees;
 - (b) a completed CRT application;
 - (c) information necessary for a background clearance, including social security number, fingerprints, and other information required by Section 53-2d-410;
 - (d) documentation of having completed a CPR course, no more than two years before the date of application, that is consistent with the Highlights of the 2020 American Heart Association Guidelines for CPR and ECC, incorporated by reference in this rule; and
 - (e) a current CRT certification or license from another state and the name of the training institution.

R911-5-400. Certifications and Accounts With National Registry of Emergency Medical Technician Certification.

- (1) An individual licensed as an EMR, EMT, AEMT, or paramedic shall maintain a certification and account with the National Registry of Emergency Medical Technicians.
- (2) The bureau may suspend or revoke the license of an individual whose certification or account with the National Registry of Emergency Medical Technicians has expired.

R911-5-500. Emergency Medical Care During Clinical Training.

A student enrolled in a bureau approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require licensure to perform.

R911-5-600. EMS Instructor Requirements.

- (1) The bureau may endorse an individual as an EMS instructor who:
- (a) meets the initial licensure requirements in Subsection R911-5-601;
 - (b) is currently licensed in the state as an EMR, EMT, AEMT, or paramedic;
 - (c) has been a licensed EMR, EMT, AEMT, or paramedic for a minimum of two years; and
 - (d) has a minimum of one year experience working as a licensed provider with a licensed or designated agency or an emergency health care facility.
- (2) The bureau adopts the 2002 National Guidelines For Educating EMS Instructors, which is incorporated by reference in this rule.
- (3) An EMS instructor may only teach up to the license level for which the instructor is licensed.
- (4) An EMS instructor shall comply with the teaching standards and procedures in the 2024 Course Coordinator Manual, which is incorporated by reference in this rule.
- (5) An EMS instructor shall maintain the EMS license for the level the instructor is endorsed to teach. If an individual's EMS license lapses, the instructor endorsement shall become invalid until the EMS license is renewed.

R911-5-601. EMS Instructor Endorsement.

- (1) The bureau may endorse an individual who is a licensed EMR, EMT, AEMT, or paramedic as an EMS instructor for a two-year period.
- (2) An individual who wishes to become endorsed as an EMS instructor shall submit to the bureau:
- (a) a completed application;
 - (b) applicable fees;
 - (c) a letter of recommendation regarding EMS skills and teaching abilities from a licensed or designated agency, which must be on the organization's letterhead and signed;
 - (d) documentation of 15 hours of teaching experience in EMS or other related medical discipline, such as first aid or CPR;
 - (e) documentation showing successful completion of the bureau sponsored initial EMS instructor training course;
 - (f) a completed and signed instructor contract with the bureau, agreeing to abide by the standards and procedures in the 2024 Course Coordinator Manual, incorporated by reference in this rule; and
 - (g) documentation of a minimum of 25 patient contacts with a licensed or designated agency or an emergency health care facility no more than one year before the date of application, which must be on the designated agency or emergency health care facility's letterhead and signed.

R911-5-602. EMS Instructor Endorsement Renewal.

An EMS instructor who seeks to renew an endorsement as an instructor shall submit to the bureau:

- (1) documentation showing current EMS licensure;
- (2) documentation showing attendance at a bureau approved instructor seminar at least once during the two year endorsement renewal cycle;
- (3) a completed EMS instructor endorsement application; and
- (4) applicable fees.

R911-5-603. EMS Instructor Lapsed Endorsement.

(1) An individual whose instructor endorsement has been expired less than one year may become endorsed by completing the endorsement renewal requirements and paying the applicable fees. The individual's new expiration date will be two years from the old expiration date.

(2) An EMS instructor whose instructor endorsement has been expired for more than one year may not renew the endorsement, and shall complete any initial instructor endorsement requirements and reapply as if there were no prior endorsement.

R911-5-604. Training Officer Endorsement.

(1) The bureau may endorse a licensed individual who is an endorsed EMS instructor as a training officer for a two-year period.

(2) An individual who wishes to become endorsed as an EMS training officer shall submit to the bureau:

- (a) documentation showing completion of a minimum of 30 hours of EMS instruction within the past year;
 - (b) documentation showing a current EMS instructor endorsement;
 - (c) documentation showing successful completion of the bureau's course for new training officers;
 - (d) a completed training officer endorsement application;
 - (e) applicable fees; and
 - (f) a completed and signed training officer contract agreeing to abide by the standards and procedures in the 2024 Training Officer Manual, incorporated by reference in this rule.
- (3) A training officer shall maintain an EMS instructor endorsement.

R911-5-605. Training Officer Endorsement Renewal.

(1) A training officer who seeks to renew an endorsement as a training officer shall submit to the bureau:

- (a) documentation showing attendance at a training officer seminar no more than one year before the date of application;
 - (b) documentation showing a current EMS instructor endorsement and EMS license;
 - (c) a completed training officer endorsement renewal application;
 - (d) applicable fees; and
- (2) a completed and signed new training officer contract agreeing to abide by the standards and procedures in the current 2024 Training Officer Manual, incorporated by reference in this rule.

R911-5-606. Training Officer Lapsed Endorsement.

(1) An individual whose training officer endorsement has been expired less than one year may become endorsed by completing the endorsement renewal requirements and paying applicable fees. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose training officer endorsement has been expired more than one year may not renew the endorsement, and shall complete each initial training officer endorsement requirement and reapply as if there were no prior endorsement.

R911-5-700. Course Coordinator Endorsement.

(1) The bureau may endorse an individual as an EMS course coordinator for a two-year period.

(2) An individual who seeks to become endorsed as a course coordinator shall submit to the bureau:

- (a) documentation showing completion of a minimum of 30 hours of EMS instruction no more than one year before the date of application;
 - (b) documentation showing current EMS instructor endorsement;
 - (c) documentation showing the applicant was a co-coordinator of record for one bureau approved course with an endorsed course coordinator;
 - (d) a written evaluation and recommendation from the course coordinator in which the applicant co-coordinated a course;
 - (e) documentation showing completion of the bureau's course for new course coordinators within one year before the date of the application;
 - (f) a completed course coordinator endorsement application;
 - (g) applicable fees;
 - (h) documentation showing completion of the bureau's course for new course coordinators;
 - (i) a completed and signed course coordinator contract agreeing to abide to the standards and procedures in the 2024 Course Coordinator Manual; and
 - (j) documentation showing EMS instructor endorsement.
- (3) A course coordinator may only coordinate courses up to the licensure level for which the course coordinator is licensed.

(4) If an individual's EMS license or EMS instructor endorsement lapses, the course coordinator endorsement shall become invalid until EMS license or EMS instructor endorsement is renewed.

R911-5-701. Course Coordinator Endorsement Renewal.

- (1) A course coordinator who seeks to renew an endorsement as a course coordinator shall submit to the bureau:
- (a) documentation showing a current EMS instructor endorsement;
 - (b) documentation showing a current EMR, EMT, AEMT, or paramedic license;
 - (c) documentation showing coordinating or co-coordinating at least one bureau approved course at least two years before the date of the application;
 - (d) documentation showing attendance at a course coordinator seminar at least one year before to the date of application;
 - (e) a completed course endorsement renewal application;
 - (f) applicable fees; and
 - (g) a signed course coordinator contract agreeing to abide by the policies and procedures in the 2024 Course Coordinator Manual, incorporated by reference in this rule.

R911-5-702. Course Coordinator Lapsed Endorsement.

- (1) An individual whose course coordinator endorsement has been expired less than one year may become endorsed by completing the renewal requirements. The individual's new expiration date will be two years from the old expiration date.
- (2)(a) An individual whose course coordinator endorsement has been expired for more than one year may not renew the endorsement, and shall complete each initial course coordinator endorsement requirement and reapply as if there were no prior endorsement.
- (b) The bureau may waive the co-coordinator requirement if the candidate provides written verification they coordinated or co-coordinated a course within the past two years.

R911-5-800. Critical Care Paramedic Endorsement.

- (1) The bureau may endorse an individual as a critical care paramedic for up to a four-year period.
- (2) An individual who seeks to become endorsed as a critical care paramedic shall submit to the bureau:
- (a) documentation showing the applicant is a licensed paramedic in the state;
 - (b) documentation the applicant is certified by the International Board of Specialty Certification as a:
 - (i) certified critical care paramedic (CCP-C); or
 - (ii) certified flight paramedic (FP-C);
 - (c) a completed application for critical care paramedic certification; and
 - (d) applicable fees.
- (3) An applicant's education may not be used in place of a valid and current International Board of Specialty Certification critical care or flight paramedic certification to maintain the critical care endorsement.

R911-5-801. Critical Care Paramedic Endorsement Renewal.

- A critical care paramedic who wishes to renew the critical care paramedic endorsement shall submit to the bureau:
- (1) documentation showing the applicant is licensed as a paramedic in the state;
 - (2) a completed critical care paramedic endorsement application;
 - (3) applicable fees; and
 - (4) proof of certification from the International Board of Specialty Certification.

R911-5-900. Course Approvals.

- (1) A course coordinator offering EMS training to individuals who seeks to become licensed as an EMR, EMT, AEMT, or paramedic shall obtain bureau approval before initiating an EMS training course.
- (2) The bureau may approve a course if:
- (a) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days before commencing the course;
 - (b) the applicant shows proof that it has sufficient equipment and supplies available for the training;
 - (c) the bureau finds the course meets the bureau rules and contracts governing training;
 - (d) the course coordinators and instructors hold current respective course coordinator and EMS instructor endorsements; and
 - (e) the bureau has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R911-5-1000. Paramedic Training Institutions Standards Compliance.

- A person who seeks to become authorized to provide paramedic training must adhere to the:
- (1) 2024 Course Coordinator Manual incorporated by reference in this rule.; and
 - (2) January 1, 2024 Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions, incorporated by reference in this rule.

R911-5-1100. Off-line Medical Director Certification.

- (1) The bureau may certify an off-line medical director for a two-year period.
- (2) To become certified as an off-line medical director, the applicant shall be:

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- (a) a physician actively engaged in providing emergency medical care or meets this requirement at the discretion of the state EMS medical director;
- (b) familiar with Title 53, Chapter 2b, Emergency Medical Services Act, and applicable EMS administrative rules under Title R911; and
- (c) familiar with medical equipment and medications required for an EMS provider.
- (3) An individual who seeks to certify as an off-line medical director shall submit to the bureau:
 - (a) documentation showing completion of an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course, or the department's medical director training course, within 12 months of becoming a medical director;
 - (b) a medical director certification application; and
 - (c) applicable fees.
- (4) An individual who seeks to recertify as an off-line medical director shall submit to the bureau:
 - (a) documentation showing attendance at the medical director's annual workshop no more than two years prior to the date of application;
 - (b) a complete off-line medical director application; and
 - (c) applicable fees.

R911-5-1200. Published List of Individuals Permitted to Draw Blood.

The bureau shall make available to the public a published list of individuals permitted to withdraw blood for determination of its alcohol or drug content.

R911-5-1300. Background Screening and Clearance for Licensure.

- (1) The bureau shall conduct a background screening on an individual seeking licensure.
- (2) Background clearance for licensure eligibility shall indicate the individual does not pose an unacceptable risk to public health and safety.
- (3) The individual seeking a license, renewal, permit, or endorsement under this rule shall submit any completed applications and fees to the bureau, before submitting fingerprints to the bureau.
- (4) If the bureau determines an individual is not eligible for licensure based upon the criminal background screening the individual may:
 - (a) request a hearing before the bureau director or the bureau director's designee; and
 - (b) obtain and submit a criminal history obtained from the Bureau of Criminal Identification to the bureau.
 - (i) If the criminal event did not occur in the state the individual may submit a criminal history called an identity history summary obtained from the FBI to the bureau.
 - (ii) Any dispute about information contained in the criminal history may be challenged to the appropriate agency. The bureau may not correct or ignore an entry on a criminal history.
 - (iii) The individual may obtain and submit any court dockets to the bureau.
 - (c) Any proceeding denying a license, permit, certification, or endorsement is designated as an informal adjudicative proceeding under Section 63G-4-202.
 - (d) Any adjudicative proceeding or hearing before the bureau shall be in accordance with 63G-4-203.
- (5) If the bureau determines an individual is not eligible for licensure based upon the noncriminal background screening and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.
- (6) The bureau may deny an application for license, permit, or endorsement if the individual has been convicted, is subject to a plea in abeyance or a diversion agreement, is or has been on probation or parole, or has pending charges for any of the following:
 - (a) a felony or crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;
 - (b) an act of personal violence or force on any person or convicted of threatening to commit an act of personal violence or force against another person;
 - (c) an act constituting dishonesty or fraud;
 - (d) an act involving moral turpitude;
 - (e) an act involving illegally using, carrying, possessing a dangerous weapon;
 - (f) an act involving the use, possession, or distribution of controlled substances;
 - (g) an offense which requires the individual to register as a sex or kidnap offender under Title 77 Chapter 41;
 - (h) a criminal conviction or pattern of acts that may represent an unacceptable risk to public health and safety;
 - (i) a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; or
 - (j) a violation of Title 32B, Chapter 4, Criminal Offenses and Procedure Act.
- (7) The bureau may deny an application for license, renewal, permit, or endorsement for any conviction, admission of guilt, plea in abeyance, withheld judgment, diversion or similar procedural posture to any violations of statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Subsection R911-5-1300(6).
- (8) The bureau may consider the facts of the convicted offense, any other criminal activity, the continued risk to patients, and the relative need of the community and ability to supervise the licensee when determining eligibility for licensure.

(9) The bureau may deny licensure if an adjudication by a juvenile court refers to an act that, if committed by an adult, would be a felony or a misdemeanor of the identified offenses in Subsection 53-2d-410(5)(b).

(10) The bureau may deny licensure based on a supported finding from:

(a) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;

(b) child abuse or neglect findings described in Section 78A-6-3a; or

(c) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210.

(11) The bureau may deny licensure based on a finding from licensing records of individuals licensed by the Division of Professional Licensing under Title 58, Occupations and Professions.

(12) The bureau shall rely on relevant information identified in Subsection R911-5-1300(1) as conclusive evidence and may deny licensure based on that information.

(13) A licensee who has been arrested, charged, or convicted for a violation described in Subsection R911-5-1300(6) or (7) shall notify the bureau and each employer or affiliated entity who utilizes the EMS personnel's license immediately.

(14) A licensed or designated EMS provider who is notified or becomes aware of a licensed EMS personnel's arrest, charge, or conviction shall notify the bureau immediately.

(15) Background screening referrals may be submitted to the bureau for review and investigation.

(16) The bureau may require the licensee to provide proper or additional criminal background documentation.

R911-5-1301. Professional Conduct and Code of Ethics.

(1) Licensees shall adhere to the code of ethics from the EMT Student Handbook, October 2024 version, which is incorporated by reference.

(2) Licensees may be investigated for any conduct in violation of the EMT Student Handbook.

(3) Any EMS personnel who is found to have violated this section may be subject to license suspension or revocation.

R911-5-1302. Review and Investigation of Complaints and Referrals.

(1) The bureau shall initiate an investigation when it receives credible information that a licensee or provider has:

(a) been arrested or engaged in conduct in violation of Subsection R911-5-1300(6);

(b) engaged in conduct in violation of Title 53, Chapter 2d, Emergency Medical Services Act;

(c) refused to submit to a drug test requested by the EMS provider or the bureau;

(d) failed to report within seven business days by an individual or any affiliated provider pursuant to Subsections R911-5-1300(13) and R911-5-1300(14);

(e) failed to comply with the training, licensing, or relicensing requirements for the license;

(f) failed to comply with the EMS curriculum, training standards, or the bureau's agreement as an EMS educator, EMS instructor, a training officer, or a course coordinator;

(g) engaged in conduct that may endanger public health, safety, erode public trust, or compromise professional integrity;

(h) engaged in a relationship that creates a conflict of interest, compromises the integrity of the educational environment or EMS profession, or in which the respondent holds an evaluative or supervisory role;

(i) engaged in any form of harassment, bullying, or retaliatory behavior;

(j) engaged in fraud or deceit in applying for, obtaining, or renewing a license;

(k) engaged in fraud, deceit, lack of professional competency, patient abuse, or theft in the performance of duties;

(l) provided false or misleading information or failure to disclose criminal background information during an investigation or a board proceeding;

(m) engaged in unauthorized administration, use, or removal of narcotics, medications, supplies, or equipment;

(n) aided, encouraged, or performed procedures or skills beyond the level of an individual's EMS licensure or provider's licensure;

(o) been found to be mentally incompetent as determined by a court of competent jurisdiction;

(p) demonstrated inability and failure to perform adequate patient care;

(q) been determined to be unable to act with reasonable skill and safety because of illness, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated;

(r) misrepresentation the individual's level of licensure;

(s) failed to display a clearly identifiable level of EMS licensure upon demand;

(t) engaged in unsafe, unnecessary, or improper operation of an emergency vehicle that would likely cause concern or create a danger to the general public; or

(u) engaged in improper or unnecessary use of emergency equipment.

(2) A person seeking to file a complaint against a respondent may be asked to sign a written statement detailing the incident, and swearing to the accuracy of the statement, after being advised that providing a false statement may result in prosecution.

(3) The bureau may conduct interviews, gather evidence, which may include requiring the respondent to submit to a drug or alcohol screening or any other appropriate evaluation. The bureau shall allow the respondent an opportunity to provide supporting witnesses and evidence.

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(4)(a) If a respondent under investigation is employed as an EMS personnel or provider, the bureau shall notify the respondent's employer and entities with whom the respondent is affiliated in connection with their EMS licensure concerning the complaint or investigation, unless the nature of the complaint would make such a course of action impractical.

(b) If the bureau determines an individual's license should be restricted at any time during the investigation:

(i) the bureau shall notify both the individual and each licensed, designated agency, or employer the individual is affiliated with; and

(ii) the bureau has sole discretion in determining what information may be disclosed to the individual, and each employer or agency, based on:

(A) the nature of the investigation; and

(B) if disclosure will interfere with the investigation or result in retaliation against any witness.

(c) The bureau, employer, and individual shall confer and determine reasonable terms and conditions restricting the individual's duties under their license pending final outcome of the complaint or investigation.

(i) If terms and conditions of restriction are agreed upon between the parties, the individual and each employer or agency shall be provided a written agreement of restrictions:

(ii) the agreement shall include terms and conditions to be followed until the resolution of any criminal charge or the final outcome of an investigation; and

(iii) if the individual violates the terms and conditions, the individual's license shall be immediately suspended by the bureau.

(d) If the individual is not employed or affiliated with an agency, or if terms and conditions are not agreed upon, the bureau has sole discretion to restrict the individual's license as necessary to protect the public's interest.

(5) Once the investigation is concluded, the bureau shall determine whether there is sufficient evidence to proceed with an adjudicative proceeding.

(6) The bureau may immediately suspend a respondent's license, certification, or endorsement as provided in Section 63G-4-502 if the bureau identifies any of the following:

(a) the respondent demonstrates a threat to themselves or to a coworker;

(b) the respondent demonstrates a threat to the public health; or

(c) the respondent demonstrates a threat to the safety or welfare of the public.

(7) If the bureau determines there is insufficient evidence to find that a respondent engaged in conduct in violation of these rules or Title 53, Chapter 2d, Emergency Medical Services Act, the bureau shall issue a letter to the respondent indicating that the investigation has been concluded and that the bureau is taking no action.

(8)(a) If the bureau determines there is sufficient evidence to find that a respondent engaged in conduct in violation of these rules or Title 53, Chapter 2d, Emergency Medical Services Act, the bureau shall issue a written notice of agency action to the respondent in accordance with Section 63G-4-201.

(b) The notice shall include:

(i) the bureau's recommended discipline; and

(ii) notice of the next scheduled board meeting.

(c) The bureau shall notify the provider of the respondent of the issuance of the notice of agency action.

R911-5-1400. EMS Personnel Peer Review Board.

(1) The board shall be composed of the following ten members appointed by the commissioner of the Department of Public Safety:

(a) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the first or second class;

(b) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the third through sixth class;

(c) one educational representative from an approved EMS training program;

(d) one physician certified and practicing as an EMS medical director;

(e) two representatives from professional employee groups, one fire based, and one non-fire based;

(f) one endorsed EMS training officer;

(g) one non-supervisory licensed EMTs;

(h) one non-supervisory licensed AEMTs; and

(i) one non-supervisory licensed paramedic.

(2) The board shall have an equitable mix of urban and rural members.

(3) The board member's terms of office shall comply with the following criteria:

(a) except as provided in Subsection R911-5-1400(3)(b), members shall be appointed for a four-year term;

(b) the bureau shall adjust the length of terms to ensure the terms of members of the board are staggered so about one-fourth of the board is appointed every year;

(c) no member may serve more than two full terms;

(d) when a vacancy occurs in the membership of the board for any reason, the commissioner shall appoint the replacement for the balance of the unexpired term;

(e) the board shall organize and select one of its members as chair and one of its members as vice chair to serve no more than two years in each position; and

(f) if a board member becomes ineligible for the board membership position through promotion, an increase in level of licensure, or transfer out of the employment position that qualified them for the appointment, they shall be removed from the board.

(4) The board meeting shall take place quarterly.

(a) Regular meetings shall be noticed and posted to employers and posted in accordance with the Utah Open and Public Meetings Act, Section 52-4-202.

(b) Failure to attend two or more consecutive meetings by any member may be grounds for removal of that member and replacement in accordance with Subsection R911-5-1400(3)(d).

(c) A member may not receive compensation or benefits from the bureau for the member's service. The member may receive per diem and travel expenses in accordance with the department's rules and policies.

R911-5-1401. Hearing before the EMS Personnel Peer Review Board.

(1) The bureau shall notify the respondent of the date, time, and location of the next board meeting.

(2)(a) Any proceeding to suspend, revoke, or place on probation, a license, permit, certification, or endorsement is designated as an informal adjudicative proceeding under Section 63G-4-202.

(b) Any adjudicative proceeding or hearing before the board shall be in accordance with Section 63G-4-203.

(i) Upon request, the respondent may obtain a copy of the materials contained in the bureau's investigative file that the bureau intends to use in the hearing.

(ii) The disclosure of any discovery materials is subject to Title 63G, Chapter 2, Government Records Access and Management.

(3) The board shall review the bureau's investigative findings and recommendations.

(4) The hearing shall be conducted according to Section 63G-4-203.

(5)(a) The board may take disciplinary action if the board finds the respondent engages in, or is convicted of, conduct in violation of this rule or conduct constituting a state or federal criminal offense.

(b) The board may consider aggravating or mitigating circumstances when determining a disciplinary sanction.

(c) If the board determines there is insufficient evidence to find that the respondent engaged in conduct in violation of Subsection (5)(a), the matter shall be dismissed.

(6) The board shall provide a written order stating:

(a) the decision;

(b) the reasons for the decision; and

(c) a notice of any right of administrative or judicial review.

(7) The board may take any of the following actions:

(a) accept the bureau's recommendation, or

(b) enter their own discipline including:

(i) a letter of caution;

(ii) probation of the respondent's license with specific terms and conditions;

(iii) suspension of the respondent's license for a defined period;

(iv) permanent revocation of the licensed respondent's license; or

(v) a combination of any of these actions.

(8) Action taken for a violation of Subsection R911-5-1302(1)(f) shall only be against the individual's endorsement to instruct, and shall not affect their base EMS license.

(9) After the board has decided the matter, the board chairperson shall issue a final order within 30 days of the board meeting and send a copy of the board's findings to the director.

(10) If the respondent fails to participate in the proceeding before the board, an order of default may be entered, and the board may impose the recommended discipline.

R911-5-1402. Reconsideration.

(1) A respondent may file a written request for reconsideration of the board's final order within 20 days after receiving the board's final order in accordance with Section 63G-4-302.

(2) If the bureau does not issue an amended order within 20 days after receiving the request for reconsideration, the request for reconsideration shall be considered denied.

R911-5-1403. Judicial Review.

A respondent may obtain judicial review of the agency's final order by filing a petition for judicial review with the district court within 30 days after the date that the final order is issued in accordance with Section 63G-4-402.

KEY: emergency medical services

Date of Last Change: ~~March 12, 2025~~ July 1, 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at 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.

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R68-1	Filing ID: 50135
Effective Date:	03/05/2025	

Agency Information

1. Title catchline:	Agriculture and Food, Plant Industry	
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
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
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Rob Hougaard	801-982-2305	Rhougaard@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:	R68-1. Utah Bee Inspection Act Governing Inspection of Bees	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	Subsection 4-11-103(1) provides the Department of Agriculture and Food (Department) rulewriting authority to administer and enforce Title 4, Chapter 11, Utah Bee Inspection Act. This rule provides the information necessary to meet that requirement.	
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 public comment regarding the continuation of this rule has been received over the last five years.	

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Since the statute requires the Department to write rules regarding the administration and enforcement of the Utah Bee Inspection Act, this rule is necessary. This rule provides information regarding the registration and apiary identification requirements, as well as the requirement to assist in locating apiaries and salvaging diseased colonies. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	Date:	03/05/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R68-6	Filing ID: 54518
Effective Date:	03/07/2025	

Agency Information

1. Title catchline:	Agriculture and Food, Plant Industry	
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
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
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Rob Hougaard	801-982-2305	Rhougaard@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R68-6. Utah Nursery 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:
Subsection 4-15-103(1) gives the Department of Agriculture and Food (Department) rulewriting authority to administer and enforce Title 4, Chapter 15, Utah Nursery Act. This rule provides the provisions required to administer and enforce the requirements.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any public comments regarding the continuation of this rule within the last five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule provides the requirements for labeling and the conditions and standards of nursery stock to ensure plants are healthy before they are shipped to other retailers in or out of the state. Additionally, this rule provides the provisions to exempt an organizational provisional permit to allow special projects by non-profit organizations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	Date:	03/05/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R156-20b	Filing ID:	50260
Effective Date:	03/07/2025		

Agency Information

1. Title catchline:	Commerce, Professional Licensing		
Building:	Heber M. Wells Building		
Street address:	160 E 300 S		
City, state	Salt Lake City, UT 84111-2316		
Mailing address:	PO Box 146741		
City, state and zip:	Salt Lake City, UT 84114-6741		
Contact persons:			
Name:	Phone:	Email:	
David Wright	801-530-6628	davidwright@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R156-20b. Environmental Health Scientist 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 20b, Environmental Health Scientist Act, provides for the licensure and regulation of environmental health scientists. Subsection 58-1-106(1) provides that the Division of Professional Licensing may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Environmental Health Scientist Board's duties, functions, and responsibilities include recommending appropriate rules to the Division director. This rule was enacted to clarify the provisions of Title 58, Chapter 20b, with respect to environmental health scientists.
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 2020, this rule has not been amended, and the Division of Professional Licensing has not received any public comment.
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 20b. 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:	03/07/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-417	Filing ID: 50423
Effective Date:	03/14/2025	

Agency Information

1. Title catchline:	Education, Administration		
Building:	Board of Education		
Street address:	250 E 500 S		
City, state	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state and zip:	Salt Lake City, UT 84114-4200		
Contact persons:			
Name:	Phone:	Email:	
Elisse Newey	801-538-7550	elisse.newey@schools.utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:	R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation		
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; and Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.		
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	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 in order to provide standards and procedures for prohibiting Local Education Agencies and third party providers from offering incentives for student enrollment. Therefore, this rule should be continued.		

Agency Authorization Information

Agency head or designee and title:	Elisse Newey, Deputy Superintendent of Policy	Date:	03/14/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-714	Filing ID: 52577
Effective Date:	03/14/2025	

Agency Information

1. Title catchline:	Education, Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Elisse Newey	801-538-7550	elisse.newey@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R277-714. Unsafe School Choice Option
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; and Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
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 in order to provide a definition of persistently dangerous school as required by 20 USC 7912; and a process for complying with federal law when a school within the Local Education Agency is designated as persistently dangerous. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Elisse Newey, Deputy Superintendent of Policy	Date:	03/14/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R384-300	Filing ID: 56040
Effective Date:	03/06/2025	

Agency Information

1. Title catchline:	Health and Human Services, Population Health, Health Promotion and Prevention	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 142102	
City, state and zip:	Salt Lake City, UT 841164	

Contact persons:		
Name:	Phone:	Email:
Nichole Shepard	385-315-2000	nshepard@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R384-300. Parkinson's Disease Reporting 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 26B-1-202 gives the Department of Health and Human Services (Department) authority to make rules providing health and social services for the state, and Section 26B-7-227 authorizes the Department to establish and operate reasonable programs to prevent, delay, and detect the onset of chronic diseases, including systems for detecting and monitoring chronic diseases.
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 in support of or opposition to this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for statutory compliance and establishes the Utah Parkinson's Disease Registry, which maintains a central database of accurate historical and current information for research and public health purposes. This rule provides for the screening and collection of patient data that may be useful in detecting the incidence and possible risk factors concerning Parkinson's Disease and related movement disorders. The information gained will help increase understanding of this disease and aid in planning for early diagnosis, developing health education for patients and providers, and providing correct medical or surgical therapy health requirements. Therefore, this rule should be continued. As there have been no comments in opposition to this rule, the Department has not responded to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	03/01/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R392-600	Filing ID:	54379
Effective Date:	03/03/2025		

Agency Information

1. Title catchline:	Health and Human Services, Population Health, Environmental Health
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state	Salt Lake City, UT
Mailing address:	PO Box 142104
City, state and zip:	Salt Lake City, UT 84114-2104

Contact persons:		
Name:	Phone:	Email:
Mark E. Jones	801-538-6191	markejones@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R392-600. Illegal Drug Operations Decontamination Standards
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 19-6-906 authorizes the Department of Health and Human Services (Department) to adopt rules and enforce minimum standards for testing, sampling and decontamination of interior surfaces, furnishing, outside property soils, and septic tanks, each associated with buildings contaminated with hazardous waste resulting from the illicit production and use of methamphetamine.
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:
<p>Since this rule's last five-year review, the Department received comments related to an amendment for Rule R392-600 (with filing ID 54379), originally published in the March 15, 2022, issue of the <i>Utah State Bulletin</i> and made effective 07/13/2022. The reason for the amendment was to update and clarify rule language and bring definitions in line with updated statute, but requirements in this rule remained the same as they were before the amendment.</p> <p>Public comments related to that amendment included local health districts and the Utah Department of Environmental Quality (DEQ) proposing adjustments to the rule language, the Utah Apartment and Realtors Association requesting the removal of composite testing requirements, and industry experts recommending use of their products for clean up and inquiring about a private laboratory needing a certification or permit for methamphetamine testing.</p> <p>The Department responded to the comments by telling local health districts and DEQ that the proposed changes would likely be discussed in a future advisory committee meeting and were not appropriate to incorporate in the amendment at that time. The Department also responded to the Utah Apartment and Realtors Association that the request for removal of composite testing requirements had previously been addressed in an amendment that was published in the July 15, 2018, issue of the <i>Utah State Bulletin</i> and made effective 08/24/2018. The Department responded to the recommendation from industry experts of specific cleaning products that the Department is unable to recommend the use of a specific cleaning product for clean up. Finally, the Department clarified its position on private laboratory certification or permits for testing.</p> <p>The Department has not received any additional comments in support of or opposition to this rule since its last five-year review.</p>
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
<p>Rule R392-600 is necessary for statutory compliance and public safety. This rule provides standards that protect homeowners, future home buyers, tenants, and the general public from exposure to hazardous chemical contaminants associated with illicit drug production and use that may be present on building surfaces, furnishings, and property soils. This rule establishes procedures for the management and removal of hazardous waste materials from illicit drug lab operations. Therefore, this rule should be continued.</p> <p>As mentioned in Box 4, the only comment the Department received in opposition to this rule was from the Utah Apartment and Realtors Association requesting the removal of composite testing requirements, but the Department determined that this issue had already been addressed through the 2018 amendment. The Department did not receive any other comments in opposition to Rule R392-600 and, therefore, did not respond to any such additional comments.</p>

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	02/28/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-164	Filing ID: 56839
Effective Date:	03/03/2025	

Agency Information

1. Title catchline:	Insurance, Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S.2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:	R590-164. Uniform Health Billing 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:	<p>Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.</p> <p>Section 31A-22-614.5 requires all insurers that offer health insurance to use a uniform claim form and uniform billing and claim codes adopted by the Insurance Commissioner in accordance with the Utah Administrative Rulemaking Act.</p>
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	The Department of Insurance (Department) received two comments from industry partners with concerns that an amendment to a Title R380 rule would conflict with Rule R590-164. The Department worked with the Department of Health and Human Services to ensure the R380 and R590 rules would be in alignment.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	<p>This rule eliminates the need for each insurer to create its own billing form for health providers to complete and file with the insurer to be reimbursed for their services. Uniformity in health billing forms reduces confusion, processing time, and cost. It should be noted that the organization that sets the standards has representation from major insurance carriers and health care providers.</p> <p>Before adopting standards, they are exposed to the insurance industry and medical organizations for their input. As many as 700 responses have been received regarding a change in standards. Ninety percent of medical billings in Utah are sent electronically, exceeding the national average. Therefore, this rule should be continued.</p>

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/03/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-284	Filing ID: 55278
Effective Date:	03/03/2025	

Agency Information

1. Title catchline:	Insurance, Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:	R590-284. Corporate Governance Annual Disclosure 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:	<p>Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.</p> <p>Section 31A-16b-104 authorizes the insurance commissioner to write rules to implement Title 31A, Chapter 16b, Corporate Governance Annual Disclosure Act.</p>	
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.	
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	<p>This rule sets the filing procedure and content requirements for a corporate governance annual disclosure (CGAD) that insurers are required to file under Section 31A-16b-103. These disclosures are critical to the Department's effective regulation of insurers domiciled in Utah.</p> <p>Without the information contained in this disclosure, the governance structure of an insurer would be opaque and making sense of its operational oversight would be difficult. This rule is necessary to understand how an insurer is structured, how it makes decisions, and how it manages risk. Therefore, this rule should be continued.</p>	

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/03/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R657-55	Filing ID: 55781
Effective Date:	03/03/2025	

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84414-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R657-55. Wildlife Expo Permits
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23A-2-304 and 23A-2-305, the Wildlife Board is authorized and required to regulate and prescribe the means for issuing wildlife expo permits.
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 supporting or opposing Rule R657-55 were received since October 2020, when the rule was last reviewed.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-55 provides the requirements, procedures and standards for conservation groups to issue the 200 hunting permits made available at the wildlife expo. This rule provides the opportunity for residents and nonresidents to visit Utah during the expo for an opportunity to obtain one of the permits.
The wildlife expo brings hundreds of thousands of dollars into the state each year. The provisions adopted in this rule are effective in providing the requirements, procedures, and standards for managing the wildlife expo permit program. This rule is necessary for continued success of this program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Riley Peck, Division Director	Date:	03/03/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R994-204	Filing ID:	55004
Effective Date:	03/03/2025		

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance		
Building:	Olene Walker Building		
Street address:	140 E 300 S		
City, state	Salt Lake City, UT		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R994-204. Covered Employment
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Department of Workforce Services (Department) has authority under Subsections 35A-1-104(1), 35A-1-104(4), and 35A-4-502(1)(b) to adopt rules and establish eligibility standards. Section 35A-4-204 defines employment in broad terms. This rule is needed to specify what standards are used for determining the employment status of specific types of workers. This rule draws from case law, Utah statutes, and federal regulations to establish standards the Department follows in making those determinations.
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 the last five years 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:
This rule is necessary to explain to employers and claimants which types of employment are covered under the Employment Security Act and when a worker may be eligible for unemployment insurance benefits. It also provides rules for determining whether an individual is an independent contractor and whether an employer can a declaratory determination of a worker's status. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	Date:	03/03/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R994-205	Filing ID: 54919
Effective Date:	03/03/2025	

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance
Building:	Olene Walker Building
Street address:	140 E 300 S
City, state	Salt Lake City, UT
Mailing address:	PO Box 45244
City, state and zip:	Salt Lake City, UT 84145-0244

Contact persons:		
Name:	Phone:	Email:
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R994-205. Exempt Employment
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Department of Workforce Services has authority under Subsections 35A-1-104(1), 35A-1-104(4), and 35A-4-502(1)(b) to adopt rules and establish eligibility standards. Section 35A-4-205 lists types of work that are exempt under the Employment Security Act. This rule is necessary to describe how to determine if certain workers' services are exempt.
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 the last five years 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:
This rule is necessary to provide guidance to employers and claimants in determining when certain types of services are exempt, such as those provided by agricultural workers, outside salespersons, real estate agents, and family members. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	Date:	03/03/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R994-206	Filing ID:	54920
Effective Date:	03/03/2025		

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance		
Building:	Olene Walker Building		
Street address:	140 E 300 S		
City, state	Salt Lake City, UT		
Mailing address:	PO Box 45244		
City, state and zip:	Salt Lake City, UT 84145-0244		
Contact persons:			
Name:	Phone:	Email:	
Robert Andreasen	801-517-4722	randreasen@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R994-206. Agricultural Labor
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Department of Workforce Services has authority under Subsections 35A-1-104(1), 35A-1-104(4), and 35A-4-502(1)(b) to adopt rules and establish eligibility standards. Section 35A-4-206 defines when agricultural labor is covered under the Employment Security Act. This rule is necessary to define terms used in Section 35A-4-206.
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 the last five years 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:
This rule is necessary to explain to employers and claimants when unemployment insurance benefits may be paid to agricultural workers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	Date:	03/03/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R994-304	Filing ID: 52242
Effective Date:	03/03/2025	

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R994-304. Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The Department of Workforce Services has authority under Subsections 35A-1-104(1), 35A-1-104(4), and 35A-4-502(1)(b) to adopt rules and establish eligibility standards.

Section 35A-4-304 seeks to enforce federal regulations requiring successor employers pay the rates that applied to the predecessor employer.

This rule is necessary to define terms used in Section 35A-4-304.

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 the last five years 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:

If an employer sells or transfers its business to a different entity, especially if the transfer is made to avoid higher unemployment insurance rates, the rate of the old business is transferred to the new entity.

This rule is necessary to explain when the rates will be charged to the new employer to avoid State Unemployment Tax Act "dumping" which is a scheme to avoid higher experience ratings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	Date:	03/03/2025
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR EXPIRATIONS

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). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. 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 EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE		
Rule Number:	R156-78	Filing ID: 50315
Effective Date:	03/18/2025	

Agency Information

1. Department and Agency:	Commerce, Professional Licensing	
Street address:	160 E 300 S	
City, state, and zip:	Salt Lake City, UT 84111-2316	
Contact person(s):		
Name:	Phone:	Email:
Nancy L. Lancaster	801-657-1644	rulesonline@utah.gov

General Information

2. Title of rule (catchline):
R156-83. Online Prescribing, Dispensing, and Facilitation Licensing Act Rule
3. Summary:
The Division of Professional Licensing let Rule R156-83 expire, on purpose, because the Legislature repealed the statutory authority to write this rule.

End of the Notices of Notices of Five-Year Expirations 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. 57034 (Repeal and Reenact) R68-15: Quarantine Pertaining to Japanese Beetle, *Popillia japonica*

Published: 02/15/2025

Effective: 03/27/2025

No. 57019 (New Rule) R68-21: Beekeeping Standards

Published: 02/01/2025

Effective: 03/17/2025

Education

Administration

No. 57020 (Amendment) R277-404: Requirements for Assessments of Student Achievement

Published: 02/01/2025

Effective: 03/10/2025

No. 57021 (Repeal) R277-489: Kindergarten Programs and Assessment

Published: 02/01/2025

Effective: 03/10/2025

No. 57022 (Amendment) R277-606: Dropout Prevention and Recovery Program

Published: 02/01/2025

Effective: 03/10/2025

No. 57023 (Amendment) R277-607: Absenteeism and Truancy Prevention

Published: 02/01/2025

Effective: 03/10/2025

No. 57024 (Amendment) R277-608: Prohibition of Corporal Punishment in Utah's Public Schools

Published: 02/01/2025

Effective: 03/10/2025

No. 57025 (Amendment) R277-623: School Climate Survey

Published: 02/01/2025

Effective: 03/10/2025

No. 57026 (Amendment) R277-631: Student Toilet Training Requirements

Published: 02/01/2025

Effective: 03/10/2025

NOTICES OF RULE EFFECTIVE DATES

No. 57027 (New Rule) R277-725: Statewide Online Education Program Contractor Requirements
Published: 02/01/2025
Effective: 03/10/2025

Environmental Quality

Air Quality

No. 56935 (Amendment) R307-401: Permit: New and Modified Sources
Published: 12/01/2024
Effective: 03/5/2025

Governor

Economic Opportunity

No. 56967 (Repeal) R357-15a: Targeted Business Tax Credit
Published: 12/15/2024
Effective: 03/03/2025

Health and Human Services

Population Health, Environmental Health

No. 56884 (New Rule) R392-701: Body Art Facility Sanitation
Published: 11/15/2024
Effective: 03/13/2025

No. 56884 (Change in Proposed Rule) R392-701: Body Art Facility Sanitation
Published: 01/15/2025
Effective: 03/13/2025

Integrated Healthcare

No. 57033 (Amendment) R414-49: Dental, Oral, and Maxillofacial Surgeons and Orthodontia
Published: 02/15/2025
Effective: 04/01/2025

Health Care Facility Licensing

No. 56863 (Repeal and Reenact) R432-4: General Construction
Published: 11/15/2024
Effective: 03/14/2025

Services for People with Disabilities

No. 57000 (Repeal and Reenact) R539-1: Eligibility
Published: 01/15/2025
Effective: 03/03/2025

No. 57001 (Repeal and Reenact) R539-5: Self-Administered Services
Published: 01/15/2025
Effective: 03/03/2025

No. 57002 (New Rule) R539-16: Caregiver Compensation
Published: 01/15/2025
Effective: 03/03/2025

Insurance

Administration

No. 57003 (Repeal and Reenact) R590-126: Accident and Health Insurance Standards
Published: 02/01/2025
Effective: 03/24/2025

No. 57004 (Repeal and Reenact) R590-233: Health Benefit Plan Insurance Standards
Published: 02/01/2025
Effective: 03/24/2025

No. 57006 (Repeal and Reenact) R590-286: Minimum Standards for Short-Term Limited Duration Health Insurance
Published: 02/01/2025
Effective: 03/24/2025

Natural Resources

Oil, Gas and Mining Board
No. 56976 (Amendment) R641-109: Notice
Published: 01/01/2025
Effective: 03/01/2025

Forestry, Fire and State Lands
No. 57028 (Amendment) R652-20: Mineral Resources
Published: 02/01/2025
Effective: 03/10/2025

Wildlife Resources
No. 57009 (Amendment) R657-5: Taking Big Game
Published: 02/01/2025
Effective: 03/11/2025

No. 57010 (Amendment) R657-6: Taking Upland Game
Published: 02/01/2025
Effective: 03/11/2025

No. 57011 (Amendment) R657-9: Taking Waterfowl, Snipe and Coot
Published: 02/01/2025
Effective: 03/11/2025

No. 57012 (Amendment) R657-10: Taking Cougar
Published: 02/01/2025
Effective: 03/11/2025

No. 57013 (Amendment) R657-11: Taking Furbearers and Trapping
Published: 02/01/2025
Effective: 03/11/2025

No. 57014 (Repeal) R657-15: Closure of Gunnison, Cub and Hat Islands
Published: 02/01/2025
Effective: 03/11/2025

No. 57015 (Amendment) R657-20: Reporting Requirements
Published: 02/01/2025
Effective: 03/11/2025

No. 57016 (Amendment) R657-33: Taking Bear
Published: 02/01/2025
Effective: 03/11/2025

No. 57017 (Amendment) R657-64: Predator Control Incentives
Published: 02/01/2025
Effective: 03/11/2025

End of the Notices of Rule Effective Dates Section