

Bureau for Children and Families Policy

Division of Early Care and Education

**Child Care Provider
Regulation:
Policy & Procedures
Manual**

CHILD CARE PROVIDER REGULATION

Policies and Procedures Manual

WV Department of Health and Human Resources
Bureau for Children and Families Policy
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CHAPTER 1: CHILD CARE PROGRAM GOALS AND DEFINITIONS

Child Care Program Description and Goals

1.1 Program Description

Child care is a service which offers direct care and protections of infants, toddlers, preschool, and school-age children during a portion of a twenty-four (24) hour day inside or outside of the child's own home. Child care is generally provided to children under the age of thirteen (13). In some situations, such as mentally challenged, physical or behavioral disorders, or the need for supervision for children under court supervision, a child care plan up to age eighteen (18), may be considered.

1.1.1 State Goals

The primary goal of child care services is to provide experiences to children which will foster their healthy development while enabling their parents to participate in work or educational activities. Child care supplements the care and protection that a child receives from his parents.

1.1.2 Federal Goals

The federal Child Care & Development Fund, which provides the primary funding for the state's child care program, requires the state to develop a plan for operation of services. The state plan must address how federal funds will be utilized to address the federal goals for child care: to improve the affordability, availability, and quality of child care programs. Further information about how the state is addressing those goals is included in the West Virginia Child Care Plan which may be accessed through the Bureau for Children and Families web site at <http://www.wvdhhr.org/bcf/online-doc.asp>.

1.2 Overview of Child Care Staff Responsibilities

Child care services designed to make child care more affordable, more available and of higher quality are provided through multiple agencies. Program and regulatory Department staff from the Division of Early Care and Education and staff from the six Child Care Resource and Referral agencies contribute to the overall effectiveness of the program. Each of these entities has specific responsibilities and assignments.

1.2.1 Division of Early Care and Education – Program Managers

The Division of Early Care & Education has three Program Managers that work under the general direction of the Division Director, who is responsible for overall administration of the child care program. The Program Manager for the child care center licensing unit and the Program Manager for the family child care regulatory unit also implement the following:

- A. Development and interpretation of policy and procedures for Division regulatory staff;
- B. Policy training and technical assistance on regulatory matters for the Division;
- C. Research and development of standards for child care programs and practices for regulatory staff;

- D. Promote quality, developmentally appropriate care in child care centers, family child care homes and family child care facilities and related programs including promotion of and assistance in accreditation; and
- E. Identify need for changes in state law and regulations.

1.2.2 Division of Early Care & Education – Child Care & Quality Initiatives Staff

The State Division of Early Care & Education staff is responsible for overall administration of the child care program including:

- A. Management of federal and state funds;
- B. Coordination with other state and local early childhood programs;
- C. Development/implementation of quality initiatives;
- D. Establishes provider payment rates and income guidelines;
- E. Development of forms and computer support systems;
- F. Communication/collaboration with federal, state and local level agencies involved in child care or related early childhood programs;
- G. Legislative responsibility for program;
- H. Development of contracted services and monitoring;
- I. Case consultation upon request;
- J. Coordination of WV Pre-k program with Department of Education;
- K. Staffing the Advisory Council;and
- L. Establishes forms, policies and procedures for the WV Quality Rating and Improvement System.

1.2.3 Division of Early Care and Education – Child Care Center Licensing Staff (See Chapter 10)

State child care center licensing staff is responsible under state law for the licensing and regulation of child care centers. This includes the investigation of complaints of standards violations, and illegal operations for programs caring for 13 or more children. The following list indicates responsibilities of state child care center licensing staff that relates to child care:

- A. License, investigate and inspect child care centers;
- B. Serve on the Training Advisory Council;
- C. Educate Training Advisory Council members with regard to regulations and licensing procedures;
- D. Collaborate with early childhood professionals and programs;
- E. Promote quality, developmentally appropriate care in child care centers and related programs including promotion of and assistance in accreditation;
- F. Enter all pertinent information regarding licensed child care centers into FACTS;
- G. Provide technical assistance to the child care community;
- H. Coordinate the licensing process with other regulatory agencies including the State Fire Marshal, Environmental Health, and Pest Management;
- I. Identify need for changes in regulations.

1.2.4 Division of Early Care and Education – Family Child Care Regulatory Specialists

Child care regulatory specialists regulate informal and relative family child care homes, registered family child care homes, and family child care facilities. The following is a partial listing of those responsibilities.

- A. Investigate reports of illegal operations, when 12 or fewer children are in care;

- B. Register relative and informal family child care and family child care homes through review of applications, on-site inspections, annual visits as appropriate per policy for each the type of care;
- C. Approve in-home child care home providers through a review of the Child Care Provider Services Requirements Checklist (ECE-CC-6A);
- D. Answer policy questions of providers regarding regulatory issues;
- E. Identify need for changes in regulations;
- F. Investigate complaints of standards violations on family child care homes and facilities, implement corrective action and monitor compliance;
- G. Registration of family child care homes and provision of technical assistance;
- H. Licensure of family child care facilities and provision of technical assistance;
- I. Background checks on providers, including CIB and CPS record checks;
- J. Work with Fire Marshal and Environmental Health in regulation of family child care facilities;
- K. Identify professional development needs of providers and report them to professional development staff;
- L. Entry of all provider information in FACTS;
- M. Communications with R&R agencies, Child & Adult Food Program and providers;
- N. Refer providers to other resources such as the food program, grants, professional development, associations, etc. in an effort to improve quality of care; and
- O. Encourage providers to offer high quality child care programs.

1.2.5 Child Care Resource and Referral Agencies (CCR&R)

The Department of Health & Human Resources has contracted with community agencies to provide child care resource and referral services and to determine eligibility for subsidized child care services in all areas of the state. Parents not in need of financial assistance or services may contact the R&R agency for information about standards, how to select quality care, or referral to registered, licensed and approved facilities. Resource and Referral agencies are responsible for the following core services:

- A. Promoting consumer education and parental choice;
- B. Recruitment of child care providers;
- C. Assisting child care providers through support activities, training, provision of information regarding age appropriate care, and encouragement of practicing professional standards;
- D. Operation of the Traveling Resource and Information Library Service;
- E. Eligibility Determination: Managing the subsidy certificate program using policies and forms required by the DHHR;
- F. Provide training and technical assistance to providers and the early care and education community;
- G. Consumer education;
- H. Work with community resources to improve the availability and quality of child care;
- I. Facilitate the regional Training Advisory Council;and
- J. Operation of a grant program for family child care providers.

1.3 Cooperative Agreements between the DHHR and the CCR&R

DHHR and CCR&R agencies enter written cooperative agreements regarding the exchange of information and on-going communication. The agreements are developed between Division staff, Regional Directors and the Executive Directors of the Resource and Referral agencies.

1.4 Regional Professional Development Advisory Council

Each Resource and Referral Service Delivery Area has a Professional Development Advisory Council that develops the professional development plan for the region. The Council consists of the CCR&R director or

supervisor and all professional development team members, providers, a member of the Division of Early Care & Education, a child care center licensing specialist(s) responsible for the licensing of centers in the R&R region, the family child care regulatory supervisor and, if needed, a family child care regulatory specialist. Additional members such as Head Start, WV Birth to Three RAU, extension agents and other providers of early childhood professional development in the region may participate in order to share resources and planning for all early care and education providers.

The advisory councils meet no less than twice a year to prepare/update the professional development plan, but may meet more frequently as desired. The advisory council provides input on training needs - identifying locations that best meet the needs of providers, determining if the amount and frequency of training meets needs and providing input on training topics that may be needed based on areas of provider needs and/or areas of non-compliance.

1.5 Definition of Program Terms

The following definitions of program terms shall be used in interpreting child care program policy:

1.5.1 Accreditation: Certification by a qualified entity, generally nationally recognized, that a program meets accepted standards of excellence established for such programs.

1.5.2 Adult: An individual who is 18 years of age or older.

1.5.3 Applicant: Anyone who applies for or requests to be a child care provider.

1.5.4 Approval: Process by which DHHR approves a child care facility that is not required by law to be regulated which enables the service provider to participate in the child care subsidy certificate program or the regulation process of a Department operated child care service.

1.5.5 Certificate of Registration: A statement issued by the Secretary for a period of up to two years to a family child care home upon receipt of a self-certification statement of compliance with the applicable rules promulgated by the Secretary.

1.5.6 Child: An individual who is: 1) under 13 years of age, 2) 13 to 18 years of age and is either under court supervision or a special needs child as defined in 1.5.34.

1.5.7 Child Care Regulatory Staff: Child Care Center Licensing Specialists and Family child care regulatory specialists.

1.5.8 Child Care Resource and Referral Agency (CCR&R or R&R): An agency under contract with the Department of Health and Human Resources to maintain provider resources, provide consumer education, manage the child care subsidy program, refer parents to available providers, and offer services to improve the quality of child care, such as provider training and technical assistance.

1.5.9 Child Care Center: A facility operated for the care of 13 or more children on a nonresidential basis for more than 30 days per year per child.

1.5.10 Department or DHHR: West Virginia Department of Health and Human Resources.

1.5.11 Emancipated Minor: A child over the age of sixteen who has petitioned a court for emancipation and who has been declared by the court to be emancipated with all rights and duties of an adult; additionally all children who are now or were previously legally married.

1.5.12 Facility: A place or residence, including personnel, structures, grounds and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose.

1.5.13 FACTS: The Family and Children Tracking System (FACTS) is the management information system used to maintain child care information on families and providers, determine eligibility and process payments.

1.5.14 Family: One or more adults and children, if any, related by blood or law, and residing in the same household. Where adults other than spouses reside together, each shall be considered a separate family. Emancipated minors and children living under the care of individuals not legally responsible for their care shall be considered as separate families.

1.5.15 Family Child Care Home: A facility which is used to provide nonresidential child care for compensation in the provider's home. The provider may care for four to six children, including children who are living in the household, who are under six years of age. No more than two of the total number of children may be under twenty-four months of age.

1.5.16 Family Child Care Facility: Any facility which is used to provide nonresidential child care for compensation for seven (7) to twelve (12) children for four (4) or more hours per day, including children who are living in the household who are under six years of age. No more than four (4) of the total number of children may be under 24 months of age.

1.5.17 Family Child Care Regulatory Specialist: Staff in the Division of Early Care and Education assigned the duties of regulating family child care home providers and duties related to regulation of family child care homes and family child care facilities.

1.5.18 Head of Household: A natural parent, step parent, or an individual acting in loco parentis, such as a relative or non-relative who has been granted custody or guardianship by a court of law or who has assumed full physical custody and responsibility for a child, with or without legal custody.

1.5.19 Household: A household consists of all individuals who live at the same address and share common kitchen facilities.

1.5.20 Informal Family Child Care: An informal family child care home provides care for three (3) or fewer children. At least one (1) child is not related to the provider. Informal child care providers are exempt from regulatory requirements, but may volunteer to register in order to receive federal child care or food program funding,

1.5.21 In-Home Care: In-home child care is provided by relatives or non-relatives for a child or children in the child's own home.

1.5.22 Initial License: A six-month license issued to an applicant establishing a new service found to be in compliance on initial review with regard to policy, procedure, organization, risk management, human resources, service environment and record-keeping regulations.

1.5.23 Licensing Specialist (Child Care Center Licensing Specialist): Staff within the Division of Early Care and Education assigned the duties for the regulation of child care centers and duties related to the regulation of child care centers.

1.5.24 Monitoring: A method of evaluating a child care program that includes physical inspection of the facility and determination of compliance with applicable rules.

1.5.25 Out of School Time: A child care service that offers activities to children before and after school, on school holidays, when school is closed due to emergencies and on school calendar days set aside for teacher activities.

1.5.26 Parent: A parent by blood, marriage or adoption; or a legal guardian or other person standing in loco parentis, such as foster parents, grandparents, other relatives, and persons receiving TANF benefits for children only.

1.5.27 Provisional license or registration: A six-month license or certificate of registration awarded to family child care homes, family child care facilities or child care centers when the facility is not in compliance with the established rule but whose operation does not pose a significant risk to the rights, well-being, health and safety of a consumer.

1.5.28 Refuse to Renew: Refers to action taken at time of review or re-application when a provider fails to comply with requirements and a decision is reached not to issue a certificate of registration or a certificate of license.

1.5.29 Registration: A. Process by which a family child care home self-certifies compliance with the promulgated rules. B. A process to gather information on out-of-school time programs.

1.5.30 Relative Family Child Care: A relative family child care home provides care only to children related to the caregiver. The caregiver must be a grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle or adult sibling. Relative family child care homes are exempt from regulatory requirements but may volunteer to register in order to receive federal child care or food program funding.

1.5.31 Revoke/revocation: Negative action taken by terminating licensure or registration when a provider fails to maintain established requirements of child care.

1.5.32 Service Provider: Individuals who provide child care or other types of service to individual recipients.

1.5.33 Special Needs Child: One who experiences significant developmental delays or who has a diagnosed physical or mental condition which has a high probability of resulting in a significant developmental delay. Significant delay is a 25% delay in one or more areas of development or a six (6) month delay in two (2) or more areas. Areas of development include: cognitive, speech/language, physical/motor, vision, hearing, psycho social, and self-help skills. Developmental delay is determined by early intervention programs, special education programs, or other multi-disciplinary teams.

1.5.34 Variance: A declaration that a rule may be accomplished in a manner different from the manner set forth in regulation.

1.5.35 Waiver: A declaration that a certain rule is inapplicable in a particular circumstance.

1.6 Child Care Subsidy Program Overview

1.6.1 West Virginia's subsidized child care program is a certificate system. Certificates authorize payment for parents in lieu of cash. Providers are paid directly upon receipt of an invoice called a request for payment. This system provides maximum opportunity for parental choice. In order to insure that parents are given a variety of child care options, Child Care Certificates may be used to purchase care at the following sites.

- A. In Home Child Care;
- B. Family Child Care Homes;
- C. Informal Family Child Care Providers who voluntarily register with the DHHR to care for three (3) or fewer children, at least one of whom is not related;
- D. Relative Family Child Care Providers who voluntarily register with the DHHR and provide care only to children related to the caregiver. The caregiver must be a grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle or adult sibling;
- E. Family Child Care Facilities; or
- F. Child Care Centers.

1.6.2 General Payment Provisions of the Certificate System

Since most child care providers in the state participate in the child care subsidy system, some background on how that payment system impacts the provision of child care services will be helpful to the regulatory staff. However, the responsibility for monitoring the child care provider's compliance to the Provider Service Agreement that enables them to participate in the child care certificate subsidy system is the responsibility of the Child Care Resource and Referral agencies. If the regulatory staff note activity that may be in violation of the Provider Service Agreement, this information should be communicated to the Division Program staff responsible for child care policy. The regulatory staff should be familiar with the following:

- 1) **Payment Rates and Definitions-** Rates for payment of child care services include a base rate for each type of care as well as incentive rates. Rates are based on a full day, which is defined as care for at least four (4) hours but less than eighteen (18) hours per day. Providers accepting certificates must agree to accept the applicable rate as full payment of care for up to an eighteen-hour period. However, a parent who leaves a child past the provider's established closing time may be charged a late fee provided all parents are expected to pay this fee and the parent has left a child past the time indicated on the child care certificate.
- 2) **Payment Limitations-** Payment to a provider for an individual child is limited to one full day in a twenty-four (24) hour period, and to no more than the total number of days in a calendar month. The total number of hours a child can remain in care shall not exceed 18 consecutive hours of care in a 24 hour period regardless if the child is with more than one provider for that particular day. (See exceptions in Child Care Subsidy Policy).
- 3) **Use of Substitutes-** When a family home provider uses a substitute, payment to the substitute provider and collection of the daily fee shall be the responsibility of the provider. The provider may claim days of care provided by the substitute on the payment form and pay the substitute upon receipt of payment, but the agency shall not provide direct payments to substitutes. Providers may not subcontract with another provider on a regular basis but may use substitutes on an infrequent

basis for emergencies, planned vacation, professional development or sick leave. Substitutes in family child care homes shall be used for periods of not more than two consecutive weeks annually or more than an average of 8 hours weekly.

- 4) **Operation of Multiple Child Care Sites-** If a provider operates more than one site and a child attends both sites for part of each day, the provider shall submit one payment request for the hours of care provided at both sites. The child should be included on the payment request for the site which provides the majority of care. Also, if a child is signed out and signed back in with the provider in the same day, the provider will only be paid for one day or the actual hours of care if less than a full day.
- 5) **Eligibility for Provider's and/or Child Care Employee's Children**
 - a) Payment may not be made to a provider to care for their own children. Child care center owners, family child care homes and family child care facility owners are therefore not eligible for subsidized child care assistance when their child attends their parent's facility.
 - b) Since the provider's own children are considered in the staff/child ratio in family child care homes and family child care facilities, family providers and facility operators are not eligible for subsidized child care for their own children while they care for other children. They also may not send their children to another caregiver in order to increase their own capacity.
 - c) Employees of child care centers who are financially eligible for subsidy may use their employer's child care center, as long as the employee does not supervise his or her own child. Although family child care facilities also have employees, due to the limited space and staffing levels in a family child care facility and the difficulties in insuring supervision will not fall on the parent, children of a family child care facility employee are not eligible to use the employer's child care facility. They may however, place their children with another provider.
 - d) Eligibility for employees of the provider in other business endeavors or any of the provider's household members' business endeavors: Children of persons employed by the provider or any of the provider's household members, with the exception of child care center employees meeting the criteria in Child Care Subsidy Policy may not select said provider as their child care provider.
- 6) **Monitoring Improper Payments in the Child Care Subsidy Program** - The Federal Improper Payments Act of 2002 has created special concern about overpayments and their recovery in all federally funded programs. An improper payment occurs when the funds go to the wrong recipient, the recipient receives the incorrect amount of funds, or the recipient obtains or uses the funds in an improper manner. By strengthening financial management controls so that Federal agencies can better detect and prevent improper payments, the Federal Government can better ensure that taxpayer dollars are spent wisely and efficiently.

Everyone involved in the administration of the child care subsidy program should understand what can be done to maintain program integrity; what constitutes misrepresentation; what action should be taken in cases where misrepresentation is suspected; and the methods and procedures for performing these functions. Family Child Care Regulatory and Center Licensing Specialists should notify their direct supervisor and contact the local CCR&R when fraud or misuse of funds is suspected.

1.6.3 Certificate System Payment Rates

Payment for child care is based on the type of care, age of child, special needs of individual children, hours of care, nontraditional hours, and accreditation status of the provider.

1. Base rates are broken into four age categories:
 - a) Infants – children aged birth to 24 months.
 - b) Toddlers – children aged 25 – 36 months.
 - c) Preschoolers – children aged 37 – 59 months.
 - d) School Age – children aged 60 months and over.

2. In addition to the base rate, providers may be eligible to receive three types of rate supplements:
 - a) The special needs supplement for children with documented special needs and children receiving services based on a CPS safety or treatment plan of \$2 extra per day per child.

 - b) The Tiered Reimbursement supplement, which is based the level of quality in a child care program. Registered family homes, child care facilities and child care centers may volunteer to document that they either meet higher quality standards or are nationally accredited. Programs that meet licensing standards are Tier 1 and receive base payment rates. Programs that meet Tier II standards receive \$2 extra daily and programs that are accredited receive \$4.00 per full day per child. Part days are converted to full days before the supplement is calculated. This amount is added for actual days of care only. Monthly rates do not apply to rate supplements.

 - c) The shift differential rate supplement, which is based on the family’s need for care during non-traditional work hours, is \$4.00 daily per child and is available for all types of providers for any days of care that meet non-traditional criteria. Parents shall supply documentation of need for non-traditional child care hours at the time of application and each status check.

 - d) Non-traditional child care hours are defined as: Approved care for four (4) hours 0 minutes, either before 6:00 am or after 7:00 pm Monday through Friday; Approved care for four (4) hours 0 minutes on a Saturday or Sunday; or Any 12 hour work/school shift or split shift which equals twelve or more care hours (including transportation) in a 24 hour period.

1.7 Child Care Resource and Referral Provider Orientation Overview

Since Child Care Centers and Family Child Care Facilities are required by law to be licensed prior to accepting either private-pay or subsidized children for care, they generally come into the child care system because of regulation. Some home-based providers also enter the child care system for regulation because they care for children privately or want to be placed in the R&R’s referral system or wish to participate in the Child and Adult Care Food Program. These regulated programs/providers do not participate in payment enrollment unless and until they accept certificates. If they initially come to the CCR&R office for information, the worker provides a registration packet and refers them to the child care regulatory staff. If they telephone or e-mail the R&R for information, they are referred to the child care regulatory staff to make application as a regulated provider.

Providers such as in-home and relative care, come into the system when they agree to accept certificates. These providers who are selected by parents must attend payment enrollment within 30 days of the family's application for child care.

1.7.1 Orientation for Family Child Care Providers

THIS SECTION UNDER DEVELOPMENT.

1.7.2 Use of Providers in Other Counties by Subsidy Clients

When a parent selects a family child care provider in another county, the R&R in the provider's county of residence should complete enrollment for funding and forward the necessary payment information to the parent's worker. Registration and monitoring shall be done by a family child care regulatory specialist covering the provider's home county. Client intake and payment will be completed by the R&R agency operating in the client's home county.

1.8 Provider Resources

CCR&R and DHHR staff share a responsibility for resource development to increase and improve the availability of child care services. It is important to develop and maintain an adequate number of providers in order to offer choices to parents. While an R&R agency may conduct recruitment campaigns, the family child care regulatory specialist and the licensing specialist is responsible for regulation of providers and shall inform providers of their ability or potential to accept referrals of additional children. All child care regulatory staff shall provide support and technical assistance to parties interested in providing child care and refer providers to other resources, as needed.

On a state level, the State Division of Early Care and Education has implemented initiatives designed to increase the availability of child care. Both CCR&R and DHHR staff are encouraged to work with other early childhood programs to coordinate resources.

The development of a strong foundation for child care requires the development of resources. A strong foundation will enable local communities and the state to better accommodate growing child care demands and fluctuations in demand. Therefore, it is important to coordinate DHHR child care services with existing programs operated by both the public and private sector.

1.8.1 Kindergarten

Kindergarten attendance is mandatory and public kindergarten classes, funded by the State Department of Education and County Boards of Education, are available to all children.

1.8.2 Head Start and Early Head Start

Head Start, Title 1 and Pre-School Special Needs programs are operated through county school system and/or non-profit agencies. They offer excellent services for pre-school and children with special needs. These programs receive federal and/or state funds for services provided. They generally operate part time and do not meet the child care needs of working parents. They have typically not been eligible to participate in the child care certificate system. Many Head Start and Early Head Start programs are required to be licensed as child care centers due to the number of hours they operate; some offer services for working parents either before or after normal Head Start hours. In these instances, licensed Head Start facilities can receive child care subsidies for care during extended hours that are not eligible for federal Head Start reimbursement.

In recent years, the Federal Administration for Children and Families has encouraged Head Start to collaborate with child care programs in order to offer full-day, full-year services, blending and braiding funds in programs that offer the quality of Head Start with child care's longer hours of services. In order to encourage such blending of resources, child care and Head Start resources may be used jointly in some situations. If a Head Start program enters into an agreement with a licensed child care center to pay for enhancements to a child care program to provide additional services (family support, health and safety, teacher certification, curricula or equipment) needed to meet higher standards under Head Start Performance Standards or WV Pre-K requirements, then the center may continue to receive child care reimbursement for eligible children. Parent co-payment will continue to be deducted from the center's payment regardless of Head Start policy on collection of fees.

In order to facilitate child care's participation in the Early Head Start program and assist families and children, child care programs that are participating in the Early Head Start program or contracting with Head Start may continue receiving child care payments during the hours considered as Early Head Start, if certain conditions are met.

1.8.3 West Virginia Pre-k Program

In order to facilitate child care's participation in the WV Pre-k program and assist families and children, licensed child care centers that are participating in the WV Pre-k program or contracting with Head Start may continue receiving child care payments during the hours considered as WV Pre-k, if certain conditions are met.

1.8.4 Grants

Grants may be available, depending on the availability of federal and state funds, to assist child care providers with start-up costs, meeting regulatory requirements, and/or improving the quality of care. Priority for grants typically is to providers participating in the subsidy system.

Family Child Care providers who cannot afford the cost of complying with health and safety standards may be referred to the grant programs sponsored by the CCR&R agency. Grants may be available for providers for a variety of needs, including start up assistance to meet health and safety requirements, pay operating permits, attend training or become accredited. While federal rules will not allow grant funds to be used for major improvements, grants may be approved for minor remodeling to meet health and safety requirements. Each R&R has individual grant application policy and procedures. In addition, the R&R agency sets limits for grant amounts and covered items and may establish policies that require repayment of grant funds if the home closes within two years of receiving funds for a capital improvement. A provider will complete an application form and will be notified in writing of the disposition of the grant. All applications are confidential and are retained in the R&R agency for three years.

1.8.5 Child and Adult Care Food Program

The Child and Adult Care Food Program (CACFP) is an important resource for child care providers. The program not only reimburses providers for meals served to children but completes on-site inspections and supplies nutrition training. Child care staff in the R&R agency will be responsible for informing new providers about the Child & Adult Care Food Program.

1.8.6 Cooperative Agreements

The Division of Early Care and Education and the CCR&R agency enters into a cooperative agreement with the sponsor(s) of the CACFP in their area of operation. The cooperative agreement should include exchange of information, and resolution of problems which may arise. The cooperative

agreement will help assure a good working relationship between agencies for the benefit of child care providers, parents, and children. The agreement should be discussed periodically and at any time problems arise. Information shall be shared among agencies, as legally permitted, particularly when there is an investigation for suspected fraud.

1.8.7 Exchange of Information

In order to maintain confidentiality, payment forms are not shared unless the sponsoring agency wishes to obtain them directly from the providers. By signing the child care application, the parent agrees that information may be released to the Child & Adult Care Food Program. Therefore, child care staff can provide the agency with names and number of children open or closed in the home of each provider who participates in the program. It then becomes the Child & Adult Care Food Program sponsoring agency's responsibility to obtain other necessary information directly from the provider and parent. The child care regulatory staff shall insure that the CACFP is notified of changes that occur with providers that impacts participation with the program, such as change in location or revocation of registration or license.

1.8.8 Regulation of CACFP Providers

Family home child care providers interested in receiving CACFP reimbursements must volunteer to register.

CHAPTER 2: PROVIDER REGULATION: GENERAL PROVISIONS

2.0 Legal Authority

Provider regulation is governed by both state and federal law.

2.1 Federal Regulations

Federal regulations require the state to establish basic health and safety requirements for all providers receiving child care funds. Those programs receiving child care funds which are not required to be regulated by state law, shall agree to regulation through Child Care Provider Services Agreements in order to meet federal requirements and participate in the certificate program.

2.2 West Virginia Human Services Law

WV Code §49-2B, charges DHHR with the responsibility to assure proper and appropriate child care is given and maintained. It further grants the power to promulgate rules governing child care services, establishes penalties for failure to comply with rules, sets conditions for regulation, and establishes requirements for supervision, monitoring, and investigations.

2.2.1 Regulatory supervision is required by WV Code, Chapter §49-2B-9.

2.2.2 Supervision is to ascertain compliance with the rules and is conducted through regular monitoring, visits, documentation, evaluation, and reporting.

2.2.3 Child care centers are regulated and monitored by child care center licensing specialists in the Division of Early Care and Education (See Chapter 10).

2.2.4 Family child care regulatory specialists are responsible for regulating all types of family child care, including subsidized in-home care providers, registered informal and relative family child care, registered family child care providers, and licensed family child care facilities.

2.3 Ethics

Family child care regulatory specialists and licensing staff are to act in a professional manner, abide by the NASW Code of Ethics, the NARA Code of Ethics and are expected to treat providers as professionals.

2.4 Dual Providers

Occasionally, an applicant to provide family child care may also be providing other home-based care services. The demand placed on a provider who serves dual client populations often become excessive, reducing the level of service to all clients and disrupting the provider's household.

2.4.1 A person shall not be approved as a family child care provider when the person is already providing another home based service for the Department, another agency or privately, unless a special approval is granted, using the Dual Provider Waiver Process. The Dual Provider Waiver will be evaluated as changes occur, or as needed.

2.4.2 If the provider is providing another service for the Department, then the dual provider form shall be completed and written approval obtained from both program supervisors and staff. It is not

necessary for the family child care regulatory specialist to consult with an outside agency when the provider is engaged in home based services for another agency or privately, but needs to consult with the Supervisor to make the determination. All other child care policies and regulations apply.

2.4.3 Before agreeing to these arrangements, the worker(s) and supervisor(s) of both programs should evaluate all aspects of the situation to determine that this is indeed the best possible arrangement in view of the ages and needs of the children and adults.

2.5 Inspection and Investigation (Also see Chapters for Each Provider Type)

2.5.1 Self-Certification

With a self-certification regulatory process for family homes, periodic on-site inspection is not generally required. However, state law requires that a random sample of not less than five (5) percent of the total number of registered informal, relative and family child care homes receive an on-site evaluation. In addition, when public funds are involved, concern about the safety and quality of child care is paramount. Therefore, an on-site evaluation is completed on all registered family child care home providers.

2.5.2 Onsite Inspections

On-site inspections are required prior to issuing a license for child care centers and family child care facilities. During on-site inspections, family child care regulatory specialists shall have access to all aspects of the home or facility in order to complete a reasonable inspection. This means that DHHR staff may observe anything within sight during the visit, have access to all household members and children in care and may ask the provider to demonstrate compliance with specific items not within sight of the family child care regulatory specialist.

If the child care provider has achieved Tier II or Tier III status in the Tiered Reimbursement System, the regulatory staff will use the checklist of observable standards to document what they have seen. Any non-compliance with the observable standards will be reported to the State QRIS Coordinator.

2.6 Overview of On-Site Visits

2.6.1 Initial visits for the purpose of evaluation and assessment should be scheduled. The family child care regulatory specialist or designee should contact the provider by telephone when a scheduled visit needs to be postponed or canceled.

2.6.2 Subsequent monitoring visits may be announced or unannounced.

2.6.3 All contacts with providers are to be recorded in FACTS.

2.6.4 During an on-site visit, the family child care regulatory specialist and the child care center licensing specialist shall first review the application and note any changes, then complete the evaluation tool specified for the particular type of provider being inspected.

2.6.5 The checklist must also be entered in FACTS with the “Checklist Date” corresponding with the date of the monitoring visit or, in the case of family homes, the date the checklist is received from the provider.

2.7 Initial Evaluation for Family Child Care Services

An initial on-site evaluation shall be conducted for all Family Child Care Facilities or Registered Family Child Care providers.

2.7.1 Initial on-site visits shall be completed within sixty (60) days of receipt of a complete application by the family child care regulatory specialists.

2.7.2 The initial visit should be an announced visit and should be scheduled in advance. Failure to be present at required scheduled initial evaluation could result in negative action.

2.7.3 The on-site evaluation shall include a discussion of the requirements to assure the provider understands her responsibilities.

2.7.4 The family child care regulatory specialists may schedule fingerprinting for the provider and all adult household members, as required by current CIB Policy.

2.7.5 The checklist for the particular type of provider being monitored is completed during the visit. The provider and the child care staff both sign the checklist.

2.7.6 Any non-compliance issues, areas for concern, or issues that require limitations to be placed on the certificate or license need to be addressed with the provider at the time of the visit and followed up with a written non-compliance report.

2.7.7 Family child care regulatory specialists may also provide technical assistance to providers to enable providers to improve the quality, health and safety of care for children in the provider's home. Child care regulatory specialist may also refer providers to other resources to provide technical assistance, such as child care resource and referral agencies, WV Birth to Three, etc.

2.8 Annual Evaluation of Compliance with Family Child Care Registration Requirements

Annual monitoring visits shall be made to all registered family child care providers and all family child care facilities. Visits may be announced or unannounced. Family child care regulatory specialists completing these visits will exceed the state legal requirements for monitoring of no less than five (5) percent of the total number of registered informal, relative and family child care homes.

2.9 Negative Action for Family Child Care Services

If the home or facility is not in compliance with registration or licensing requirements or §49-2B, the family child care regulatory specialist shall take one of the following actions:

2.9.1 Denial of Registration or License

2.9.1.1 Provider does not submit a completed application within 30 days after enrollment

2.9.1.2 Provider is not present at initial visit

2.9.1.3 Provider had any previous Corrective Action Plan that has not been corrected

2.9.2 Issue an Initial License (Family child care facilities only).

2.9.2.1 An initial license may be issued for a period of up to six months and may not be renewed.

2.9.2.2 An initial license may be issued to a new child care facility that is establishing a new service found to be in compliance on initial review with regard to policy, procedure, organization, risk management, human resources, service environment and record keeping regulations.

2.9.3 Issue a Corrective Action Plan (DAY-0153):

2.9.3.1 Corrective action plans are issued for non-compliance issues that may be corrected typically within 30 days. Longer periods may be given for non-critical items in which stronger action is not considered necessary.

2.9.3.2 The corrective action plan and a Provider Notification (DAY-0503) shall be completed in FACTS and copies sent to the provider; **or**

2.9.4 Issue a Provisional Certificate of Registration or License

2.9.4.1 If the provider needs more than 30 days to correct a deficiency that does not place children at risk of harm or if there are a number of issues that the regulatory specialist deems warrant stronger action, a provisional license or certificate is issued.

2.9.4.2 Provisional certificates/licenses expire six (6) months from the date of issuance, and shall not be consecutively reissued.

2.9.4.3 At the end of the six-month provisional period, the provider must either be eligible for a regular license or certificate of registration or be closed.

2.9.4.4 A Corrective Action Plan (DAY-0153) and a Notification of Provider Regulatory Status (DAY-0503) must accompany the issuance of a Provisional Certificate of Registration; **and/or**

2.9.5 Place limitations on the License or Certificate of Registration

2.9.5.1 Limits may be placed on a license or certificate based on findings of insufficient space, inadequate sleeping areas, provision of other services in the home, or other reasons as indicated on a corrective action plan.

2.9.5.2 A notification must accompany the certificate or license and the certificate or license must list the limitations placed upon it; **or**

2.9.6 Revoke the License or Certificate of Registration

2.9.6.1 If the provider has a number of areas of non-compliance that are not easily correctable, or has deficiencies that place children at risk of immediate harm, or if the provider demonstrates, by a history of non-compliance, an inability to operate in compliance with standards.

2.9.6.2 The provider must receive a Provider Notification (DAY-0503) citing specific reasons for the revocation, and if necessary, including a statement that future applications shall be denied.

2.9.6.3 Family child care regulatory specialists notify the R&R agency when the Certificate of Registration or license is issued with limitation or conditions, or if the registration or license is revoked

2.9.6.4 The provider may reapply if the areas of non-compliance are corrected, but the home must be inspected and compliance confirmed before the child care certificate is issued (See Chapter 16, Section 4.3. Special Circumstances); **or**

2.9.7 Request for Closure

If a provider is in compliance with all child care regulations and requests closure, the notification letter (DAY-0503) should state that the certificate of registration is no longer valid.

2.10 Waiver and Variance Requests and Hearings

Chapter §49-2B-7 allows the WVDHHR to grant a waiver or variance if the health, safety or well-being of a child would not be endangered by granting it, provided that such requirements are not contradictory to state code. For example, family child care regulatory specialists cannot waive the limits on numbers of children that are in state code.

- A. The provider must submit the request for a waiver or variance in writing, must cite the specific requirement for the waiver or variance, and address all of the requirements outlined in the registration requirements.
- B. The major area of family child care home regulation or approval that is routinely considered for a waiver is criminal history. See Chapter 2000 of the Social Services Policy Manual.

2.10.1 Considerations in Granting Waivers or Variances

Family child care regulatory specialists must consult with the child care supervisor in considering a waiver or variance (See 11.15 for procedures related to child care centers). The following questions need to be considered by all regulatory staff when presented with a waiver or variance request:

- A. Is there a rule that prohibits the waiver?
- B. Would the health and safety of a child be negatively impacted?
- C. Does the rule not apply in this case or is it not fair in this case?
- D. Is there a precedent for this? If so, is this request being treated in the same manner? If not, what are the implications for setting a precedent?
- E. Is the request within the authority of the child care regulatory staff? Regulatory staff cannot waive requirements within WV Code or federal law or requirements of other agencies or entities, such as the Fire Marshall, Division of Environmental Health or the Department of Agriculture.
- F. Is consultation with program or legal staff needed?

2.10.2 Notification of Decision on Waivers and Variances

All regulatory staff shall notify the provider in writing of the decision with regard to the waiver or variance. The written decision shall include the following:

- A. Conditions applied to the approval of the request;
- B. A time frame for the existence of the waiver or variance;

C. The date at which the waiver or variance will be reviewed; or

D. Reason for denying the request.

2.10.3 Waiver Committee

Waiver and variances for family child care not associated with a CIB shall use the waiver committee established by the Division of Early Care and Education. The waiver committee shall consist of the following DHHR staff:

Division of Early Care & Education Family Child Care Program Manager
4 Child Care Regulatory Supervisors

2.10.4 Hearings (See Chapter 14)

If the child care provider disagrees with a negative action, an administrative hearing may be requested in writing within 30 days from receipt of the notification. Requests for hearings should be submitted to the DHHR Hearings Officer. Please follow policy in Common Chapter 700 for procedures to follow during the hearings process.

CHAPTER 3: FAMILY CHILD CARE PROVIDER REGULATION: COMPLAINT INVESTIGATIONS AND PROCEDURES

3.0 Complaint Investigations and Procedures

Complaints about a variety of issues and situations may be received on child care providers from parents and the general public.

3.1 Who Handles Complaints?

3.1.1 Child Care Center Complaints

Regulatory complaints about child care centers shall be referred to the Child Care Center Licensing Director or Licensing Specialist. CCR&R workers who receive a complaint of standards violations with regard to a child care center shall refer the complainant to the appropriate licensing specialist and inform the complainant that they may also enter their complaint at <http://www.wvdhhr.org/bcf/ece/>. The CCR&R worker shall also request the provider's name and the complainant's name and phone number and e-mail the information to the appropriate licensing specialist indicating that this person would like to file a complaint. Child or adult abuse and neglect shall be referred to the Institutional Investigations Unit using the Adult/Child Abuse Hotline at 1-800-352-6513. The complainant should be encouraged to also contact CPS or APS.

3.1.2 Complaints on Other Child Care Types

Regulatory complaints regarding family child care service providers are handled by the family child care regulatory specialist unless the complaint alleges child abuse or neglect. CCR&R workers who take a regulatory complaint on types of care other than child care centers shall complete the Information and Referral screens in FACTS. The intake shall be assigned to the child care supervisor in FACTS. Regional CPS or IIU workers investigate complaints of child abuse or neglect.

3.2 How Complaints are Handled

Family child care regulatory specialists shall investigate complaints of non-compliance with requirements in registered family child care homes, licensed family child care facilities, informal family child care homes, and relative family child care homes. The regulatory specialist taking the complaint must first determine if the allegation relates to a regulation.

3.2.1 Complaints Not Related to Regulation

If the allegation is not in violation of a standard or requirement, the regulatory specialist shall explain this to the complainant and advise him/her to discuss the issue with the provider. The regulatory specialist shall discuss complaints that are not related to regulations or policy with the provider and give any relevant technical assistance for addressing the issues. An example of this type of complaint would be concerns about private pay rates.

3.2.2 Noncompliance with Regulation Complaints

Complaints regarding violation of or noncompliance with standards shall be investigated in the following manner:

3.2.2.1 Although the identity of the complainant may be kept confidential, the regulatory specialist must tell the complainant that there is no guarantee of anonymity if the investigation results in a hearing or court action.

3.2.2.2 The investigation is to begin within five (5) working days and a conclusion date targeted for thirty days after onset of the investigation. The nature of the complaint will determine the response time to the complaint and what methods of investigation are used.

3.2.2.3 The investigation may include, but is not limited to, record review, review of related documents, observation, interview of witnesses and interview of collateral contacts. The investigation generally includes an on-site visit and is unannounced.

3.2.2.4 The nature of the complaint will help the family child care regulatory specialist determine how much information should be shared with the provider at the beginning of the investigation. In most cases, the provider may be informed of the general nature of the complaint.

3.2.2.5 If the family child care regulatory specialist believes it will change the outcome of the investigation or put another person at risk, the provider may be told an investigation is being conducted, but the content of the complaint will be shared at a later time or at the outcome of the investigation.

3.2.2.6 A formal interview with a child is to be used as part of the investigation only if the child can provide information which cannot be obtained through other means or is necessary to support a fact which is used to determine the validity of the allegation. Family child care regulatory specialists should not interview the child alone, and must inform the parent/guardian of the child that an interview is planned or took place. Informal discussions with a child that occur as a normal part of the specialist's on-site visit are not precluded.

3.2.2.7 At the end of the investigation, the family child care regulatory specialist must determine, in an objective manner, if the complaint is substantiated, if other non-compliance areas are found, and if there are areas in which the provider needs technical assistance. The child care regulatory specialist shall discuss his/her findings with the provider at the completion of the investigation.

3.2.2.8 The investigation is to be entered into FACTS and a corrective action plan completed if necessary. The provider shall also be informed that substantiated complaints become a part of the public record and are made available to parents upon request. There shall be written notification to the provider at the conclusion of each investigation.

3.3 Complaint Intake Process

When a complaint is received, the family child care regulatory specialist shall complete the following steps:

3.3.1 Obtain information from the complainant, including the complainant's name, relationship to the provider and contact information.

3.3.2 Inform the complainant that, although the Department will attempt to ensure anonymity if the reporter wished to remain anonymous, in a non-abuse or neglect complaint, there is no guarantee that his identity will remain concealed, should there be a resulting administrative or judicial action.

3.3.3 Obtain as much specific information about the complaint as is possible from the complainant, including names and addresses of any other individuals involved, names and addresses of potential witnesses, time frames, and location.

3.3.4 Determine if the complaint has been made to any other person or agency and if any action was taken;

3.3.5 Determine if the complaint is within the authority of the family child care regulatory specialist. If not, determine if the complainant can be directed to any other person or agency;

3.3.6 Determine if the information indicates a non-compliance, illegal operation, violation of Chapter §49-2B, an area for concern warranting further investigation, and/or there is a need to refer the information to Child or Adult Protective Services. If a complaint needs to be referred to CPS/APS staff for possible investigation, it is done immediately;

3.3.7 Enter information on the Information and Referral screens in FACTS and, for providers with a FACTS record, make a note in the contact screen.

3.4 Complaint Investigation Procedures

Family child care regulatory specialists shall investigate complaints using the following guidelines. The worker shall:

3.4.1 Begin complaint investigations within five (5) days of receipt of the complaint. If a complaint is received that indicates children's health or safety is at risk, but it is not a CPS/APS referral, then the complaint investigation should begin within 24 hours. Example: A caller states that when he picked his son up from child care, the provider indicated that the water company had shut off the water this date for non-payment. This is a health risk, but unlikely to be a CPS issue. Therefore, the investigation should begin when the complaint is received. If it is not possible for the family child care regulatory specialist to make an unannounced visit, then a telephone call to the provider can be made. This does not eliminate the need for a field visit to the provider. A follow-up visit should occur within 24 hours.

3.4.2 Conduct a search in FACTS for the provider. The complainant may not know if the provider is registered, informal or operating illegally;

3.4.3 If the provider is an illegal operation, the family child care regulatory specialist completes the following steps:

3.4.3.1 Contacts the unregistered provider by telephone to discuss the law, the number of children served and the registration process.

3.4.3.2 Mails a registration packet to the provider.

3.4.3.3 When a telephone number is not available, the family child care regulatory specialist visits the home to discuss registration. The family child care regulatory specialist may enter the home or facility uninvited only after two unsuccessful attempts to bring the home or facility into compliance. Uninvited entry to the home or facility may only be made with a law enforcement officer present.

3.4.3.4 If the illegal operation is confirmed or suspected and the provider does not register, a notification is sent informing the provider in writing that she is in violation of §49-2B and must cease operation or reduce the number of children served to less than four.

3.4.3.5 As there is no legal mandate for informal or relative providers to register, no action shall be taken if the operation is found to be a relative caring only for related children or if the caregiver has no more than three children in care including the caregiver's own children under the age of six.

3.4.4 The family child care regulatory specialist shall determine how the investigation should proceed. Most complaint investigations begin with an unannounced on-site visit, but there are times when this may not be necessary or critical situations where it is necessary to contact the provider immediately in order to prevent harm to children.

3.4.5 The specialist shall inform the provider that a complaint has been made and an investigation is being conducted. Typically, a provider can be informed face-to-face at the beginning of the investigation that a complaint has been received and it is the family child care regulatory specialist's responsibility to investigate. It is not necessary to disclose the nature of the complaint at the beginning of the investigation, if to do so would interfere with fact finding or compromise safety. Assure the provider that she will have input into the investigation and will be given a summary of the findings. There may be certain situations where family child care regulatory specialists may need to gather information before informing the provider, either due to the worker's inability to reach the provider, or to determine if the complaint is valid and warrants further investigation;

3.4.6 The specialist gathers information which confirms or refutes that a violation or non-compliance has occurred. Information gathering tools usually include the following items:

3.4.6.1 Interviews with the provider, parents, neighbors, or children;

3.4.6.2 Records review – both the WVDHHR records and the provider's records. Records review may also include R&R and CACFP records;

3.4.6.3 Statement verification; and

3.4.6.4 Documentation of observations. Written observations should contain detailed, factual, non-judgmental descriptions. The documentation should not include opinions.

3.4.7 Once information is gathered, the specialist shall discuss the complaint and findings, if necessary, with the child care supervisor or DHHR staff of other programs involved with the home.

3.4.8 The next step is to determine if negative action is indicated or technical assistance should be offered to the provider.

3.4.9 The specialist should then discuss the findings with the provider.

3.4.10 Provide a written summary of the findings of the investigation and any negative action to the provider in a Notification of Regulatory Status (DAY-0503).

3.4.11 If the license or registration is denied or revoked, the specialist shall immediately send a copy of the Provider Notification (DAY-0503) to the CCR&R Agency, who then cancels the Provider Services Agreement and notifies families using the provider. **(For guidance on complaint management, the child care regulatory specialist may wish to consult The 2000 Edition of the NARA Licensing Curriculum, or its update. The curriculum was distributed to all county offices housing family child care regulatory specialists in October 2000).**

3.5 Special Circumstances – Child Abuse and Neglect Allegations

Child Protective Services staff is responsible for investigating allegations of child abuse and neglect in Informal, Relative Family Child Care Homes and In-home providers. The Institutional Investigations Unit is responsible for investigating allegations of child abuse and neglect in registered family child care homes, licensed family child care facilities and child care centers. If requested, family child care regulatory specialists may assist CPS and/or IIU with interviewing children. However, to maintain impartiality or the ability to conduct regulatory activity prior to the end of the CPS and/or IIU investigation, family child care regulatory specialists who work with the provider should have a very limited role in the investigation. DHHR and CCR&R Child Care staff may be involved in following up with families and providers in the following circumstances:

3.5.1 Informal, Relative Family Child Care Homes and In-Home Providers:

3.5.1.1 If CPS finds serious problems prior to completion of the investigation in a family child care home, the family child care regulatory specialist and CCR&R staff, where applicable, shall notify parents that an investigation is underway which could result in negative action. The children must be removed from care until the investigation is complete. If the provider cares for subsidized children, the CCR&R worker shall provide assistance to parents with alternate child care arrangements. The family child care regulatory specialist shall make the provider unavailable in FACTS so that no new children may be linked until the conclusion of the investigation.

3.5.1.2 If an abuse or neglect allegation is substantiated in a registered family child care home, the family child care regulatory specialist shall revoke registration via the Provider Notification (DAY-0503) and the CCR&R worker cancels the Provider Services Agreement if applicable.

3.5.1.3 If the allegation is substantiated in an in-home care setting, then a Notification of Provider Approval Status (DAY-0618) is sent rescinding approval and the CCR&R cancels the Provider Services Agreement.

3.5.2 Registered Family Child Care Homes and Licensed Child Care Facilities – Regulatory Specialists shall take the following steps during an IIU investigation.

If IIU finds serious problems prior to substantiation or completion of the investigation in a facility or home located in the provider's home where the owner/operator or household member is involved, the family child care regulatory specialists, the Regulatory Child Care Supervisor and the Program Manager shall discuss the situation to determine whether or not to remove children pending the outcome of the investigation. The family child care regulatory specialist will notify the child care provider (DAY-0503) stating that the operation of the home or facility will be temporally suspended until the investigation is completed. No staff, household member, or owner/operator under investigation in a family child care home or facility shall have contact with children until the investigation is complete. Upon completion of the investigation, any staff person determined to have abused or neglected children, including the operator or owner, shall no longer care for children or have any contact with children in care. Failure to take appropriate action to safeguard children in the home or facility shall result in revocation of the license or registration..

DHHR and CCR&R staff, where applicable, shall notify parents that an investigation is underway that could result in negative action. The children must be removed from care until the investigation is complete. The CCR&R worker shall provide assistance to parents with alternate child care

arrangements. If an abuse or neglect allegation is substantiated against a household member or the owner/operator in a facility located in the provider's home, the family child care regulatory specialist shall revoke the Certificate or License.

3.6. Parental Requests for Complaint Record

If a parent requests a list of substantiated complaints on a child care provider, the local DHHR or R&R child care staff shall supply the requested information. Information shall be available in FACTS which lists standards violations as well as corrective action taken and completed. When a request for the information is made, the R&R or DHHR Child Care Worker shall print a history of non-compliance report (DAY-0616) from the FACTS record and provide information to the parent based on the results of that report. The History of Non-compliance Report may be sorted by dates or by concerns identified during licensing review, monitoring visits or as a result of an investigation or a complaint investigation. However, due to the confidential nature of Child Protective Service records, information on CPS complaints may not be made available.

CHAPTER 4: FAMILY CHILD CARE PROVIDER REGULATION: BACKGROUND CHECKS

4.0 Background Checks

According to West Virginia Code, §49-2B, the background of regulated providers shall be assessed. This assessment includes a check of criminal records and a check of protective services records related to any history of child or adult abuse or neglect.

4.1 Overview

4.1.1. No home, facility, or program shall be considered for registration, licensure, or approval if the provider, a member of the provider's household, owner/operator, or an employee is an active recipient of child or adult protective services or, in most cases, has a history of substantiated abuse or neglect. Substantiated abuse shall include situations in which "maltreatment" is determined as the result of an investigation conducted by DHHR protective services staff.

4.1.1.1 During the renewal application process and if a complaint or any other information is received that gives reasonable cause to do so, a check of the child/adult abuse history and the criminal history of an applicant and any adult household member is to be completed. A background check on substitutes is not required, but is not prohibited if the substitute completes a Statement of Criminal Record.

4.1.1.2 In all types of home-based care, if an investigation determines that maltreatment occurred by the provider or a household member, the home/facility shall not be registered/licensed/approved.

4.1.1.3 However, if the protective service case is closed and the household member/offending child is no longer in the home and has no access to children in care, the home/facility may be registered/licensed/approved upon joint approval of the Child Care Supervisor and the Supervisor of the related program, i.e. CPS, APS, Youth Services. If one Supervisor is responsible for both programs involved, the workers shall be consulted. The manner in which information is shared between the Child Care Specialist and CPS is to be agreed upon by the supervisor for each program.

4.1.1.4 In situations where a family child care facility employee signs a statement indicating there is no history of abuse or neglect and a history is found, the family child care regulatory specialist shall inform the facility or program director that the employee's signed statement does not match the results of the background check. The details of the background check cannot be disclosed due to confidentiality. Action for revocation, denial of an application or approval, and cancellation of the Provider Services Agreement shall be taken if a program continues to employ the individual.

4.1.1.5 In situations where maltreatment has been substantiated on a provider or household member for CPS/APS, the provider will need to contact the CPS/APS Supervisor for potential resolution. The CPS/APS Supervisor may discuss the finding with the provider. The family child care regulatory specialist will not discuss the findings and will have no further contact with the providers until the finding is resolved.

4.2 Protective Services Background Checks Procedures

The protective services background check shall be conducted on all child care providers and on their adult household members and staff.

4.2.2.1 The persons listed above must submit the Authorization and Release for Protective Services Background Check (ECE-CC-8A) as part of the family child care home application.

4.2.2.2. Family child care regulatory specialists shall review local DHHR office records and search FACTS for a CPS/APS history for each adult household member over 18 years of age and any staff. The search shall include the maiden name and all married names.

4.2.2.3 The manner in which information is shared between the family child care regulatory specialist and CPS is to be agreed upon by the supervisor of each program.

4.2.2.4 During the 76th Session of the WV Legislature, Legislators removed language from proposed family child care rules that would have allowed waivers of abuse and neglect histories. Based on legislative intent, no home or facility shall be considered for licensure, registration or approval if the provider or a current member of the provider's household is an active recipient of child or adult protective services or has a history of substantiated abuse or neglect.

4.2.2.5 In addition, if the search reveals that a provider's child under 18 years of age has a record of violence or sex offenses, the home shall not be registered or approved.

4.3 Criminal Record Checks

Chapter 2000, Criminal History Record Background Checks, shall be followed for criminal background investigations on child care providers, adult family members and staff unless otherwise indicated by this policy or promulgated rule.

4.3.1 Where child care policy and Chapter 2000 may not agree, child care policy applies.

4.3.2 CIB information must be entered in the appropriate provider section in FACTS. This is completed by state office staff.

4.3.3 Applicants and other household members are required to schedule a time to be fingerprinted at the DHHR office.

4.3.4 A criminal history background check shall also be completed for new family members over the age of 18 years, at the request of a family child care provider, or when a complaint is received by DHHR regarding a family child care home, in which it would be reasonable for the Department to request a criminal history background check as part of the investigation of the complaint.

4.4 Sexual Offender Checks

Although the criminal history record check should reveal all criminal history, the DHHR Family child care regulatory specialist may log on to www.wvstatepolice.com to ensure that a provider, household member, or employee is not registered as a sexual offender.

CHAPTER 5: PROVIDER REGULATION: COMMUNICATION WITH PROVIDERS, DEPARTMENT STAFF AND CCR&Rs

5.0 Overview

Communication with clients, providers, and agency staff is one of the basic functions of both CCR&R and DHHR staff. Program goals cannot be met without clear, effective and professional communication.

5.1 Communication between the CCR&R and the Department

5.1.1 Overview

Throughout the Child Care Regulatory Policy there are specific circumstances noted which require communication between the CCR&R and the Department child care regulatory staff. When any information received or action taken by the CCR&R requires a change in the provider type or provider record, the child care regulatory staff must be notified. Likewise, the CCR&R staff must be notified when the child care regulatory staff takes action that affects or should affect the Provider Services Agreement. E-mail communications should be copied to the appropriate Division program staff and, if pertinent to the provider status, saved to the Provider Record in FACTS.

5.1.2 Notice to Child Care Resource and Referral Agencies.

Child care regulatory staff shall send a notice of negative action via-e-mail to the R&R agency, if the provider is enrolled and has a Provider Services Agreement (DAY-0546). The following guidelines shall be used by the family child care regulatory specialists, child care center licensing specialists and the CCR&R workers to coordinate terminating payment and closing a provider record when negative regulatory action is taken:

5.1.2.1 Generally, the regulatory staff will give the provider 13 days before the negative action is effective when issuing a notice of denial of application or revocation of certificate and/or license. This allows the CCR&R the ability to send out notices and help parents locate a new provider (also see Chapter 13). The notice that the CCR&R issues to the parents notifying them that regulatory action is being taken must include the information that the provider has the right to appeal that action. The CCR&R notice will direct the parent to seek further information regarding the provider's intent to appeal from the provider;

5.1.2.2 If the provider has serious areas of non-compliance and there is notification of immediate revocation, the child care regulatory staff must inform the CCR&R worker immediately. In making this decision, the family child care regulatory specialist shall confer with the Child Care Supervisor, and the licensing specialist shall confer with the Program Manager. Consideration needs to be given to the immediate risk of harm to children in care. The CCR&R will include the last date of payment for the provider in the Provider Notice (DAY-0613). The CCR&R must unlink all children from the provider record before the regulatory staff will be able to close the record in FACTS.

5.1.2.3 If a child care provider or facility contacts the CCR&R to request closure, the CCR&R shall send a notice to the appropriate child care regulatory staff via-email.

5.2 Communication between Family Child Care Regulatory Specialists and Licensing Specialists

As child care providers move between types of care and apply for the appropriate registrations or licenses, it is important that family child care regulatory specialists and licensing specialists keep each other informed. To encourage information sharing, the following procedures are in place:

5.2.1 Documentation in FACTS

Patterns of non-compliance shall be documented in FACTS. While the agency cannot refuse to accept an application, the application can be denied based on documented evidence of a history of non-compliance as any type of child care provider.

5.2.1.1 When a child care center licensing specialist revokes a license due to serious non-compliance he/she shall send an e-mail to inform the family child care regulatory Program Manager, child care regulatory supervisor, the Community Service Manager and the Regional Director for that area.

5.2.1.2 When a family child care regulatory specialist revokes a license or registration due to serious non-compliance or due to findings of abuse/neglect, the specialist shall send an e-mail to inform child care regulatory supervisor, the Community Service Manager and the Regional Director for that area.

5.2.1.3 The regulatory staff shall also document the serious issues in FACTS and put a statement on the closure screen that starts with the word "ALERT".

5.2.2 FACTS Searches

All regulatory staff shall conduct a search in FACTS on all active and closed provider cases prior to opening a new provider/facility/center to check for a documented history of non-compliance.

5.2.3 Transitioning between Types of Care

5.2.3.1 If a provider/facility/center applies to change the type of care status, and the change in type of care would result in switching from family child care regulatory specialists to licensing staff, or vice versa, a joint visit to the facility/center shall be conducted.

5.2.3.2 When changing provider types:

A. Open a New Case:

Informal to Registered, Child Care Facility to Child Care Center, Center to Facility, Registered Family Child Care to Facility, etc. The regulatory staff must open a new case in FACTS and associate the old case to the new. Under no circumstances should regulatory staff change the provider type from one type to another. Doing so does not preserve the provider's history, and impacts Federal reporting requirements.

B. Open Date for Change in Provider Type:

Providers who are switching types, and who receive subsidy reimbursements should always have an open date of the first day of the following month. For example, if an informal family child care provider completes a packet to change status to a Registered/Subsidized Family Child Care on August 16th, the family child care regulatory staff should open the new record with a date of September 1. Changing provider types in the middle of the month interferes with payment processing and the monthly payment rate, as the monthly billing cannot be split between the two different types.

5.3 Communications with Providers

5.3.1 Written Notification

Child care regulatory staff persons are required to provide written notification of any decisions reached with regard to the regulatory status of a provider using forms provided in FACTS or individualized letters with copies saved to FACTS. The Notice of Provider Regulatory Status (DAY-0503) is to be used with all registered and licensed providers and the Notice of Provider Approval Status (DAY-0618) with in-home care. Any non-compliance should be communicated using the Child Care Corrective Action Notice (DAY-0615). Notices should be sent whenever the child care regulatory staff:

- 5.3.1.1** Approves an application for any type of care or issues/renews a certificate of registration or a license;
- 5.3.1.2** Denies a provider application;
- 5.3.1.3** Refuses to renew a certificate of registration, license or approval;
- 5.3.1.4** Revokes registration, licensure or approval is revoked;
- 5.3.1.5** Makes a decision on a waiver or variance;
- 5.3.1.6** Places a limit on a certificate of registration or license;
- 5.3.1.7** Reduces a certificate of registration or license to provisional status;
- 5.3.1.8** Issues corrective action;
- 5.3.1.9** Provides follow-up on the results of an investigation;
- 5.3.1.10** Determines the provider has/has not met the terms of the corrective action plan; or
- 5.3.1.11** Takes any other action or makes a determination that impacts the regulatory status of the provider.

5.3.2 Technical Assistance

The West Virginia Department of Health and Human Resources has a responsibility, within fiscal limitations, to provide training and education for the improvement of child care programs. This responsibility is largely met through contracted services which the provider can access. The child care regulatory staff contributes by offering guidance to providers in meeting requirements and improving the quality of their care. Child care regulatory staff may offer technical assistance by:

- 5.3.2.1** Explaining to the provider what is required for a successful application;
- 5.3.2.2** Helping the provider understand the rationale for a specific requirement;
- 5.3.2.3** Identifying a training need. The child care regulatory staff can direct the provider to the CCR&R agency to obtain the training or to find where other training can be obtained. Child care regulatory staff can also help the CCR&R agencies know training is needed on a particular subject for more than one provider;

5.3.2.4 Helping the provider determine the best way to meet a requirement that has been identified for corrective action;

5.3.2.5 Informing the provider if funding is available to help meet health and safety requirements or improve quality;

5.3.2.6 Providing information on current issues in child care; and

5.3.2.7 Providing information on agencies and community programs that may help the provider in the operation of a child care business.

5.3.3 Provider Identification Number

When the child care regulatory staff sends an initial written notice of approval to a child care provider, the staff person shall write the 8-digit FACTS identification number on the notice (300.....). Providers need this number to apply for direct deposit and center licensees need this number when obtaining fingerprint based background checks through the Department

CHAPTER 6: PROVIDER REGULATION: IN-HOME CARE

6.0 Definition of In-Home Care

In-home child care is home-based care provided by relatives or non-relatives for a child or children in the child's own home for that portion of the day when care is needed. The provider may live either inside or outside of the home. The provider of in-home child care cannot care for children that do not live in the home. If provider and children reside in the same home and the provider wishes to care for other children, then the situation is not considered in-home care and the provider must meet registration requirements based on the number of children in care.

6.1 Regulation of In-Home Child Care

Although in-home child care providers are exempt from state regulatory requirements, they are required to meet health and safety standards and training requirements in order to participate in the certificate system and receive federal funds. The home must meet certain health and safety requirements and the provider must meet certain health and safety requirements including a background check.

6.2 Limitations of In Home Care

6.2.1 Minimum Wage Requirement

Payment will equal or exceed minimum wage. In general, a provider must care for multiple children in order to meet this requirement. To determine if payment will equal minimum wage, calculate the number of hours the provider will care for the children and multiply by the current minimum wage. Then compute the provider's customary payment using the current daily payment rates for in-home care, including any amounts for non-traditional work hours.

For Example: A provider cares for children for 10 hours a day. At a minimum wage of \$6.55* per hour that would be \$65.50 daily. There are 4 children in the family – 2 infants at \$18.00 per day = \$36, and three older children at \$16 = \$48. Since the total payment would be \$84.00, this situation would exceed minimum wage. Staff shall also consider amounts received for non-traditional work hours as part of the daily rate.

* Minimum wage increases to \$7.25 effective 7/1/2008, making the requirement \$72.50 per day for a 10 hour day.

6.2.2 Exception to Minimum Wage Requirement

In instances where a child has medically documented needs that necessitate in-home care and the payment would not be equal to minimum wage, the R&R worker may submit an exception request to the State Division of Early Care and Education. Written documentation of the need from a qualified health care professional required, and must show absolute necessity. Exceptions will be rare and time limited.

6.3 Procedures for In-Home Child Care

6.3.1 CCR&R Responsibilities

6.3.1.1 The parent who requested in-home child care, must complete the application for in-home child care services (ECE-CC-12) and shall complete an ECE-CC-6E to certify that the home and the in-home provider meet the health and safety requirements.

6.3.1.2. The application forms are returned to the CCR&R agency.

6.3.1.3 The CCR&R worker shall inform parents who use this type of care that an in-home care provider is considered to be an employee of the parent according to laws related to wage and hour requirements and the IRS tax code. The parent may be responsible for paying the employer's share of Social Security and Medicare taxes. The threshold amount before this is required may change in any given year.

6.3.1.4 The provider must attend payment enrollment and complete a W-9 within 30 days of the parent's request for care.

6.3.1.5 The parent and provider must complete the ECE-CC-10A-1, Request for Payment of In-Home Child Care Services, and submit the form on a monthly basis. The Department will provide a form 1099 to the provider on an annual basis, but the parent is responsible for keeping information and records required for paying federal employment taxes for the in-home provider. The parent and in-home provider need to remember that the parent fee (if any) is part of the rate for which the provider is reimbursed and remains the responsibility of the parent to pay.

6.3.1.6 The R&R staff must inform parents and providers of these requirements. However, they are not tax experts or agents, and should not attempt to answer specific questions. The Resource and Referral agency shall direct the parent and provider to the proper agency for information they may need.

6.3.1.7 After the parent and provider have completed the application and the provider has attended provider enrollment, the CCR&R worker does the intake in FACTS under the provider's name.

6.3.1.8 The CCR&R agency will then forward the necessary information to the family child care regulatory specialist for approval.

6.3.2 Family Child Care Regulatory Specialists' Responsibilities

6.3.2.1 The family child care regulatory specialist will complete the necessary screens in FACTS, do the background checks on the provider and send a Notification of Provider Approval Status to the provider with a copy to the parent/guardian and the R&R.

6.3.2.2 In-home care situations in which the home fails to meet health and safety standards or in which the provider cannot comply with health and safety standards shall be denied approval.

6.3.2.3 If failure to comply is subsequent to the issuance of approval, then the family child care regulatory specialist shall send a denial notice using the Notification of Provider Approval Status (DAY-0618), and CCR&R staff shall send a 13 day notice terminating the Provider Services Agreement.

6.4 Renewal Procedures

Approved In Home Family Child Care Providers must renew their approvals at least every two years. The CCR&R worker in charge of the parent's case is responsible for sending the renewal packet to the

parent. CCR&R workers should follow the process outlined in 6.3.1. The family child care regulatory specialist should follow the procedure outlined in 6.3.2.

CHAPTER 7: PROVIDER REGULATION AND REGISTRATION: INFORMAL AND RELATIVE FAMILY CHILD CARE

7.0 Informal and Relative Family Child Care

This Chapter addresses two of the three types of family child care homes (See Chapter 1, Definitions):

1. Informal family child care homes which provide care for three (3) or fewer children; and
2. Relative family child care homes which provide care only to related children;

All types of family child care are home-based care provided for a portion of the day in a private family home for compensation. The home must be inhabited by the person providing care, and the provider's hours of operation may not exceed eighteen (18) hours in a 24 hour period. WV Code, Chapter §49-2B-9 allows relative and informal family child care to be voluntarily registered.

7.1 Informal and Relative Family Child Care Registration Process Overview

Informal and relative providers must meet the Department's Informal and Relative Family Child Care Registration Requirements in order to participate in the child care certificate system and may voluntarily register in order to participate in the Child and Adult Food Program.

7.1.1 Applicants Not Participating in the Child Care Certificate System

- A. Applicants not participating in the child care subsidy/certificate program do not go through the payment enrollment process at the CCR&R office, but apply directly to DHHR. These providers are referred to in FACTS as "Relative Family Child Care – Unsubsidized" and "Informal Family Child Care-Unsubsidized".
- B. Persons not attending provider payment enrollment because they do not participate in the child care subsidy/certificate system must return all of the forms listed in section 7.1.2.A. to the family child care regulatory specialist.
- C. The Application to Operate a Family Child Care Home (ECE-CC-8) shall be stamped with the date received by the family child care regulatory specialist. A Provider Services Agreement (DAY-0546) is not necessary for providers who do not receive subsidy payments.
- D. DHHR family child care regulatory specialists have 60 days from receipt of the application to complete action on the application for anyone not participating in the subsidy/certificate system.

7.1.2 Payment Enrollment/Orientation for Informal/Relative Providers

Informal and relative providers wishing to participate in the child care subsidy/certificate system must attend payment enrollment orientation offered through the CCR&R agency and must register with DHHR within 30 days if they wish to participate in the child care certificate program. During enrollment, the informal/relative provider receives orientation regarding participation in the child care certificate system, requirements for an informal or relative family child care home and basic health and safety training, which will fulfill the requirement for two hours of health and safety training.

A. Forms

Informal and relative providers receive the following child care forms:

- 1) Health and Safety Requirements for Informal and Relative Family Child Care Checklist (ECE-CC-6IR).
- 2) Informal and Relative Family Child Care Home Registration Requirements (ECE-CC-6).
- 3) Application to Operate a Family Child Care Home (ECE-CC-8).
- 4) Two (2) or more Authorizations for Protective Services Background Check (ECE-CC-8A).
- 5) Two (2) or more Statement of Criminal Record forms (ECE-CC-8-B).
- 6) Emergency Information forms (ECE-CC-10-E).
- 7) Child Care and Responsible Pet Ownership (ECE-CC-10K).
- 8) Pet Acknowledgement Form (ECE-CC-10J), if there are pets in the home.
- 9) Tax Identification Form (W-9).
- 10) Statement of Good Health (ECE-CC-3B).
- 11) ECE-CC-22: Family Child Care Provider Training Record.
- 12) ECE-CC-23: Fire Escape Plan.
- 13) ECE-CC-24: Emergency Phone List.
- 14) Two or more ECE-CC-25: Medication Permission Slip.
- 15) Two or more ECE-CC-30: Periodicity Schedule.
- 16) Incident Report Form (ECE-CC-26).
- 17) Direct Deposit Information/Application Form (ECE-CC-27).
- 18) Sudden Infant Death Syndrome Self-Study Packet (ECE-CC-28).
- 19) Shaken Baby Syndrome Self-Study Packet (ECE-CC-29).

B. Completion of Forms

- 1) Applicants complete the Application to Operate a Registered Home (ECE-CC-8), the Tax Identification Form (W-9), and the Provider Services Agreement (DAY-0546), during orientation.
- 2) The CCR&R staff must make a copy of the last page of the Application to Operate a Registered Home (ECE-CC-8) for the provider as reference for attachments which need to be submitted.
- 3) The applicant submits the Informal/Relative Provider Checklist (ECE-CC-6IR) and all other attachments to the application directly to the family child care regulatory specialist within 30 days of the date of orientation. Other attachments include:
 - a) A copy of the Statement of Good Health (ECE-CC-3B).
 - b) Signed Statements of Criminal Record (ECE-CC-8B) for all adults in the home and signed Authorizations for CPS/APS Background Checks (ECE-CC-8A) for all adults in the household.
 - c) Child Medical forms (ECE-CC-3) and the original copy of the Statement of Good Health (ECE-CC-3B) and the completed SIDS and Shaken Baby Self-Study Guides should remain with the provider.

7.2 Family Child Care Regulatory Specialist Procedures

Once the required forms are received by the family child care regulatory specialist, the specialist has 30 days from the date of the complete application to review the information submitted for completeness and

compliance. Pages 2 and 3 of the Application (ECE-CC-8) and the Provider Checklist (ECE-CC-6IR) must be completed and signed by the provider for an application to be considered complete.

7.3. Inspection and Investigation

7.3.1 On-Site Inspection

With a self-certification regulatory process, an initial on-site inspection is not required. However, state law requires that a random sample of not less than five (5) percent of the total number of informal and relative family child care and family child care homes receive an on-site evaluation on an annual basis. Since family child care regulatory specialists complete on-site inspections of all registered family child care homes, this probably more than meets the 5% requirement. Time permitting, staff may complete on-site inspections of informal and relative providers that participate in the child care subsidy system. Such monitoring is not required prior to issuing a certificate of registration.

Family child care regulatory specialists may complete on-site inspections of informal and relative family child care homes at time of the initial application and renewal application, should the application reveal issues of concern to the specialist. In addition, on-site inspection is required at any point a complaint is received regarding the provider or information becomes available that warrants an on-site investigation.

7.3.2 Background Checks

Fingerprints shall be completed on any providers/household members selected for on-site evaluation. For homes not selected for inspection, signed Statements of Criminal Record shall meet the CIB requirements.

7.4 Department Action on Initial Application for Registration

7.4.1 Initial Requests for Registration

Family child care regulatory specialists shall review the Application for Registration (ECE-CC-8) and the Checklist (ECE-CC-6IR), complete a check of APS and CPS records, conduct a search in FACTS on all active and closed cases prior to opening a new case in FACTS, and shall take one of the following actions:

7.4.1.1 Approve the application and issue a Regular Certificate of Registration (DAY-0577). A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. The effective date for the certificate will be the date the application was received. A certificate is issued for a period of up to two (2) years;

7.4.1.2 Approve the application with a corrective action plan. There is no provision in state law for informal and relative providers to receive a provisional certificate of registration.

7.4.1.3 Deny the application and provide written notification via the Provider Notification of Provider Regulatory Status (DAY-0503). The notification shall indicate the reason(s) for the denial and shall cite specific requirements that are not met or specific items on the application that are not accurate or complete. In some situations, the denial notice shall indicate that further applications will be denied a certificate of registration. Such situations include the following:

- 1) An applicant has intentionally provided false information which would hide a potential risk of harm to children in care.
- 2) The application or a background check reveals convictions of violent crimes against the person, or history of adult/child abuse, or incidents of serious maltreatment of children or adults.
- 3) The FACTS search reveals a history of non-compliance issues that cannot be corrected and for which a waiver cannot be considered.
- 4) A FACTS documented history of chronic multiple non-compliance issues as any type of child care provider may be used as the basis for the denial of any future application for any other type of care. Family child care regulatory specialists shall consult with their supervisors before taking this action.

7.4.1.4 Once action is taken on the application, the family child care regulatory specialist completes all the necessary screens in FACTS. For a provider who receives certificate funds, the Child Care Regulatory Staff shall notify the CCR&R of the action taken on the application and a copy of the Tax Identification Form (W-9) is made with the original sent to the Bureau for Children and Families, Office of Finance.

7.4.2 Special Circumstances with Initial Application

If an initial application is received from an applicant who has had a certificate of registration revoked or any other type of regulatory license revoked, the application cannot be approved without a prior on-site inspection. If this applicant wishes to participate in the child care subsidy system, the applicant will not receive a Provider Services Agreement without first receiving a Certificate of Registration. Previous providers who have had a Certificate of Registration revoked shall not be eligible for licensure or other Certificates of Registration without a prior on-site inspection. If the type of care transition results in a change from family child care regulatory specialist to licensing staff or vice versa – a joint visit to the home/facility/center shall be conducted.

7.5 Renewal Applications

Registered Informal and Relative Family Child Care Providers must renew their registrations at least every two years or sooner, based on the time period approved on the current certificate of registration.

7.5.1 Renewal Application Procedure

The following procedures are in place for Registration Renewal Applications:

7.5.1.1 Notice to Providers to Renew Registration

A certificate of registration is valid for a period of up to two years. Sixty (60) days prior to the expiration of a Regular Certificate of Registration, the family child care regulatory specialist shall send a renewal application packet to the provider. The packet shall include the following:

- 1) Notification of Provider Regulatory Status (DAY-0503) indicating due date of the renewal package;
- 2) Statement of Good Health (ECE-CC-3B);
- 3) Application to Operate a Family Child Care Home (ECE-CC-8);
- 4) Family Child Care Registration Checklist (ECE-CC-6IR), and
- 5) Statement of Criminal Record forms (ECE-CC-8B).
- 6) Authorization and Release for Protective Services Background Check (ECE-CC-8A).

7.5.1.2 Time Frames for Renewals

The Notification Letter (DAY-0503) shall indicate that the provider needs to return the completed renewal application within 30 days. An application must be returned prior to the expiration date of the current certificate to allow for a continuous period of registration without gaps in dates.

7.5.1.3 Inactive Enrolled Providers

If the renewal application is being sent to a provider participating in the subsidy system, the DHHR family child care regulatory specialist should review the FACTS record for payment activity. If there has been no payment activity for three (3) months or longer, then contact can be made with the provider to determine if the provider wishes a renewal application.

Reminder: Many providers offer care for private pay children, as well as those receiving child care subsidy certificates. Those children must be considered when determining whether or not the provider is required to be registered.

7.5.1.4 Tracking and Data Entry

When the renewal packet is returned, Family Child Care Regulatory Specialist shall:

- 1) Stamp the date of receipt on the Application (ECE-CC-8).
- 2) Review the FACTS and paper record for any information which would aid in making a decision on the application. This shall include checks of CPS and APS records and training records.
- 3) Update information in FACTS, including changes in household and compliance with regulations.
- 4) Enter documents in document tracking, and update the status screen to reflect renewal of the registration certificate.

7.5.2 Departmental Action on Renewal Applications for Registration

7.5.2.1 Possible Actions

Child Care Regulatory Staff has 60 days from receipt of the renewal application to take one of the following actions:

- 1) Approve the application and issue a Regular Certificate of Registration to either operate an Informal or Relative Family Child Care Home, whichever is appropriate. A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. The certificate may be reissued for a period of two years or set at less than two years. The effective date for the certificate will be the date immediately following the expiration of the previous regular Certificate of Registration; or
- 2) Approve the application and issue a Corrective Action Plan; or
- 3) Refuse to renew and provide written notification via the Notification of Provider Regulatory Status (DAY-0503). The letter must indicate the reason for the denial and cite specific requirements that are not met, specific conditions previously placed upon the applicant not met, or specific items of the application that are not accurate or complete.

7.5.2.2 Notifications to CCR&R Agencies

Once a decision is reached on a provider's application, the family child care regulatory specialist shall:

- 1) Send notification of the action taken to the R&R by e-mail, with a copy saved to the FACTS record, when the applicant is an enrolled provider, OR
- 2) Notify the CCR&R that a renewal application was not returned and coordinate closing the provider record. Payment may continue for 13 days beyond the expiration of the certificate of registration to allow time for the CCR&R to send notices and help parents locate other child care arrangements before the certificate of registration expires.

7.6 Negative Action

If the informal or relative family child care home is not in compliance with health and safety requirements as found on the ECE-CC-6IR checklist, then the family child care regulatory specialist issues one of the following:

7.6.1 A Corrective Action Plan (DAY 0615) accompanied by a Notification of Provider Registration Status; or

7.6.2 A Notification of Provider Registration Status (DAY 0618) denying approval, and sends a copy to the CCR&R agency

CHAPTER 8: PROVIDER REGULATION: REGISTERED FAMILY CHILD CARE

8.0 Family Child Care Home Registration Process

Persons caring for four (4) to six (6) children (including their own children under the age of six), are required by state law to register with DHHR to be considered a legally operating family child care home. In addition, any person may voluntarily register to be a family child care home, if no more than six (6) children will be cared for at any one time.

8.1 Application for Registration

Persons wishing to register shall request a registration packet, which shall be provided by either DHHR or CCR&R staff upon request of the potential applicant. The registration packet shall include the following forms:

- Family Child Care Home Registration Requirements Checklist (ECE-CC-9);
- Family Child Care Home Registration Requirements Rule (ECE-CC-9R);
- Child Care Provider Medical Report (ECE-CC-3C);
- Child Care Provider Information Form (ECE-CC-7);
- Application to Operate a Family Child Care Home (ECE-CC-8);
- Authorization for Protective Services Background Check (ECE-CC-8A);
- Two (2) or more Statement of Criminal Record forms (ECE-CC-8B);
- Child Medical Forms (ECE-CC-3);
- Emergency Information forms (ECE-CC-10E);
- Tax Identification Form (W-9);
- Emergency Phone List Form (ECE-CC-24);
- Medication Permission Slips (ECE-CC-25);
- Incident Report Form (ECE-CC-26);
- Direct Deposit Information/Application (ECE-CC-27), if applicable;
- SIDS Study Guide (ECE-CC-28);
- Shaken Baby Syndrome Study Guide (ECE-CC-29);
- Periodicity Schedule (ECE-CC-30);
- Pet Acknowledgement Form (ECE-CC-10J);
- Child Care and Responsible Pet Ownership (ECE-CC-10K);
- Other information on topics including health and safety, tax responsibilities, available resources, provider enrollment for receipt of child care reimbursement, etc., may be included in the packet.

8.2 Procedure for Applicants Participating in the Child Care Certificate System

Applicants for registration who also wish to accept child care certificate reimbursement may complete portions of the application when they enroll for payment with the CCR&R agency. These applicants have been identified by a parent eligible for a child care certificate as the parent's provider of choice. The CCR&R agency schedules new applicants for an orientation session where applicants receive the forms listed in 8.4.

8.2.1 Completion of Forms

Applicants complete the ECE-CC-7, ECE-CC-8, W-9, and the provider services agreement (DAY-0546) during orientation.

The applicant submits the ECE-CC-9 and all other attachments to the application directly to family child care regulatory specialist within 30 days of the date of orientation.

A copy of the ECE-CC-3C, the completed SIDS Study Guide and the completed Shaken Baby Study Guide are submitted within 30 days of submitting the application.

Child medical forms and the original copy of the provider medical form should remain with the provider.

The Pet Acknowledgement Form (ECE-CC-10J) shall be completed by providers who have pets allowed under regulation and then signed by parents at time of placement.

8.2.2 CCR&R Actions

The CCR&R makes copies of the completed forms and forwards the originals of the W-9 and the ECE-CC-8 and a copy of the DAY-0546 to the DHHR family child care regulatory specialist as soon as possible, and retains the copies and original DAY-0546 in the CCR&R records.

The CCR&R staff shall complete the FACTS Provider Intake Screens based on information obtained during orientation as soon as possible after orientation.

The CCR&R retains a copy and forwards the originals as soon as possible to the family child care regulatory specialist, keeping a copy of the W-9 and the original of the DAY-0546.

8.2.3 DHHR Actions

Once the application is received, DHHR staff has 30 days from the date on the complete application to take action on the application. All sections, including market rate survey information, must be complete.

8.3 Procedure for Applicants Not Participating in the Certificate System

Applicants not participating in the child care subsidy certificate program do not go through the enrollment process at the CCR&R office, but apply directly to DHHR. Persons not attending provider payment enrollment must return all of the forms listed in section 8.4 to the family child care regulatory specialist. The Application to Operate a Family Child Care Home (ECE-CC-8) is then stamped with the date received.

The family child care regulatory specialist has 60 days from receipt of application for persons not attending provider payment enrollment to complete action on the application.

8.4 Departmental Actions on Initial Application for Registration

Family child care regulatory specialists shall review the application for registration, complete a check of APS and CPS records, conduct a search in FACTS on all active and closed cases prior to opening a new case in FACTS, and shall take one of the following actions:

Approve the application and issue a Regular Certificate of Registration (DAY-0577). A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. For Registered Only providers, the effective date for the certificate will be the date the application was received. For subsidized child care providers applying within thirty days of starting care,

the effective date of the certificate will be the date care began. A certificate is issued for a period of up to two (2) years;

Approve the application and issue a Provisional Certificate of Registration. A provisional certificate is issued for six (6) months. While a Provisional Certificate may be issued for several reasons, two (2) specific situations have been identified that could result in issuance of a Provisional Certificate of Registration with the initial application. Those situations include the following:

The Registration Requirements allow a provider six (6) months from the date of registration to obtain approved training in first aid. If the applicant indicates non-compliance with this requirement, then a Provisional Certificate of Registration is to be issued along with a corrective action plan (DAY-0615).

The applicant or household member indicates on the Application or Statement of Criminal Record that he/she has a record of two or more misdemeanor convictions or at least one conviction of a felony crime, the convictions were not crimes against a person, and the waiver committee could approve a waiver request for the convictions. If this occurs, a Provisional Certificate of Registration (DAY-0577) is to be issued along with a Corrective Action Plan (DAY-0577). The corrective action plan shall indicate that fingerprinting, a completed CIB check and an approved waiver request must be completed before the regular Certificate of Registration can be issued. The corrective action plan shall state that the applicant has 14 days from the receipt of the plan to submit a waiver request (see Chapter 2000). If the request is not received within the specified time frame, the registration is revoked.

Deny the application and provide written notification via the Provider Notification of Provider Regulatory Status (DAY-0503). The notification shall indicate the reason(s) for the denial and shall cite specific requirements that are not met or specific items on the application that are not accurate or complete. In some situations, the denial notice shall indicate that further applications will be denied a certificate of registration. Such situations include the following:

An applicant has intentionally provided false information which would hide a potential risk of harm to children in care;

The application or a background check reveals convictions of violent crimes against the person, or history of adult/child abuse, or incidents of serious maltreatment of children or adults;

The FACTS search reveals a history of non-compliance issues that cannot be corrected and for which a waiver cannot be considered.

A FACTS documented history of chronic multiple non-compliance issues as any type of child care provider may be used as the basis for the denial of any future application for any other type of care. Child Care Monitors should consult with their supervisors before taking this action.

Once action is taken on the application, the family child care regulatory specialist completes all the necessary screens in FACTS. For a provider who receives certificate funds, the family child care regulatory specialist shall notify the CCR&R of the action taken on the application and a copy of the Tax Identification Form (W-9) is made with the original sent to the Bureau for Children and Families, Office of Finance.

8.5 Special Circumstances with Initial Application

If an initial application is received from an applicant who has had a certificate of registration revoked or any other type of regulatory license revoked, the application cannot be approved without a prior on-site

inspection. The applicant will not receive a Provider Services Agreement without first receiving a Certificate of Registration. Previous providers who have had a Certificate of Registration revoked shall not be eligible for licensure or other Certificates of Registration without a prior on-site inspection. If the type of care transition results in a change from family child care regulatory specialists to licensing staff or vice versa – a joint visit to the home/facility/center shall be conducted.

8.6 Renewal Applications

Registered Family Child Care Providers must renew their registrations at least every two years, or sooner, based on the time period indicated on the current certificate of registration.

8.6.1 Renewal Application Procedure

The following procedures are in place for Registration Renewal Applications:

8.6.1.1 Notice to Providers to Renew Registration

A certificate of registration is valid for a period of up to two years. Sixty (60) days prior to the expiration of a Regular Certificate of Registration, the family child care regulatory specialist shall send a renewal application packet to the provider. The packet shall include the following:

- Notification of Provider Regulatory Status (DAY-0503) indicating due date of the renewal package;
- Child Care Provider Medical Report (ECE-CC-3C);
- Information on Child Care Provider (ECE-CC-7);
- Application to Operate a Family Child Care Home (ECE-CC-8);
- Family Child Care Registration Checklist (ECE-CC-9);
- Statement of Criminal Record forms (ECE-CC-8B);
- Authorization and Release for Protective Services Background Check (ECE-CC-8A).

8.6.1.2 Abbreviated Checklist for Registered Family Child Care (ECE-CC-9C)

Family child care regulatory specialists use the “Abbreviated Checklist for Monitoring Registered Family Child Care Homes” (ECE-CC-9C) for annual mid-certification monitoring visits based on the following guidelines:

The reviewer shall use the full checklist if there are material changes in the provider’s child care environment, e.g., addition of a pool, shift of child care to the basement, serious remodeling of home, addition of outdoor play equipment, etc.

This abbreviated checklist shall not be used for initial approvals or biennial renewals.

Registered providers must use the full registration checklist to re-apply for renewal of their registration, and regulatory staff must utilize the full registration checklist to monitor compliance with renewal applications. Registered providers shall comply with all issues contained on the full checklist, although monitored using the shortened format.

The abbreviated checklist (ECE-CC-9C) is to be completed by the family child care regulatory specialist and signed by the provider and the family child care regulatory specialist.

8.6.2 Time Frames for Renewals

The Notification Letter shall indicate that the provider needs to return the completed renewal application within 30 days. An application must be returned prior to the expiration date of the current certificate to allow for a continuous period of registration without any gaps in dates.

8.6.3 Inactive Enrolled Providers

If the renewal application is being sent to a provider participating in the subsidy system, the family child care regulatory specialist should review the FACTS record for payment activity. If there has been no payment activity for three (3) months or longer, then contact can be made with the provider to determine if the provider wishes a renewal application.

Reminder: Many providers offer care for private pay children as well as those receiving child care subsidy certificates. Legally, those children must be considered when determining whether or not the provider is required to be registered. Remember that the provider's own children under the age of six (6) are included in the count.

8.6.4 Tracking and Data Entry

Stamp the date of receipt on the Application (ECE-CC-8) and,

Review the FACTS and paper record for any information which would aid in making a decision on the application. This shall include checks of CPS and APS records and training records.

Information shall be updated in FACTS, including changes in household, market rates, and compliance with regulations.

Documents shall be entered in document tracking, and the status screen updated to reflect renewal of the registration certificate.

8.6.5 Departmental Action on Renewal Applications for Registration

The family child care regulatory specialist has 60 days from receipt of the renewal application to take on of the following actions.

Approve the application and issue a Regular Certificate of Registration. A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. The certificate may be issued for a period of two years or another period less than two years. The effective date for the certificate will be the date immediately following the expiration of the previous regular Certificate of Registration; or

Approve the application and issue a Provisional Certificate of Registration. A Provisional Certificate must be accompanied by a Corrective Action Plan and should only be issued for minor non-compliance which does not affect the health and safety of children in care; or

Refuse to renew and provide written notification via the Notification of Provider Regulatory Status (DAY-0503). The regulatory specialist must indicate the reason for the denial and cite specific requirements that are not met, specific conditions previously placed upon the applicant not met, or specific items of the application that are not accurate or complete.

8.6.6 Notifications to CCR&R Agencies

Once a decision is reached on a provider's application, the DHHR child regulatory specialist shall:

Send notification of the action taken to the R&R by e-mail, with a copy saved to the FACTS record, when the applicant is an enrolled provider, OR

Notify the CCR&R that a renewal application was not returned and co-ordinate closing the provider record. Payment may continue for 13 days beyond the expiration of the certificate of registration to allow time for the CCR&R to send notices and help parents locate other child care arrangements.

8.7 FACTS Notes

8.7.1 Provider Intake – FACTS Procedure

The "Provide Services" screen is a tabbed screen. It is recommended that all tabs be completed before adding the screen. Please keep in mind the date of the intake becomes "read only" after the screen is added.

On the "General Information" tab, the date and time is populated by the system based on when the worker is entering the intake. The worker should change this if the system information is not correct. "Staff Name" and "County" are populated by the system based on who is logged on to FACTS at the time of the intake entry.

On the "Demographics-Client" tab, the last name of the client will populate from the "Household Name" field on the "Information" screen. Click on the check boxes to reflect that the client is in the household. This is important because it will allow the household member's information to populate the provider record when it is created. Using a select box, the worker will reflect the client's role in the intake. "Potential Provider" must be one of the selections made in the Select box.

If the CCR&R is doing the intake, the "Provide Services" screen and the "Demographic" screen are completed and the CCR&R Supervisor assigns the intake to the potential provider's home county in-box. The DHHR Child Care Supervisor in the potential provider's home county will complete the "Outcome" screen and assign the intake to a DHHR Family Child Care Regulatory Specialist. Prior to completing the "Outcome" screen, a search must be conducted on the household members.

8.7.2 Cases Assigned to Family Child Care Regulatory Specialists

Once the Child Care Supervisor approves and assigns the intake, the Family child care regulatory specialist shall follow this procedure:

Open the "Intake" and go to the "Outcome" screen. On the "Outcome" screen, click on the "Find" button. This will take you to the "Find Provider" dialog box. Complete a provider search on all open and all closed providers within four days of the intake assignment. All screens asking for information found in the application and provider information form must be completed.

The "W-9" screen will not be approved until the State Office receives the W-9.

Please make sure that "Provider Type" and information on whether or not the provider accepts referrals is accurate.

Please record in “Document Tracking” all the forms that were returned with the application and the date returned. See the FACTS desk guide on “Opening Child Care Providers” for complete details.

CHAPTER 9: PROVIDER REGULATION: FAMILY CHILD CARE FACILITY

9.0. Definition of Family Child Care Facility

A family child care facility serves groups of seven (7) to twelve (12) children for four (4) or more hours per day. The provider may care for no more than four (4) children under the age of 24 months not more than twelve (12) children in total, including children residing in the home under the age six (6) years. Care may be in the operator's home or in a separate building that is not inhabited by the provider.

9.1. Regulation of Family Child Care Facilities

Family child care facilities in West Virginia shall be licensed prior to accepting more than six (6) children. A Certificate of Licensure (ECE-CC-16B) may be issued to a family child care facility only when it meets the requirements of DHHR, the State Fire Marshal's Office, and the Bureau of Public Health. The purpose of licensure is to ensure the protection and care of children in family child care facilities, as defined in Chapter 49 of the West Virginia Human Services Law. Regular licensure extends for a period of up to twenty-four (24) months and initial and provisional licensure extends for six (6) months. Family child care facilities shall be licensed prior to acceptance of children and enrollment for funding and shall be monitored annually. Assessment for licensure is the responsibility of the family child care regulatory specialists.

9.2 Family Child Care Facility Certificate of Licensure Process

9.2.1 Family Child Care Facility Information Packet

When an individual inquires about licensure as a family child care facility, the family child care regulatory specialist or the CCR&R shall provide a Family Child Care Facility Information Packet. The packet may be mailed or given to providers who go into local DHHR or CCR&R offices. The information packet consists of:

9.2.1.1 Family Child Care Facility Licensing Requirements (ECE-CC-16). Rules are also available at www.wvdhhr.org/bcf/ece/earlycare/regs.asp;

9.2.1.2 Family Child Care Facility Information Form (ECE-CC-14A);

9.2.1.3 Letter of Intent (ECE-CC-14B);

9.2.1.4 Other information on topics of interest to a provider.

9.2.2 Return of Letter of Intent

The potential child care provider reviews the facility information packet. After the provider completes and returns the Letter of Intent to the appropriate DHHR child care supervisor, the supervisor shall assign a regulatory specialist who will review the Letter of Intent. This worker shall also enter information from the completed Facility packets into FACTS.

9.2.3 Application Packet

If the applicant has provided complete information, the family child care regulatory specialist shall send the potential provider an Application Packet which contains:

9.2.3.1 Forms that need to be completed and return

A. ECE-CC-15 Application to Operate a Family Child Care Facility

- B.. ECE-CC-8A Authorization/Release for APS/CPS Background check.
- C. ECE-CC-8B Statement of Criminal Record
- D. ECE-CC-7 Information on Child Care Provider. W-9 Tax Information

9.2.3.2 Forms the provider needs to read, complete, and keep on file:

- A.ECE-CC-28 Sudden Infant Death Syndrome Self Study Guide.
- B.ECE-CC-29 Shaken Baby Syndrome Self Study Guide.
- C.ECE-CC-3C Child Care Provider Medical Report.
- D. ECE-CC-10J Pet Acknowledgement Form (must also be signed by parents)
- E. ECE-CC-10K Child Care and Responsible Pet Ownership.

9.2.3.3 Forms that are filled out as needed and returned to the Child Care Regulatory Specialist: ECE-CC-26 Incident Report Form

9.2.3.4 Forms the provider needs to distribute to parents:

- A. ECE-CC-3 Child Medical Form
- B. CE-CC-10E Emergency Information/Permission Form
- C. ECE-CC-25 Medication Permission Slip
- D. ECE-CC-30 Periodicity Schedule

9.2.3.5 CCR&R Only: Family child care facility providers enrolling at the CCR&R for payment should also receive an ECE-CC-27: Application for Direct Deposit

9.3 Background Checks

Initial background checks must be completed prior to taking action on the application to operate a family child care facility. The owner/operator of a family child care facility shall be responsible for contacting the WV DHHR office to have fingerprints completed for all residents over eighteen (18) years of age and staff at the time of application. All employees must also complete a statement of criminal record and an authorization for CPS/APS background check. Schedule fingerprinting, statements of criminal record, and authorization for CPS/APS background checks on all future employees or household residents and volunteers must be completed and submitted to the family child care regulatory specialist within five (5) days of employment. Copies of the employee's signed statements/authorizations shall be kept on file at the local office.

9.4 Inspection

The Family Child Care Facility must obtain permits to operate from the Fire Marshal, Bureau of Public Health, and Office of Pest Management before submitting their application. An on-site visit shall be made by DHHR family child care regulatory specialist within 30 days of the receipt of a completed application to determine compliance with the requirements of Legislative Rule 78CSR18.

9.5 Action on Applications

All actions regarding regulation of a Family Child Care Facility shall be in writing. Within 60 days of receipt of application, the DHHR family child care regulatory specialist shall provide a written decision to the family child care facility and issue one of the following.

9.6 Initial License

An initial six-month license shall be issued to an applicant establishing a new service found to be in compliance on initial review with regard to administrative policies and procedures, organization, risk

management in terms of liability coverage, personnel, physical environment, health and fire safety inspections and record keeping regulations. Since the initial inspection is generally completed prior to acceptance of children, a full evaluation is not possible. For example, child medical forms and emergency forms would not be on file and workers could not determine if the facility were actually operating according to the facility's plan or legislative rules.

9.7 Regular License

If the facility meets all applicable standards after the initial certificate period, the family child care regulatory specialist shall notify the owner/operator and provide a regular Certificate of License to Operate a Family Child Care Facility (ECE-CC-16B) for a period of up to two years. Typically, the regular certificate of license is issued:

After the initial six month license if the facility is determined to comply with the rules;

Upon an application for renewal if the facility is determined to comply with the rule.

If a family child care provider has been in good standing with a regular registration with no major non-compliance and/or substantiated I&R for at least six months, the facility can be issued a regular license, instead of the initial six month license.

9.7.1 Regular License (Less than two-year period) - A regular certificate of license may be issued for periods of less than two years at the discretion of the child care specialist. Reasons to issue a shorter license include but are not limited to situations such as the following:

9.7.2 Seasonal issues – Seasonal issues would include a lack of approved heating source during summer months or lack of approved water safety requirements during winter months. A worker could issue a short term regular license based on a plan to be in compliance when the season changes.

9.7.3 Movement from an initial to a regular license - If the full inspection is not completed at the end of an initial license, staff should not issue a full two-year license, as that makes it more than two years for another full inspection. An 18 month license makes full inspections two years apart.

9.7.4 Movement from a provisional to a regular license - There are several reasons to issue a short-term regular license when a provisional license ends. If the provider has made substantial progress during the provisional period but minor concerns remain, a shorter regular license of up to six months or less may be preferred. In order to assure that the facility continues to maintain compliance, a shorter licensing period may be used. Also, if a full inspection is not completed, then it would result in a period of 2 ½ years between inspections. An 18 month license would make the full inspection two years apart.

9.8 Provisional License

A provisional license may be issued when an owner/operator is not in compliance with the rule and compliance will take longer than 30 days, but only if continuing operation does not pose a significant risk to the rights, well-being, health and safety of children. A provisional certificate of license expires within six months of date of issuance, and shall not be consecutively reissued unless the only violation(s) are from the State Fire Marshall, who recommends a provisional license be issued. Otherwise, at the end of the six-month provisional period, the facility must either be eligible for a regular license or have its license revoked. In issuing a provisional license, the family child care regulatory specialist shall:

Notify the owner/operator to complete a Corrective Action Plan within thirty (30) days from the date the notification is mailed, or the license may be revoked or application denied. The family child care regulatory

specialist shall assist the operator in completion of the CAP by discussing possible solutions that appropriately address the issues. Upon receipt of the corrective action plan, the family child care regulatory specialist shall notify the operator and provide a provisional six-month (6) Certificate of License to Operate a Family Child Care Facility.

If the owner/operator does not complete the corrective action plan within the specified time, the family child care regulatory specialist shall revoke the license/deny the application/refuse to renew the license to operate a Family Child Care Facility, whichever applies.

9.9 Denial of License

If there are serious areas of noncompliance with regulations that place a child at risk, the family child care regulatory specialist shall notify the operator that the Facility application is denied. The owner/operator may submit a new application when the violations are corrected. In some cases, the owner/operator will be unable to correct the areas of noncompliance, i.e. convictions of violent crimes against the person, history of child abuse, and should be notified that no application to operate a family child care facility will be approved.

9.10 Hearings

If the family child care facility owner/operator disagrees with any negative action, the owner/operator may request a hearing in writing within 30 days from receipt of the letter per Chapter 49, Article 2B-13. Requests for hearing should be submitted to the DHHR Hearings Officer.

9.11 Penalty

Any family child care facility that operates without licensure is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500). Staff may refer the illegal operation to the local Prosecuting Attorney and/or the DHHR Regional Attorney.

9.12 Referrals

When a family child care facility is licensed, the family child care regulatory specialist shall notify the CCR&R agency that the Facility is licensed and is eligible for referrals. When a license is not renewed or revoked, the R&R agency should be notified, so they can discontinue payment and cancel the provider service agreement.

9.13 Child Care Facility Complaint Process

9.13.1 Standards Violations:

The family child care regulatory specialist shall investigate complaints of standards violations against the child care facility.

If the family child care facility is in violation of standards, a time-limited corrective action plan shall be implemented and a provisional license issued if necessary. A provisional license should only be issued if corrective action will take more than 30 days or there are multiple issues that merit stronger regulatory action.

If a child care facility is determined to be serving more than twelve children at one time, then the facility must immediately reduce the number. If the owner/operator is interested, information shall be provided regarding becoming a child care center and a referral made to the Child Care Licensing Unit in the Division of Early Care and Education.

9.13.2 Illegal Operations

The family child care regulatory specialist shall investigate all complaints regarding unlicensed family child care facilities caring for seven (7) to twelve (12) children.

The family child care regulatory specialist shall make an unannounced visit to determine the number of children in care.

The family child care regulatory specialist shall discuss the law and the licensure process and shall work with the provider toward licensure or a reduction of the number of children in care. The family child care regulatory specialist shall give the provider the Family Child Care Facility Information packet, the Application to Operate a Family Child Care Facility and a copy of the regulations. The provider must reduce the number of children present at one time to no more than six if the provider can be registered as a family child care home. The provider must reduce to less than four children if she cannot or will not meet registration requirements.

A follow-up visit shall be made within two (2) to four (4) weeks to determine compliance with regulations. If a provider continues to operate illegally, the DHHR family child care regulatory specialist shall inform the owner/operator in writing that they may be found guilty of a misdemeanor and be subject to a fine of not more than \$500.00. Staff shall notify the Office of the Prosecuting Attorney or the Regional DHHR Attorney in writing when an operator fails to comply with licensing requirements.

9.13.3 Child Abuse and Neglect Allegations

The Institutional Investigations Unit (IIU) is responsible for investigating allegations of child abuse and neglect in facilities. If requested, child care regulatory staff may assist IIU with interviewing children. However, to maintain impartiality, child care regulatory staff who work with the provider should have a very limited role in the investigation. Regulatory Specialists shall take the following steps during an IIU investigation.

No staff, household member, or owner/operator under investigation in a family child care facility shall have contact with children until the investigation is complete. Upon completion of the investigation, any staff person determined to have abused or neglected children, including the operator or owner, shall no longer care for children or have any contact with children in care. Failure to take appropriate action to safeguard children in the facility shall result in revocation of the license.

If IIU finds serious problems prior to substantiation or completion of the investigation in a facility located in the provider's home where the owner/operator or household member is involved, the IIU worker and family child care regulatory specialists as well as both supervisors (Child Care Regional Supervisor and IIU Supervisor) shall discuss the situation to determine whether or not to remove children pending the outcome of the investigation. DHHR and CCR&R staff, where applicable, shall notify parents that an investigation is underway that could result in negative action. The children must be removed from care until the investigation is complete. The CCR&R worker shall provide assistance to parents with alternate child care arrangements. If an abuse or neglect allegation is substantiated against a household member or the owner/operator in a facility located in the provider's home, the family child care regulatory specialist shall revoke the Certificate of Licensure.

CHAPTER 10: PROVIDER REGULATION: CHILD CARE CENTER

10.0 Definition of Child Care Center

A child care center serves groups of thirteen (13) or more children for four (4) or more hours per day.

10.1 Legal Authority

Child Care Licensing regulation is governed by [§49-2B-1, et seq].

(<http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=49&art=2B#02B>) (Addendum 1).

10.2 Regulation of Child Care Centers

Child care settings in West Virginia must be licensed unless exempted by state code [§49-2B-3(e)] 1. The purpose of regulation is to ensure the protection and care of children in child care settings.

West Virginia Code Chapter 49 Article 2B, charges DHHR with the responsibility to assure proper and appropriate child care is given and maintained. It further grants the power to promulgate rules governing child care, establishes penalties for failure to comply with rules, sets conditions for regulation, and establishes requirements for supervision, monitoring, and investigation.

Supervision by the Department of licensees is required by [§49-2B-9 (a)]². Supervision is to ascertain compliance with the rules and is conducted through regular monitoring, visits, documentation, evaluation and reporting.

The Child Care Center Licensing unit in the Division of Early Care and Education has the responsibility for licensing child care centers. The Mission Statement of the Unit is: To protect the health, safety and well-being of children in child care settings through technical assistance, inspection and enforcement of the state law and licensing regulations. Staff of the Licensing Unit adheres to the NARA Code of Ethics (Addendum 2) <http://www.naralicensing.org/Resources/Documents/NARA%20Code%20of%20Ethics.pdf> and view the early care and education and school age care systems as professional fields.

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¹ [§49-2B-3(e)]*This section does not apply to: (1) A kindergarten, preschool or school education program which is operated by a public school or which is accredited by the state Department of Education, or any other kindergarten, preschool or school programs which operate with sessions not exceeding four hours per day for any child; (2) An individual or facility which offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs; (3) Summer recreations camps operated for children attending sessions for periods not exceeding thirty days; (4) Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence or testing; (5) Persons providing family daycare solely for children related to them; (6) Any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Juvenile Services, created pursuant to section two, article five-e of this chapter, for the securing housing or holding of juveniles committed to its custody; (7) Any Out-of-School time program that has been awarded a grant by the WVDOE to provide out-of-school time programs to kindergarten through twelfth grade students when the program is monitored by the WVDOE, or (8) Any out-of-school time program that is affiliated and in good standing with a national Congressionally chartered organization and meets all of the following requirements (i-iv).*

² [§49-2B-9(a)] *The secretary shall provide supervision to ascertain compliance with the rules promulgated pursuant to this article through regular monitoring, visits to facilities, documentation, evaluation and reporting. The secretary shall be responsible for training and education, within fiscal limitations, specifically for the improvement of care in family child care homes and facilities. The secretary shall consult with applicants, the personnel of child welfare agencies, and children under care to assure the highest quality child care possible.*

Licensed Child Care Centers include traditional child care centers, some Head Start programs and some Out of School time programs. A license can be issued to a child care center only when it meets the requirements of the licensing rule, State Fire Marshal's Office, Bureau of Public Health, and other entities, as required. A child care center must not operate prior to being issued a license.

The Child Care Center Licensing unit divides the process of licensing and regulation of childcare centers among three teams, utilizing a rotating team leader. The Program Manager is responsible for directing the activity of the unit and approving regulatory action on behalf of the Secretary. Generally, Licensing Specialists recommend and proceed with issuance on routine matters and therefore, must use knowledgeable, professional judgment on a daily basis.

10.3 Child Care Center Complaint Process

10.3.1 Allegations of Violation of Standards or Illegal Operations – The Licensing Specialist shall investigate complaints regarding a violation of child care center regulation by a child care center or complaints regarding an illegal operation of a child care center. Licensing Specialists must set aside time at least once per week so that complainants can be called or reach the Specialist.

10.3.2 How Complaints Are Received – Complaints are accepted through various levels of communication including telephone calls, email, written letters and face-to-face contact. Complaints may come from parents, professionals, child care staff and the general public.

When similar complaints about a center are received from different parties in the same general time frame, the Licensing Specialist will compile the information into one complaint investigation. If more than one Information and Referral Intake have been completed in this scenario, the Licensing Specialist will indicate on the Intake outcome screen the number of the Investigation record and then request to close out all but the record housing the Investigation. If the Licensing Specialist receives the same complaint from duplicate sources, the original complaint is to be entered in FACTS with the other complainants documented as collateral in the I&R record.

10.3.3 Third Party Complaints - Third party complaints, persons registering a complaint on the behalf of another without any firsthand knowledge of the incident(s), may be investigated if the Licensing Specialist is able to gain a sufficient amount of information to pursue an investigation. Third party complaints received by the Child Care Resource and Referral agencies are handled in accordance with Section 11.1 of the Child Care Policies and Procedures Manual (<http://www.wvchildcare.org>) (Addendum 3).

Anonymous complaints will be accepted if the Licensing Specialist is able to speak directly with the complainant or if the complaint is received in writing. Anonymous complaints will be investigated if there is enough information to follow through with an investigation. If there is not enough information to follow through with an investigation, place a contact in the FACTS record and then request to staff it with the program manager.

10.3.4 Allegations of Child Abuse or Neglect – The DHHR Institutional Investigation Unit (IIU) investigate complaints of alleged child abuse or neglect in a child care setting. Refer to the revised Investigations Involving Institutional Investigative Unit (IIU) Licensed Child Care Centers/Licensed Family Child Care Facilities/Registered Family Child Care Homes policy for further information (http://www.wvdhhr.org/bcf/children_adult/cps/policy/CPSPolicy.pdf) (Addendum 4).

10.3.5 Complaint Procedures – The Licensing Specialist determines the nature of the complaint through the assessment of whether the complaint is a non-compliance with child care center regulation, if the complaint needs to be referred to CPS (IIU via Hotline) or needs to be directed to another agency or department.

If the allegation is not in violation of a requirement and is not abuse/neglect, explain this to the complainant and advise him/her to discuss the issue with the child care center director. The Licensing Specialist may discuss complaints that are not related to regulations with the center and give any relevant technical assistance for addressing the issues.

Complaints regarding non-compliance with regulation shall be investigated in the following manner:

10.3.5.1 Timeline - The investigation is to begin within 5 to 10 working days but no later than 14 working days of the Licensing Specialist receiving the complaint. A conclusion date is to be targeted for thirty days after onset of the investigation. The nature of the complaint will determine the response time to the complaint and what methods of investigation are used. The Licensing Specialist should plan how the investigation needs to proceed and what information needs to be collected after speaking with the complainant or reviewing the complaint intake. The Licensing Specialist needs to request a staffing with the Program Manager if a complaint investigation is going to require more than 60 days to conclude.

10.3.5.2 Original Source - The Licensing Specialist needs to interview the original source of the complaint if possible. Although the identity of the complainant may be kept confidential, the Licensing Specialist must inform the complainant that there is no guarantee of anonymity if the investigation results in a hearing or court action. As the investigation proceeds, it may be necessary to contact the complainant for follow-up information or clarification.

Should the complainant request information regarding the outcome of the complaint, the Licensing Specialist will:

- Explain the timeline for investigation
- Explain that the findings of the investigation are public information and complainant may request a History of Noncompliance Report
- Make a Contact in the Investigation record, as appropriate regarding the follow-up.

10.3.5.3 Internal Record Review – The Licensing Specialist needs to be familiar with the history of the center and therefore an internal record review may be necessary. The internal record review includes a FACTS review and any hard copy documentation not included in FACTS.

10.3.5.4 On-site - The investigation typically includes at least one on-site visit and is generally unannounced. The Licensing Specialist may determine that additional staff is necessary to conduct the investigation. The investigation may include, but is not limited to, review of related documents, observation, interview of witnesses and interview of collateral contacts. The Licensing Specialist will request a confidential space for interviews.

10.3.5.5 Informing the Director - The nature of the complaint will help the Licensing Specialist determine how much information should be shared with the center director at the beginning of the investigation. In many cases, the director may be informed of the general nature of the complaint. However, if the Licensing Specialist believes sharing such information may change the outcome of the investigation or put another person at risk, the center director may be told an investigation is being

conducted, but the content of the complaint will be shared at a later time or at the completion of the investigation.

10.3.5.6 Interviews - Any time the Licensing Specialist conducts an interview with a center staff person or witness, whether face-to-face or by other means, the Specialist is to identify himself/herself and provide the Licensing Specialist's contact information. The Licensing Specialist will share that the interview is for the purpose of establishing the facts related to a complaint. If the staff person requests that the center director or other staff be present for the interview, the Child Care Licensing Specialist will note the request and use his/her discretion in requesting to the center director (or person in charge) that a third person be present. Otherwise, an interview with staff typically takes place without other staff persons present. If the staff person or witness declines to be interviewed, the Licensing Specialist makes a note and provides a business card. The Licensing Specialist is encouraged to use the NARA Interview Guide (Addendum 5) to assist in the interview process.

A formal interview with a child is not to be conducted to be used as part of the investigation unless it is believed the child can provide information which cannot be obtained through other means or is necessary to support a fact which is used to determine the validity of the allegation. The Licensing Specialist must inform the parent/guardian of any child that an interview is planned or took place. It is not necessary for the Specialist to inform parents when brief, informal discussions take place with a child during the normal course of a review or monitoring visit.

10.3.5.7 Discussion of Findings - The Licensing Specialist will discuss the finding with the center director at the completion of the investigation. If the complaint involves the director and is substantiated, then the discussion needs to be held with the owner or executive director if different from the director. This discussion can take place on site, or via telephone, and should be conducted prior to writing the final summary of the investigation. This will provide the center director, owner or executive director the opportunity to provide additional information and/or discuss agreement or disagreement with the findings.

10.3.5.8 Determination - At the end of the investigation, the Licensing Specialist must determine, in an objective manner, if the complaint is substantiated, if other non-compliance areas are found, and if there are areas in which the center needs technical assistance. The Licensing Specialist shall discuss his/her finding(s) regarding the complaint with the Program Manager, if needed, or send the Investigation Closure screen for approval in FACTS. The Program Manager will either approve the conclusion of the investigation or inform the Licensing Specialist if further activity is needed prior to making a final determination. If the Licensing Specialist is recommending a provisional license or that the center license be revoked, the Program Manager must concur before notice is sent to the child care center.

10.3.5.9 IIU Investigations of Abuse or Neglect - The Specialist needs to coordinate with the IIU investigator so that contacts with the center will not interfere with the IIU investigation. When IIU notifies Licensing that it is conducting an investigation in a child care center, the Licensing Specialist needs to determine if a specific staff person or persons are named. If so, the Specialist needs to notify the center that the staff person(s) must not be present at the center pending the outcome of the investigation. IIU may inform the Specialist prior to writing the IIU report that no finding will be made against a staff person; at that time the Licensing Specialist may contact the center to inform the director or owner that the staff person is now permitted on the premises.

The IIU investigator will send notice to the Licensing Specialist and Program Manager upon conclusion of the IIU investigation. IIU will indicate if abuse or neglect was found and may identify

noncompliance concerns. The Licensing Specialist reviews the IIU short report notice to the center to know what information is being conveyed to the center director. Based upon the findings of IIU, the Licensing Specialist will, within 5 to 10 business days, initiate a non-compliance investigation. This should include a review of the IIU investigation. The Licensing Specialist notes in the FACTS audit trail the reason for accessing the FACTS CPS (IIU) record.

There are times when the Licensing Specialist and the IIU investigator arrange to conduct investigations at the same time. It is important for the Investigator and the Specialist to develop their own conclusions based on their roles and the different laws under which each operate. The Licensing Specialist is to evaluate and analyze the completed IIU Investigation documentation and determine what type (noncompliance investigation, technical assistance, etc.) of follow-up is appropriate. Should the Licensing Specialist conclude that no follow-up is required, the Licensing Specialist is to justify that conclusion with the Unit Manager.

10.3.5.10 Concluding the Investigation – A Complaint Investigation Summary (ECE CCLU Complaint Investigation Summary; Form 1) is prepared by the Licensing Specialist and sent to the child care center director/owner. If a violation is recognized and corrected within the timeframe of the investigation, it is noted on the Summary form. No Corrective Action Plan will be generated. The Licensing Specialist will complete a Notification of Provider Regulatory Status (DAY-0503; Form 2) as a cover letter for the Summary.

If necessary, a Corrective Action Plan will be developed with the center to address noncompliance identified during the investigation. The Corrective Action Plan (DAY-0615; Form 3) should be sent at the same time as the Complaint Summary using form DAY-0503. The Licensing Specialist must do a follow up to the Corrective Action Plan to ensure compliance has been achieved. Any time a Corrective Action Plan is generated, the plan must include the signature page (Form 4) which the designated center staff is to sign and return to the Licensing Specialist with supporting documentation.

10.3.5.11 FACTS Documentation - The complaint is entered into the FACTS I&R screens upon receipt and sent to the Program Manager for approval when the Outcome screen is completed. Once the Outcome screen is approved and the Investigation screens are available, the complaint record needs to be connected to the Provider record in FACTS; this screen requires supervisory approval.

The Contact screen needs to be completed as the investigation is conducted. A separate contact must be entered for each person interviewed. The interview screens in FACTS are not used to record interviews during an investigation. These screens cannot be printed and therefore it is difficult to include those in a record for a hearing. One contact may be entered for all documents reviewed in one location on the same date.

The Complaint Investigation Summary and DAY-0503 are imported into the FACTS file cabinet. If documents were received or collected during the investigation that are in a hard copy file, then this must be noted in a Contact screen and may be noted on the document tracking screen. If the document is important to preparing a court case, the Licensing Specialist should have it scanned and placed in the FACTS file cabinet.

The Licensing Specialist must complete the Investigation Finding screen and the Overall Findings box before requesting approval on the Investigation Closure screen to close out the investigation.

10.4 Types of Licenses

Licensing is the process by which a government agency regulates the otherwise prohibited activities. Licensing requires the applicant to comply with established health, safety, program and staffing rules to operate a program. The license specifies terms and conditions under which centers are permitted to operate. The child care center operators shall follow the Child Care Center Licensing Regulations as a condition of licensure. Child care centers must be licensed prior to operation.

10.4.1 Initial – An initial six-month license or approval shall be issued to an applicant establishing a new service found to be in compliance on initial review with regard to policy, procedure, organization, risk management, human resources, service environment and record keeping regulations.

10.4.2 Provisional – A provisional license or approval may be issued when a licensee is not in compliance. It shall expire not more than six months from date of issuance, and not be consecutively reissued unless the provisional recommendation is that of the State Fire Marshal.

10.4.3 Regular – A regular license is effective for a period up to two years from the date of issuance, unless revoked based on evidence of a failure to comply. The license shall be reinstated upon application to the secretary and a determination of compliance with the rules promulgated pursuant to this article. If a center is new and has had an initial license, a regular license will be issued and valid for up to eighteen (18) months.

10.4.4 Less Than Two (2) Year Regular License and Two Year Licensing Period – A regular certificate of license may be issued for periods of less than two years at the discretion of the Secretary of DHHR. The Licensing Unit acts as the Secretary's designee. One of the following conditions should be met when issuing a less than two year license:

- 1) The center's provisional license will expire and the center has made sufficient progress for the license to be issued, but has not fully complied and needs closely monitored for 6 months;
- 2) The Department is taking negative action and cannot issue a provisional license, but needs to issue a license in order to provide time to complete the negative action;
- 3) It is difficult to know what circumstances may arise that would require an exception to this; if such a circumstance arises, it will need to be staffed with the Program Manager.

Licensing Specialists are not to change the two year licensing cycle for a center except in instances where an existing center has changes in ownership and receives an initial license, but the change does not require closing the record in FACTS. If a center has a change in ownership but uses the same Federal Employer Identification Number (FEIN), it is not necessary to open a new record in FACTS, but the change must be documented. When the change of ownership also includes a change in the FEIN, the Licensing Specialist is to open a new center record in FACTS (following procedures for initial applicant) and close the old.

10.5 Negative Enforcement Actions on Licenses

There are several forms of negative action the Department may take in regards to a child care center license: denying a license, placing limits or conditions on a license; making the license provisional; refusing to renew a license; revoking a license; issuing an emergency closure order. Negative action may be taken if the center materially violates the terms or conditions of the license issued or fails to maintain the established requirements of child care. Negative action is typically taken when positive enforcement steps such as a Corrective Action Plan or technical assistance have not been effective, but may be taken at any time when circumstances require more.

Whenever the Department takes negative action, the applicant or licensee has the right to appeal the decision through an administrative hearing process. Therefore the right to appeal is included in the notice of the action. Requests for appeal are prepared by the Licensing Specialist and forwarded to the Board of Review using the form prescribed by the Board of Review. See Section 18.13 for Preparing for a Hearing.

10.5.1 Limitations on the Conditions of a License – The Secretary may place certain conditions on a license as described in [§49-2B-6.h.]³.

10.5.2 Provisional License – A provisional license may be issued when the center is not in compliance with the regulations, but the non-compliance issues do not pose a significant risk to the rights, well-being, health or safety of the children in care, but could if the non-compliance continues. A provisional license should also be considered when the center shows a pattern of repeated violations over a period of time or if there is a pattern of inability or unwillingness to achieve compliance. Issuing a provisional license, or changing the status of a license from regular to provisional, may precede a refusal to renew the license or result in license revocation. The provisional status should indicate an increased level of monitoring on the part of the Licensing Specialist, so progress toward compliance with the rules is encouraged. The provisional license shall expire no more than six (6) months from issuance and may not be consecutively reissued, unless recommended by the Fire Marshal.

The Licensing Specialist must receive the approval of the Program Manager prior to the provisional license being issued, except for in cases of issuing a provisional license based solely upon the Fire Marshal recommendation. The record documenting the justification for the provisional license needs to be completed before the Program Manager will approve its issuance. If the license is modified to provisional status, the Licensing Specialist will provide written notification of noncompliance issues which explains the rationale for prohibiting the issuance of a regular license.

10.5.3 Revocation – The repeal or annulment of a child care center’s license is a revocation. If it is determined that a provider is unable or unwilling to comply with the purposes set forth in [§49-2B-1], then a revocation of the center’s license may be sought. In requesting to revoke the license, the Licensing Specialist will:

10.5.3.1 Submit a written report to the Program Manager outlining the reasons the revocation is being sought, what steps were taken to assist the provider in correcting the concerns and the center’s reply/response to such direction. All documentation relevant to the situation including correspondence, contacts, investigation records and Corrective Action Plans must be complete and in FACTS.

10.5.3.2 The Program Manager will review the documentation and, if approved, will inform the Division Director and the Bureau for Children and Families management of the intent to revoke the provider’s license.

The Program Manager or assigned licensing staff will notify the provider verbally and in writing of the decision to revoke the license. The Licensing Specialist will also inform the DHHR Regional

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³ [§49-2B-6.h.] (h) The Secretary as a condition of issuing a license, registration or approval, may: (1) Limit the age, sex or type of problems of children allowed admission to a particular facility; (2) Prohibit intake of any children; or (3) Reduce the number of children which the agency, facility or home operated by the agency is licensed, approved, certified or registered to receive.

Director, Local Health Department, the State Fire Marshal, the Resource and Referral Agency and the Child and Adult Food Program (CAFP) if necessary.

10.5.4 Injunction – In cases where serious harm to children in care may result, injunctive relief may be sought against a child care center [§WV Code 49-2B-5(c)]⁴.

10.5.5 Emergency Closure Order – [§49-2B-12]⁵ authorizes the Secretary to issue an order of closure terminating operation of the child care center. Situations that may warrant involuntary closure of a center may include but are not limited to, imminent danger to children served by the center, willful failure to comply with a Corrective Action Plan, or when the health and/or well-being of children is compromised.

Involuntary closure will occur when there is imminent danger to children in care. The Licensing Specialist shall inform the Program Manager of the situation and provide a written summary of the circumstances warranting a closure. A supervisory decision shall be made regarding the need for closure. The Program Manager will seek the assistance of the Assistant Attorney General assigned to the Bureau. The Assistant Attorney General prepares a closure order and the program manager then informs the Secretary's office and seeks approval.

If imminent danger is determined to exist, the Licensing Specialist shall implement appropriate crisis intervention methods to remove the children from danger. This typically is accomplished by requesting the center director or staff in charge to contact parents to come and pick up their children.

The Program Manager will advise appropriate persons of what has occurred and is occurring with the situation and the results of the actions taken by the Licensing staff.

10.6 Voluntary Closure of a Center

When the owner/director of a center decides to close, he or she should notify the Licensing Specialist in writing of the plan at least thirty (30) day before the closing date. The written statement of closure should include the date the center/program will close, the reason for closure, specific arrangements for closing and a valid telephone number and contact address.

The Licensing Specialist will:

- 1) Notify the Program Manager of the provider's decision to close
- 2) Inform the Regional Director of the Resource and Referral Agency of the closing and request all clients be closed in FACTS
- 3) Inform the Child and Adult Food Program, Health Department and Fire Marshal
- 4) Close the center in FACTS

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⁴ [§49-2B-5(c)] *Where violation of this article or rule promulgated by the secretary may result in serious harm to children under care, the secretary may seek injunctive relief against any person, corporation, child welfare agency, child placing agency, child care center, family care facility, family child care home or governmental official through proceedings instituted by the attorney general, or the appropriate county prosecuting attorney, in the circuit court of Kanawha County or in the circuit court of any county where the children residing may be found.*

⁵ [§49-2B-12]* *Closing of facilities by the secretary; ...When the secretary finds that the operation of a facility constitutes an immediate danger of serious harm to children served by the facility, the secretary shall issue an order of closure terminating operation of a facility....A facility closed by the secretary may not operate pending administrative or judicial review without court order.*

5) Notify the unit secretary

10.7 Inquiry to Open/Operate a Center

An inquiry regarding how to operate and license a child care center can come by several means. If a person making inquiry as to how to operate and license a child care center contacts the main Division office, the licensing secretary will mail an Information Packet for Child Care Centers (Form 5) to the potential applicant within five (5) business days or inform the person that a packet can be downloaded from the website at: <http://www.wvdhhr.org/bcf/ece/earlycare/startcenter.asp> . The licensing secretary will also guide the inquirer to the appropriate Licensing Specialist if he/she has further questions.....

When a person makes inquiry to a Licensing Specialist, the specialist should briefly explain the licensing process, the necessary steps to begin the process and an explanation of the Letter of Intent and Needs Assessment. Any Licensing Specialist receiving an initial inquiry forwards the information to the unit secretary for tracking on the Child Care Center Information Packet and Initial Application Log.

10.7.1 Information Packet and Letter of Intent - The Information Packet directs the inquirer to return a completed Needs Assessment and the Letter of Intent to the department unit secretary for processing. The unit secretary will email the completed Letter of Intent and Needs Assessment to the appropriate team leader.

The Licensing Specialist's designated team leader will assign which Licensing Specialist will receive the completed Information Packet (which includes the Needs Assessment and the Letter of Intent) to include in his/her caseload and send an email to the unit secretary with the following information in the text: name and address of center, license number if assigned and the date received by the team leader.

10.7.2 Building or Purchasing a Center - There are times when a potential applicant has begun the process of building or purchasing a center without first contacting the licensing unit. The Licensing Specialist typically provides technical assistance including the time frame expected to approve an initial application and the required background checks. The Licensing Specialist will need to inform the unit secretary to send an Information Packet and an Initial License Application at the same time.

10.7.3 Fire Marshal, Health Department, the Department of Agriculture and the Insurance Commission – The Licensing Specialist refers the inquirer to the Secretary of State, State Fire Marshal, their local health department, the Regulatory and Environmental Affairs division with the Department of Agriculture for information and guidance regarding the Integrated Pest Management Plan and the Insurance Commission. Each office has specific regulations that must be met prior to a license to operate a child care center can be issued by the Secretary of the West Virginia Department of Health and Human Resources. Inspections with both the Fire Marshal and their local health department will need to be scheduled by the inquirer for the desired location of the child care center.

10.8 Application for Initial License

Every person, firm, organization, institution, or agency desiring to establish or operate a child care center shall apply for licensure on the appropriate initial application and shall file the application for an initial license with the department at the address listed on the cover page of the application.

An initial application shall be valid only for the owner and address specified on the application.

If an application is incomplete, it will not be considered to be filed pursuant to §49-2B-8(a)6. Any application which is date-stamped “received” but which is submitted without complete and/or accurate information must be amended with complete and/or accurate information before licensure.

The Licensing Specialist will review and evaluate the application. Review of the application will determine if the applicant has supplied all the required information. Evaluation of the application will determine if the applicant is representing an understanding of conducting a child caring business and if the information submitted indicates issues that need addressed or technical assistance that may be required before the issuance of a license. All supporting documentation will be added by the Licensing Specialist in FACTS Document Tracking.

10.8.1 Receipt of Initial License Application by Unit Secretary - When an Application for License (ECE-CCL Initial) is received by the department, the department unit secretary will stamp the date received by the child care center licensing unit and will log it. Once logged, the unit secretary will mail the application to the appropriate licensing specialist.

10.8.2 Timeline for Decision Issue/Not Issue a License – All actions regarding regulation of a child care center shall be in writing. Within 60 days of receipt of application, Licensing Specialist shall provide a written decision to the child care center and issue or deny a license. Should an application be received that has missing information, the Licensing Specialist is to request, in writing, the missing information prior to the sixty (60) day deadline.

10.8.3 Invalid and Withdrawn Applications

10.8.3.1 Invalid Application – An incomplete or unsigned application is invalid and is not considered. When an application is determined to be invalid, the initial applicant shall be notified in writing using a Notification of Provider Regulatory Status letter by the Licensing Specialist that he or she may submit the required information within a designated time frame or that the applicant must reapply and the invalid application is returned along with the letter. The designated time frame is not to exceed 30 days from the date of original submission.

10.8.3.2 Withdrawn Application - Should the applicant not submit the missing information within the designated timeframe, the application will be considered withdrawn from consideration. The Licensing Specialist will notify the applicant in writing using a Notification of Provider Regulatory Status letter that the application has been withdrawn from consideration and mail the original incomplete application back to the applicant.

10.9 Types of Inspections

The Licensing Specialist shall investigate and inspect the center to determine if the requirements of the WV Code and the Licensing Regulations are met. The conclusion of any on-site visit should include an exit discussion with the director or person-in-charge. The Licensing Specialist shall provide a written report to the applicant/licensee within established time frames after each inspection.

10.9.1 Initial On-Site Inspections and Reviews –Pursuant to [§49-2B-6b]7, onsite inspections are required prior to issuing a license for child care centers. The initial licensing inspection will be

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⁶ 49-2b-8.(a) Any person or corporation or any governmental agency intending to act as a child welfare agency shall apply for a license, approval or registration certificate to operate child care facilities regulated by this article. Applications for licensure, approval or registration shall be made separately for each child care facility to be licensed, approved, certified or registered.

comprehensive. Each requirement that is applicable to beginning operation is to be reviewed. The objective of this inspection is to gather and examine all information, documentation and facts necessary to make an informed and responsible decision on license issuance or refusal. During onsite inspections, Licensing Specialists shall have access to all aspects of the program in order to complete a reasonable inspection.

A. **Overview of Onsite Visit for Initial License** – Initial visits for the purpose of evaluation and assessment should be scheduled. The Licensing Specialist must contact the provider when a scheduled visit needs to be postponed or cancelled. The submitted application must be reviewed and evaluated prior to the first on-site inspection.

B. **Steps to Take When Conducting an Initial Inspection -**

- 1) Schedule initial inspection with owner/operator
- 2) Interview the applicant
- 3) Review lease agreements or interview other individuals responsible for the facility
- 4) Obtain facts and documentation as appropriate (i.e. college transcripts, professional licenses, credentials)
- 5) Observe and assess physical plant and equipment
- 6) Determine the square footage capacity of useable activity space if all equipment and furnishings are in place. If equipment and furnishings are not in place an additional visit will be necessary before a capacity can be determined. Separate computations will be made for space that is designated for infants and toddlers and space designated for school age children or summer recreation camp programs. The capacity for the license needs to reflect the approved ages and capacity for children under the age of two years and the number of children over the age of two years to 13 years. The license may also reflect a capacity computed for summer recreation camp programs. The number of qualified staff for infants and toddlers is to be factored into the computation for the capacity in that age group and may be used in the computation for other age groups. It is best if the owner/director accompanies the measurement of space.
- 7) Determine group size(s) for outdoor activity area(s); the outdoor space may reflect separate computations for centers that have designated areas for different groups. Outdoor space must also be computed to determine the number of children permitted in the space at any given time. An initial license should not be requested for a center whose outdoor space is not ready for use or in compliance with regulation. If the center wishes to use an alternate space, the licensing specialist must provide written approval and document this in FACTS.
- 8) The licensing specialist is to place the measurements for each room/space measured into the FACTS contact for the date of the measurement. The total square footage of useable space is to be placed on the application checklist screen also. As centers change space or equipment that could impact space, a new measurement must be taken and changes reflected in the record and on the license as needed.
- 9) Confirm and verify references
- 10) Determine if any previous information about the director/owner is in FACTS by conducting a Household/Staff Member search
- 11) Conduct exit conference with applicant

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⁷ *[\$49-2B-6b] *An initial six-month license or approval shall be issued to an applicant establishing a new service found to be in compliance on initial review with regard to policy, procedure, organization, risk management, human resources, service environment and record keeping regulations.*

- 12) Complete the FACTS record ensuring that the general information screens, tax screen, service administration screen, application checklist screen (with square footage noted), persons screen, contacts, and license status screen are complete (see 10.10.4.)

10.9.2 Review of the Initial License - Once the initial 6 month license has been issued, it is necessary to monitor the program towards the end of the first 6 months to ensure the program is fully compliant and a regular license can be issued. It is preferable that this monitoring visit is unannounced.

10.9.3 Monitoring Inspections and Reviews – A monitoring inspection must be completed at least annually. The Licensing Specialist should make a rough plan for monitoring at the beginning of each calendar year. This plan can be flexible as the Licensing Specialist may be able to use complex complaint investigations as the yearly monitoring visit.

In the year that the renewal application is not due, the monitoring inspection is an unannounced inspection. The time of year and any special emphasis of compliance review are at the discretion of the Licensing Specialist or the Program Manager, but minimally include a review of any pending corrective action and basic health and safety practices. During a monitoring review, noncompliance issues may be noted and a need for negative action may be indicated. The monitoring inspection is to be followed by a written report of the inspection to the director within 30 days of the on-site visit. The standard Notification of Provider Regulatory Status is typically used. The Licensing Specialist is to request a Corrective Action Plan regarding the noncompliance issues; this should accompany the written report or notification. The Licensing Specialist is to complete a Contact in FACTS regarding the monitoring inspection.

10.9.4 Quarterly Targeted Monitoring On-site Inspection and Review – An assigned child care regulatory staff member will conduct random sample monitoring of specific areas of the regulations at the direction of the unit Program Manager. A written report will be sent to the center director within 30 days of the on-site visit noting if non-compliance was found. This notice will be placed in the FACTS file cabinet, a contact recorded, and the notice emailed to the Licensing Specialist assigned to the center. The assigned staff member will compile quarterly reports of the targeted monitoring.

10.9.5 Licensing Renewal Inspection and Review – The unit secretary will mail out renewal applications to centers with a renewal period between April through October in January each year. For those centers with a renewal period between November through April, the unit secretary will mail out renewal applications in July. The renewal applications will not contain the checklist; however, the checklist will be available online and will be noted in the cover letter accompanying the renewal application. The inspection occurs after the center submits a renewal application and prior to the expiration date of the license. It should be conducted no sooner than 60 days prior to the license expiration and no later than 7 days prior to the license expiration. Special circumstances related to time frames may be discussed with the Program Manager.

The Licensing Specialist assesses the application for completeness prior to the scheduled licensing renewal inspection.

If an application is incomplete, it will not be considered to be filed. An application which is date-stamped received but which is submitted without complete and/or accurate information must be amended with such information before licensure.

Prior to the onsite visit, the Licensing Specialist is responsible for verifying the program's status with Workers Compensation and Unemployment payments. The Licensing specialist will log onto Workers Compensation and Unemployment to verify that the center is in good standing. Click on:

- 1) Unemployment, employers, and default accounts.
- 2) It will ask for a user name and password.
- 3) Using the FEIN number, which can be found in FACTS, the name of the center, etc., search the website for the center.
- 4) If there is no matching record, the center is current.
- 5) If there is a matching record, the center is in arrears and the center can have its' license revoked or not issued.
- 6) The Licensing Specialist will notify the provider in writing of their status with Unemployment and Workers Compensation.
- 7) Additionally, the notification is to be e-mailed to the appropriate resource and referral agency.

Work tools the Licensing Specialist may need on the day of the visit include: previous Corrective Action Plan, Children's Record Checklist (Form 6), Employee Records Checklist (Form 7), tape or rolling measure and technical assistance information.

The Licensing Specialist schedules an on-site visit to evaluate the center for a renewal license. This is done as a courtesy so that the center director may have the personnel necessary to operate the center while engaging with the Licensing Specialist. During an on-site visit, the Specialist determines compliance, provides technical assistance, determines the status of the application, determines any changes in the program, facility or capacity, identifies any issues to be resolved regarding regulation and establishes effective dates of the license.

Effective April 1, 2015, the renewal inspections for licensed Head Start sites follow a modified process. The Licensing Specialist needs to access the Federal review of the grantee and the annual self-assessment of health and safety checklist the site completes. If this review does not give indication of non-compliance, then the on-site renewal inspection will use an abbreviated format for Head Start.

Upon site visit completion, the Licensing specialist holds an exit interview with the director/owner and reviews the requirements/checklist and specific noncompliance issues identified during the visit. The Licensing Specialist explains what the license recommendation will be or that all of the information collected needs to be reviewed and evaluated prior to a final decision on a license recommendation. If the Licensing Specialist cannot determine at the time of the exit interview what the license recommendation will be, he/she must follow-up either by telephone or in person within 10 working days to inform the director of the recommendation.

The director/owner may indicate or agree to certain actions that will correct violations during the exit interview process. This information will be included in the Corrective Action Plan (see below). The director/owner acknowledges the findings during the visit by signing the last page of the checklist. The checklist signature page is signed and dated by both the Licensing Specialist and the owner/director; the director may make a copy of the signature page for the center's record if requested. The signature page is scanned into the provider FACTS file cabinet.

Written notification of the license renewal using DAY -0503 including the Corrective Action Plan (Day – 0615), if needed, is to be sent to the center director within 30 days of the exit interview. Although the Licensing Specialist has the option of sending a directed plan of action to the center, center directors should

be encouraged to create their own plans to come into compliance with the cited noncompliance issues. A center-initiated Corrective Action Plan must be submitted to the Licensing Specialist within 14 days of receipt of the notice. If the Corrective Action Plan is not acceptable, the center will be directed to revise and resubmit it. Once the Corrective Action Plan is approved, the Licensing Specialist will follow up by the time frames indicated on the CAP.

10.9.6 Amended License Application and Review - The licensee must make application to amend the center's license. There is a separate application for an amended license which must be submitted and reviewed. The Licensing Specialist will conduct an on-site visit if the amendment includes any change to the physical site or an increase in capacity, or a change in capacity for infants/toddlers, preschool age children or school age children. There may be some changes to the center's program that may also require an on-site inspection. Amending a license should not result in a different licensing time frame (see section 10.4.4 on less than two year regular licenses).

10.9.7 FACTS Data Input for Inspections - In FACTS, a Contact screen (Addendum 6) is completed noting the on-site visit/inspection. The license needs to be entered for approval prior to the current license expiration. The Licensing Specialist makes recommendations to the Program Manager for the issuance of a license. This is done by completing the status screen in FACTS and submitting it for approval. The License is completed in FACTS and placed in the FACTS file cabinet of the provider record. The Program Manager approves the FACTS entry.

Include the square footage of the outdoor and indoor activity space on the Initial Checklist and Renewal Applications in FACTS. Indicate in the contact what was measured and how many children may be present in the outdoor activity area. If alternative space is approved, it must be stated in the contact, including the square footage and any restrictions. Any time the square footage changes, a contact must be made in FACTS to explain the change.

10.9.8 Issuance of the License and Final Approval of the License by the Program Manager - The Program Manager must approve the Initial license or a Provisional license prior to the Licensing Specialist informing the licensing unit secretary that the license is ready for mailing. The licensing unit secretary will mail the license to the center along with a cover letter. The licensing secretary gives a copy of the cover letter to the Licensing Specialist and places a copy of both the letter and license in the provider's file.

10.10 Background Checks – Child care center personnel and volunteers must submit to background checks pursuant to [§49-2B-8i]8. The child care center owner/director is responsible for assuring that all child care staff and volunteers have on file at the center criminal history background checks, State Police Sexual Offender Registry checks and Department Protective Service background checks. An initial license will not be issued if the private owner and director do not meet regulatory requirements for a background check.

10.10.1 Criminal History Background Checks

A. Criminal Identification Bureau (CIB) Check– These checks are required by for child care center staff. These background checks help assure that children attending a child care center are safe. When a center applies for an initial license, background checks on the director, private owner and any staff listed on the initial application must be completed prior to any issuance of a child care center license. All applicants for child care center staff positions will complete a

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⁸ [§49-2B-8ii] *The program performs background checks on all volunteers and staff;*

Statement of Criminal Record (Form 8). CIB checks shall be submitted through DHHR, in order to ensure that the Department receives any updates. However, in order to meet the timeline for the center to open, such checks may initially be submitted to an approved electronic fingerprinting site MorphoTrust USA. Detailed procedures for the CIB process can be found in Chapter 2000, Bureau of Children and Families CIB Checklist Policy (Addendum 7).

Head Start grantees are not permitted by Federal regulation to hire staff without having a prior completed criminal history record check. Therefore, Head Start sites may obtain the initial CIB record check without going through the Department process in order to speed return of the results. The Head Start staff must still have on file the Statement of Criminal record and the results of the record check. The Head Start director must inform the Licensing unit of any positive findings on the record check; the Licensing Specialist will treat this finding in the same manner as is necessary for all licensees and their staff. After the initial criminal history record check, all subsequent criminal history record checks for Head Start grantees must follow the same procedures as all other licensed centers.

B. Federal Bureau of Investigation - If a person currently lives out of state or has lived out of state for more than one year after the age of 18 years, a Federal Bureau of Investigation check must be completed as well. The child care center operator is responsible for this charge.

A fingerprint card (Form 9) from DHHR which has a pre-stamped ORI number (a number specifically assigned to the CIB card to make sure the Department of Health and Human Resources receive the results of the CIB) needs to be used. The completed fingerprint cards are submitted to the following address:

Attn: Division of Administration
West Virginia Department of Health and Human Resources
Children and Adult Services, Room 691
350 Capitol Street, Charleston, WV 25301-3704

C. Sex Offender Registry Check – Licensing Specialist will log onto the West Virginia Sex Offender website (<http://www.statepolice.wv.gov>) and United States Department of Justice National Sex Offender Public Website (<http://www.nsopw.gov>) to check the status of the owner and director. The Licensing Specialist may complete this for other staff, but technical assistance should be provided to the center director on completing this process.

10.10.2 Protective Services Check – A protective services record check is required on all potential staff members to ensure that the center hires no staff member that has substantiated history of abuse or neglect of children or vulnerable adults. All center owners/directors, center personnel and volunteers will complete for submission an Authorization and Release for Protective Services Background Check form (Form 10). An initial license for a new center will not be issued until the protective services check(s) are complete and the form(s) has been returned.

10.10.3 Waiver for Background Finding – In some instances, a program may request a waiver to a positive finding. When a Licensing Specialist receives a waiver/variance request due to criminal history, a Waiver Checklist form (Form 11) is completed and has attached relevant supporting documentation to present for review by committee.

10.11 Out of School Time Registration

Not all out-of-school time programs must be licensed, but per [§49-2B-3 (h)]⁹, all out of school time programs must register with the Department. This registration is not a licensing process. Out of school time programs are to complete the Out-of-School Time Registration (ECE-OST Registration, Form 12) and submit the completed form to the Licensing Specialist. To register a program, a Licensing Specialist logs onto the Out of School Time Program Registry (<http://hhrb6intra01v/oostreg/register/register.asp>) and enters the information provided by the program based on the information it submitted on the application. Based upon the information provided, a program will either be found to be exempt or non-exempt from licensure. The Licensing Specialist sends the program an Out-of-School Time Confirmation Letter (Form 13), noting whether the program is exempt or nonexempt, with the program's registered identification number and information for further instruction.

Registration for OST programs is to occur annually. Therefore, upon initial registration, a registration number will be assigned each program and the program will only need to submit changes and updates in the years following the initial registration.

10.12 File Maintenance

Hard files for each child care center or licensed program are kept centrally at the Diamond Building. All hard files should contain the following:

- Checklists for the current two year licensing period; others can be discarded
- Most recent Administrative Policies and Procedures; outdated versions can be discarded
- Most recent Parent Handbook; outdated versions can be discarded
- Maintain the body of application in sequential order with the most recent on top; maintain all floor plans
- Maintain all correspondence from the center or outside collateral concerning the center
- Maintain correspondence to the center from Licensing with the exceptions of notices for renewal previous to the current two year licensing cycle
- One copy of each license notice and license
- If the center is in the process of negative action, do not purge any documents less than seven (7) years old

The Licensing Unit secretary maintains a schedule for the archiving of center files. Licensing Specialists will aid the secretary by preparing files for archiving according to that schedule. For further details, refer to the Record Retention Schedule; Addendum 8.

10.13 Preparing for a Hearing

If the decision being appealed is based upon an investigation, the Licensing Specialist must prepare a detailed investigation summary for legal or program review.

Detailed summaries include: timeline, interviewees with their statement summaries, records or documents reviewed, information from those documents that contributed to the findings, times and dates of observations, what was observed and the response of the owner/director or staff to the investigation.

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⁹ [§49-2B-3 (h)] *All facilities or program that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information such as the name of the facility or program, the description of the services provided and any other information relevant to the determination by the department as to whether the facility or program meets the criteria for exemption under this section.*

If the hearing concerns the appeal of a revocation or non-renewal, the Licensing Specialist will prepare a similar detailed summary that includes a timeline of progressive steps (with results, if any) taken with the center prior to the decision to take the negative action.

Any contact with the center after the director/owner has requested a hearing should be coordinated through the regional attorney that will assist the Licensing Specialist with the hearing. The attorney may direct any further contact or may advise that the Specialist can proceed with contact. Any activity or contact with the center after the negative action is appealed is to be recorded in the record as soon after the contact as is possible. The Program Manager is made aware of any contact or activity with the center after the appeal has been requested.

10.14 Freedom of Information Act (FOIA) Requests

The State statute on public records, known as the [Freedom of Information Act](#) was enacted for the express purpose of providing full and complete information to all persons about the workings of government and the acts of those who represent them as public officials and employees. The Act applies to all State, county and municipal officers, governing bodies, agencies, departments, boards and commissions, and any other bodies created or primarily funded by State or local authority, unless their enabling statute specifically exempts them from its provisions. The records covered by the Act include virtually all documents and information retained by a public body, regardless of their form.

Public records are available to every person for inspection or copying when there has been a request made to the custodian, and when they are not specifically exempted from disclosure. There is no statutory requirement that the request be in writing; however whenever possible, a written request is advisable in order to avoid misunderstandings regarding the timing and scope of the request, and to ensure that the information sought is stated "with reasonable specificity," as required by W. Va. Code § 29B-1-3(4). The custodian must respond within five (5) working days by either granting the request or giving written reasons for its denial. Citizens may be charged a reasonable fee for the costs of copying records.

When the Licensing Specialist receives a request for records under the FOIA, the request needs to be forwarded the Assistant Attorney General for the Bureau with a copy to the Program Manager. The Licensing Specialist will compile the requested information from the FACTS record and the hard file, make a copy of the material, review and redact as needed, then make another copy of the material with the redactions. This final copy is sent to the Program Manager for review. It is then given to the Assistant Attorney General for forwarding to the requestor. The Attorney General will compose a cover letter and indicate to the requestor how to submit payment for the copy.

When the request is received, if the Licensing Specialist has questions about the request or does not believe it will be possible to pull the record together within five days, that needs to be communicated to the Program Manager and to the Assistant AG.

Information to be redacted in the record includes, but may not be limited to children's names, complainant names, social security numbers, tax identification numbers, financial account numbers, criminal history background check results, abuse and neglect background check results.

There are times when the FOIA request includes a request for all Department records related to the subject. The Licensing unit only provides the portion of information that is related to regulatory activity even though we may have access to other types of Department information. The Assistant Attorney General will be responsible for collecting the information required from other units or Bureaus. This includes IIU investigations. The FOIA request and preparation of the record needs to be recorded in FACTS when it is regarding a specific provider. The hard copy of the request and the hard copy of the Assistant Attorney

General's response needs filed in the hard file. It is not necessary to maintain a copy of the record that was provided once the FOIA request has been fulfilled.

10.15 Waiver and Variance Process

A variance or waiver to regulation must be submitted in writing to the Department. Typically, the request is sent to the center's Licensing Specialist by the center director or licensee. The specialist needs to review the written request to determine if sufficient information has been provided and then needs to present the request as the next unit meeting. The Specialist needs to make a recommendation with justification of why the request should be granted or denied. After unit discussion, the Program Manager will approve, request further information, deny or determine that further review by the Division director is required. The Licensing Specialist must provide a written response to the request after a decision has been made and must document the request and decision in the FACTS record.

CHAPTER 11: PROVIDER REGULATION: Out-of-School Time Registration

11.0 Out-of-School Time Registration

Not all out-of-school time programs must be licensed, but per [§49-2B-3 (h)]¹⁰, all out of school time programs must register with the Department. This registration is not a licensing process. Out of school time programs are to complete the Out-of-School Time Registration (ECE-OST Registration, Form 12) and submit the completed form to the Division of Early Care and Education. To register a program, the information submitted on the registration form is entered into the Out-of -School Time Program Registry (<http://hhrb6intra01v/oostreg/register/register.asp>) . Based upon the information provided, a program will either be found to be exempt or non-exempt from licensure. Registration for OST programs is to occur annually. Therefore, upon initial registration, a registration number will be assigned each program and the program will only need to submit changes and updates in the years following the initial registration.

11.0.1 Registration of Exempt Out-of-School Time Programs – The Out-of-School Time Registration (EC-OST Registration, Form 12) form will be submitted to the Division of Early Care and Education for processing. After review of the Registration form, the assigned staff member will determine if the program is exempt or nonexempt from child care licensing.

Should a program be determined to be exempt from licensing, the program is sent an Out-of-School Time Confirmation Letter (Form 13) noting that the program is exempt from licensing, with the program's registered identification number and information regarding the requirement for annual registration.

The initial information from the Out-of-School Time Registration form for the exempt program will be added in the Out-of-School Time Program Registry.

11.0.2 Licensing of Non-Exempt Out-of-School Time Programs – Should an Out-of-School Time Program be determined to be nonexempt from child care licensing, an Out-of-School Time Confirmation Letter (Form 13) will be sent to the child care licensing unit secretary via email and carbon copy the email to the appropriate team leader with a request for the child care licensing unit secretary to mail the confirmation letter, a Needs Assessment, a Market Rate Survey and an Initial License Application to the program for completion. The Out-of-School Time Registration Form will serve as the Letter of Intent. Once the team leader is notified, the procedures for licensing a program are followed (see 10.9.1).

11.0.3 Annual Registration of Exempt and Non Exempt Out-of-School Time Programs – All Out of School Time programs must register on an annual basis whether exempt or nonexempt.

11.0.3.1 Exempt Out-of-School Time Programs – The assigned staff member within the Division will notify in writing (either via email or mail) sixty days prior that it is time for annual registration of the program. The letter or email will include the link for the program to download the registration form (<http://www.wvdhr.org/bcf/ece/earlycare/regs.asp>). Once the program has completed the form, it will be returned to the Division to update program information in the Out of School Time Registry.

11.0.3.2 Nonexempt Out of School Time Programs – When an Out of School Time program is found to be nonexempt, the licensing specialist will have the program update the registration form during an annual monitoring inspection. The licensing specialist will then submit the completed registration form to the assigned staff member to update program information in the Out of School Time Registry.

During those years when a nonexempt Out of School Time program is to renew their license, the registration form will be included with the renewal application. The program will submit the completed registration form at the same time the renewal packet is submitted. The licensing specialist will submit the completed registration form to the assigned staff member to update program information in the Out of School Time Registry.

CHAPTER 12: CORRECTIVE ACTION PLANS FOR CHILD CARE PROVIDERS

12.0 Overview: Reasons for Issuing a Corrective Action Plan

A Corrective Action Plan is used for the following reasons:

A. A minor non-compliance exists, which usually can be corrected within 30 days, does not present risk of harm and does not require placement on a provisional certificate.

B. A provisional certificate of registration is issued. A corrective action plan shall be issued that cites specific requirements and describes action necessary to restore or issue the regular certificate of registration. If more than one requirement is cited, deadlines for corrections to be made may vary.

C. A complaint investigation or CPS investigation identifies non-compliances or areas of concern. This type of corrective action plan usually falls within 1 or 2 above.

12.1 Elements of a Corrective Action Plan

A corrective action plan states how the provider will correct the violation(s), how the provider will assure it will not recur, and who is responsible for implementing and monitoring the plan.

A corrective action plan must contain the following information:

A statement indicating what correction(s) needs to be made. This could be either in a physical area of the home

A statement as to how the corrective action will be accomplished, to remedy the violation(s).

A statement as to what measures will be put into place or systematic changes made to ensure that the violation(s) will not recur; or

A statement as to what interim measures will be put in place until systematic changes are made to ensure that the violations will not recur.

A statement indicating when the specific corrections and systematic changes will be made (within a reasonable period of time, relative to the seriousness of the violation);

A statement as to who (name, title of position) is responsible for monitoring the corrective actions.

A statement as to who (name, title of position) is responsible for completion of the corrective action plan and what systems will be put in place to ensure that the violation(s) are corrected and will not recur.

12.2 Procedures for Corrective Action for Family Child Care Regulatory Specialists

12.2.1 Procedures During Evaluation

During on-site evaluations, the family child care regulatory specialist should complete the appropriate checklist and:

The family child care regulatory specialist and the provider sign and date the checklist.

Corrective action is indicated on the front of the checklist and the specific requirement in the checklist is checked as “Non-Compliance”. In some situations, the family child care regulatory specialist may want to note the corrective action to be taken on the comments section of the checklist.

When a situation(s) is identified that requires corrective action, verbal notification is to be given to the provider during the visit. Verbal notification should include identification of the specific problem area(s)

noted and a discussion of methods for correction. If a number of methods for correction exist, the provider and regulatory specialist shall discuss and jointly agree on the alternative that best meets the needs of the children and the provider.

Written notification of the identified problem area(s) is to be done using the Corrective Action Plan. The CAP is to be sent to the provider within five (5) working days of the verbal notification. The problem area(s) to be corrected are to be listed and a time frame for the completion of the corrections specified, generally not to exceed thirty (30) days from receipt of the verbal notification although longer time frames may be given with supervisory approval.

If the required changes have not been made within the time frame set by the family child care regulatory specialist in conjunction with the provider, the provider shall be notified in writing, advising the provider of the Department's intention to close the home within thirteen days.

Family child care regulatory specialists should notify their local CCR&R of the impending closure.

If the provider makes the required corrections within the thirteen days prior to closure, the regulatory specialist should cancel the closure notice in writing and notify the CCR&R of such cancellation.

12.2.2 Procedures without an On-Site Evaluation

When the corrective action is being issued based on the checklist without an on-site evaluation, the family child care regulatory specialist should sign and date the checklist indicating the date reviewed and the corrective action.

12.2.3 FACTS Data Entry

The checklist and the corrective action are placed in FACTS and the family child care regulatory specialist sends a copy of the Corrective Action Plan along with a notification to the provider within five working days.

12.2.4 Areas of Concern

The Corrective Action Plan also contains language to indicate that the worker has identified an area of concern with regard to a condition/activity not covered in the rules. An area of concern is not a non-compliance issue and cannot be enforced as such. Areas of concern are handled by provision of technical assistance.

12.2.5 Agreement on Action

Usually, corrective action can be discussed with the provider and an acceptable solution meeting the requirement(s) can be reached. The family child care regulatory specialist has the authority to make final decisions on the proposed action being compliant with the requirement. If a provider refuses to agree to corrective action, the specialist shall inform the provider that revocation or non-renewal of the certificate of registration or the license will be recommended and that the provider will have the right to appeal.

12.2.6 Alternate Actions

There are times when the Corrective Action Plan needs to state an alternate action during the time the correction is being made in order to assure no harm.

Example: A registered family home is renovating a bedroom, which is adjacent to activity space for care. The child care staff observes no door on the room, and materials inside the room which pose a risk to young children. The caregiver states that the new door should arrive within the next five days. After discussion with the caregiver about possible barriers, the corrective action plan is written to include that a gate barrier will be installed immediately, no renovation using electrical equipment or material emitting fumes will be used, or activity causing wood or dust particles will be conducted while children are present in the home, and the caregiver will notify DHHR when the door is installed. The ECE-CC-9 will indicate non-compliance for 7.3.a.1. In the column for Worker Use Only indicate, “See comments”. On the Comments section of the checklist, describe the action agreed upon and the date the door is to be installed. The front of the checklist is signed and dated by both parties, with the Child Care Regulatory Specialist indicating Corrective Action.

12.2.7 Follow-Up on Corrective Action

Family child care regulatory specialists must follow up on Corrective Action Plans to determine whether or not corrective action is achieved by the date on the plan. Failure to comply with the plan will result in a denial or revocation of the license or certificate of registration.

12.2.8 FACTS Notes on Corrective Action Plans

The Corrective Action Plan in FACTS consists of two screens – “Summary Screen” and “Detail Screen”. The screens are not completed all at one time. Information is entered initially, and as the plan is implemented, the user returns to the screens to document status and dates of completion or non-completion.

On the “Summary Screen”, “pending” should be chosen in the “Summary Outcome” of the “Corrective Action Plan Picklist”, the start date entered, and the screen completed before adding the “Summary Screen.” Once the “Summary Screen” has been added the “Detail Screen” will be available.

It is recommended that staff complete all the tabs of the “Detail Screen” before adding the screen, or before using the “Change” command button. The “Change” command button will be used when documenting already existing non-compliance issues rather than the “Add” command button.

Staff will be building an inset grid containing all the non-compliance issues. Document each non-compliance issue separately. Any non-compliance issues that were substantiated during a non-compliance investigation or any non-compliance issues identified on the “Child Care Checklist Screen” will populate the “Details Screen”. For each instance of non-compliance, enter the date for completion or monitoring.

On the “Outcome Picklist” – enter “pending” when beginning the corrective action plan. Enter “achieved” or “not achieved” after the date for completion has ended.

See the FACTS Help Desk Guide for full instructions on completing the Corrective Action Plan.

CHAPTER 13: ADMINISTRATIVE HEARINGS

13.0 Overview

The West Virginia Public Welfare Law and subsequent administrative actions have guaranteed an applicant for or a recipient of Social Services the right to a hearing concerning an action taken by the Department.

13.1 Grievances

Family child care providers and family child care facility and center licensees have the right to file a grievance. A grievance is any complaint by a client or recipient of services of the agency who is receiving special services with regard to:

1. His/her treatment by agency personnel, (a worker or supervisor), or
2. Any other concern about his/her situation as related to the service programs of the agency which the client or recipient of services would like to have resolved.

Grievances by providers of service are different from grievances by clients of the agency in that they relate to the agency's decision not to use the service a person is willing to offer. By way of example:

1. The grievance would usually relate to the agency's decision not to enter into a Provider Service Agreement or contract because it does not meet Department standards;
2. Another group it would pertain to would be those who provide service to clients of the Department of Human Services in their own homes; e.g., in home day or chore service.

Individuals or families who apply to become providers of service should be afforded the opportunity to initiate a grievance hearing at any point in their contact with the agency should they feel their situation is not being understood and assessed fairly by the worker.

13.2 Fair Hearings

Grievances should not be confused with the client's or recipient of services right to appeal his/her exclusion from or inclusion in a service program against his/her will or the agency's failure to take into account the recipient's choice of service. Procedures regarding the client's or recipients of services right to this type of Fair Hearing is explained in Chapter 700 of the Common Chapters Manual.

Every child care client and provider has the right to request a hearing concerning actions taken by the Department or CCR&R workers. The State Board of Review is designated by State Law as the body through which a client or provider may present his/her case to a higher authority. The State Hearing Officer is an impartial official who has not been directly involved in any determination of the action in question.

13.3 Reasons for Hearings

Any action which is considered a negative action on the licensure or registration of a child care provider can be a cause for a hearing request. Reasons for hearings fall generally into four categories: denial, conditions placed on the license or registration, revocation, and delay.

13.3.1 Denial –Any time a provider or licensee claims he or she was excluded from providing or receiving services, including:

13.3.1.1 Denial of the right to apply.

13.3.1.2 Denial of certificate of registration or license.

13.3.1.3 Denial of opportunity to correct non-compliance.

13.3.1.4 Denial of benefits due to race, color or national origin, age, sex, religious creed, political beliefs, or disability.

13.3.2 Conditions – Any time the level of service is reduced or limited.

13.3.3 Revocation – Any time licensure or registration is discontinued by an action of the Department.

13.3.4 Delay – Any inaction or failure to abide by established timeframes to approve/deny a provider's application.

13.4 Adequate and Timely Notice of Decisions

Adequate notice of a decision affecting benefits are mailed or provided in writing in a face to face contact, to the applicant. Child Care Resource and Referral agencies are required to provide notice at least thirteen (13) days before the effective date of any action or decision which may be adverse to the recipients of child care assistance and to the provider or licensee regarding participation in the child care subsidy program. The regulatory actions taken by the Department do not require a 13 day notice, but typically will follow the same notification period so that families may have time to arrange for another child care provider if necessary, and allow time for the provider or licensee to formulate a plan in response to the notice. In certain situations, immediate closure of the child care service may be necessary to protect the health and safety of the children.

13.4.1 Required Notice Information

The notice must include the following information:

13.4.1.1 The action or proposed action to be taken.

13.4.1.2 The reasons for the action provided in terms readily understandable by the provider/licensee, including if the Department has determined that children are at risk of harm or if the Department has determined the provider is unable or unwilling to be compliant with regulation.

13.4.1.3 Citation of relevant code, regulation or policy sections supporting the action taken or proposed. Typically, notices cite regulation and state code; rarely is policy used in regulatory notices, but there may be instances where it is appropriate; most likely in citing policy for criminal history background checks.

13.5 Pre-Hearing Conferences

Any person requesting a hearing shall have the right to a pre-hearing conference with the Program Manager or Child Care Regulatory Supervisor and regulatory staff person involved in the decision making process on the child care service provider's case. Pre-hearing conferences are encouraged and there must be good cause for the Program Manager or Supervisor not to offer one, as some issues can be resolved in this manner without proceeding to a hearing. At no time shall the applicant be discouraged from pursuing his or her right to a fair hearing.

13.5.1 Release of Information

Regulatory notices are public record and the licensee or registrant has a right to any and all regulatory documents that pertain to his/her license or registration. Certain work documents are not included in this

category and the regulatory staff should consult with the Department's legal representation if there is a question as to what may be released.

13.5.2 Time Limits for Requesting and Scheduling a Hearing or Pre-Hearing Conference

Applicants shall be allowed 30 days from the date of the notification letter to request a hearing or pre-hearing conference. The request should be in writing, but a verbal request is to be honored and documented. The Program Manager should offer and schedule the pre-hearing conference as early as is convenient for the provider and the Department.

If, after 30 days, no response has been received from the applicant/provider/licensee, the negative action is considered concluded.

13.6 Procedures for Handling Request for a Hearing

Requests should be made in writing, using the hearing request form included with the notification letter. However, verbal requests are to be honored and documented.

A pre-hearing conference shall be offered, and scheduled, if accepted.

The worker shall submit a (IG-BR-29) Hearing/Grievance Record Information Form, copy of the notification of negative action sent to the client, and copy of the client letter requesting a hearing regarding decision. The documentation should be scanned and emailed to the Board of Review within 48 hours of the hearing request.

13.7 Hearing Preparation

If the licensee/registrant has indicated that he/she has legal representation, the Program Manager must notify and include in the hearing preparation the Department's legal representative.

The hearings officer will mail notice of the hearing to both parties.

Before attending the hearing, the worker should put evidence in chronological order. Evidence should be clear and concise, and show what actions were taken in the case, and when, step by step.

The worker should make at least 3 copies of all documents supporting the decision, one for the hearings officer, one for the provider, and one for the Department.

The regulatory staff must be familiar with child care regulation and rationale relevant to the decision and be able to cite regulation, law and policy, if applicable.

13.8 During the Hearing

Be punctual, professional, and prepared. Never make the hearings officer wait.

Have copies of exhibits ready to be numbered, entered into the record and provided to each party.

The Department has the right to request that witnesses be removed from the room so that testimony will not be tainted.

The Department will present to the hearings officer first, as the agency bears the burden of proof for the action taken. Always address the hearings officer and speak clearly and loudly enough for the tape recorder.

If the provider is not being represented by legal counsel, then the regulatory staff will also proceed without legal counsel. If the provider indicated that he/she would not bring legal counsel, but then does bring legal counsel, the Department staff is to request a continuance so that the Department's legal representative may also be present.

If there is not legal representation, the Department staff will follow the instruction of the Hearing Examiner in proceeding; most likely that will include a statement such as: "My name is _____. I work for _____. I have worked for the Department for _____ years/months/days." The worker should also introduce any witnesses on her side.

Present the case using exhibits and witnesses as needed. If the agency or staff made an error, admit it.

Once the Department is finished, the client or provider who filed the hearing request will have the opportunity to present his or her side.

The provider may also choose to cross examine the Department. The regulatory staff should answer questions directly, but do not answer questions on which she has no personal knowledge or on actions which she did not take.

The regulatory staff should object to any misrepresentations by the provider – if the provider makes a statement that the staff knows is false or a misstatement, make sure that it is addressed when the staff cross examines the provider. The staff will also have the opportunity to present rebuttal testimony.

Closing statements – the Department may make a closing statement summarizing the Department's position and requesting that the Department's decision be upheld.

The hearings officer may then end the hearing.

The hearings office will render a decision within 90 days.

Both the Department and the licensee/registrant have the right to appeal the hearings officer's decision.

13.9 Denial or Dismissal of Hearing

Hearings may be denied or dismissed if either of the following occurs:

Withdrawal – The Hearing Officer may dismiss a request for hearing if the client or provider withdraws the request in writing.

Abandonment – The Hearing Officer may dismiss a request for a hearing if the client or provider fails to appear at a scheduled hearing without good cause.

The request for a hearing is based solely upon policy or regulation and is not based on an action by the Department that is a negative or unfair action.

CHAPTER 14: RECORDING PROCEDURES

14.0 Introduction

Information on providers shall be recorded in FACTS and on forms prescribed by the State Division of Early Care and Education. DHHR shall maintain records related to provider regulation in DHHR files. All significant contacts made with providers are to be entered into the FACTS record.

14.1 Filing Procedures

Provider files shall be saved to FACTS. If a form is created or completed by the DHHR staff or R&R staff then it shall be imported into the FACTS file cabinet. All paper documents shall be noted in Document Tracking, maintained.

Family Child Care Provider File

A. Narrative Block

- 1) ECE-CC-Child Care Provider File Cover Sheet
- 2) ECE-CC-7 Information on Child Care Provider
- 3) ECE-CC-8 Application to Operate a Child Care Home
- 4) ECE-CC-9 Family Child Care Registration Checklist
- 5) DAY-0577 Certificate of Registration (Must be saved in FACTS)
- 6) ECE-CC-15 Application to Operate a Family Child Care Facility
- 7) ECE-CC-16A Family Child Care Facility Checklist
- 8) DAY-0576 Statement of License (Must be stored in FACTS)
- 9) ECE-CC-33 Disaster Planning Form
- 10) ECE-CC-10J Pet Acknowledgement Form

B. Legal Block

- 1) DAY-0546 Child Care Provider Services Agreement (original)
- 2) W-9 Provider Tax Identification Reporting Form
- 3) ECE-CC-8A Consent for APS/CPS Record Check
- 4) ECE-CC-8B Statement of Criminal Record
- 5) CIB Results

C. Training Block

- 1) CPR/First Aid Verification
- 2) SIDS/Shaken Baby Training Verification
- 3) Professional Development Certificates

D. Correspondence Block

- 1) DAY-0503 Notification of Provider Regulatory Status
- 2) DAY-0618 Notification of Provider Approval Status
- 3) ECE-CC-10F Provider Notices to Agency
- 4) All correspondence with or about provider

14.2 Record Retention and Disposal

The current Retention and Disposal Schedule indicates that child care services provider records shall be retained for seven years after closure. However, if any litigation, claim, negotiation, audit, disallowance action, or any other action involving the record has been started before the end of the seven year retention period, the record shall be retained until completion of the action and resolution of all issues that arise from it, or until the end of the seven year period, whichever is later.

Case records pertaining to ongoing or completed fraud investigations shall be retained until seven years after the conclusion of the investigation and the resolution of any action that arises from it.

Case records which have met the required retention period shall be destroyed. Destruction of case records will be accomplished by shredding. Document destruction will be suspended immediately, upon any indication of an official investigation or when a lawsuit is filed or appears imminent.

14.3 Child Care Forms and FACTS Reports for Providers

DAY- 0503 Notification of Provider Regulatory Status

This FACTS generated letter is sent to registered and licensed child care providers to notify them of information regarding the regulatory and/or monitoring process.

ECE-CC-3B Statement of Good Health

This form shall be completed by an approved health care provider for informal and relative child care providers at the time of registration and every two years thereafter. In-home child care providers are also required to obtain a Statement of Good Health at the time of their approval.

ECE-CC-3C Medical Report for Child Care Provider

This form shall be completed by registered family child care providers at the time of registration and every two years thereafter.

ECE-CC-4 Child Care Provider File Cover Sheet

CCR&R workers use this form to notify regulatory specialists of any concerns with child care provider applications taken during orientation.

DAY-0546 Child Care Services Agreement with Provider

The R&R worker must be certain that the provider clearly understands all aspects of the FACTS generated Provider Services agreement. The R&R worker should have the provider sign an original and two (2) copies. The original copy shall be retained in the legal block of the provider file, a copy shall be given to the provider and a copy shall be sent to the DHHR Child Care Worker. The contract may be cancelled by either party, with or without cause, upon notice. The contract should be updated every 2 years, and the monitor will send a copy to the R&R.

ECE-CC-6E Health and Safety Requirements for In-Home Child Care Providers

This form is a checklist and shall be completed by in-home family child care providers in order to receive child care certificate program funds. These standards are part of the Provider Services Agreement (DAY-0546).

ECE-CC-6IR Health and Safety Checklist for Informal and Relative Family Child Care Providers

This checklist shall be given to applicants for registration as an informal or relative family child care provider. The form shall be completed and returned within 30 days to the family child care regulatory

specialist. Checklists shall also be completed by the worker during monitoring visits and filed in the provider record.

ECE-CC-6 Registration Requirements for Informal and Relative Family Child Care – Legislative Rule

These rules apply to the registration of informal and family child care providers and all providers must meet them. A copy of the full set of rules shall be given to all informal and relative family child care providers for their own records.

ECE-CC-7 Provider Information

This form shall be completed by Registered Family Child Care Providers, Child Care Centers, and Family Child Care Facilities.

ECE-CC-8 Application to Operate a Family Child Care Home

This form shall be completed by individuals applying to operate a registered family child care home, informal family child care home or a relative family child care home.

ECE-CC-8A Authorization for CPS/APS Background Check

This form is to be completed by all child care providers, adult household members and staff and returned to the child care regulatory staff for family child care or submitted to the Department for licensed centers.

ECE-CC-8B Statement of Criminal Record

This form should be completed by all child care providers, adult household members and staff and returned to the family child care regulatory specialist within 13 days of enrollment/application for approval, registration or licensure for family child care providers. Child care centers follow a separate process for completion of fingerprints. The Statement shall accompany all fingerprint cards when they are submitted to the State Office.

ECE-CC-9 Family Child Care Home Regulations Checklist

Regulations shall apply to all registered family child care providers. Checklists shall be given to applicants for completion and returned within 30 days to the family child care regulatory specialist. Checklists shall also be completed by the worker during monitoring visits and filed in the provider record.

ECE-CC-9B Field Visit Signature Page

The ECE-CC-9B may be used during field visits by family child care regulatory specialists. It enables the specialists to provide a temporary hard copy assessment of any noncompliance issues. The provider shall sign the signature page indicating they agree to enter into a corrective action plan so that the home meets all the requirements by the date indicated on the corrective action plan.

ECE-CC-9C Abbreviated Checklist for Registered FDC Homes

This abbreviated form of the ECE-CC-9 is to be used at mid-certification monitoring visits, except for situations where material changes in the provider's child care environment have occurred.

ECE-CC-9R Family Child Care Home Registration Requirements

The ECE-CC-9R is the set of legislative rules that have been promulgated for family child care homes caring for 4 (four) to six (6) children, including the provider's own children under the age of six (6). A copy of the legislative rules shall be given to all registered family child care providers, along with the Checklist (ECE-CC-9).

DAY-0577 Certificate of Registration

A FACTS generated Certificate of Registration shall be given to all registered family child care providers and informal and relative family child care providers upon completion of the necessary requirements and again at time of renewal of the certificate. The Certificate shall indicate the type of care, address, type of registration (regular or provisional), approved capacity, issuance date and end date.

ECE-CC-10J Pet Acknowledgement Form

Family child care providers with pets in the home shall have all parents of child care children read and sign the acknowledgement form.

ECE-CC-10K Child Care and Responsible Pet Ownership

A booklet covering the types of animals allowed in the child care setting, as well as safety tips for safe child/pet interactions.

ECE-CC-12 Application for the Approval of In-Home Care

This application is to be completed by the parent receiving the care and by the caregiver. The parent is responsible for returning the application packet to the CCR&R agency.

ECE-CC-14 Family Child Care Facility Information Packet

This packet is sent to applicants who are interested in opening a family child care facility. It provides sufficient information to screen out applicants who are not able or willing to comply with requirements and includes a letter of intent, which applicants are requested to complete and return.

ECE-CC-15 Application to Operate a Family Child Care Facility

This application is to be completed by the owner/operator of a facility at the time of original application and at the time of renewal. The renewal application should be completed and sent to the local DHHR office at least sixty (60) days prior to expiration of a license.

ECE-CC-16 Family Child Care Facility Regulations

These rules are to be sent to all applicants who wish to operate a family child care facility once a completed letter of intent is received. Applicants shall notify the DHHR Child Care Worker when they are ready for on-site evaluation of the facility. Rules are also available on line at <http://www.wvdhhr.org/bcf/ece/earlycare/regs.asp>.

ECE-CC-16A Family Child Care Facility Checklist

This checklist shall be completed during an on-site visit by the family child care regulatory specialist during the initial visit to approve the facility and upon renewal of the license. All facilities shall be monitored annually.

DAY-0576 License to Operate a Family Child Care Facility

This FACTS generated certificate shall be provided to owner/operators of family child care facilities as verification of licensure. Certificates shall be initial, regular or provisional. Regular certificates are valid for up to two (2) years unless revoked. Provisional licenses are good for up to six months and may not be consecutively reissued unless the State Fire Marshal recommends it. An initial certificate is issued only to new facilities and can be issued for six months. Certificates shall indicate the approved number of children fewer than 24 months and over 24 months, issuing date and expiration date and are signed by the family child care regulatory specialist.

ECE-CC-22 Family Child Care Provider Training Record

Providers may use this form to record their training attendance and keep track of hours and core competencies covered,

ECE-CC-23 Fire Escape Plan

Providers may use this form to assist in preparing fire escape routes and record fire drills.

ECE-CC-24 Emergency Phone List

Providers may use this form to compile an emergency phone list.

ECE-CC-25 Medication Permission Slip

Family child care providers may use these permission forms with parents to record medication dosages and times.

DAY-0615 Corrective Action Plan

This report may be generated by FACTS whenever completion of a regulatory checklist reveals areas of non-compliance. The corrective action plan shall be sent to the provider as a formal notice that the provider is out of compliance and listing the steps that must be taken for the provider to correct areas of non-compliance.

W-9 Tax Identification Form

This form will be completed at provider application/enrollment and signed by the provider. The R&R worker will send the original to the DHHR Child Care Worker, who shall enter the appropriate information on the FACTS tax information screen. The FACTS provider case number shall be added to the top of the form and the form forwarded to Bureau for Children and Families. A revised form will need to be completed by the provider whenever there is a name or address change, even if the provider moves out of state.

DAY-0618 Notification of Provider Approval Status

This is a FACTS-generated notice for in-home child care providers who are exempt from regulation under WV Code, Chapter 49-2B, but must meet requirements in order to participate in the child care certificate program.

ECE-CC-26 Incident Report Form

Providers may use this form to record and report incidents the result in injury to a child. Incidents must be verbally reported within 24 hours. Providers are requested to follow up in writing within 72 hours.

ECE-CC-28 SIDS Self Study Packet

Providers may use this self-study packet to satisfy their SIDS training requirement. This form is available electronically to CCR&R staff and family child care regulatory specialists for distribution and shall be checked by the family child care regulatory specialist during monitoring/renewal visits.

ECE-CC-28A SIDS Self Study Quiz Answer Sheet

Answer sheet for the SIDS Self Study Quiz. This form is available electronically to family child care regulatory specialists so that they may check the SIDS quiz during monitoring/renewal visits.

ECE-CC-29 Shaken Baby Syndrome Self Study Guide

Providers may use this self-study packet to satisfy their Shaken Baby Syndrome training requirement. This form is available electronically to CCR&R staff and family child care regulatory specialists for distribution and shall be checked by the family child care regulatory specialist during monitoring/renewal visits.

ECE-CC-29A Shaken Baby Syndrome Self Study Guide Answer Sheet

Answer sheet for the Shaken Baby Syndrome Self Study Quiz. This form is available electronically to family child care regulatory specialists so that they may check the Shaken Baby Syndrome quiz during monitoring/renewal visits.

ECE-CC-30 Periodicity Schedule

Child care providers are required to give a copy of this form, which contains a recommended schedule of health checkups and immunizations, to each child care parent.

ECE-CC-31 Guide to Family Child Care

Child care regulatory specialists and CCR&R workers may send this booklet to potential providers interested in becoming family child care providers.

14.4 Miscellaneous Forms and FACTS Reports

DAY-0616 History of Non-Compliance Report

This report shall be generated by FACTS upon request of a parent who requests information on substantiated complaints against the provider that are a matter of public record. The History of Non-compliance Report may be sorted by dates or by concerns identified during licensing review, monitoring visits or as a result of an investigation or a complaint investigation. Information on child abuse and neglect complaints shall not be included for distribution.

ECE-CC-20 IIU Referral Interview Guide

CCR&R and DHHR staff can use this form as a guide for recording child abuse and neglect complaints on child care centers.

ECE-CC-21 CPS Referral Interview Guide

CCR&R and DHHR staff can use this form as a guide for recording child abuse and neglect complaints on any type of child care provider other than child care centers.

IG-BR-29 Hearing/Grievance Record Information Form

This form is to be completed by the worker when a client requests a hearing regarding a negative action decision on a case. The request is to be sent within 48 hours to the State Hearings Officer with the appropriate documentation.