



## SUPPLEMENT

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to Child Care Centers Licensing, 78CSR1

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04/01/2018

**This document is an accompaniment to the legislative rule for licensing child care centers (§78-1). It provides guidance statements on some of the licensing requirements in the rule.**

**For  
ease**

**of use, the legislative rule is presented in its entirety with guidance statements following some requirements within red boxes. The statements typically fall within the category or categories of explanation, rationale, enforcement, suggested compliance methods and resource for further information. Possible resources are also posted as “sticky” text boxes. The guidance statements are intended to be helpful and aid in understanding and consistency – the statements are not part of the legislative rule approved by the Legislature. The user will find many references to Caring For Our Children (CFOC), published by the American Academy of Pediatrics, the American Public Health Association, and the U.S. Department of Health & Human Services, Maternal and Child Health Bureau; CFOC publishes standards for health and safety generally accepted in the early care and education field as best practice standards. The West Virginia Department of Health and Human Resources has adopted some of those standards and uses the resource for guidance and rationale for many of the child care center licensing requirements.**

**WV Department of Health and Human Resources  
 Supplement to  
 78CSR1 Child Care Centers Licensing**

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### **§78-1-1. General.**

1.1. Scope. -- This rule establishes standards and procedures for the licensure of child care centers under the provisions of West Virginia Code Chapter 49, Article 2 (Part I), and related federal and state code.

1.2. Authority. -- W. Va. Code §49-2-121.

1.3. Filing Date. -- March 1, 2018.

1.4. Effective Date. -- March 1, 2018.

1.5. Sunset Provision -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

1.6. Purpose. -- This rule governs the regulation of child care centers in West Virginia.

### **§78-1-2. Application and Enforcement.**

2.1. Application. This rule applies to any facility maintained by the state or any county or municipality of the state, or any agency or facility operated by an individual, firm, corporation, association or organization, public or private, for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

In addition to private and non-profit operated centers, centers operated by county or municipal governments or boards are subject to regulation unless the center operated is specifically exempted by code. For specific exemptions, see the definition of child care center.

2.2. Enforcement. This rule is enforced by the Secretary of the Department of Health and Human Resources.

The staff of the Division of Early Care and Education, primarily the Child Care Center Licensing unit staff, within the Department acts as the Secretary's designee in the enforcement of this rule

### **§78-1-3. Definitions.**

3.1. Adequate Supervision. -- The observation, oversight, and guidance of the individual child or groups of children, by the staff member taking responsibility for the ongoing activity of each child or group of children so that the staff member is close enough to intervene, if necessary, to protect the child from harm. Adequate supervision requires the staff member's physical presence, knowledge of the child's program of activities, individual needs, habits, interests and special problems, if any, and the acceptance of accountability for the child's or groups of children's care.

Supervision is more than a physical presence - it is actively supervising children with an engaging presence.

3.2. Approved Training. -- Training or professional development that has been approved by



the Secretary.

There may be many sources of training and professional development that is or will be approved by the Division of Early Care and Education to fulfill certain training requirements. For example, professional development classes or sessions offered by the Child Care Resource and Referral agencies are approved trainings. Contact the center Licensing Specialist when uncertain if the training or professional development is approved.

3.3. Approved Training Source. - A training provider that has been approved by the Secretary.

3.4. Authorization and Release for Protective Services Record Check. - A document provided by the Department, signed by a center's prospective staff member or employee, granting permission to conduct a search of Department records related to his or her involvement in child or adult abuse and neglect allegations or other investigations documented by the Secretary.

3.5. Certificate of Approval. - A written certificate issued by the Secretary stating that a child care center operated by the state meets requirements in accordance with the terms and conditions of the certificate and this rule.

3.6. CDA (Child Development Associate) Credential. - The national early childhood credential administered by the Council for Early Childhood Professional Recognition.

3.7. Child. - For the purpose of this rule, an individual who is less than 13 years of age. The state code allows for the definition of child to include those over the age of 13 years if certain conditions are met. Conditions include: the child is thirteen through eighteen years of age and under court supervision; or, is thirteen through eighteen years of age and presenting a significant delay of at least twenty-five percent in one or more areas of development, or a six-month delay in two or more areas as determined by an early intervention program, special education program or other multi-disciplinary team.

3.8. Child Abuse and Neglect. - Physical injury, mental or emotional injury, sexual abuse, sexual exploitation, the sale or the attempted sale or negligent treatment or maltreatment of a child by a parent, guardian or custodian responsible for the child's welfare, under circumstances which harm or threaten the health and welfare of the child.

3.9. Child Care Center. - A facility maintained by the state or any county or municipality thereof, or any agency or facility operated by an individual, firm, corporation, association or organization, public or private, for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child, except:

3.9.a. A kindergarten through grade twelve education program, that is operated by a public school or that is exempt from the compulsory school attendance law by the state department of education;

3.9.b. A West Virginia Pre-K classroom operated by a county Board of Education in a public school setting;

3.9.c. Any other kindergarten, preschool or school program that operates with sessions not exceeding four hours per day for any child;

3.9.d. An individual or facility that 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;

3.9.e. Hospitals or other medical facilities that are primarily used for temporary care of children for treatment, convalescence, or testing; and

3.9.f. Persons providing care solely for children related to them.

3.10. Continuous Supervision. -- The availability and responsibility of a staff member to assist with child care at all times.

**This definition is about the supervision of staff. The staff member referred to in this definition is the qualified staff member providing supervision to another staff member. (See 9.5.b., 9.8.b. and 9.8.c.)**

3.11. Core Knowledge and Core Competencies of Early Childhood Educators. -- The sets of observable skills and knowledge that represent common standards of satisfactory practice in the early childhood field in the state of West Virginia.

3.12. Criminal History Background Check. -- A review of information pursuant to the provisions of the West Virginia Clearance for Access: Registry and Employment Screening Act (WV CARES), W. Va. Code §§16-49-1 *et seq.*, and W. Va. Code R. §§69-10-1, *et seq.*, and an examination of protective service records to determine eligibility for employment or participation under this rule.

3.13. Day Camp. -- A school-age program that is operated when school is not in session, for no more than 12 hours per day and is not primarily outdoor based.

**If a center operates a school age program as described above but operates it for more than 12 hours per day, then the program is reviewed as a standard program of the center and not as a day camp program.**

3.14. Designated Activity Area. -- Room divisions within the center that define limits and reduce distractions. These divisions shall include a temporary wall or physical barrier that is at least three feet in height.

3.15. Direct Supervision. -- When a qualified staff member is physically present in the same room, area, or vehicle with the child or group of children, visually monitoring the interactions of the children.

**When the requirement refers to children, this definition of supervision addresses the necessity of the physical presence of a qualified staff member with the child(ren). When the requirement refers to personnel, this definition requires the physical presence of the qualified staff person where the staff or volunteer are present with children (for example, 9.7.b.)**

3.16. Disinfect. -- Eliminate virtually all germs from an inanimate surface through the use of chemicals or heat.

3.17. Driver. -- A staff member who transports center children more than three times per week or a staff member whose job function is to transport children served by the child care center.

3.18. Early Care and Education Field. -- An area of study that relates to child development, early childhood from birth to eight years of age, child and family studies, early childhood special education or other early childhood fields.

Early childhood studies and curriculum have expanded over the years. Early childhood studies or classes offered related to early childhood through an accredited higher education institution will most likely be considered to meet this definition provided, the content is primarily focused on early childhood (birth through eight years of age). For example, if an accredited university offers a class in Montessori method of instruction, this would meet the definition.

3.19. Evening Care. -- Care provided after seven o'clock in the evening to a child who does not stay overnight.

3.20. Field Trip. -- An excursion or special outing away from the site where program activities regularly occur.

See 3.27 and 3.29 for further definitions of field trips.

3.21. Full-time Director. -- A director who is present at the center for a minimum of one-half of the hours the center is in operation during a seven-day period, or 35 hours during the same seven-day period, whichever is less.

3.22. GED. -- A certificate verifying passage of a test of General Educational Development recognized as equivalent to a high school diploma.

This refers to general equivalency to the high school diploma that is issued or recognized by accredited educational programs. In West Virginia, the Department of Education now uses State of West Virginia General Educational Development known as TASC (Test Assessing Secondary Completion). For more information go to: <https://wvde.state.wv.us/tasc/what-is-it.html>.

3.23. Governing Body. -- The individual owner of the center or the group of persons that have the administrative control and legal authority to set policy and oversee operations of a child care center.

3.24. Group. -- A specific number of children, distinct from the larger population of children, who regularly meet together and interact with each other and with one or more specific staff members, in an assigned space. The size of the group and required number of staff are determined by the staff-to-child ratio set out in this rule.

3.25. Immediate Area. -- Within reach, easily accessible and in the same room.  
Within reach means it is within reach for the adult staff person.

3.26. Infant. -- A child between the age of six weeks and the age of ambulation and walking, usually through 12 months.

3.27. Level I Field Trip. -- An excursion or outing to a destination that is 30 minutes or less from the center or from the site where program activities regularly occur.

3.28. Level I Water Activity. -- Any activity occurring in or near water 18 inches deep or less.

3.29. Level II Field Trip. -- An excursion or outing to a destination that is more than 30 minutes from the center or from the site where program activities regularly occur.

3.30. Level II Water Activity. -- Any activity occurring in or near water with a depth of more than 18 inches.

3.31. License. -- A written certificate issued by the Secretary authorizing a person, corporation, partnership, voluntary association, municipality, county, or any agency thereof, to operate a child care center in accordance with the terms and conditions of the license and this rule.

3.32. Licensed Capacity. -- The maximum number of children permitted in a center.

3.33. Licensed Health Care Provider. -- For the purpose of this rule, an individual who holds a license to practice in West Virginia as a physician, Doctor of Medicine or (MD), Doctor of Osteopathy (DO) or, physician's assistant (PA), chiropractor or nurse practitioner.

3.34. Licensee. -- The holder of a license or certificate of approval obtained from the Secretary to operate a child care center in West Virginia.

3.35. Medical Plan of Care. -- A document that provides specific health care information, including any medications, procedures, precautions or adaptations to diet or environment that may be needed to care for a child with chronic medical conditions or special health care needs. Medical plans of care also describe signs and symptoms of impending illness and outline the response needed to those signs and symptoms.

3.36. Medication Error. -- An error caused by either:

3.36.a. Failure to administer a dose of medication; or

3.36.b. The administration of a medication:

3.36.b.1. To the incorrect child;

3.36.b.2. In the incorrect dosage;

3.36.b.3. At the incorrect time, other than within 30 minutes before or after the scheduled time;

3.36.b.4. In the incorrect form;

3.36.b.5. By the incorrect method or route; or

3.36.b.6. That is incorrect itself.

3.37. Moderate to Vigorous Physical Activity. -- Levels of activity that are conducted at varying intensities. Moderate physical activity is faster than a slow walk, but still allows children to talk easily. It increases the heart rate and breathing rate. Vigorous physical activity is rhythmic, repetitive physical movement that uses large muscle groups, causing children to breathe rapidly and only enabling them to speak in short phrases. Typically children's heart rates are substantially increased and they are likely to be sweating. Toddlers and preschoolers generally accumulate vigorous physical activity over the course of the day in very short bursts, usually 15 to 30 seconds.

3.38. Multifunction school activity bus. -- Any vehicle operated by the center that can carry eleven or more passengers meeting the federal motor safety standards applicable to school buses with some exclusions regarding traffic control devices.

3.39. Night Time Care. -- Care provided to the child who stays during nighttime hours or overnight, which may include the time usually designated as sleep time.

3.40. Out-of-school Time Program. -- A program that offers activities to children before and after school, on school holidays, when school is closed because of an emergency, and on school calendar days set aside for teacher activities.

3.41. Parent. -- The biological or adoptive parent or parents of a child, a person or persons, or the Department, who has legal custody of a child, or the lawful guardian of a child.

3.42. Person-in-Charge. -- The qualified staff member with responsibility for the daily operation of the center at any specific time.

3.43. Plan of Correction. -- A written agreement between the Department and a center, approved prior to implementation, that outlines the steps the center shall take to correct deficiencies identified by the Secretary through an inspection or the investigation of a complaint. **This is also referred to as a Corrective Action Plan (CAP).**

3.44. Practicum Contact Hour. -- A period of supervised experience recognized for credit toward a credential by an educational institution or similar organization.

3.45. Pre-service Training. Training completed by all child care staff and applicable volunteers as required by the S1086 Child Care and Development Block Grant (CCDBG) Act of 2014, Section I. Health and Safety Requirements (I-XII).

**This would include all qualified staff, existing and newly hired.**

3.46. Professional Development. -- A continuum of learning and support opportunities designed to prepare individuals for work with and on behalf of young children and their families, as well as opportunities that provide ongoing experiences to enhance this work. Professional development programs encompass both education and training programs.

3.47. Qualified Staff. -- A staff member who has a high school diploma or GED and meets the requirements under this rule for the position of director, assistant director, lead teacher, teacher, assistant teacher, or teaching assistant.

3.48. Registered Apprenticeship Certificate for Child Development Specialist. -- A nationally recognized credential awarded by the United States Department of Labor for the successful completion of a combination of classroom and on-the-job training.

3.49. Related Field. -- As approved by the Secretary, an area of study that includes credit hours associated with the early child care and education field, including elementary education, social work, recreation and leisure studies, nursing, counseling, psychology, and administration related to the care and education of the child from birth through 12 years of age.

The Secretary may require proof that the particular related field included credit hours associated with early care and education before approving the field as related. For example, producing a transcript which shows the recreation and leisure studies included courses that encompass working with and the development of young children.

3.50. Relevant Work Experience. -- Work that is directly with or on behalf of children from birth through 12 years of age, and their families in areas of supervision, leadership or management; program coordination, development or regulation; training, instruction or technical assistance; or evaluation or research. Private or family child care is considered relevant work experience only if the care was regulated care and can be verified.

The work must be paid work. Volunteer work through AmeriCorps that can be verified as to length of service and that the service was directly related to or on behalf of young children will be considered relevant work experience.

3.51. Responsible Person. -- A parent, center staff member, or other person designated by the parent in written information to drop off or pick up the child.

3.52. Sanitize. -- Destroy pathogens on food contact surfaces, such as utensils, cups and glasses, through the use of processes involving chemicals or heat that do not pose a threat to food safety.

3.53. Secretary. -- The Secretary of the Department of Health and Human Resources or his or her designee.

3.54. School -Age Child. -- A person who is between five and 13 years of age and is eligible to attend school or is enrolled in grades K-12.

A school age child must be at least five (5) years of age and attending or enrolled in kindergarten to meet this definition.

3.55. School-Age Program. -- Services provided by a center for the care and supervision for school-age children. These programs include summer recreation camps, day camps and out-of-school time programs.

3.56. Screen Media. -- Forms of communication or entertainment viewed on a screen such as televisions, computer monitors, digital gaming equipment, etc.

Et cetera includes any device that displays some form of visual media, including devices such as smart phones.

3.57. Self-disclosure Application and Consent form -- A signed declaration of criminal convictions, indictments, and court ordered supervision, and authorization to allow a criminal history background check.

3.58. Serious Occurrence. -- An event that either harms or could potentially harm a child or compromises the operation of the center. It may include:

This is not a complete list and may include other situations where there is a potential for harm.

3.58.a. A child who dies while in care;

3.58.b. A child who is injured while in care to the extent that the child requires medical care beyond immediate first aid;

3.58.c. A diagnosed reportable communicable disease that is introduced in the center;

3.58.d. A medication error that occurs;

3.58.e. A legal action involving or affecting the operation of the center;

3.58.f. A serious violation of a licensing requirement, such as use of physical punishment or failure to supervise; or

3.58.g. A report given to Child Protective Services of suspected abuse or neglect of a child at the center.

This would include an investigation being conducted of alleged abuse/ neglect against the center by IIIU.

3.59. Special Activities. -- Potentially dangerous organized recreation that require special technical skills, safety equipment, safety regulations, or involve fire or heat-producing equipment. These include, but are not limited to, Level II water activities, archery, gymnastics, karate, horseback riding, bicycling, rock climbing, spelunking, hiking and cookouts.

3.60. Staff Member. -- Any center personnel, including substitutes and student interns, whether or not he or she receives compensation.

A private owner is included in center personnel.

3.61. Staff-to-Child Ratio. -- A relationship which describes the number of children that one qualified staff member or substitute is permitted to supervise. The number varies according to the ages and developmental levels of the children and the types of activities in which they are participating.

Only qualified staff members count in the staff:child ratio with certain exceptions. See 3.46 for the definition of qualified staff and 10.4 for the use and criteria of a Youth Apprentice.

3.62. Substitute. -- An individual who is present at the center to maintain the staff-to-child

ratio when a qualified staff member is absent.

3.63. Summer Recreation Camp. -- A school age program that operates during the summer months, whose program orientation is primarily recreational, and of which 80 percent of the program occurs outdoors.

3.64. Support Staff. -- Staff who carry out duties not regularly involving the supervision of children.

3.65. Teen Aide. -- An individual who is between 13 and 18 years of age who works with or without compensation under the direct supervision of a qualified staff member who has a minimum of the qualifications of an assistant director or lead teacher.

The teen aide must remain under direct supervision and is not to be left alone to supervise or aid children. A teen aid does not count in the staff:child ratio unless he/she qualifies as a Youth Apprentice (see 10.4)

3.66. Time-Out. -- A positive behavioral support strategy to help children change their undesired behavior and help teach a desired replacement behavior. The time-out period is the length of time when the child is removed from regular activities as a consequence for specific behavior.

See 11.3.e. et seq.

3.67. Toddler -- A child between ambulation/walking to 24 months of age.

3.68. Training. -- Instruction provided that is designed to impart knowledge or skills.

3.69. Type I Center. -- A child care center with a capacity of 30 or fewer children.

3.70. Type II Center. -- A child care center with a capacity of 31 to 60 children.

3.71. Type III Center. -- A child care center with a capacity of 61 or more children.

3.72. Universal Precautions. -- Procedures to be followed for infection control in all situations to prevent the transmission of blood borne germs that may be spread through blood or body fluids that might contain blood.

3.73. Use Zone. -- The surface under and around a piece of equipment onto which the child falling from or exiting from that the equipment is expected to land.

3.74. Variance. -- A written declaration by the Secretary that a certain requirement of this rule may be satisfied in a manner different from that set forth in the rule.

3.75. Volunteer. -- An individual who provides a direct service to the center for two or more hours a week on a scheduled basis, without compensation, and is 18 years of age or older; provided, that a parent of an enrolled child working directly with his or her own child is not considered a volunteer under this rule.



3.76. Waiver. -- A written declaration by the Secretary that a certain requirement of this rule may be treated as inapplicable in a particular circumstance.

3.77. West Virginia Training Certificate in Early Care and Education (WVTCECE). -- A certificate for completing 120 hours of training in the core competencies of early childhood education awarded through the WV STARS Professional Development System.

3.78. WV STARS. -- West Virginia State Training and Registry System.

#### **§78-1-4. Licensing Information and Provisions.**

4.1. Requirements for a License or Certificate of Approval.

4.1.a. Before establishing or operating a child care center:

4.1.a.1. A center operator and each member of the governing body shall verify in writing that he or she has read this rule and is responsible for compliance with its requirements; **The center operator is either the private owner/licensee or the executive director of the entity operating the center. If the executive director has a designee that fulfills this responsibility, the designee must be an official designation that is stated in the organization's personnel policies or by written notification to the Secretary that the Executive Director has named a designee for this purpose.**

4.1.a.2. A child care center, other than one operated by the state, shall obtain a license from the Secretary; and

4.1.a.3. A child care center operated by the state shall obtain a certificate of approval from the Secretary. **The center operated by the state must meet the same requirements established by this rule in order to receive a certificate of approval. Certain regulations may be waived or a variance granted, but these must be issued in writing from the Secretary or the Secretary's designee; the written waiver or variance will provide the justification for such.**

4.1.b. A license or certificate of approval is valid for up to two years from the date of issuance, as determined by the Secretary, unless revoked or modified to provisional status.

4.1.c. A license or certificate of approval is valid only for the center and its location named in the application and is not transferable. **The location must be a physical location if the location of the center is not the same as the mailing address. For example, a Post Office Box address is not a location.**

4.1.d. A licensee shall post the license or certificate of approval in a conspicuous place in the center.

**The location must be conspicuous to the parent visiting the center. In order to be conspicuous, the license must be easily seen in a location that stands out. Posting the license in the administrative office is not a conspicuous location in most instances. A copy of the program's license will need to be posted in areas of the center that have separate entrances.**

4.1.e. If the ownership of a center changes, the new owner shall apply for a license and shall not operate until an initial license is issued.

The Licensing Specialist for the center will work with the current licensee and the prospective owner, if requested, to try to ensure a smooth transition. However, it is the applicant's responsibility to have the application complete and should anticipate the licensing process to take some time (up to 60 days) after its submission.

4.1.f. Before the location of a center changes, the licensee shall:

4.1.f.1. Inform the Secretary of the planned change at least 60 days prior to the relocation; and

4.1.f.2. Apply for a new license or certificate of approval and shall not operate at the new location until an initial license or certificate of approval is issued.

If the only aspect of the center that will change is the location and the physical facility, but the program and the staff remain the same, then the licensee may request to file an amended license application and have the current license amended to reflect the new location. Only when the licensee is establishing a new child care center is the initial license necessary as described in WV Code §49-2-114, which states: "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" Time frames for submitting the amended license application remain the same.

4.2. Application for a License or Certificate of Approval.

4.2.a. For each center to be licensed or approved, an applicant shall submit a completed application as prescribed by the Secretary. An application may be obtained by requesting one from the Division of Early Care and Education within the Department; contact information is located at [www.dhhr.wv.gov/bcf](http://www.dhhr.wv.gov/bcf).

The applicant or licensee must use the application forms created by the Department that are current at the time of submission. The complete application packet should be obtained from the Division of Early Care and Education or from its web site: <http://www.wvdhhr.org/bcf/ece/earlycare/regs.asp>

4.2.b. An incomplete application shall be considered withdrawn if not completed within 90 days of submission.

No license will be issued for an incomplete application. After 90 days, if the licensee wishes to continue with the licensing process, a new application must be submitted with current information. The Licensing unit will not rely on previously submitted information.

4.2.c. A licensee shall submit an application for renewal of a license or certificate of approval to the Secretary not less than 60 days prior to the expiration of the current license.

This provides time for the review of the application and for review of the center record. If the center does not submit the application for renewal within the stated time frame, it may delay the issuance of the renewal license. If the renewal application is submitted after the expiration of the

license, the center license may not be renewed or the renewal license may be issued with a date that reflects the date of the submission of the completed application; this will be decided on a case-by-case basis after reviewing the circumstances surrounding the failure of the licensee to submit the application in a timely manner. Having a gap of time in which the licensee operated without a license could have negative impact on the center's business; again, it is the responsibility of the licensee to meet the stated time frames for application.

As of this writing, and as a courtesy, the Division of Early Care and Education mails renewal applications out to centers during the year the renewal is due. It is the licensee's responsibility to request or download a renewal application in time to meet the submission time frame if one is not received from the Division.

#### 4.3. Waivers and Variances.

4.3.a. A center shall comply with the provisions of West Virginia Code Chapter 49, Article 2 (Part I) the requirements of this rule, terms of its license or certificate of approval and any plan of correction, unless a written waiver or variance has been granted by the Secretary. A center may not obtain a waiver of the requirements of this rule on the basis of the inability to achieve compliance with the rule.

The waiver or variance must be granted prior to the licensee acting in accordance with the requested waiver or variance.

4.3.b. A request for a variance or waiver shall be submitted to the Secretary in writing. The request shall include:

4.3.b.1. The specific requirement of this rule requested to be waived or varied; and

4.3.b.2. The reason or reasons for seeking a waiver or variance.

The written request must contain the two elements above. The request should be submitted to the Licensing Specialist, but may be submitted to the Program Manager or Division Director if desired.

4.3.c. A waiver or variance of a specific provision of this rule may be granted by the Secretary only if the following criteria are met:

4.3.c.1. The center has documented and demonstrated that the provision of the rule is inapplicable in a particular circumstance, or that the center complies with the intent of the provision in the rule in a manner not permitted by the rule;

4.3.c.2. The health, safety, and well-being of a child is not endangered; and

4.3.c.3. The waiver or variance agreement contains provisions for a regular review of the waiver or variance.

After review of the request and upon determination that the waiver or variance may be granted, the Licensing Specialist or Program Manager will discuss with the licensee the terms or conditions of the waiver or variance and time frames for review. Both parties will reach

agreement or understanding prior to the written waiver or variance being issued.

4.3.d. The waiver or variance agreement is subject to immediate cancellation if a center fails to comply with the stated terms of this rule.

The Licensing Specialist will issue the cancellation in writing.

#### 4.4. Amendment of a License or Certificate of Approval.

4.4.a. A current licensee shall apply for an amendment of a license or certificate of approval when:

Anytime the licensee seeks an amendment to the license, the request needs to come in the form of an application to amend the license.

4.4.a.1. Implementing an additional program or changing a program described in the statement of purpose; or

Examples of this may be: the statement of purpose includes an out-of-school time program, but now the center wishes to offer school age care through the summer, or the licensee wishes to add an infant/toddler program. The licensee will need to apply for an amended license and submit the updated statement of purpose with the application. The change cannot be implemented prior to approval and the issuance of the amended license.

4.4.a.2. Seeking to change the licensed capacity of the center.

4.4.b. In addition to a completed application requesting an amendment, a licensee shall submit to the Secretary in writing any of the following that apply to the change:

4.4.b.1. A copy of the center's revised statement of purpose as described in subsection 6.2. of this rule;

4.4.b.2. The qualifications of the director and staff members;

4.4.b.3. A copy of the center's revised plan for meeting program requirements and staff-to-child ratios;

4.4.b.4. A floor plan reflecting changes to the structure being used by a child care center;

4.4.b.5. A positive inspection report from the State Fire Marshal following any changes to the center's operation and premises;

4.4.b.6. A positive inspection from the county Department of Health, including the Department of Health Child Care Center Inspection Report and the Department of Health Inspection Report for Food Service Establishments;

4.4.b.7. Written menus developed by a dietician or nutritionist, or proof of participation in the Child and Adult Care Food Program administered by the Office of Child Nutrition in the Department of Education; and

4.4.b.8. A Pest Management Report as required by the West Virginia Department of Agriculture.

4.5. The Secretary may issue the following types of licenses or approvals:

4.5.a. An initial six-month license or certificate of approval for applicants establishing a new service;

4.5.b. A regular or renewal license for a period of up to two years for a licensee in compliance with this rule; and,

This permits the Department to be flexible in issuing a regular license. The reasons for issuing a regular license for less than a two year period varies. Here are some examples: The Licensing Specialist has assessed that the non-compliance does not warrant negative action at the time of issuance, but based upon center history the center needs increased monitoring in order to assess compliance and if further action is needed; the center was issued a provisional license which has ended and the center is in need of increased monitoring to assure compliance is maintained; the center is moving from a full year program to a part year program and the time frame for the license needs changed.

4.5.c. A provisional license for a licensee not in full compliance with this rule, but does not pose a significant risk to children.

If the Fire Marshal makes a recommendation for a provisional license the child care center license will be made provisional. A provisional license is an indicator that if corrections are not made and non-compliance continues children will become at risk of harm or it may indicate that the center has established a pattern of continued or willful non-compliance. There are some instances where a provisional license is based upon one occurrence of a serious incident in order to allow the licensing authority and the center administration/licensee to determine the cause and remedy(ies) for the incident; for example, leaving a child behind at a field trip location.

4.6. Conditions of a License or Certificate of Approval. As a condition of issuing a license or a certificate of approval the Secretary may:

4.6.a. Limit the age, problems, type of behaviors, physical or mental conditions of children allowed admission to a particular center;

4.6.b. Prohibit intake of any children; and,

4.6.c. Reduce the number of children that the center is licensed to receive.

If the center participates in the Child Care subsidy program, the local Child Care Resource and Referral agency(ies) will be notified of the conditions on the license.

4.7. Denial or Revocation of a License or Certificate of Approval.

4.7.a. The Secretary may deny, refuse to renew, or revoke a license or certificate of approval if the center materially violates any provisions of West Virginia Code, violates any terms

or conditions of the license or certificate of approval, or fails to maintain established requirements of child care.

A material violation indicates that the center is not operating in a manner that meets significant requirements that are related to the care and safety of children or that the center is being operated in a way that violates other laws that may not be specific child care center requirements, but the violation of the other laws are impacting the services to children (laws or regulations such as Worker's Compensation or Unemployment Compensation laws or Health permit violations). Violations that are willful, repeated or that occur because the licensee is unable to comply are most likely to result in negative action.

4.7.b. When the Secretary denies, refuses to renew, or revokes a license or certificate of approval, the licensee shall not operate the center without a court order pending administrative or judicial review.

The action takes effect upon notice or upon the effective date stated in the notice. Typically, the Licensing Specialist has had discussion with the center director prior to the notice being issued and the licensee has had time to decide if the action will be appealed through the administrative appeal process. In rare circumstances, the Secretary may grant that the center can continue operation pending the appeal process. However, in most cases, if the center wishes to continue operation after receiving notice of non-renewal or revocation, it must first request the administrative hearing from the Department and then seek a stay from a circuit court of the Secretary's action pending the outcome of the administrative review process. (See 4.9)

#### 4.8. Closing of Center by the Secretary.

4.8.a. If the Secretary finds that the operation of a child care center constitutes an immediate danger of serious harm to the children served by the center, the Secretary shall issue an order of closure terminating the operation of the center.

4.8.b. A center ordered closed by the Secretary may not operate pending administrative or judicial review without a court order.

#### 4.9. Administrative and Judicial Review.

4.9.a. Administrative and judicial review are subject to the provisions of §29A-5-1 *et seq.* of the West Virginia Code.

4.9.b. A decision issued by the Secretary may be made effective from the date of issuance. Immediate relief may be obtained upon a showing of good cause made by a verified petition to the circuit court of Kanawha County or the circuit court of any county where the affected center is located.

4.9.c. The pendency of administrative or judicial review shall not prevent the Secretary from obtaining injunctive relief pursuant to the West Virginia Code § 49-2-105.

### **§78-1-5. Inspection and Investigation.**

5.1. An applicant or licensee shall permit the Secretary access to the center to conduct announced and unannounced inspections of all aspects of the center's operation and premises. WV Code §49-2-116 authorizes access to the center to conduct announced and unannounced inspections and investigations. As a condition of the license, the licensee must permit such. As the regulatory authority, the inspections and investigations must be reasonable; reasonable would include the inspection and investigation of any aspect of the operation that pertains to this rule. The licensee must permit access to the center operation records even when those records are not stored at a site that is the physical location of the center; the licensee must either bring the records to the center site for access or permit access to the location of storage.

5.2. A licensee shall provide all information requested by the Secretary. The Licensing Specialist will request information that pertains to the center operation and its compliance with this rule and state and federal law and information about the background and character of the licensee. The Secretary has the authority to investigate the background of the licensee as stated in WV Code §49-2-114 (c): "Before issuing a license, or approval, the secretary shall investigate the facility, program and persons responsible for the care of children. The investigation shall include, but not be limited to... reputation, character and purposes of applicants, a check of personnel criminal records, if any, and personnel medical records, the financial records of applicants...."

5.3. When an inspection or complaint investigation finds non-compliance with this rule, the Secretary may require a plan of correction.

The plan of correction, referred to as Corrective Action Plan, is an opportunity for the center to describe and make assurances of how the center will comply. For each requirement not met, the corrective action plan must show how the center will achieve compliance and the time frame for coming into compliance with the requirement. Typically, the center director and the Licensing Specialist will discuss the items for the Corrective Action Plan prior to it being written. The Licensing Specialist will then send the written plan to the center director for completion of details on how the center will comply; some compliance items may be directed by the Licensing Specialist, but most are determined by the center. The Licensing Specialist will provide or will agree to the time frame for expected compliance. Once the center director has completed and signed the Corrective Action Plan, it is returned to the Licensing Specialist for review and approval. There is an expectation that the Corrective Action Plan will be legible and organized. If there are any questions or issues with the submitted plan, the Licensing Specialist will notify the center director for discussion and may return the Corrective Action Plan for amendment. The Licensing Specialist will follow-up with monitoring of the plan.

A Corrective Action Plan, when issued without any other regulatory enforcement action, is viewed as a positive enforcement action. It is providing the center an opportunity to comply without impact to the license.

5.4. The Secretary may request the licensee to submit the results of a health examination, psychological examination or drug and alcohol screening result on the licensee or any personnel of the center if good cause is found during an inspection or investigation. Such requests are very rare and the request will be made in writing with a description of the "good cause". The Secretary may consult with the licensee on the licensed health care/mental health care provider to perform the requested exam or screening and the Secretary will provide a time

frame for which the results are required. If the licensee or personnel have recently completed such an exam or screening and the results can be confirmed by the Secretary, then the licensee or personnel may request the Secretary to use those results.

## **§78-1-6. Governance.**

### 6.1. Administrative Structure.

6.1.a. General. The Licensee is legally accountable for the operation of the center and shall ensure the program's compliance with the provisions of West Virginia Code Chapter 49, Article 2 (Part I) and the requirements of this rule. The Licensee shall:

6.1.a.1. Implement a statement of purpose as described in this rule; and

6.1.a.2. Develop policies and procedures to be kept in an administrative manual as described in this section to guide the operation of the center.

6.1.b. A center shall have a governing body to ensure that the responsibilities of the licensee are carried out.

If a single proprietor/private owner is the licensee, please refer to requirement 6.1.c.

If an organization has a governance structure that does not fit well into the requirements of this section, but complies with laws that govern the business organizations operating within the state of West Virginia, then the licensee must present to the licensing authority in the application for a child care center license, the governance structure and identify the position(s) that is accountable for the operation of the child care center, such as an executive director. The duties of the governing body and the child care center director must be clearly covered within the structure being presented and final accountability for the operation identified.

6.1.b.1. The governing body shall have at least one parent of a child currently served by the center, or when no parent is available for the governing body, a parent advisory committee shall be established as described in this section.

6.1.b.2. No staff member, staff family member, or employee of a public agency that regulates or makes eligibility decisions for the center may serve, but the director may be an ex-officio non-voting member.

Staff members or staff family members are not to be part of the governing body, nor is any person employed by a public agency that has regulatory authority over the center or that makes decisions about the center's eligibility to participate in the child care subsidy system. This means that an employee of the Department or an employee of a Child Care Resource and Referral agency contracted with the Department may not serve on the governing body. The Director of the center may be an ex-officio member of the governing body that helps guide the body but cannot vote on decisions made by the governing body.

6.1.b.3. The governing body shall meet at least four times in a twelve-month period and preserve in writing the minutes of each meeting, including but not limited to, the meeting's date and time, members in attendance, issues considered, and decisions made.



6.1.b.4. The governing body shall appoint a full-time director to manage the daily operations at each site where a center operates; submit the director's qualifications in writing for approval by the Secretary prior to employment; conduct an annual evaluation of the director; and, oversee any necessary action regarding the director's job performance.

The qualification of the applicant for the position of director needs to be submitted to the Licensing Specialist for confirmation that the person meets the child care center regulations for director. Submitting the qualifications prior to filling the director position will save the governing body from the difficulty that may arise if the person does not meet the qualification but has been offered the position. The Department does not approve whether or not a person can be hired, but rather determines if the person meets the position qualifications. An official college transcript shall be submitted for approval of qualifications prior to hire.

The governing body must also place the written annual evaluation of the director in the director's personnel file. When the governing body and the director are the same (private owner), the Licensing Specialist will expect to see, at minimum, annual feedback from the parent advisory committee (see 6.1.c.) in the personnel file.

6.1.c. An unincorporated, individual licensee (owner) may act as the governing body. In addition to the requirements listed in paragraph 6.1.b.4., the owner shall appoint a parent advisory committee comprised of parents of children currently served by the center that meets at least four times in a 12-month period.

A written record of the meetings must be kept on file at the center for compliance.

## 6.2. Statement of Purpose.

The statement of purpose can be viewed as the center's mission statement and objectives. Many centers include the required information in the parent handbook provided to the parent. Many centers also include the statement of purpose information in the administrative manual (6.3).

6.2.a. An applicant or licensee shall ensure that each center has a written statement of purpose that includes:

6.2.a.1. The type of care and programs offered by the center;

6.2.a.2. The goals and objectives for each of the offered programs;

Centers may offer varying types of programs. Programs are typically based upon age and developmental level of children. There should be, at minimum, goals and objectives for infants/toddlers, preschoolers, and school age children as applicable. If the center offers a program based upon a specific method or philosophy, then the statement of purpose would describe the goals and objectives of that method; for example, a center that operates as a Montessori program, or a center that operates as a faith-based program.

6.2.a.3. The ages of the children served;

6.2.a.4. The scheduled days and hours of operations;

The days and hours of operation must agree with the days and hours of operation stated on the licensing application. It is acceptable for the licensee to indicate on the application that the program

follows the school calendar for a particular county and then specify the daily hours of operation. A change in days or hours of operation requires an amended license application.

6.2.a.5. The admission and discharge policies; and,

6.2.a.6. The provisions made by the applicant or licensee to ensure safety and reduce risk of harm.

Ensuring safety and reducing risk of harm requires the licensee to identify and assess the means necessary to minimize or eliminate unacceptable risks (risk management).

Risk management describes the measures the licensee practices to minimize the possibility of harm to the business. The regulation requires addressing measures taken to ensure safety and reduce risk of harm to children. While it is advisable for the center to have a comprehensive risk management plan which covers all aspects of the business operation, the center must address risk management in relationship to care for children. Medication administration procedures and emergency/disaster plans are examples of risk management. What is required in the statement of purpose is a general description of how the licensee addresses risk management.

6.2.b. An applicant or licensee shall ensure that the statement of purpose is:

6.2.b.1. Available to staff members and parents at all times; and,

6.2.b.2. Reviewed with all staff members whenever changes are made.

Revision dates need to be included in the written documentation. The director will need to have a method for documenting staff review when changes are made.

6.3. Administrative Manual.

6.3.a. An applicant or licensee shall ensure that each center has an administrative manual that includes the center's policies and procedures with the dates they were implemented or revised, regarding:

6.3.a.1. Confidentiality and information disclosure and secure disposition of records;  
See Section 6.6 and requirement 7.1a.5.C.3

6.3.a.2. Admission and discharge;  
See §78-1-7. The Child and Family.

6.3.a.3. Personnel:

6.3.a.3.A. Employment;

6.3.a.3.B. Termination;

6.3.a.3.C. Use of uncompensated personnel;

This includes the use of any uncompensated personnel and is not limited to volunteers. The manual needs to describe how the uncompensated personnel are being used at the center and the scope of their duties.

6.3.a.3.D. Criminal background checks and substantiated abuse or neglect findings;

See section 8.4

6.3.a.3.E. Compensation, including a statement of coverage or exemption from coverage of Workers Compensation and Unemployment Compensation;

6.3.a.3.F. Circumstances under which the center reserves the right to require drug and alcohol screening for drivers, other staff and volunteers; and

6.3.a.3.G. Periodic performance evaluations;

Also see 8.3.b.

6.3.a.4. Behavior management including, a description of methods used for positive guidance, when the use of time-out or other behavior consequences are to be communicated to the parent and what process the center uses to determine and develop behavior management plans;

Also see Section 11.7 and requirement 11.1.a.

6.3.a.5. Reporting of abuse;

Also see Section 11.6.

6.3.a.6. Health policies for staff and children, addressing at a minimum the health requirements of this rule;

6.3.a.7. Attendance;

6.3.a.8. Emergencies;

Also see Section 19.

6.3.a.9. Transportation; and,

Also see Section 22.

6.3.a.10. Grievance procedures.

6.3.b. An applicant or licensee shall ensure that the administrative manual is:

6.3.b.1. Available to staff members at all times; and,

This requires the administrative manual to be on site and accessible. This may either be in hard record format or electronic format.

6.3.b.2. Reviewed with all staff members when changes are made.

The review needs to be documented. This may be in staff meeting minutes, individual staff records, signature sheet in an administrative file, etc. See Section 11.7 for emphasis on staff

acknowledgements of certain policies related to behavior management and reporting of abuse and neglect.

6.4. Standards of Ethical Conduct. A center shall not misrepresent or operate a program in any way that is misleading, deceptive or illegal.

6.5. Grievance Procedure. A center shall develop and implement a written grievance procedure for families and employees. The procedure shall be written in clear and simple language and shall include at least the following provisions:

6.5.a. A center shall ensure that families and employees can express concerns or make complaints without fear of retaliation; and.

6.5.b. The center shall explain the procedure to parents and employees and obtain written acknowledgment that an explanation of the procedure has been provided.

There must be a written acknowledgment maintained by the center that the grievance procedure has been explained to the parents and employees. If a center places the written grievance procedure in a parent handbook or employee manual and chooses to use a blanket statement that the parent/employee has received a handbook or manual, the statement needs to provide for the version date of the document. It is preferable that the licensee maintain a separate parent/employee acknowledgment of the grievance procedure which is kept on file.

6.6. Records and Information Disclosure.

The licensee needs to also plan for the disposition of records when closing the center.

6.6.a. Records. A center shall maintain the confidentiality of all records, including:

6.6.a.1. Child records according to the following guidelines:

6.6.a.1.A. A center where the child is currently enrolled shall keep the child's records on the premises and have a procedure for the maintenance, security and disposition of records;

The center will demonstrate compliance to the maintenance of records by the records being orderly, consistency of records (similar information maintained in the same way in each record), and a process for timely completion/filing of information contained within the record. Security of records, in addition to physical security, will identify which personnel have access to the records. Disposition of the records will include a secure disposal of records that are no longer maintained by the center. The center must determine the disposition of records prior to the center ceasing operation should that occur.

6.6.a.1.B. A center shall store and secure records against loss, tampering, or unauthorized use and establish procedures restricting access to records and unauthorized use under the provisions of West Virginia Code §61-3C-1 *et seq.*; and,

The security of records shall include a process that determines who has access to what records, by what means (example a key for locked files or a PIN for computer network) and either a routine of access is established or written documentation of each access is provided. The section of code referenced is in regards to computer/electronic networks and records.

6.6.a.1.C. A center shall retain records for a minimum of three years following the child's discharge.

6.6.a.2. Staff records according to the following guidelines:

6.6.a.2.A. A center shall keep all current staff records on file on the premises and have a procedure for the maintenance, security and disposition of records;

Staff records must be maintained on site at the location stated in the child care center license with the exception of those entities that have more than one licensed site (see 6.6.a.2.B and 6.6.a.2.C). The center will demonstrate compliance to the maintenance of records by the records being orderly, consistency of records (similar information maintained in the same way in each record), and a process for timely completion/filing of information contained within the record. Security of records, in addition to physical security, will identify which personnel have access to the records. Disposition of the records will include a secure disposal of records that are no longer maintained by the center. The center must determine the disposition of records prior to the center ceasing operation should that occur.

6.6.a.2.B. A center that operates at more than one site shall keep current staff members' emergency medical information on file at each location where a staff member is employed and at a central location; and,

When an entity that operates more than one licensed site chooses to maintain staff records at a central location, the site that is not the central location must have current staff records on site that contains the information needed for emergencies related to staff persons such as medical conditions and emergency contacts.

6.6.a.2.C. A center that operates at more than one site may keep all staff records at a central location as long as the central location is in West Virginia.

Entities not located in West Virginia but operating a licensed center in West Virginia must maintain staff records within the state. Also see Section 5.

6.6.b. Information Disclosure.

6.6.b.1. A center shall keep all information about the child confidential and shall only disclose it to staff members caring for the child in accordance with the center's policies and procedures.

Any information that identifies a specific child needs to be kept confidential. This would include anything posted in the classroom that identifies an allergy or special need. Written procedures for access are required. All staff members and volunteers are to comply.

6.6.b.2. A center shall obtain the written consent of the child's parent before disclosing information about the child except when disclosing information to the Secretary or his or her designee.

This means any type of disclosure including but not limited to written, electronic or oral. In carrying out the duties of the Department under this rule, the Secretary's designee does not require written consent. Department staff is bound by confidentiality procedures and laws.

## §78-1-7. The Child and Family.

### 7.1. Admission, Discharge, Basic Rights and Records.

Throughout *§78-1 Child Care Centers Licensing* are requirements that certain policies and procedures must be discussed or provided to parents. The licensee must decide how this can be verified. Some requirements must be verified by a signature. It is preferable that the licensee or center director have a signature sheet as part of the parent handbook that indicates each policy and procedure has been discussed with the parent. The signature sheet should also indicate the version date of the statement of purpose or parent handbook which is being provided to the parent and used for discussion. The center keeps the original signature sheet in the child's file and provides a copy to the parent.

7.1.a. A center shall develop, implement and maintain an admission policy and procedure ensuring that prior to the admission of the child to the center:

All the items under 7.1.a. are to be done prior to the child's admission, meaning participation in the program. Where there is a requirement for discussion with the parent, the Licensing authority may conduct parent interviews to determine compliance.

7.1.a.1. The parent completes and submits an application for child care services;

7.1.a.2. The director or designated staff member documents in the child's file, a meeting with the parent to exchange information about the center's programs and the specific needs of the child, including information about any individual characteristics and personality factors that may influence the child's behavior and well-being at the center, and any special family considerations that are relevant to child care;

This meeting is important to the daily operation of the center. The center learns what it needs to know about the child and the child's family while at the same time being able to explain the center's expectations of the child's parent/guardian.

7.1.a.3. The center provides to the parent a copy of its statement of purpose and discusses it with the parent;

This is the opportunity for the center to explain the center's programs, philosophy and goals. It is not sufficient to provide a written copy to the parent; to comply there must be discussion with the parent.

7.1.a.4. The center provides information about its liability insurance coverage, including information regarding coverage or non-coverage of accidents or injuries; and,

The center explains the purpose of its liability insurance and informs the parent if costs to the parent arising from accidents at the center will be covered by the insurance. Coverage of costs arising from accidents (not negligence) is not required, but the parent needs to understand this prior to the child's participation in the center program.

7.1.a.5. The center informs the parent of the details of the agreements to be signed by the parent, including, but not limited to, an agreement that:

7.1.a.5.A. The center prohibits corporal punishment on its premises and during off-site center activities while the child is participating;

This includes corporal punishment administered by the parent or any other person. A center may not administer corporal punishment even if the parent expresses permission or desire for the center to do so, nor should center staff encourage the parent to administer corporal punishment off the premises.

7.1.a.5.B. The parent has access to the center when his or her child is in attendance; and,

See the definition of parent (3.41). Access is an abuse/neglect prevention tool. It is reasonable that the parent's designee will also have access to the child. The center must allow non-delayed access to the parent. The center should explain what behavior on the part of the parent may delay access (for example, the parent is posing a danger to staff or children) or special circumstances that will delay or prevent access (for example, shelter-in-place orders). Key-card and security code access for parents are acceptable methods of secure access. Methods of delaying access for security purposes will be evaluated on a case-by-case basis and as parental concerns are voiced about access. Prior to a licensee implementing a system that delays access, approval should be sought from the Department. The licensee needs to be prepared to show how a delayed access system provides security to vulnerable children without compromising their safety (by alerting staff to quit unsafe practices prior to allowing entry to parents).

7.1.a.5.C. The parent has received and discussed a copy of the center's policies on:

7.1.a.5.C.1. Behavior management and the reporting of child abuse and neglect;

This means policies on how the center staff manages behavior and policies requiring center staff to report the suspicion of abuse and neglect of a child from any source. See Section 11.7.

7.1.a.5.C.2. Immunization, parental objections to treatment, the dismissal and re-admittance to the center of the child with a communicable illness, procedures for notifying the child's parent in advance of its policies on the exclusion and re-admittance of ill children, procedures for informing the parent of each child of the exclusion policy, and medication administration;

Parents need to be informed prior to the child's participation in the center's program. The center needs to be informed of the parent's objections to treatment prior to the child's participation in the center program. The center is not required to administer medication (although may be required under certain conditions related to the Americans with Disabilities Act) but the parent must be informed prior to the child's participation in the center program of the medication policy and, if the center administers medication, the medication procedures. Immunizations and treatment are two different items.

For more information on the American with Disabilities Act, please go to: <http://www.ada.gov/childqanda.htm>

7.1.a.5.C.3. Confidentiality and information disclosure;

This includes use of information in newsletters, social media and online information about center activities. The center must obtain permission to reveal any information, in any format, about the child to persons not authorized, either by the parent or by law, prior to doing so. Use of first names

which cannot be tied to a specific child may be acceptable. For example, a board in the classroom which says “Happy Birthday this month to Katie, Tyrone and Jen” would be acceptable.

7.1.a.5.C.4. Meal and nutrition policy;

7.1.a.5.C.5. Emergency evacuation and sheltering procedures; and

7.1.a.5.C.6. Discharge policies.

7.1.b. The center shall ensure the parent has access to a copy of this rule; It is not required that the center provide a copy of this rule to the parent to take home. It is required that the parent be informed about the rule and where in the center the rule may be accessed by the parent. The rule needs to be accessible to the parent during operating hours.

7.1.c. The center shall inform the parent of its requirements for signed permission prior to the child’s participation in field trips, water activities and other special activities; and, Blanket permission is not acceptable for compliance. A center may obtain permission for a recurring field trip or activity in one signed permission provided the dates of the recurrences are noted on the form prior to the parent signing. For example, if every third Thursday the two year old classroom walks to the library, one permission form may be used for multiple Thursday trips, provided the date for each Thursday is written on the permission form at the time the parent signs permission. It is not acceptable for the parent to sign a permission form and the dates to be added later as they occur.

7.1.d. The center shall inform the parent of his or her right to report to the Secretary any complaints related to compliance with the provisions of West Virginia Code Chapter 49, Article 2 (Part I) and the requirements of this rule.

7.2. Discharge Policies. A center shall develop, implement and maintain policies and procedures, including criteria, for a child’s discharge from the center:

7.2.a. When the parent withdraws the child from a center;

7.2.b. When a center asks a parent to remove his or her child; and

7.2.c. When a center informs the parent in advance of the request for discharge, except in cases of emergencies or investigations related to child abuse and neglect.

Policies for discharge need to reflect the expected time frames for informing the center when the parent intends to withdraw the child and the provision of informing a parent with enough notice for other care to be arranged when the center wishes to discharge a child. An emergency would be an event that is not typical to the operation of the center or could not have been anticipated by the center. A child who has been suspected or alleged to be abused/neglected should not be discharged for that reason; however, a child who is formally alleged to have abused another child may be discharged if the center has no other means of assuring the safety of that child or of another child(ren) should the child remain enrolled.



7.3. Basic Rights. A center shall ensure that the child and the child's family have equal access to programs regardless of race, religion, ethnicity, gender, ability or sexual orientation.

7.4. Information About Child. For each child enrolled at a center, the center shall maintain a file in one central location that includes the following current information:

**Recommended that the information requested below be updated at least annually.**

7.4.a. The child's name, address, gender and date of birth;

7.4.b. The name of the child's parent, and the parent's home and work telephone numbers and addresses;

7.4.c. The name, physical address and telephone number of at least one additional individual who can assume responsibility if the center cannot locate the parent;

7.4.d. The names, addresses and telephone numbers of the child's sources of primary medical care and emergency medical care;

7.4.e. The child's health insurance coverage and policy number;

7.4.f. A signed permission from the parent for emergency medical treatment and transportation;

**There must be documentation in the record when the parent objects to medical treatment.**

**There must be at least one person named and at least one of the persons named should be the individual identified in complying with 7.4.c.**

7.4.g. A signed permission to release the child to someone other than the parent, with the names, addresses and telephone numbers of the one person or several persons permitted to take the child from the center;

7.4.h. Information and special instructions from the child's parent or licensed health care provider about any special dietary or other needs because of a medical or other reason;

**The special instructions need to be in written form with identification of who is providing the special instructions (parent, guardian, health care provider, etc.).**

7.4.i. A signed permission from the parent to take photographs or make audio and/or video recording of the child;

**This includes from any type of device by the center or any staff member. This also includes posting any photo, video or recording in media of any format. For example, a classroom teacher may not take a picture of a child during an activity with an iPad without a signed permission from the parent regardless of how the photograph is to be used. This, also, includes when a provider has video surveillance of any kind including recorded or live video feeds. It is recommended that provider disclose the purpose of the photographs or audio/video recordings.**

7.4.j. Legal verification of custody when one parent is the sole legal guardian of the child by virtue of a court proceeding;

It is not sufficient to have a verbal statement from a parent that he/she is the sole guardian when a question of custody and access by another parent or guardian arises. It is advisable that the center explain its procedures regarding questions of guardianship in its administrative policies. It is recommended to seek legal consultation when formulating the policy. The child care provider will need documentation from the Department if a child is in State's custody. It is recommended that the provider have the most current custody verification available.

7.4.k. Health records as described in subsections 15.1. and 15.2. of this rule;

7.4.l. The dates of enrollment and discharge;

7.4.m. Scheduled days and hours of attendance; and,

7.4.n. The name and telephone number of the school-age child's school.

The center must know who to contact/alert when a child does not arrive from school as scheduled. If the child is transported by the school's transportation system, it is advisable to have record of the bus number and the name of the regular driver.

7.5. Information for emergency purposes. A center shall keep two copies of the information in subdivisions 7.4.a. through 7.4.h. of this rule, with the parent's original signature on both copies, and shall keep:

Copied signatures are not acceptable, an original signature must be on both copies.

7.5.a. One copy in the center's files to be easily accessible at all times; and, This would be the central location stated in 7.4. The central file may be an electronic file provided that the parent has provided an electronic signature which can be verified as the parent's signature. Electronic files must be available to the Secretary for review just as hard files would be.

7.5.b. The other copy in the center's emergency file, described in this rule, where it is available to accompany the child when the child is off-site.

The emergency file is accessible to staff and can easily be transported when a group/groups go off-site. The emergency file must be a hard copy with the parent's original signature.

7.6. Exchanging information with the parent. The center shall develop a plan for ongoing communication with the parent that includes:

See Section 11.8 for requirements on parental receipt and acknowledgement of policies regarding behavior management and the reporting of abuse and neglect.

7.6.a. A pre-admission meeting in which the center discusses with the parent an oral or written system for exchanging information regularly about the child including the child's health and any events at home or at the center that may influence the child's behavior and well-being;

The expectations for communication need to be established prior to the child's participation in the center's program.

7.6.b. Providing a signed incident or accident report when an incident or accident resulted in first aid. The report shall include, at a minimum, the time, date, location, description of the incident or accident, the action taken and the name of the staff person responsible for the child at that time;

7.6.c. Providing a signed serious occurrence report as required in section 19 of this rule; and,

7.6.d. Providing the parent opportunities to volunteer at the center.  
The director or licensee will need to provide evidence/verification that parents are provided opportunities to volunteer at the center. Verification may be in various forms, such as notices, postings, volunteer forms in the handbook, etc.

### **§78-1-8. Staffing.**

8.1. This section applies to all center personnel including the private owners, volunteers, and parents who receive compensation for their duties or who are used by the center to meet staff-to-child ratios.

Any center personnel regardless of compensation is included in staffing (see definition of staff, 3.58); any parent that receives compensation is included in this section; anyone used to meet staff:child ratio, regardless of compensation, is included in staffing.

8.2. Persons at a child care center who are not subject to this rule include:

8.2.a. An adult who is in the center for brief periods in the normal course of carrying out business or professional activities and is not left alone with the children; or

The adult person referred to is not a person who is part of the normal operation of the center, but may be a normal part of a service to a child at the center or may be providing service, supplies or equipment that is used in the daily operation of the center. For example, a Birth to Three specialist for a specific child who may be on site at scheduled times for the child would not be subject to the requirements of this section; this person is not expected to provide supervision to children and his/her activity with the one child is limited and defined. A guest speaker would not be subject to the requirements of this section because the guest speaker is not to be left alone with children and is not providing supervision to children. Another example would be the delivery person working for an outside vendor who routinely stocks the kitchen pantry.

8.2.b. A parent of an enrolled child who is at the center only for the purpose of performing parental responsibilities in relation to his or her own child.

8.3. Staffing Procedures.

8.3.a. A center shall provide each new staff member with a notification letter that includes his or her effective date of hire, position title, qualifications, duties and responsibilities at the time of hiring.

Compliance will be determined by a copy of the letter in the personnel file and confirmation (when interviewed) from the staff member of the information contained in the notification. A staff member that cannot articulate information about their role at the center will be assumed to

not have been informed unless that person verifies receipt of the notification.

8.3.b. A center shall conduct performance evaluations:

8.3.b.1. On all staff at least once a year; and

8.3.b.2. On all newly employed staff members and staff members new to their positions at three months, six months, and 12 months.

8.3.c. A center shall provide each staff member with:

8.3.c.1. A written copy of his or her most recent evaluation, signed by the center's director or director's designee and the evaluated staff member; and

8.3.c.2. A professional development plan based on the evaluation.

The professional development plan needs to have correlation to the performance evaluation. The intent is to encourage staff to become professionals or to grow as professionals in the field of early care and education. For example, if the performance evaluation indicates the staff person needs to increase knowledge of developmental milestones in young children, then the professional development plan would include this area.

8.3.d. A center shall maintain a file for each staff member that includes:

8.3.d.1. A current job description;

8.3.d.2. Documentation that references have been verified including three references for the center director and two references for other staff members;

The staff file must have notation that the references have been verified by the director, the director's designee, or in the case of a new director, the governing body representative. Written references may be in the file, but there must be notation that the referent has been verified. Written references are required as part of the center license application for the center director and the private owner. The Licensing Specialist verifies those references.

8.3.d.3. Records of employment, including a duplicate copy of all performance evaluations; and

8.3.d.4. A verification of the staff member's education and qualifications.

For staff members who have completed high school or an equivalent diploma, a copy of the diploma will suffice. The same is true for college degrees. There are certain positions that may require transcript as verification for meeting the qualification, such as infant/toddler staff. If transcripts are necessary, then they must be official transcripts. Other certifications may require transcripts to verify the certificates are meeting the qualification of a specific position. In all cases, the education must have been received by an accredited school or institution or an accredited school or institution must accept the diploma or transcript as fulfilling diploma requirements. (See §78-1-9 for requirements on qualifications.)

8.4 Staff Character and Background.

8.4.a. A center shall use staff members and volunteers with:

The director and other staff in a position to supervise staff members need to observe and include the items stated in 8.4.a.1 – 8.4.a.9 in informal or formal feedback to staff and in the performance evaluations. A staff member that cannot demonstrate those requirements needs to either have a plan that addresses and corrects the lack of demonstration or should not be used until the staff member can demonstrate compliance.

8.4.a.1. A good reputation and character;

8.4.a.2. Sufficient education, training and experience to provide the skills necessary for carrying out the essential functions of his or her job with or without reasonable accommodation;

8.4.a.3. Sound judgment, emotional maturity, and an understanding of children;

8.4.a.4. A demonstrated ability to perform assigned tasks;

8.4.a.5. The ability to correct hazards that might harm the health, safety and well-being of the children;

8.4.a.6. The ability to work with children without mistreatment or abuse;

8.4.a.7. The ability to encourage children and to provide them with a variety of learning and social experiences appropriate to the age of the children;

8.4.a.8. The ability to support children's physical, emotional, psychological, social and personal development; and

8.4.a.9. The ability to communicate effectively and to respect confidentiality.

8.4.b. No person shall be on the premises or have contact with the children in care whose health or behavior would harm the children, or who is under the influence of a controlled substance, including alcohol or a legal pharmaceutical that impairs his or her functioning.

8.4.c. Other than the exceptions cited in subdivision 8.4.e., a center shall ensure that a state and federal fingerprint-based\_criminal background investigation is performed on each staff member and volunteer pursuant to the provisions of the West Virginia Clearance for Access: Registry and Employment Screening Act (WV CARES), W. Va. Code §16-49-1 *et seq.*, and W. Va. Code R. §§69-10-1, *et seq.*, and shall keep the following information on file:

8.4.c.1. A completed and signed WV CARES self-disclosure application and consent form. A copy of the form shall be on file and uploaded to the WV CARES system\_no later than the date of hire;

8.4.c.2. A variance or waiver if the individual has convictions or pending charges of disqualifying offenses;

8.4.c.3. A fitness determination of eligibility from the WV CARES unit; and

8.4.c.4. A center shall update the documentation of a completed background check in each staff member's file at the expiration of rap back enrollment.

8.4.d. A search shall be done of the state-based child and adult abuse and neglect registries and protective services databases in each state where the staff member or volunteer resided during the preceding five years. The same search shall be done in the state where the staff member or volunteer currently resides, and shall be repeated every five years.

This is a separate process and should not be confused with the criminal history background check. A person may have a history of abuse or neglect which is determined in a record check through the Department but may not have a criminal conviction related to the abuse/neglect history.

8.4.e. A center does not require a criminal background check on the following:

8.4.e.1. A new staff member who has on file at the center documentation of the required criminal history investigations within the previous 12 months;

8.4.e.2. An individual not associated with the center, but contracted to provide lessons or other services for brief periods to the children while center staff are present; or

8.4.e.3. A parent who transports children on an irregular basis for field trips without pay or compensation.

8.4.f. Prior to receiving the WV CARES fitness determination required under this rule on any staff member, a center shall have in place a safety plan that ensures that the staff member works under direct supervision and is not left alone with a child.

8.4.g. The Secretary may require a criminal background check for good cause.

Good cause means that there is sufficient reason for the request. Good cause is a relative term, but in the case of this requirement will be related to the determination of character or determination of a possible risk the person may present to children. The center director or licensee will be notified in writing when the Secretary is requesting a criminal background check under this requirement; the written request may be part of a CAP.

8.4.h. For individuals over 13 and under 18 years of age, prior to permitting them direct contact with the children on a regular basis, a center shall have on file a signed affidavit from the individual's parent stating that his or her child has never been arrested or convicted of an offense against a person.

This is a safety requirement. An affidavit is a sworn statement and should be notarized. Persons under the age of 18 years cannot have a criminal history record check performed. This applies to those persons falling in the category of staff and not those children who are clients of the child care service. If a child is both a staff member and a client, then the affidavit is required.

## 8.5. Hiring Prohibitions.

8.5.a. A center shall not employ or use an individual who is currently on parole or probation for a felony conviction, or is currently under indictment, has pending charges, or has been convicted or entered a plea of guilty or no contest to any of the disqualifying offenses as defined in W. Va. Code §16-49-1(8) and W. Va. Code R. §69-10-2.10., or other crimes that the Secretary determines may pose a risk to children.

8.5.b. A center shall not hire or continue to employ or use any individual who is determined by the Department to have abused or neglected a child or incapacitated adult.

A person with a finding of abuse or neglect by the Department may not be used or employed by the licensee in any capacity for the operation of the child care center. If the licensee has other businesses separate from the child care center, this requirement does not apply to persons employed by the other business, **provided** that the person with the finding is not permitted or expected to interact with the operation of the child care center during the time the child care center provides services or is permitted access to any confidential information regarding the children and families served by the child care center.

Any person who has been continuously employed by the child care center prior to July 1, 2003 and had an abuse and neglect finding prior to July 1, 2003, may continue to be employed without the abuse or neglect finding impacting their employment status. Any finding of abuse or neglect after July 1, 2003 would impact the status of that person.

8.5.c. A center may not employ or use an individual who has entered a plea of guilty or no contest, or has been convicted of a disqualifying offense unless the Secretary grants a waiver or variance.

8.5.d. A center may not use an individual who failed to disclose a conviction or pending charges on a WV CARES self-disclosure application and consent form or failed to disclose a finding of abuse or neglect unless the Secretary grants a waiver or variance.

8.5.e. A center shall have policies and procedures that include protocols requiring: The protocols for Subsection 8.5.e. need to be referenced in the center's administrative procedure manual or directly stated within the procedure manual (6.3). The protocol must also include compliance to this subsection when the staff member is the director or the private owner. It is expected that the private owner will report his/her arrest, charge, indictment, conviction or allegation of abuse or neglect directly to the Secretary's designee.

8.5.e.1. A staff member or volunteer to report his or her criminal arrest, charge, indictment, or conviction for a criminal offense to the center director within 24 hours; This person, including the private owner or the director, may not participate in the center operation during operating hours unless there is a written safety plan agreed upon between the licensee and the Licensing Specialist. See 8.5.a

8.5.e.2. A staff member to report to the center director that he or she is the subject of an abuse or neglect investigation;

8.5.e.3. The center to notify the Secretary of the staff member's report within 24 hours; and

8.5.e.4. That the center prohibit a staff member or volunteer who is accused of having sexually abused or otherwise injured a child or incapacitated adult from caring for or having contact with children pending the outcome of an investigation.

This person may not participate in the center operation pending the outcome of the investigation. Typically, this person will not be permitted on the premises even when children are not being served so there is no access to information regarding the investigation or any opportunity for interference or the appearance of such. However, if the licensee believes there is good cause for the accused to be on site outside of operating hours, then the licensee should request the approval of a safety plan permitting such; this request is to be addressed to the Licensing Specialist for the center. The Licensing Specialist may consider the request after consultation with any investigators and the Program Manager and will provide a written approval or denial to the request. If the accused staff member is also the parent of a child attending the center, the center should request that the parent's designated authorized person drop-off and pick-up the child. If that is not possible, the center needs to arrange for the parent to drop-off and pick-up the child without being able to interact with other children.

8.5.f. If a center chooses to advocate for a waiver or variance\_for an employee, then it shall have policies and procedures regarding waivers or variances that do not conflict with Department policies. The policy must include procedures for:

8.5.f.1. Informing the staff member of the waiver or variance process and time limit for requesting a waiver or variance;

8.5.f.2. Providing a statement of support for the waiver or variance\_request from the center director;

The waiver request regarding a background check must come from the individual. It is necessary for the center to support the approval of the waiver before the Department will consider the request.

8.5.f.3. Ensuring that the staff member does not have contact with, or is removed from contact with, the children until the Secretary reaches a decision on the waiver or variance\_unless the licensee, staff member and the Department agree to a written safety plan that permits the staff member to continue in a staff position until the Secretary reaches a decision.

8.5.g. A center shall secure from the employee a recent health assessment performed not more than 90 days prior to the date hired for the employee and signed by a licensed health care provider. The health assessment shall be on file no later than 30 days from the first date of employment. A health assessment for a volunteer shall be on file if the volunteer is scheduled to work at least 40 hours per month in the center. The health assessment shall include:

Please refer to the definition of licensed health care provider (3.33).

8.5.g.1. A significant health history which the center needs to know in order to protect the health of the employee or the health and safety of children in care;

8.5.g.2. A physical examination, including vision and hearing screening;

The vision and hearing need screened by the licensed health care provider; this is not the same as



a vision or hearing exam. The licensed health care provider should indicate if vision and hearing are within normal limits or if examinations are needed based upon the screening.

8.5.g.3. A statement that the prospective staff member has no known condition or disease which would interfere with the proper care of children; and

The statement must be provided by the licensed health care provider for compliance. It is to be part of the written health assessment.

8.5.g.4. A tuberculosis risk assessment ~~that is repeated annually~~ or a tuberculosis screening by the Mantoux method, if a screening is indicated by the tuberculosis risk assessment.

A tuberculosis risk assessment is not a tuberculosis screening or test. The risk assessment is a series of questions asked by the licensed health care provider to determine if a screening or test is necessary. If the risk assessment indicates that screening or testing is necessary, then the staff member must obtain what is recommended by the licensed health care provider.

8.5.h. For staff currently employed, a center shall keep on file a health assessment that is updated every two years except the tuberculosis risk assessment or tuberculosis screening discussed above.

When a staff person leaves the center but returns prior to the two year anniversary of the written health assessment, the center may continue with that health assessment date to determine when to update the staff person's health assessment. Nothing in this interpretation shall prevent the center from requiring a new health assessment upon the rehire of a staff member.

## 8.6. Staff Responsibilities, Qualifications and Training Requirements.

8.6.a. A center shall assign one individual the responsibility for monitoring and implementing training and maintaining training records.

The intent is to ensure that staff professional development and training is occurring and monitored by the center staff. Compliance will be demonstrated by the duty being included in the written position description for the designated staff member. Implementing training does not necessarily mean delivering training, but rather the responsibility for assuring that training is appropriately implemented.

8.6.b. A center shall require all staff to meet approved pre-service training requirements and pre-service education qualifications other than that noted in subdivision 8.6.c. Provided: Staff persons who have remained employed by the center since July 1, 2003 and have been in continuous employment in that position or one requiring greater qualifications in a child care setting since July 1, 1998, shall be considered to meet the qualification of their position except the requirement of approved pre-service training.

The provision is related to the qualification for the position, not the on-going training requirements. For example, if a director hired before July 1, 1998, has remained director since July 1, 2003, but does not meet the current qualification for the position, that director is "grandfathered" into the position. In other words, that person had five years in that position and was qualified under the regulations enforced in 1998. However, that director must meet the ongoing training requirements, including registering on the WV STARS pathway. Using the same example of the director: if that person left employment after July 1, 2003, and then

returned to be director, that person must now meet the current qualifications for director.

8.6.c. A center may offer an applicant for a lead teacher or teacher position conditional employment for a period of up to three months pending completion of the pre-service education and training requirements described in this section.

Compliance will be demonstrated by the conditional status being explained in the notification letter that must be provided to the employee (8.3.a.)

8.6.d. Prior to caring for children, all current and potential staff are required to complete approved pre-service training. Prior to or during the first week of employment and prior to having sole responsibility for a group of children, a center shall provide orientation to the staff member that includes a review of:

Orientation, including all requirements for the orientation, must take place no later than the first week of employment. A staff member may not have sole responsibility for a group of children without completing orientation. During the review or monitoring process, if the staff member cannot articulate involvement in the orientation requirements, the center shall be determined non-compliant. It is advisable that orientation includes an active communication and demonstration as well as the reading and review of policies and procedures. Orientation needs to involve active participation by the staff member being hired and the staff persons responsible for the supervision of the staff member. Orientation may also include other staff members actively participating in the orientation of the staff member.

8.6.d.1. Licensing, other regulatory requirements, and a center's administrative manual;

Other regulatory requirements include, but are not limited to, the health and fire requirements that pertain to the staff member's role.

8.6.d.2. Policies, staff duties and professional development plans;

8.6.d.3. Policies and procedures for confidentiality and information disclosure, behavior management, and reporting child abuse and neglect;

8.6.d.4. Policies and procedures for basic sanitation and infection control;

Basic sanitation and infection control includes, but is not limited to, hand washing, sanitizing, disinfecting and universal precautions. Compliance will be determined by the staff members' ability to demonstrate and explain the center's procedures for sanitation and infection control.

8.6.d.5. Policies and procedures for safety, including prevention of injury both indoors and outdoors, fire safety, emergency response and, for programs serving infants, safe sleep practices;

Compliance will be determined by the staff members' ability to demonstrate and explain the center's procedures for safety, emergency response, and, for infant programs, safe sleep practices.

8.6.d.6. The statement of purpose;

8.6.d.7. The daily schedule of the center and the specific schedule for the group of children to which the staff person is assigned, including the planned program of activities, routines and transitions; and

Compliance will be determined by the staff member's ability to demonstrate and articulate specifics of this requirement with the group of children for which the staff member is supervising or working, including the staff member acting in a substitute role or the role of a floater.

8.6.d.8. Communication at a center, including procedures to inform staff of any special dietary or other needs of the children for whom they will be responsible.

8.6.e. A center shall document that preservice training and orientation training was provided by having the staff member and center director sign a statement acknowledging receiving both preservice and orientation training and shall keep the statement in the staff member's file.

8.6.f. A center shall ensure that all staff members receive approved training in:  
See 3.2 for the definition of approved training.

8.6.f.1. Cardiopulmonary Resuscitation (CPR) and First Aid. Within three months of employment or use staff members shall have current CPR certification appropriate to the age of the children in care and current first aid training. Except in the first year of employment or use, training in CPR and First Aid is in addition to the requirement for annual professional development.

CPR and First Aid must be taken in a "hands on" setting; online courses are not approved for this. The director or the person in charge of maintaining training needs to ensure that the CPR and First Aid received by the qualified staff includes pediatric and/or infant components as appropriate. The certifications or copy of the certifications need to be maintained in personnel records.

8.6.f.2. Abuse Recognition and Prevention. Within three months of employment or use, staff members shall have training in child abuse recognition and prevention. Training in child abuse recognition and prevention may be used to meet the requirement for annual professional development described in this section.

Training through your local Child Care Resource and Referral agency or through Training Connections is approved to meet this requirement. Training completed by Child Protective Services through the WV DHHR will be an approved source of training.

Prevent Child Abuse West Virginia has a mandated reporter training that the licensee is encouraged to use. For more information on this training and how to obtain it, please go to: <http://www.preventchildabusewv.org/list-of-mandated-reporter-trainers.html> . Your local Child Care Resource and Referral agency may also provide or have resources for this training.

8.6.g. Prior to administering medication, the qualified staff member shall have training from an approved training source in medication administration. Training in medication administration may be used to meet the requirement for annual professional development described in this section.

The approved training for medication administration training is delivered by the Child Care Nurse Health Consultants with West Virginia Early Childhood Training Connections and

Resources. This curriculum was developed for the Department. The curriculum and delivery method were approved through the West Virginia Board of Nursing, so it is important that the Secretary maintains control of the curriculum and the delivery method. Any medication administration training delivered through a different entity must have prior approval of the Secretary. No staff person may administer any medication, except sunscreen, without having successfully completed the medication administration training unless the medication is an emergency medication whose administration was taught in the staff person's First Aid class.

8.6.h. A center shall ensure that prior to assuming management duties, including supervising other qualified staff members, assisting the director or serving as the designated person-in-charge of a center, a qualified staff member:

8.6.h.1. Completes the requirements for orientation training and management orientation training that includes a detailed review of the center's administrative manual and management practices; and

A center will not be licensed or approved to begin an infant/toddler program without the staff qualified under this requirement. The initial capacity for the infant/toddler program will not exceed the number of qualified staff who have received the required 40 hours of infant/toddler approved training needed to meet the staff:child ratio during center operation. For example, if the center beginning the infant/toddler program has two qualified staff persons who have completed the training, then it is likely that the center will be granted a license for 8 children under the age of two years so that the center is assured to have a trained, qualified staff person in the infant/toddler program during operating hours. There are several sources of infant/toddler training that will be approved training; please see <http://www.wvdhhr.org/bcf/ece/earlycare/regs.asp> for a listing.

The staff person must meet all other qualifications for his/her position.

8.6.h.2. Co-signs with the director a statement which is kept in the staff member's file acknowledging he or she received management training.

8.6.i. A center that operates or plans to operate programs for children 24 months of age and under shall meet the requirements of this subdivision for staff training:

8.6.i.1. Prior to starting the program, shall ensure that each qualified staff member caring for the child has received a minimum of 40 hours of approved training related to the care of children 24 months of age and under, and shall submit documented evidence of the training to the Secretary.

8.6.i.2. For an existing program which has been approved to expand the program or experiences staff turnover, shall ensure that within six months of beginning to care for children twenty-four months of age and under, each qualified staff member shall have a minimum of 40 hours of approved training related to the care of children 24 months of age and under. Until all staff members meet the requirements of this section, the center shall ensure:

There are several sources of infant/toddler training that will be approved training; please see <http://www.wvdhhr.org/bcf/ece/earlycare/regs.asp> for a listing. While WVIT is a 48 hour course with an on-site component, it is necessary to only complete the first 40 hours to meet the

requirement.

The staff person must meet all other qualifications for his/her position.

8.6.i.2.A. That one qualified staff member who has completed the minimum approved training, is present in the infant/toddler program for at least half of the operating hours daily;

This staff person must be assigned to work within the infant/toddler program for compliance.

8.6.i.2.B. That each staff member has a written plan for the completion of training that is agreed upon during orientation; and

If the staff person working with the children under the age of two does not meet the 40 hour training requirement, the written plan must address this for compliance.

8.6.i.2.C. That the center develops a mentoring plan which provides for weekly mentoring by a qualified and trained staff person for each staff member that has not completed approved training.

The mentoring is a one-on-one interaction between the staff person and the mentor focusing on care and supervision delivered to the child under the age of two years and must be completed within the infant/toddler program space. It is not necessary for the mentor to be a staff person of the center, but must be a person qualified to provide the mentoring. The mentor's qualification must be verified by the center director when the mentor is not a staff person of the center.

## 8.7. Professional Development.

8.7.a. All qualified staff shall complete 15 hours of approved training within the first year of employment according to the following:

8.7.a.1. A director shall have six hours in management training within the required 15 hours; and

8.7.a.2. Qualified staff members shall have six hours of training related to the age group of children for which they care, within the required 15 hours.

8.7.b. All qualified staff shall apply for credentialing on the WV STARS Career Pathway. Application will not be sufficient for maintaining status as a qualified staff member (see 8.7.c); it will be necessary to earn the credential. If the staff person is not on the Pathway upon hire, application should be made before completion of the orientation process. Issues with the application process need to be addressed to the WV STARS staff.

8.7.c. All qualified staff shall complete the approved training which is necessary to keep the credential current.

Center staff that are not actively working towards completing hours to renew an expired credential cannot be considered a qualified staff member as defined in this regulation. Failure to maintain qualified staff could result in negative action against the centers license.

8.7.d. All staff in positions that are not qualified staff positions shall have training within the first three months of employment related to their responsibilities, renew child abuse and neglect recognition every three years and keep first aid and CPR certification current.

It is anticipated that persons working on the premises or persons part of the child care operation that are not qualified staff, will have contact with children and families and will be utilized in emergency situations. Therefore, they not only need training for their duties, such as nutrition or maintenance, but must have training in reporting suspected abuse or neglect and must be able to perform CPR or first aid if needed. The abuse and neglect training is required every three years for these persons because it is not likely that training for their specific duties will provide any updates to current practice in that subject (as is anticipated with the training for qualified staff). This would include support staff as defined in this rule.

#### **§78-1-9. Staff Responsibilities and Qualifications.**

Any time a degree is required as a qualification of a position, it must be a degree from an accredited school or institution by an accrediting body recognized by the Council for Higher Education Accreditation or the United States Department of Education. For further information on accrediting bodies, you may refer to:

[http://www.chea.org/pdf/CHEA\\_USDE\\_AllAccred.pdf](http://www.chea.org/pdf/CHEA_USDE_AllAccred.pdf)

9.1. The Director shall:

9.1.a. Manage the daily operations of the center, including administering finances and human resources;

The director is responsible for the daily operation of the center. While other positions within the center may have responsibility for finances and human resources, the director needs to have knowledge of and be included in those activities. The written description for the position of the director needs to identify the role the director has in administrative and financial duties. The licensee will be considered non-compliant if the director cannot explain any aspect of the daily operation of the center.

9.1.b. Supervise the teaching staff and the daily activities of support staff who provide services to the center and conduct a staff meeting at least once a month;

The director needs to plan the manner and techniques used for supervising staff. Staff meetings must be documented for compliance. It is not necessary for the center director to have a meeting with the entire staff in one session, but it is necessary that all staff members have the opportunity to attend a monthly staff meeting. For example, a center director may choose to conduct staff meetings with each program on a monthly basis (infant/toddler staff, preschool staff, school age staff, etc.).

9.1.c. Make curricular decisions and plans and supervise all aspects of the children's program;

9.1.d. Communicate with staff members, children, parents, and the public;

9.1.e. Communicate with the Department and regulatory agencies to ensure compliance with all requirements;

9.1.f. Keep a record of any hours and days he or she has regular responsibility for an assigned group of children in a Type I or Type II center;

Directors in Type I and Type II centers may be assigned responsibility for a group of children during the operation of the center. This does not relieve the director from the responsibilities as described in this section. Therefore, it is advisable that the licensee evaluate the use of the director in this manner if it is to occur on a regular basis.

9.1.g. Not have regular responsibility for an assigned group of children in a Type III center;

9.1.h. Have the following qualifications:

9.1.h.1. Be at least 21 years of age, provide evidence of at least one year of relevant work experience; and have a minimum of a high school diploma or equivalent and;

9.1.h.2. In a Type I center, have a minimum of:

9.1.h.2.A. A CDA credential and 300 hours of relevant work experience working with young children or 12 college credits in an early care and education field and 300 hours of relevant work experience working with young children; or

See the definition and guidance box of relevant work experience (3.49). The relevant work experience must either be a paid position or work that was supervised so that it is verifiable as relevant and time spent in the work can be verified. Some volunteer work may fall into the category of relevant work experience, but most will not; details of such volunteer work may be submitted to the licensing authority for review. Practicum or field placement hours for any early care and education class providing college credit may be included in relevant work experience.

9.1.h.2.B. A total of 10 years of relevant work experience.

See the definition and guidance box of relevant work experience (3.49). The relevant work experience must either be a paid position or work that was supervised so that it is verifiable as relevant and time spent in the work can be verified. Some volunteer work may fall into the category of relevant work experience, but most will not; details of such volunteer work may be submitted to the licensing authority for review.

9.1.h.3. In a Type II center, have a minimum of:

9.1.h.3.A. A registered Apprenticeship Certificate for Child Development Specialist;

The director must have the Department of Labor Certificate; completing the hours without obtaining the certificate is not sufficient.

9.1.h.3.B. Passed 28 college credits, with at least nine credit hours in early childhood development; or

The 9 credit hours must be in early childhood development or early education classes. General psychology, sociology or human growth and development are not sufficient to meet the 9 credit hour portion of this requirement.

9.1.h.3.C. At least 15 years of relevant work experience.

See the definition and guidance box of relevant work experience (3.49). The relevant work experience must either be a paid position or work that was supervised so that it is verifiable as relevant and time spent in the work can be verified. Some volunteer work may fall into the category of relevant work experience, but most will not; details of such volunteer work may be submitted to the licensing authority for review.

9.1.h.4. In a Type III center, have a minimum of:

9.1.h.4.A. An associate degree in early care and education;

9.1.h.4.B. A bachelor's or associate degree in a related field with 12 credit hours in early childhood development or early childhood education and 90 practicum contact hours in the field of early childhood;

The transcript for a degree in a related field must be submitted to the licensing authority for review so that a determination can be made as to the degree's relevance (see the definition and note the phrase "as approved by the secretary"). There may be some degrees in the fields listed in the definition of related field that contain no course work relevant to early childhood development or education depending upon the institution issuing the degree. This is most likely to occur in the leisure and recreational field or the nursing field. Director will be required to submit an official copy of their college transcripts.

9.1.h.4.C. A bachelor's degree in a related field and a total of two years of relevant work experience; or

The transcript for a degree in a related field must be submitted to the licensing authority for review so a determination can be made as to the degree's relevance (see the definition and note the phrase "as approved by the secretary"). There may be some degrees in the fields listed in the definition of related field that contain no course work relevant to early childhood development or education depending upon the institution issuing the degree.

See the definition and guidance box of relevant work experience (3.49). The relevant work experience must either be a paid position or work that was supervised so that it is verifiable as relevant and time spent in the work can be verified. Some volunteer work may fall into the category of relevant work experience, but most will not; details of such volunteer work may be submitted to the licensing authority for review.

9.1.h.4.D. A degree in a business, management or administration field with 12 credit hours in early childhood development or early childhood education and 300 hours of work experience with young children.

The degree in business, management or administration may be an associate degree or higher.

9.1.i. Designate a person-in-charge to perform the duties of the director during all hours of operation when the director is not present at the center. The person-in-charge shall be a qualified staff member with a minimum qualification of teacher.

Although center directors are full time positions, it is recognized that there may be times when the director must be absent from the center such as sick leave, vacations, training, conferences,



etc. It is necessary for a qualified staff member to be able to temporarily act in the capacity of the director so that the operation of the center continues smoothly and families and staff know who to communicate with in the director's absence. See 3.42 for the definition.

9.2. Assistant Director or Lead Teacher.

This is not a required position for a child care center, but if the duties listed are carried out by any staff person other than the director, then that staff person must meet these qualifications regardless of what title the licensee gives to the position. See interpretations in Section 9.1 for relevant work, related field and Apprenticeship Certificate.

9.2.a. The duties and role of assistant director or lead teacher may be shared by the director and a teacher.

9.2.b. The assistant director or lead teacher may have responsibility for supervision, care and education of children and may be regularly assigned to a group of children.

9.2.c. The assistant director or lead teacher shall:

9.2.c.1. Plan and adopt programming that conforms to the core competencies of early childhood education and may implement daily program activities;

9.2.c.2. Coordinate the activities of teachers, assistant teachers, teaching assistants, and assist the director with designated activities;

9.2.c.3. Be at least 21 years of age and have a minimum of one year of relevant work experience and one of the following additional qualifications:

9.2.c.3.A. A CDA credential and 300 hours of relevant work experience working with young children or 12 college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children;

9.2.c.3.B. A total of 2 years of relevant work experience;  
The required one year relevant work experience listed in 9.2.c.3 will count towards the required two years.

9.2.c.3.C. A registered Apprenticeship Certificate for Child Development Specialist, or 28 college credits, with at least nine credit hours in early childhood development.

9.3. Teacher. A teacher shall:  
See interpretations in Section 9.1 for relevant work, related field and Apprenticeship Certificate.

9.3.a. Have responsibility for the supervision, care and education of children and be regularly assigned to a group of children;

9.3.b. Practice the core competencies of early childhood educators, and plan and implement daily program activities;  
The teacher needs to demonstrate core competencies in the daily activity of the classroom and

should be able to express the core knowledge and competency areas. When qualified staff register on the State Training and Registry System (STARS), the training in which they participate that is registered with the STARS will be within a core knowledge/competency area. Therefore, qualified staff should grow in their understanding and demonstration of core competencies as they meet training requirements.

9.3.c. Coordinate the activities of assistant teachers and teaching assistants, and may assist the director, assistant director or lead teacher with designated activities; and

9.3.d. Be at least 18 years of age and have a minimum of one year of relevant work experience and have one of the following additional qualifications:

9.3.d.1. A West Virginia Training Certificate in Early Care and Education (WVTCECE) or its equivalent;

See WV STARS website for certificate requirement to aid in determining equivalencies:  
[http://www.wvstars.org/wp-content/forms/Career\\_Pathway\\_Levels.pdf](http://www.wvstars.org/wp-content/forms/Career_Pathway_Levels.pdf)

9.3.d.2. A CDA credential and 300 hours of relevant work experience working with young children or 12 college credits in an early care and education field and 300 hours of relevant work experience working with young children; or

9.3.d.3. A total of two years of relevant work experience.  
The required one year relevant work experience listed in 9.2.c.3 will count towards the required two years.

9.4. Assistant Teacher. An assistant teacher shall:  
See interpretations in Section 9.1 for relevant work

9.4.a. Practice the core competencies of early childhood educators;  
The assistant teacher needs to demonstrate core competencies in the daily activity of the classroom and should be able to express the core knowledge and competency areas. When qualified staff register on the WV State Training and Registry System (STARS), the training in which they participate that is registered with the STARS will be within a core knowledge/competency area. Therefore, qualified staff should grow in their understanding and demonstration of core competencies as they meet training requirements.

9.4.b. Work with young children with guidance from a qualified staff member who qualifies, at a minimum, as a teacher;

9.4.c. Coordinate daily activities and supervise teaching assistants in the absence of the teacher; and

9.4.d. Have the following qualifications:

9.4.d.1. Be at least 18 years of age and have a minimum of one year of relevant work experience; and

9.4.d.2. Have a West Virginia Training Certificate in Early Care and Education (WVTCECE) or its equivalent.

9.5. Teaching Assistant. A teaching assistant shall:

9.5.a. Assist other qualified staff members with the care and education of the child, but shall not have responsibility for a group of children;

9.5.b. Work under the continuous supervision of a qualified staff member who qualifies, at a minimum, as an assistant teacher;  
**See 3.10 for the definition of continuous supervision.**

9.5.c. Have the following qualifications:

9.5.c.1. Be at least 18 years of age; and

9.5.c.2. Be enrolled in the WVTCECE program or its equivalent.  
**See 3.65 for definition of teen aide.**

9.6. Teen Aide. A teen aide shall:

9.6.a. Be at least two years older than the oldest child in the group with whom he or she is working; and

9.6.b. Not be left alone with a child other than his or her own child.

9.7. Student Intern. A center that uses student interns shall ensure that:  
**Student intern is not the same as a teen aide and no age parameter is assigned to this position. It is a position recognized as fulfilling an educational or training component of an early childhood, education or other approved educational or training program (see 3.48, definition of related field).**

9.7.a. The student intern fulfills the requirements of an educational or training program;

9.7.b. The student intern performs duties under the direct supervision of a qualified staff member who has at least the qualifications of an assistant teacher;

9.7.c. The student intern receives periodic supervision from the educational or training program teacher-coordinator; and

9.7.d. The student intern is not left alone with a child other than his or her own child;

9.7.3e. A copy of the student intern's training plan and training agreement developed jointly by the educational or training institution and the center are on file at the center.

9.8. Substitute. The center shall ensure that:  
**See 3.62 for definition of substitute.**

9.8.a. A substitute has the appropriate background checks as required by this rule;

9.8.b. A substitute used in a position for less than two weeks does not have sole responsibility for a group of children and works under the continuous supervision of, at a minimum, an assistant teacher; and

9.8.c. A substitute filling a position for more than two weeks meets the minimum qualifications of the position for which he or she is substituting. A substitute meeting the qualifications of an assistant teacher or greater does not require continuous supervision when substituting for more than two weeks.

9.9. Support Staff. The center shall ensure that support staff have appropriate qualifications for providing services to the center and meet the general and health requirements set forth in this rule.

[See 3.64](#) for definition of support staff.

9.10. Driver. A driver shall:

[See 3.17](#) for definition of driver. A center may have a position of driver that is not a qualified staff person. If a center utilizes qualified staff for driving, the qualified staff must also meet the requirements of this section.

9.10.a. Be at least 21 years of age;

9.10.b. Have a valid driver's license that authorizes the driver to operate the vehicle being driven;

9.10.c. Upon hire, have evidence of a safe driving record for the five-year period prior to hiring and have no record of DUI related convictions for a five year period;

9.10.d. Not be impaired to drive at the time of transporting children including impairment caused by prescription medication;

9.10.e. Submit to a drug and alcohol testing if required by center policy; and

9.10.f. Not be used if he or she refuses a required drug and alcohol test or tests positive.

9.11. Volunteer. The center shall ensure that prior to providing a direct service to the center, a volunteer:

[See 3.75](#) for definition of volunteer.

9.11.a. Is not less than 18 years of age;

9.11.b. Receives direct supervision from a qualified staff member who is not less than 21 years of age; and

9.11.c. Is not left alone with a child other than his or her own child.

## §78-1-10. Supervision of Children in Groups.

10.1. A center shall ensure that:

10.1.a. The children have adequate supervision at all times;  
See the definition of adequate supervision (3.1).

10.1.b. Staff members are awake and performing their duties during work hours;  
Staff may not nap or sleep while on duty. Staff will not be considered as performing their duties if they attend to personal business such as phone calls, finances, paperwork unrelated to center business, etc. while on duty.

10.1.c. When a play area is used that is accessible to the public, the boundaries of the play area are clearly marked and known to the children;  
This refers to the outdoor play area routinely used by a center and not an area that may be part of an infrequent field trip. To be clearly marked, the boundaries must be evident to persons not typically part of the center operation including the licensing authority. The center shall provide temporary or permanent markers for the accessible area if the boundaries are not sufficiently marked. The means of marking the boundaries may not pose a hazard. Regular use of a play area that is away from the center and accessible to the public needs prior approval (see 12.3.b.2).

10.1.d. The children remain in areas approved for daily program activities and do not go into other areas including the kitchen, unless it is part of the planned, supervised experience; and  
This would include any offices or rooms that have not been approved for daily use.

10.1.e. Children are accompanied by staff when utilizing public restroom or restrooms at the center that the general public is permitted to use.

10.2. Children shall be assigned to distinct groups according to the following:  
See 3.24 for the definition of group.

10.2.a. Each group shall be assigned a room or area of a room as a home base, even if the group moves to other areas, inside and outside a center, for daily activities;

10.2.b. When more than one group of children up to school-age uses the same room, a center shall divide the room into a designated activity area for each group;  
See 3.14 for the definition of designated activity area. Each designated area must have the appropriate number of qualified staff supervising children to meet staff:child ratios and the definition of adequate supervision. A staff person in one designated activity area cannot be used to supervise a group of children in another designated activity area, even if the other activity area is within sight and sound.

If a center desires to operate a program that groups toddlers aged 18 months to 36 months together, the licensee must request and meet the conditions of a waiver that would permit the toddler program to operate in such a manner. The waiver criteria for this was described in a notice dated 2/19/2014.

10.2.c. A center shall separate indoor areas regularly occupied by older children from children 24 months of age and under;

10.2.d. A center shall ensure that a common outdoor area is not regularly used at the same time by groups of school-age children and by groups five years of age and younger;

The use of such space by school age children and those younger at the same time may occur only for specially planned events or activities. Staff:child ratios and group size requirements apply. Typically, such events would not include gross motor activity unless it is a controlled event. For example, the running of a relay where specific children are running at a specified time on a specified course would be a controlled event. A game of tag would be an example of an event that would not be controlled gross motor activity.

10.2.e. During brief times, not to exceed 30 minutes, when children are normally arriving and departing, and for short periods of scheduled activities such as eating, the center may combine groups of children, including groups of children 24 months and under and groups of older children; and

Staff:child ratio and group size apply (see 10.5.b.2). The activity must be structured and supervised in such a way that the interaction of the older children with the infants and toddlers does not pose a risk. Generally this would be for the first and last thirty minutes of the program's day.

10.2.f. During short periods of time for special occasions such as field trips, the center may combine school-age groups of children with children over the age of 24 months.

Staff:child ratios and group size requirements apply (see 10.5.b.2).

### 10.3. Staff-to-Child Ratios.

10.3.a. When children are on the premises, a center shall ensure that at least two staff members are on duty at all times.

10.3.b. When only one qualified staff person is required to meet ratios at the beginning and end of the day, the second staff member may be a support staff member who is readily available in case of emergencies. A center shall ensure that while children are on the premises, the qualified staff member has completed a course in child first aid and has current certification in CPR appropriate to the age of the children in care.

Always having two staff members present is a protection for staff and children. This requirement applies to the center's opening and closing times only. As soon as staff:child ratios require the second qualified staff at the beginning of the day, then the second person must be a qualified staff. Once the number of children drops to only needing one qualified staff at the end of the center's operational day, typically the last hour, then the second person may be a staff person that is not a qualified staff. Staff:child ratio and group size is based upon the age of the youngest child in determining when only one qualified staff must be present (10.5.b.2). For centers that operate on a 24-hour basis, there is no beginning and end of the day.

10.3.c. A center shall assign each group of children to a qualified staff member or team of qualified staff members, maintaining at all times the staff-to-child ratios required under this

rule. When groups are combined, a center shall continue to maintain the staff-to-child ratios required under this rule.

10.3.d. When more than one qualified staff member is assigned to a group, a center shall designate one qualified staff member as group leader with responsibility for planning the activities of the group to ensure that each child in the group receives developmentally appropriate care and adequate supervision on a day-to-day basis.

10.3.e. When only one qualified staff member is assigned to a group, there shall be a plan enabling the qualified staff member to call a second staff member for help without leaving the group.

This is a safety requirement both for the staff member and the children the staff member supervises. Non-compliance will be cited if the staff member cannot successfully demonstrate this.

10.3.f. In determining and maintaining the staff-to-child ratio, a center shall not include any qualified staff member who is performing other duties such as cooking, bookkeeping, or life-guarding; or another individual with designated responsibility for a special activity; or a support staff member who is not directly working with the children except in an emergency situation when staff may be reassigned to supervise the children.

When a staff person is absent for more than two continuous weeks, the center needs to have a substitute staff person that meets the definition of a qualified staff person.

10.3.g. In determining and maintaining the staff-to-child ratio, a center shall have a plan to ensure that a qualified substitute is available if needed and is available when a staff person is absent for longer than a continuous two-week period.

10.4. A student intern who is at least 17 years of age, a Youth Apprentice, and in the second year of classes in the Child Development Specialist program approved by the WV Department of Education may count in the staff-to-child ratio, but may not work alone.

10.5. A center shall group children and consider their ages when determining the staff-to-child ratio as follows:

10.5.a. A center shall count each child 12 years of age and under who is present and being cared for in the child care center, including a child of the director or a staff member, and shall not consider a teen aide to be a child;

Typically, a center will not be approved for care of children 13 years of age or greater. When the center does receive approval for the care of children 13 years of age or greater, it will be due to special needs or special circumstances. The licensing authority, when approving children 13 years of age or greater, will either consider the children to fall into the definition of school-age child or shall provide written clarification of the staff:child ratio and group size based upon the circumstances of the approval. See memo dated May 27, 2011.

10.5.b. When children are at the center, the center may use either a single grouping or a mixed-age combination to calculate the ratio according to the following:

10.5.b.1. For each single-age group at a center, the center shall maintain the staff-to-child ratio and group size described in Table A of Appendix 78-1-E of this rule;

10.5.b.2. For each mixed age group at a center, the center shall maintain the staff-to-child ratio and group size described in Table A of Appendix 78-1-E of this rule for the youngest child in the group; and

10.5.b.3. When providing evening and nighttime care, a center shall maintain the staff-to-child ratio and group size described in Table A of Appendix 78-1-E of this rule. In addition, a center shall ensure that:

10.5.b.3.A. At least one qualified staff member is in each room visually supervising the children at all times and checking at least hourly on each sleeping child; and

10.5.b.3.B. Each qualified staff member required to meet the staff-to-child ratio is on the premises and within calling distance of the rooms occupied by the children.

10.5.b.3.A and 10.5.b.3.B address rooms of sleeping children. When all of the children in the room are sleeping, then one qualified staff person must be in the room visually supervising and checking on the children, but there must be sufficient qualified staff on the premises to meet the staff:child ratio should children awaken or need to be awakened.

10.5.c. Special circumstances with staff-to-child ratio are:

10.5.c.1. During nap time or sleep time:

10.5.c.1.A. For groups of children 12 months of age and under, a center shall ensure that each qualified staff member required to meet the staff-to-child ratio described in Table A of Appendix 78-1-E of this rule, is present in the nap or sleep area and able to see and hear all of the children at all times; and

10.5.c.1.B. For groups of children over 12 months of age who participate in a nap-time program, a center shall ensure that at least one qualified staff member is in each area visually supervising the children and each qualified staff member required to meet the staff-to-child ratio is on the premises and within calling distance of the areas occupied by the children.

This is for a room in which all of the children are napping. If there are children present in the room that do not nap, then the staff:child ratio must be maintained. While a center may encourage each child to nap (assuming parental agreement), after the first few moments of the scheduled nap time, if the child is awake, the child needs to be permitted to move to a space for quiet activity. Remaining on the cot or mat for the quiet space is not acceptable.

10.5.c.2. During transportation:

10.5.c.2.A. At all times when transporting a child, a center shall ensure that no child is unattended in a vehicle;

10.5.c.2.B. During Pick-up and Drop-off service:



10.5.c.2.B.1. A second staff person or volunteer shall accompany the driver during routine transportation for the purpose of pick-up and drop-off service when the vehicle will transport more than two children and at least one of those children is under the age of two years;

10.5.c.2.B.2. A second staff person or volunteer shall accompany the driver during routine transportation for the purpose of pick-up and drop-off service when the vehicle will transport more than four children of any age.

10.5.c.2.B.3. There shall be a staff or designated responsible person present outside the vehicle to supervise when children are loading or unloading from a vehicle.

10.5.c.3. Water activities.

Please see definition of Level I and Level II water activity 3.28 and 3.30.

10.5.c.3.A. When a child is participating in a Level I or Level II water activity, except a swimming lesson with a qualified instructor, a center shall maintain staff-to-child ratios described in Table B of Appendix 78-1-E of this rule; and

10.5.c.3.B. When two or more children 24 months of age and under are participating in a Level I or Level II water activity in a mixed age group, except a swimming lesson with a qualified instructor, the center shall ensure that at least two qualified staff members are present.

10.5.c.4. Field Trips.

Please see definition of Level I and Level II field trip 3.27 and 3.29.

10.5.c.4.A. A center shall ensure that when a child is participating in a Level I field trip, that the staff-to-child ratio is maintained in accordance with Table A of Appendix 78-1-E of this rule and that at least one staff member or volunteer accompanies one qualified staff member who must be present at all times; and

10.5.c.4.B. A center shall ensure that when a child is participating in a Level II field trip that the staff-to-child ratio is maintained in accordance with Table A of 78-1-E of this rule and that at least two qualified staff members are present at all times.

#### **§78-1-11. Supervision of the Individual Child.**

It is the purpose of the State that children receive services that enhance their continued growth and well-being while in care (WV Code §49-2B-1(d)). Good guidance, behavior management and discipline practices will promote the age appropriate learning of social skills and emotional responses, and will aid the child in learning how to manage his own behavior. Therefore, meaningful staff interaction with the child is necessary. If a substantial amount of staff time is spent in watching children with little interaction and occasionally giving commands to change behavior or activity, non-compliance will be cited.

11.1. Guidance, Behavior Management, and Discipline. A center shall:

11.1.a. Develop, implement and maintain policies and procedures for behavior management that include the prohibitions described in subsection 11.4. of this rule;

11.1.b. Ensure that the guidance, behavior management and discipline practices are constructive and educational in nature, appropriate to each child's age and circumstances, and in keeping with the center's policies and procedures;

11.1.c. Ensure that staff members are aware of behavior issues relating to an individual child, and treat behavior problems individually and in private;

Information shared about the child during the admission meeting with the parent needs to be relayed to and available to the staff member(s) responsible for the child. Behavior issues are to be addressed on an individual basis. Behavior problems should not be confused with typical developing behavior, but rather a behavior problem would be a behavior that is not typical for the development level of the specific child and is causing a negative impact either to the child or to other children.

11.1.d. Delegate behavior management to qualified staff members who have an ongoing relationship with a child; and

Individual child behavior management must be conducted between the child and the qualified staff member with whom the child is familiar. It is essential when a child is first introduced to the center, that a staff person is identified and designated as responsible for the child so a relationship can be established between the staff person and the child. This does not prevent other staff members from also interacting with the child, but it assures that there is at least one staff member who will know the child and establish a trusting relationship with the child. The center director should determine how behavior management is communicated to the parent; whether from the staff person or the administrative staff.

11.1.e. Ensure that when it appears that a child is developing a pattern of unacceptable behavior, the staff member with the delegated responsibility for the child discusses the child's behavior in private with the director and informs the child's parents.

11.2. Guidance. At all times, staff members are responsible for providing positive guidance that is appropriate to each child's age, understanding and circumstances. Staff members shall:

11.2.a. Teach by example;

11.2.b. Recognize and encourage acceptable behavior;

11.2.c. Make eye contact with the child and kneel or sit beside the child whenever possible when speaking to the child;

11.2.d. Supervise with kindness, understanding and firmness;

11.2.e. Define clear limits, set fair and consistent rules and, when appropriate, permit an older child to participate in the development of rules and procedures;

11.2.f. Help a child develop self-control to assume responsibility for his or her own actions;

11.2.g. Guide a child's activities in an orderly manner;

11.2.h. Prepare a child for his or her next activity a few minutes ahead of time, and allow the child a brief transition time before beginning the new activity;

11.2.i. Help a child avoid long waiting periods when the child has nothing to do by ensuring that the environment includes materials that hold his or her attention; and

11.2.j. Help a child feel successful at tasks and provide options if chosen tasks prove to be too difficult.

11.3. Behavior Management and Discipline. When a behavior problem arises, qualified staff members shall:

11.3.a. Redirect the child to alternative behavior or other activities;

11.3.b. Encourage the child to control his or her own behavior, cooperate with others and solve problems by talking things out;

11.3.c. Speak so that the child understands that feelings are acceptable, but inappropriate behaviors and actions are not;

11.3.d. Use appropriate time-out periods only as necessary for a child to calm down or gain control of his behavior.

11.3.e. Time-out is:

See 3.65 for the definition of time-out.

11.3.e.1. Used for behaviors that are persistent and unacceptable, used infrequently, and not for over one minute for each year of a child's age;

The use of time-out for a child should be rare. The "one minute rule" is a maximum and should not be construed as time-out must last that long. There is research to suggest that the removal or isolation of a child is not a helpful discipline strategy, therefore, time-out must comply with the requirements in this rule.

11.3.e.2. Used only for children over the age of three years;  
Intended to mean 36 months of age or older.

11.3.e.3. Used by a qualified staff person familiar to the child. The staff person must explain to the child how time-out works before its first use and be clear about the behavior that will result in time-out;

The explanation of time-out must fit the child's level of understanding.

11.3.e.4. Ended in a positive manner. The staff person helps the child explore other options that would have resulted in a different outcome;

11.3.f. Ensure that during a time-out period that removes the child from the group, the child is within sight and hearing of a staff member in a safe, lighted and well-ventilated space;

11.e.g. Maintain perspective about the minor misbehavior of the school-age child and recognize that every infraction does not warrant staff attention or intervention; and

11.3.h. Take action that relates to inappropriate behavior and ensure that any action that is taken is without bias and in proportion to the child's act.

11.4. Handling Behavior Problems. Staff members and other adults at a center shall not handle behavior problems by:

11.4.a. Subjecting a child to physical punishment of any kind, including, but not limited to, shaking, striking, spanking, swatting, thumping, pinching, popping, shoving, spitting, biting, hair pulling, yanking, slamming, excessive exercise or any cruel treatment that may cause pain;

11.4.b. Putting anything in or on a child's mouth as punishment;

11.4.c. Restraining a child physically or by placing the child in confining equipment or using any other restrictive means such as straps or ties. Provided: when a child's behavior places the child or others around the child at risk of physical harm, a staff person may use a gentle method of physically holding the child. The staff person must be an experienced staff member and one that is known to the child and shall only restrain the child for as long as is necessary for the child to regain control;

The placement of children in confining equipment for the purpose of behavior control is prohibited. For example, a toddler strapped in a high chair because she threw her toys will be considered to be physically restrained in confining equipment.

The licensee is cautioned about training staff in methods of physical restraint of children. If a staff member uses any physical restraint beyond what is described in this requirement without a child specific behavior plan and child specific training of the restraint (which is prior approved by the Secretary via approved waiver request), non-compliance will be cited.

11.4.d. Subjecting a child to psychological punishment of any kind, including, but not limited to, ridicule, humiliation, or negative remarks about the child or the child's family, including remarks about race, gender, religion, or cultural background;

11.4.e. Using harsh or profane language, or actual or implied threats of physical punishment;

Harsh language includes yelling or raised volume level of the voice which is intended to scare or intimidate. A staff person observed to use raised volume when the noise level of the room does not require it but is not observed to use the same volume when speaking with adults will be considered to be using harsh language.

- 11.4.f. Forcing or bribing a child to eat;
- 11.4.g. Using food as a reward or punishment;
- 11.4.h. Punishing or threatening a child in association with rest or toilet training;
- 11.4.i. Isolating a child without supervision or placing the child in a dark area such as a box, closet, or similar confined space;
- 11.4.j. Permitting a child to discipline other children;
- 11.4.k. Punishing an entire group for the actions of one child or a few children; or
- 11.4.l. Seeking or accepting parental permission to use physical punishment or other actions prohibited by this rule.

11.5. **Difficult Behavior Plan.** When a child's behavior problems continue over time, the director and staff member with delegated responsibility shall develop and implement a plan for managing the difficult behavior. The director shall ensure that:

11.5.a. A parent is given written communication about the circumstances necessitating the plan and is provided the opportunity to participate in the development of the plan. The center shall provide the parent with a copy of the completed plan and regular written reports of the child's progress;

11.5.b. When necessary and appropriate, other professionals also participate in the development and implementation of the plan and, when necessary, receive written reports of the child's progress; and

**Other professionals may include health and educational specialists and/or professionals that furnish special services to the child or the child's family. Any developed behavioral management plan cannot violate any regulation listed under this rule.**

11.5.c. Staff members cooperate in implementing the plan and keep on file at the center a copy of the plan, a record of the steps taken during implementation, and the child's progress in meeting the goals of the plan.

11.6. **Abuse and Neglect.** A center shall develop, implement and maintain policies and procedures for the reporting of child abuse and neglect that include:

11.6.a. The definition of child abuse and neglect;

11.6.b. The requirement to report immediately any suspected incident of child abuse and neglect to the director or designated person-in-charge, and to Child Protective Services; or when the staff member believes that the director or designated person-in-charge would not or has failed to report the suspected incident to the Child Abuse Hotline, 1-800-352-6513; and

**The licensee and/or director may not implement a policy or procedure, either in writing or verbally, that discourages staff persons from reporting suspected abuse or neglect directly to**

**Child Protective Services.** The staff person is required to report the suspicion to Child Protective Services even when reporting the suspicion to the director or designated person in charge. There is no difference in the reporting requirement depending on the suspected source of the abuse or neglect, including if the suspected perpetrator is a staff member of the center.

11.6.c. A statement posted at the center in clear public view stating that the center reports suspected child abuse and neglect to Child Protective Services.

11.7. Informing Staff about Behavior Management and Report Procedures. The center shall inform staff about behavior management procedures and child abuse and neglect reporting by:

11.7.a. Providing each staff member a copy of its policies on behavior management and the reporting of child abuse and neglect, and providing revised policies when changes occur;

11.7.b. Obtaining a signed and dated acknowledgement that the staff member has read and understands the policies or revised policies; and

11.7.c. Placing the signed acknowledgement statement in the staff member's file.

11.8. Informing Parents about Behavior Management and Reporting Procedures. At the time of a child's admission, a center shall inform parents about the center's behavior management procedures and child abuse and neglect reporting requirements by:

11.8.a. Providing to each child's parent written copies and an oral explanation of a center's policies on behavior management and the reporting of child abuse and neglect, and updating parents on policy changes when they occur;

11.8.b. Obtaining a signed and dated acknowledgement that the center has explained the policies and provided the parent with a copy. The statement shall bear the child's name, the date of enrollment, and, if different, the date the parent signs the statement; and

11.8.c. Placing the signed statement in the child's file for as long as the child is enrolled.

#### **§78-1-12. Space Requirement.**

12.1. Licensed Capacity. A center shall ensure that at all times the maximum number of children participating in activities on or off the premises does not exceed the licensed capacity determined by the separately computed area of indoor space, outdoor space and bathroom facilities, not to exceed the lowest number of the three computations. Personnel and group size may be factored into the maximum capacity for certain age groups.

**The licensed capacity appears on the issued certificate of License. A center may not increase its capacity without the submission and approval of an application to amend the license.**

12.2. Indoor Space.

12.2.a. A center shall provide a minimum of 35 square feet per child of usable indoor space that is approved by the Secretary for daily program activities. A center shall make the rooms and areas of the center that are not approved for a child's use inaccessible to the children. **Certain areas of the center may not be approved for a child to receive services, such as kitchens or furnace rooms. Centers that are located on the premises of or in buildings or residences that are not part of the center operation must ensure those areas are inaccessible to the children.**

12.2.b. Indoor space for daily program activities does not include any space that is not available for a child's activities including space occupied by columns, vestibules and corridors; fire escapes; areas used exclusively for eating; areas used exclusively for napping; bathrooms; staff lounges; adult work areas including offices, laundry and furnace rooms; kitchens; permanently equipped isolation areas; storage spaces, and areas occupied by furniture except for areas that have: **Adult work areas also include adult work spaces located among the activity space such as desks and file cabinets. Permanently equipped isolation areas may include sick rooms or therapy rooms.**

12.2.b.1. Children's chairs and tables;

12.2.b.2. Adult sized comfortable chairs or a couch;

12.2.b.3. Moveable play equipment and shelves for children's activities; or

12.2.b.4. A surface for changing diapers.

12.2.b.5. For centers that have a separate and distinct designated activity area for children under 12 months of age, cribs may be considered part of that useable indoor space, provided that no more than 30 percent of the useable space is occupied by cribs.

12.2.c. A center shall not provide activity space in a basement area unless the basement area is approved by the State Fire Marshal.

### 12.3. Outdoor Space.

12.3.a. A center shall provide an outdoor activity area that includes a minimum of 75 square feet of space per child, or if the outdoor activity area has less than that a center shall:

12.3.a.1. Establish an outdoor activity schedule for rotating groups of children to meet the minimum space requirement and to ensure that each child has an opportunity to play outdoors each day; and

**The outdoor activity area must be large enough to accommodate at least one group at the staff:child ratio stated for the oldest children permitted on the License before the Secretary will approve the space. For example, if a center is licensed for 12 infants and toddlers and 30 children ages 2-5, then the outdoor space must be large enough to accommodate at least 12 children (the staff:child ratio for 5 year olds is 1:12) or be at least 900 square feet.**

12.3.a.2. Submit to the Secretary for his or her approval a copy of the current outdoor activity schedule and shall use the outdoor space only after receiving the Secretary's written approval that shall be displayed at the center for public view.

12.3.b. A center shall:

12.3.b.1. Provide an outdoor activity area that is on its premises or immediately adjacent to its premises; or

12.3.b.2. When neither of the options in paragraph 12.3.b.1. of this rule is possible, shall submit a plan for the Secretary's approval for alternate outdoor activity space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

12.4. Bathrooms. The center shall provide one flush toilet and one lavatory per 15 children, excluding children in diapers who are not receiving toilet training.

Lavatory, for this requirement, is a hand washing sink.

### **§78-1-13. Furnishings, Equipment and Materials.**

13.1. General Requirements. A center shall provide furnishings, equipment and materials that:

13.1.a. Are available in sufficient quantity for the number of children;  
For materials to be available, they must be able to be used or obtained.

13.1.b. Are appropriate in type, arrangement and use for the developmental needs of the children;

This will vary with different groups of children. Non-compliance will be cited if the group's activity space does not meet this requirement for the developmental level of the group. For example, having school age children arriving after school use the space occupied earlier in the day by preschool age children that remains furnished and equipped for preschoolers with no changes or additions for the school age children will not comply with this requirement.

13.1.c. Are durable and safe;  
Merriam-Webster dictionary defines durable as: staying strong and in good condition over a long period of time.

13.1.d. Are in good repair and free of sharp points or corners, pinch or crush points, splinters, protruding nails or bolts, loose rusty parts, hazardous small parts that may be swallowed, identified poisons or paint that contains lead, and are regularly inspected by staff for potential hazards;

13.1.e. Are regularly cleaned and disinfected;  
The director will need to provide verification that there is a means to determine that furnishings, equipment and materials are regularly cleaned and disinfected. The verification may include, but is not limited to a schedule with persons designated responsibility for completing, a written



position description for a specific staff member with these duties, etc.

13.1.f. Are evaluated at regular intervals by the director and teacher to ensure their ongoing appropriateness for the age and number of children; and  
There must be verification of this occurring for compliance. The regular interval should occur no less than twice in a calendar year.

13.1.g. Support the children's linguistic and intellectual development, and assist in providing for their physical, emotional, psychological, social and personal needs.

13.2. Specific furnishings shall include:

13.2.a. Children's chairs and tables that are multipurpose and not stationary;  
Tables with built-in seats that are not moveable do not meet the requirement for chairs to be "multipurpose and not stationary", therefore, an infant/toddler program with these types of tables will also need additional tables and chairs to meet this requirement.

13.2.b. Moveable play equipment;  
Moveable means not stationary.

13.2.c. Open shelves for play equipment for children's daily activities; and  
The shelves shall be open to the children with play equipment that is accessible to the children. Shelves turned so that the shelves and contents are not accessible do not comply with this requirement. See 13.9.a.

13.2.d. Sleeping equipment as required in this rule.

13.3. Furnishings for Centers with Children 24 Months of Age and under.

13.3.a. In centers that enroll children 24 months of age and under, or children that cannot function independently, a center's furnishings shall include:

13.3.a.1. Adult-sized comfortable chairs and a table or other surface for changing diapers that has raised sides or other features that prevent the child from falling and that are located in an area that is removed from the activities of the other children;  
The adult-sized comfortable chair serves the purpose of allowing a staff member to sit and hold an infant or toddler. The position of the adult-sized comfortable chair must allow for adequate supervision.

In acquiring or designing a changing surface for diapers, the director must consider the size and ability of the children needing the staff member to perform the diapering as well as the physical needs of the staff person. While this requirement is under the section for "Furnishings for Centers with Children Twenty-Four (24) Months of Age and Under", 13.3.a. also refers to "children that cannot function independently"; therefore, the center must provide a suitable surface for children over the age of 24 months that require assistance with diaper changing.

13.3.a.2. Furniture that is child-sized or adapted for children; and

Furniture that is adapted must maintain safety and durability standards.

13.3.a.3. Feeding equipment that is appropriate and sufficient for the children's sizes, ages, and numbers served. When feeding equipment is a high chair, the chair shall have a wide base and a T-shaped safety strap;

When children sit at tables for eating, the table needs to be between the waist and mid-chest and the feet need to rest comfortably on a solid surface.

13.3.b. Jumpers and infant walkers are prohibited.

For the purpose of this regulation, a jumper is a framed harness seat which is typically suspended from a taller frame or attached to a door frame or ceiling in which an infant is placed. The jumper places the infant in an upright position. Here are some images of the types of jumpers that are prohibited:



13.3.c. Play pens and play yards, if used, must be manufactured after February 28, 2013, properly disinfected after each use and not used for multiple children at the same time.

The manufacture date of the play pen or play yard must be verifiable.

13.4. Sleeping Equipment. A center's sleeping equipment:

13.4.a. For children who participate in a nap-time program shall include:

13.4.a.1. One crib with a firm mattress for each child 12 months of age and under or who is up to 35 inches tall;

13.4.a.2. One crib with a firm mattress, mat or cot for each child between 13 and 24 months of age;

13.4.a.3. One mat, cot, or bed for each child over 25 months of age;

13.4.b. For evening and nighttime programs shall not include mats as sleeping equipment; The intent is for children who are expected to spend their night-time sleep routine at the center (even if interrupted by departure), the sleeping equipment is comfortable and off the floor. For cot height specifications see 13.4.g.1.

13.4.c. For the care of an ill child shall include at least one disinfected cot; This means the center must have a cot available even if there are no children that participate in a nap program. For example, a center that serves school age children must have one cot available for a sick child.

13.4.d. Shall be cleaned and disinfected at least once a week, or before another child uses it, or immediately after it is soiled; The center must be able to verify the weekly cleaning and disinfecting of the equipment; a verbal report that this occurs is not sufficient. Verification method is up to the licensee or director, but must be able to be reviewed by the Licensing authority. Many centers use a schedule of cleaning which is initialed by staff when completed. Regardless of the cleaning protocol, sleeping equipment observed to be soiled will be cited as non-compliance.

Orientation for staff needs to include instruction on the cleaning and disinfecting of the equipment in accordance with this requirement (See 8.6.d.4).

13.4.e. Includes the following specifications for cribs;

13.4.e.1. Cribs shall comply with the federal standards for cribs and non-full size cribs, 16 CFR 1219 or 16 CFR 1220; Verification of the cribs' compliance is required. Request from the manufacturer or retailer a copy of the certificate of compliance that should indicate that the crib is certified to meet 16 CFR 1219 or 16 CFR 1220. See the Federal law at: <http://www.cpsc.gov//PageFiles/101628/cribfinal.pdf>

13.4.e.2. The mattress shall be manufactured for sale in the United States as infant sleeping equipment and fit the crib snugly with no more than one-half inch between it and the crib side;

13.4.e.3. The crib shall be sturdy, non-collapsible and easily disinfected;

13.4.e.4. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches;

13.4.e.5. Each mattress shall have a form fitting cover that is durable and able to be easily disinfected; and

13.4.e.6. The use of traditional drop side cribs, and any crib manufactured prior to June 28, 2011, is prohibited unless the center obtains a certificate of compliance from the manufacturer that the crib is compliant to the current federal standards.

13.4.f. Includes the following specifications for mats:

13.4.f.1. They shall be at least two inches thick; and

13.4.f.2. They shall have form-fitting covers that are durable, waterproof and able to be easily disinfected.

13.4.g. Includes the following specifications for cots:

13.4.g.1. The bottom of the cot's sleeping surface shall not be less than three inches and not more than 18 inches off the floor;

13.4.g.2. The cot shall be firm enough to support the child;

13.4.g.3. The cot shall be of sufficient size to comfortably accommodate the size and weight of the child; and

13.4.g.4. The cot shall be constructed of a material that can be easily disinfected.

13.4.h. Shall not permit children to:

13.4.h.1. Sleep on the floor;

13.4.h.2. Sleep on the floor in a sleeping bag or on bed linens alone;

13.4.h.3. Sleep in a stacked crib or consecutively attached crib;

13.4.h.4. Share a bed or cot, even with a family member; or

13.4.h.5. Use a crib if they are more than 35 inches tall.

13.4.i. Includes the following specifications for bedding:

13.4.i.1. Mattresses or cots shall be waterproof or have a waterproof cover;

13.4.i.2. Bedding, including sheets and blankets, shall be clean and in good condition;

13.4.i.3. Bedding shall not be used by more than one child at a time;

13.4.i.4. Bedding shall be used to cover all sleeping surfaces before being used;

**This means there will be a covering, such as a sheet, between the child and the surface of the sleeping equipment.**

13.4.i.5. Seasonally appropriate covers or clothing shall be used, sufficient to maintain adequate warmth. For children 12 months of age and younger a sleeper may be worn or a thin blanket used for a covering. If a blanket is used, it shall be tucked around the mattress of the crib and only cover the child as high as his or her chest;

Best practice is to keep the crib free of anything but the baby in proper sleep attire. If the center insists on using a blanket for covering of the infant, it must be a thin blanket and must be used as described in the requirement. The “feet to foot” rule should also be used – the feet of the baby at the foot of the crib, to help prevent the infant from scooting underneath the blanket. See the following illustration:



13.4.i.6. Pillows or soft, fluffy bedding shall not be used for the child 12 months of age and under;

13.4.i.7. Pillows or soft fluffy bedding made of substances of animal origin other than wool, including feathers and animal hair, that commonly cause allergic reactions, shall be prohibited; and

13.4.i.8. A center shall change bedding when soiled, prior to use by another child and at least weekly, except sheets on cribs that shall be changed at least daily.

The center must be able to verify the changing of bedding; a verbal report that this occurs is not sufficient. Verification method is up to the licensee or director, but must be able to be reviewed by the Licensing authority. Many centers use a schedule of cleaning which is initialed by staff when completed. Regardless of the cleaning protocol, bedding observed to be soiled will be cited as non-compliance.

13.4.j. Includes the following requirements when providing evening or nighttime care:

13.4.j.1. Each cot or bed shall have a pillow, pillow case and two sheets; and The two sheets fulfill the purpose of a bottom covering and a top sheet for warmth or comfort.

13.4.j.2. When the sleeping surface is a mattress, the bottom sheet shall be secure.

13.5. Indoor activity Equipment and Materials. A center shall provide equipment and materials for indoor activities that:

13.5.a. Are appropriate to the child’s age and developmental level;

13.5.b. Support many types of activities, including social and fantasy play; exploration and mastery of skills and language; music, art and movement; and gross motor experiences as described in Appendix 78-1-A of this rule;

**This requirement applies to each group of children for compliance.**

13.5.c. Are available in sufficient quantity to permit each child to choose from among several of each type, to allow for sharing and prevent conflict, and to allow staff to keep reserves for rotation;

13.5.d. Represent diverse cultures, ethnic groups, gender roles and abilities in ways that do not reinforce stereotypes;

13.5.e. Are clearly organized within activity areas that support programming goals and allow for adequate supervision;

13.5.f. Are complete, sturdy, clean and in good working condition;

13.5.g. Are lead-free and otherwise nontoxic; and

13.5.h. Maximize safety by ensuring that:

13.5.h.1. Indoor play equipment, shelves, and large objects, such as televisions and computer monitors, are firmly anchored;

13.5.h.2. Use zones are extended by at least six feet in all directions from the perimeter of indoor climbing equipment, and the use zone surfacing is constructed of material that has an American Society for Testing and Materials (ASTM) rating for the critical fall height of the equipment. The use zone surfacing shall be securely fixed in place;

**Use zone surfacing is required for any equipment that has an intended use of climbing. The director must be able to verify an ASTM rating for the surfacing. The surfacing must be securely fixed, but it is not necessary to be permanently fixed. Securely fixed means the surfacing will not move or slip when used. “Head-impact injuries present a significant danger to children. Falls into a shock-absorbing surface are less likely to cause serious injury because the surface is yielding....” (CFOC)**

13.5.h.3. Climbing equipment for children under 24 months may not exceed 32 inches in height. If the climbing equipment is located in the designated area for children under 24 months, then the use zone shall extend at least 36 inches;

**The space designated for children younger than 24 months must not be occupied by children older than 24 months otherwise the 6 foot use zone applies.**

13.5.h.4. Small objects, toys and toy parts that have diameters of less than one and one-quarter inch that can be swallowed are not accessible to children less than four years of age; and

13.5.h.5. Plastic bags, latex gloves and Styrofoam objects are not accessible to the child less than four years of age, and that balloons are completely prohibited in a center that serves children less than school age.

A plastic trash bag inside a covered trash can that is being used as a trash receptacle is permissible even though it is accessible.

13.6. Outdoor Activity Equipment and Materials. A center shall provide equipment and materials for outdoor activities that:

13.6.a. Are appropriate to the child's age and developmental level;

13.6.b. Support many types of experiences as listed in Appendix 78-1-A of this rule;

13.6.c. Are available to the child in sufficient quantity to permit each child to choose at least two types of outdoor play experiences and to allow for sharing and prevent conflict;

It is not the intent of this requirement that there must be fixed playground equipment such as slides and climbers.

13.6.d. When a child is not ambulatory, are appropriate for outings, such as a stroller or carriage; and

This requirement pertains to all children that are not ambulatory and not just to infants and toddlers. Some older children may need special equipment for outings.

13.6.e. Maximize safety by ensuring that:

13.6.e.1. All outdoor equipment is installed, maintained and used in accordance with the manufacturer's instructions;

This requirement pertains to equipment that is manufactured or purchased. Equipment manufactured for residential use is not appropriate; equipment designed for commercial use shall be used. For example, Little Tikes has play equipment manufactured for residential use and manufactured for commercial use. Prior to purchasing the equipment, determine if it has been manufactured for commercial or residential use. Commercial equipment uses materials and is built to standards which account for a higher volume of use. Typically, commercial equipment is not sold through "large box" retailers.

When the licensee is building, or having built outdoor equipment, the materials and design must be safe and able to endure high volume use by children. Hand built equipment would need to be inspected by a Certified Playground Inspector to determine compliance with this rule.

When "natural" equipment such as tree stumps or boulders are used for outdoor play experiences, they must be maintained and comply with requirements for prevention of injuries in this section.

13.6.e.2. The position of the outdoor equipment prevents hazards from conflicting activities;

13.6.e.3. The use zones are free of obstacles, except for the support structures for the swings;

Obstacles include, but are not limited to, landscape timbers, land scape rocks, and other such objects.

13.6.e.4. The supports for climbers, swings, and other heavy equipment are securely anchored so that they pose no threat to the children’s safety, even when the equipment is designed to be portable;

13.6.e.5. Each swing frame for the child 24 months of age and under has a maximum of two seats;

13.6.e.6. Metal equipment is in the shade, if at all possible;

Metal equipment that is not shaded must be examined prior to use to ensure the surface will not burn the child.

13.6.e.7. When the center has a sand box, that the box permits drainage, is covered when not in use, and that the sand does not contain toxic or other harmful materials and is free of animal excrement and other debris; and

Areas of sand that are not located in the use zone of a piece of equipment, but is provided for play experiences must meet this requirement.

13.6.e.8. The outdoor area is free of wading pools and other equipment that might hold water which pose a drowning hazard to the child or a breeding environment for mosquitoes.

Water used in a wading pool, in addition to being a drowning hazard, also carries the risk of bacteriologic diseases from ingesting the pool water.

Stagnant water is a breeding ground for mosquito larvae. Any type of receptacle, pool or item holding stagnant water is not permitted in the outdoor area.

13.7. Safety helmets shall be worn by all riders when using a riding toy or riding equipment that requires balancing while moving or when the riding equipment is being used off site.

Toddler ride toys designed for the toddler to move the ride toy by pushing with her feet is not included in this requirement. When children are off site but under the care of the center, they must use safety helmets for riding equipment that requires balancing even if the activity does not fall under the category of special activity. “Requires balancing” refers to the need to balance the equipment such as a bicycle or two-wheeled scooter.

13.8. Standard trampolines are prohibited unless used as a special activity and the activity complies with subsection 14.8. of this rule. Trampolines used as part of a child’s plan due to special needs are not subject to this prohibition.

A trampoline as part of a child’s plan (see 14.1.c) is to be used and documented for that purpose and not placed into the center for general use. However, other children may participate in the activity of the trampoline provided there is a staff person trained in the intended and proper use of the trampoline supervising the activity. Inflatable equipment used for bouncing will be considered part of this regulation.



13.9. Storage of Equipment, Materials and Supplies. A center shall provide storage for equipment, materials and supplies that includes:

13.9.a. Open shelves, at the appropriate level from the floor, for activity items so that children may select, remove and replace items independently;

13.9.b. A container, shelf, or cupboard that is inaccessible to children but permits staff to reach supplies, such as clean diapers, without leaving a child unattended;

13.9.c. A closet when used that is accessible to children and has a latch with an internal release so that the door can be opened by a child inside the closet; and

13.9.d. Separate storage areas for each child's personal belongings, including appropriate safe storage for the school-age child's money and ongoing projects.

Each child in attendance must have a storage area for personal belongings that is not shared by others at the same time. It is not necessary, although it is preferable, that the storage area is permanently assigned to the child.

#### **§78-1-14. Program.**

14.1. For each program offered and for each group of children, a center shall prepare and follow a written daily schedule that:

Each program offered by the center must have a written daily schedule; each major age division is considered a program (less than two years, 2-5 years, school age) and a center may describe more in its statement of purpose. The group's daily schedule may be the same as the program's daily schedule, but typically for centers with multiple groups in each program, there are differences in times for various activities.

14.1.a. Reflects the goals and objectives set out in the statement of purpose;

14.1.b. Is based on knowledge of child development and learning, and on the needs of the enrolled children;

14.1.c. When necessary to accommodate the needs of a child, follows a written individualized plan, developed with advice from a variety of professional sources, including, but not limited to, an early intervention specialist or a licensed health care provider; and  
The written individualized plan is not to be posted.

14.1.d. Is posted in clear, public view and in each designated activity area for each group of children.

Compliance will be determined by easily observing the group's schedule within the group's designated activity area.

14.2. A center shall ensure that each program includes flexible program activities that:  
Compliance for 14.2 et seq. will be determined through one or more of the following: observation; review of program schedules; staff interviews.

14.2.a. Are appropriate to a child's age and developmental level.

14.2.b. Include an appropriate balance of:

14.2.b.1. Indoor and outdoor activities;

14.2.b.2. Activities that use both large and small muscles;

14.2.b.3. Quiet and active play periods;

14.2.b.4. Active and passive learning experiences;

14.2.b.5. Individual and several types of group activities; and

14.2.b.6. Teacher-initiated and child-initiated activities.

14.2.c. Provide opportunities for a child to choose from among several possible activities, or choose not to participate in structured activities at certain times of the day;

14.2.d. Provide a variety of social experiences through grouping arrangements, including mixed-age experiences, that take into account each child's level of maturity;

14.2.e. Include routines at regularly scheduled times, such as sleeping, eating, dressing, toileting, hygiene and diapering;

14.2.f. Are planned so that a child has sufficient time to progress at his or her own developmental rate and does not experience a prolonged waiting period between activities or tasks;

14.2.g. Provide a child with the freedom to get a drink of water or go to the toilet as he or she feels the needs, in keeping with the requirements of this rule; and

14.2.h. Respect cultural diversity and incorporate aspects of a child's culture, including his or her language, traditional food and celebrations.

14.3. A center shall ensure that each program follows guidelines for:

14.3.a. Sleeping routines. A center shall:

14.3.a.1. Provide a designated area where a child can sit quietly or lie down to rest;

14.3.a.2. Ensure that a child 24-months of age and under is able to nap according to his or her developmental needs;

According to *Caring for Our Children*, it is not likely that these children will sleep at the same time. This source further states that infants "do not require a dark and quiet place for sleep. Once they become accustomed, infants are able to sleep without problems in environments with light and noise".

14.3.a.3. Ensure that the schedule for a child between 25 months of age and school-age who is in care for more than four daytime hours includes a regular nap period of at least one hour each day for the child who sleeps, an opportunity for rest and quiet play for the child who is unable to sleep during the nap period, and a regular nap period for the school-age child who needs it; and

Some children over the age of 24 months require a nap and some do not, but all need to be provided a time and place to meet the need for rest whether it is sleep or quiet time. Quiet time should not require a child to remain on a cot or mat while other children are napping; therefore the center program needs to have space, activity and supervision for quiet time. Non-compliance will be cited if all children are to remain on cots and mats during designated nap time even if they do not nap. A center may not have a policy that requires children to nap. Also see 10.5.c.1.B.

14.3.a.4. Ensure that staff members initially place the child 12 months of age and under, or under the age when he or she can turn over independently, on his or her back unless the parent provides a written statement from a licensed health care provider prohibiting the child from being placed in that position for sleep;

This is a safe sleep practice.

14.3.b. Brushing Teeth. A center shall provide appropriate opportunities for the children in care to have supervised practice of brushing teeth on a daily basis; and

Any child with a tooth or teeth is included in this requirement. Staff persons need to understand proper teeth brushing including the amount of toothpaste to be used and the length of time for brushing. The younger the child, the more supervision of brushing may be required. (See 15.5.a) Caring for Our Children states the following: “Regular tooth brushing with fluoride toothpaste is encouraged to reinforce oral health habits and prevent gingivitis and tooth decay. There is currently no (strong) evidence that shows any benefit to wiping the gums of a baby who has no teeth. Good oral hygiene is as important for a six-month-old child with one tooth as it is for a six-year-old with many teeth... There is general consensus that children do not have the necessary hand eye coordination for independent brushing until around age six so either caregiver/teacher brushing, or close supervision is necessary in the preschool child. Tooth brushing and activities at home may not suffice to develop this skill or accomplish the necessary plaque removal, especially when children eat most of their meals and snacks during a full day in child care.”

14.3.c. Active Play and Movement. The center shall promote children’s active play every day by providing the opportunity to engage in moderate to vigorous activities. There shall be a weekly written plan for each group of children, which may be incorporated into the group’s lesson or activity plan, that provides:

See 3.37 for the definition of moderate to vigorous activity. There must be, at a minimum, a weekly written plan for each group of children being provided the opportunity to engage in this active play and movement. Many centers have staff develop lesson plans or activity plans for each group/classroom. As long as the plan for vigorous to moderate activity is included in those lesson/activity plans, it is not necessary to provide a separate written plan for such.

Time for active play may be included in the time for outdoor activity as this is often when gross

motor activity is planned, but the total time for outdoor activity does not change except as indicated in 14.3.c.2.d.

14.3.c.1. For children, six weeks to six years, at least two structured or staff led activities daily that promote gross motor movement skills;  
Staff structured and staff led activities look different with different age groups and developmental levels. For example, staff structured gross motor movement for an infant may be the arrangement of the activity area to encourage crawling over and under and encouraging the infant to pull up.

14.3.c.2. No less than one hour of planned outdoor activity daily with opportunities to develop and practice age-appropriate gross motor movement skills, provided:  
All children will have a minimum of one hour of planned outdoor activity as described in this rule. Minimum time frames may be exceeded.

14.3.c.2.a. Weather and circumstances permit and there are no weather or condition advisories indicating the need to remain indoors;  
Children should be taken outside during all seasons.

When the location of the center has been issued an advisory that outdoor activity may be hazardous, alternate plans to the scheduled outdoor activity must be made. There may be individual circumstances for a child that would require a child to remain indoors, such as conditions that may trigger a child's asthma; in such cases, the center needs to have a plan for the individual child and is not expected to apply that to the entire group.

This interpretation is encouraging outdoor activity whenever it is safe for the child.

14.3.c.2.b. Children less than one year of age are taken outside two to three times per day;  
The daily schedule or activity plan needs to have a minimum of two outdoor periods during the day. Compliance will be determined by reviewing the schedule/plan and observing the infants outside. Please note that this is a subsection of 14.3.c.2. which is a requirement about outdoor gross motor opportunity. In consideration with requirement 14.3.c.1, it is expected that at least one of the outdoor outings will include gross motor opportunity.

14.3.c.2.c. Children older than 12 months are allowed 60 to 90 total minutes of outdoor play daily; and  
Compliance will be determined by reviewing the schedule/plan and observing the children outside.

14.3.c.2.d. When weather or adverse conditions curtail outdoor activity time, the amount of indoor active play is increased so that the total amount of time spent in active play remains the same.

14.3.c.3. A minimum of 60 minutes of moderate to vigorous activity per eight-hour day for toddlers and children up to three years;

14.3.c.4. A minimum of 90 minutes of moderate to vigorous activity per eight-hour day for children three years to school age;

14.3.c.5. Centers operating less than six hours or WV Pre-k classrooms incorporated into the center to prorate the time requirements of this subdivision; and

14.3.c.6. Infants not yet able to crawl, supervised time on their stomachs every day while they are awake.

14.3.d. Restrictive equipment. Infant equipment that restricts movement such as swings, play pens, play yards, stationary activity centers (exer-saucers), infant seats, etc., if used, shall only be used for short periods of time not to exceed 15 minutes in a four-hour period.

When an infant is placed in a play pen/yard during outdoor activity time, the time is limited to 15 minutes per this requirement. When strollers are being used to transport infants for an outdoor activity, the 15 minute time limit will not be enforced provided the stroller is not parked with the infant(s) in the stroller. This would include boppy pillows and bumbo seats. Restrictive equipment cannot be used for sleeping children.

14.3.e. Staff participation. Qualified staff shall promote children's active play and participate in children's active games at times when they can safely do so.

14.4. For infants and toddlers, a center shall follow these additional daily program requirements:

14.4.a. Beginning with the pre-admission meeting between the director or designated staff member and the parent, a center shall work with a child's parent to prepare a written schedule that: It is important for the staff to respect and work with the child's family on individual development of the infant and toddler. Compliance will be determined by observation, staff interview and/or file review.

14.4.a.1. Respects a child's normal pattern of activities, sleeping and eating; A child that is not permitted to eat and sleep according to their schedule will result in non-compliance.

14.4.a.2. Is consistent with a child's needs and capabilities;

14.4.a.3. Provides a child with opportunities to interact with staff members, participate in program activities, be outdoors daily as appropriate, and be diapered or toileted as needed; and

A child that is not diapered or assisted with toileting when the need arises, regardless of a staff schedule for such activity, will result in non-compliance.

14.4.a.4. Identifies qualified staff who will primarily care for the child.

14.4.b. A center shall ensure that the schedule is available for reference in the child's program area.

14.4.c. A center shall ensure that qualified staff members:

14.4.c.1. Evaluate and modify the schedule on a frequent and regular basis, according to the child's developmental needs and in consultation with the child's parent.

The staff person with primary responsibility for the child will need to describe and demonstrate the way in which this is done. (Also see 14.5.)

14.4.c.2. For each infant prepare a written daily report with information about a child's activities in the following areas:

The staff person with primary responsibility for the child will need to describe and demonstrate the way in which this is done. (Also see 14.5.)

14.4.c.2.A. Food intake;

14.4.c.2.B. Sleeping patterns;

14.4.c.2.C. Bowel movements;

14.4.c.2.D. Developmental milestones, such as sitting and crawling; and

14.4.c.2.E. Unusual events.

14.5. Staffing Pattern. A center shall arrange its staffing pattern so that each child has a primary care giver who is a qualified staff member. Staff members shall interact personally with the infant, toddler, and child under school age by:

14.5.a. Holding, rocking and playing whenever possible, including while bathing, dressing and carrying the child;

14.5.b. Encouraging positive communication and language development by making eye-to-eye contact with the child, singing, talking, reacting to the child's communications, naming objects, reading stories and playing musical games;

14.5.c. Paying attention to crying and meeting the immediate needs of the child;

14.5.d. Ensuring that no child is routinely left in a crib, except for sleep or rest; and

14.5.e. Providing a child who is awake play equipment and opportunities to play freely on a clean, safe floor.

14.6. Night Time Care. When a center provides evening or nighttime care, the center shall:

14.6.a. Plan a program that respects the normal sleeping periods, and evening and morning routines of the child.

14.6.b. Establish and post a schedule for the child in consultation with the child's parent that provides for:

This refers to an individual night time schedule for the child. Some of the items described below may be part of the group's daily plan, but other items are related to the individual child. The items for the individual child are not for posting as a public posting, but rather a posting for the staff person (and for the child if able to read it).

14.6.b.1. Quiet activities before bedtime and opportunities for the older child to complete homework or work on projects or hobbies;

14.6.b.2. Meals and snacks;

14.6.b.3. Routine preparations for bed; and

14.6.b.4. Dressing in the morning, when appropriate.

14.6.c. Ensure that no child remains in care for more than 18 hours in a 24-hour period.

14.6.d. Ask the parent to provide for the child's personal use a clean, comfortable, nonflammable or flame retardant sleeping garment and other personal items, such as a comb or brush, and label the child's personal use items.

14.6.e. Ensure that staff members supervise a child's bath or individual shower, respecting the child's privacy according to the child's developmental needs.

14.7. Screen Media. When a center plans to use screen media, its use must either be included on the posted daily schedule or incorporated into the group's written lesson or activity plan. The center shall ensure that:

See 3.56 for the definition of screen media. Any use of screen media by center staff must be planned use and reflected on the group's schedule or lesson/activity plan. When one child is using screen media while other children are observing, the time counts as use of screen media for all of the children using and/or observing it.

The requirements governing the use of screen media are for the viewing and viewing time of the media for children. A staff member may view the media as an aid and as long as children are not viewing the media with the staff member the requirements governing its use do not apply. For example, a teacher may pull up the words and hand motions to a song on his iPad to use as a reference while teaching the song to children who are following the teacher, not the iPad. The teacher may not display the same information on a screen for the children to follow unless the children are over the age of two and the viewing of the screen media is included in the planned time for screen media.

14.7.a. The media supplements, but does not replace traditional early childhood materials;

14.7.b. A child has a choice of other activities and materials;

14.7.c. Staff members are available to support the activity by discussing the use of the active media with the child;

14.7.d. The media is developmentally appropriate and supports creative play and learning;

14.7.e. Media with sexual or violent content, profanity or aggressive behavior is not used; This includes screen media that may belong to an individual child that is being viewed while participating in the center's program.

14.7.f. Each group limits the use of screen media to not more than 75 minutes per week for each child between the ages of two years and school age, and for educational or physical activity use only;

This requirement does not apply to the WV Pre-k classroom during the time the Pre-k program is being operated. However, the observation of inappropriate use of screen media by the WV Pre-k staff will be referred to the County Board of Education Pre-k Co-coordinator.

14.7.g. Each group limits the use of screen media to not more than 75 minutes per week for each school age child and for educational or physical activity use; provided the use of computers and screen media for school assigned homework is not included in the 75-minute time limit; and

An outing to see a movie is considered use of screen media. However, it is recognized that most movies will exceed 75 minutes in length; non-compliance will not be cited for such an outing provided the staff have taken the length of the movie into account and no additional screen media is planned for the week in which the outing occurs.

14.7.h. Use of screen media is prohibited with children under the age of two years.

14.8. Special Activity. When a center participates in a special activity, the center shall provide staff who are trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the special activity. Prior to the special activity, the center shall:

See 3.59 for the definition of Special Activity.

14.8.a. Have on file an activity plan that includes, but is not limited to:

14.8.a.1. The qualifications of the supervisor of the special activity;

14.8.a.2. The special qualifications, if any, of any other staff member necessary for adequate supervision of the activity;

14.8.a.3. A supervision plan that includes the number of staff members needed to adequately supervise the activity;

14.8.a.4. The conditions under which a child may participate in the activity, such as the child's age or skills;

14.8.a.5. Any special equipment necessary, such as life jackets, helmets, or other safety gear; and



14.8.a.6. Special safety practices and emergency procedures.

14.8.b. Provide the parent with copy of the activity plan and have written permission dated and signed by the parent for the child's participation in the activity.

14.8.c. Assign appropriate staff to the activity by:

14.8.c.1. Choosing a staff member for the special activity who has appropriate experience, training or certification in the activity;

14.8.c.2. Having on file at the center verification of the responsible staff member's experience, training or certification; and

14.8.c.3. Ensuring that the responsible staff member is present at the site of the activity.

14.9. Water Activities. When a center plans water activities, the center shall:

14.9.a. Have on file at the center written permission dated and signed by the parent prior to the child's participation in any water activity;

14.9.b. Ensure constant supervision of a child participating in any aspect of any activity involving water;

14.9.c. Ensure adequately prepared staff who are in the water or prepared to enter it at any time and have a system, known to the children and staff members, for checking to ensure that each child is safe when in the water;

14.9.d. Ensure that when a child is participating in a level I or Level II water activity, a staff member is present who has successfully completed training in first aid and CPR, appropriate to the age of the child;

**See 3.30 for the definition of a Level I Water Activity and 3.29 for the definition of a Level II Water Activity.**

14.9.e. Ensure that when a child is participating in a Level II water activity, the activity is also guarded by an individual who:

14.9.e.1. Is an appropriately certified lifeguard;

14.9.e.2. Has skills in rescue and emergency procedures specific to the aquatic area and activities guarded; and

14.9.e.3. Is trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the aquatic activity.

14.9.f. Ensure proper equipment and safety further by:

14.9.f.1. Evaluating the child and classifying the child as either a swimmer or a non-swimmer, prior to allowing a child to participate in a Level II water activity;

14.9.f.2. Assigning equipment, facilities and activities equivalent to the child's individual abilities and based on a child's classification; and

14.9.f.3. Ensuring that rescue equipment is in full working condition, available and accessible to a child at each water activity site.

14.10. Field Trip. When a center plans a field trip, the center shall:  
**See 3.20 for the definition of field trip.**

14.10.a. Have on file a written field trip plan that includes:

14.10.a.1. The names of the children, staff members, and any other participants on the field trip;

14.10.a.2. The departure and return times;

14.10.a.3. The means of travel and routes to be taken;

14.10.a.4. An alternate plan in case of bad weather;  
**The alternate plan must be included on the signed written permission from the parent (See 14.10.b.).**

14.10.a.5. The name of a contact person at the center;

14.10.a.6. The name, address, and telephone number, if applicable, of each destination;

14.10.a.7. Relevant safety rules to be followed; and  
**It is advisable that these rules are reviewed prior to departure with children and staff.**

14.10.a.8. Special emergency procedures.  
**This is for the staff. Emergency procedures should be identified and planned for based on the location of the field trip.**

14.10.b. Obtain written permission from the child's parent prior to the field trip; and  
**Blanket permission for field trips is not acceptable; see 7.1.c.**

14.10.c. Identify the name or names of the assigned qualified staff member or members responsible for the field trip who shall take with him or her a copy of the written field trip plan, first aid supplies and emergency information for each participating child.  
**See 7.5.b.**

## §78-1-15. Health.

Emergency operation requirements (Section 19) include requirements for medical consultation. Requirement 15.4.h. indicates that health care policies and procedures are created with the advice of a licensed health care provider; that applies to all of Section 15 and not exclusively to medication administration policies and procedures. The licensee will need to identify for verification purposes the person or persons used for the medical and health consultation and advice required by this rule.

### 15.1. Child Immunization Records.

There are only two acceptable exemptions from child immunization in accordance with this rule: 1) The center has developed a policy that will allow for religious exemptions (15.1.b.); 2) A child's health care provider has provided a signed statement that immunization is contraindicated (15.1.c). No other exemptions from immunization will be compliant with this rule. Also see 15.4.f.2

15.1.a. Upon admittance, a center shall have on file a record of a child's immunizations or a plan for completion signed by the child's licensed health care provider; and  
Please contact a licensing specialist regarding guidance with foster and homeless children regarding immunization information.

15.1.b. Exemption from immunization requirements shall be available for parents who provide a signed statement from the child's licensed health care provider indicating that immunization is contraindicated based on the child's medical condition.

### 15.2. Child Health Assessment.

15.2.a. A center shall have on file no later than 30 days after the admission, the child's health records, including a record of a health assessment signed by the child's licensed health care provider, that includes the following medical and developmental information, and any special required instructions for the center:

15.2.a.1. The child's current height and weight;

15.2.a.2. A description of any allergy, current health problem or condition that may affect the child's adaptation to care, including abnormal results of screening tests, for vision, hearing, tuberculosis, or lead poisoning;

A center will need to get information updated as the child's condition changes.

15.2.a.3. Prescribed daily medications and any potential side effects;  
Requirements for medications to be administered by center staff are found under 15.4.h. There may be daily medications prescribed for the child that are not administered by the center, but the center needs to be aware of the medication and side effects.

15.2.a.4. The child's health history, including, as applicable, information about a serious illness or significant communicable disease, an injury that required medical attention or hospitalization, a previous surgery, or a history of prematurity; and

15.2.a.5. A medical plan of care, if the child has a chronic health condition that requires specific attention or has the potential to become a medical emergency.

If the licensee or director needs assistance in understanding a medical plan of care, the WV Child Care Nurse Health Consultants may be able to assist you. Please see their web page at: [http://www.wvearlychildhood.org/Nurse\\_Health\\_Consultants.html](http://www.wvearlychildhood.org/Nurse_Health_Consultants.html)

15.2.b. A center shall provide parents with a West Virginia Health Check periodicity chart for child health exams and shall ensure that a child's health assessment is updated with new or current information at least every two years for the child under the age of six years.

Children the age of six years or older must have on file health information that was current at the time of admission. It is not required that health assessments are updated every two years for the child 6 or older. This requirement pertains to the well child health assessments and not to any other medical information that may be required by this rule.

Access a periodicity chart at:

<http://www.dhhr.wv.gov/HealthCheck/providerinfo/Pages/PeriodicitySchedule.aspx>

15.2.c. If a child is between six weeks and three months of age, a center shall have on file a statement signed by the child's licensed health care provider permitting the child to enter group care.

A center will not be licensed to accept children less than 6 weeks of age. A center that enrolls an infant between the age of 6 weeks and 3 months of age without the statement signed by the child's licensed health care provider may have a restriction placed upon the license prohibiting the enrollment of children under the age of 3 months until the licensee takes steps to assure the Secretary the practice will not continue.

### 15.3. Medical Treatment.

Also, see 7.1.a.5.C.2.

15.3.a. A center shall develop, implement and maintain health policies and procedures that include protocols to follow when medical treatment is required by a child whose parent has on file a signed statement objecting to treatment; and

15.3.b. When the child's parent objects to medical treatment on the grounds that it conflicts with the convictions of his or her religion or conscience, the center shall have on file a statement of the objection to treatment signed by the child's parent.

### 15.4. Child Illness at the Center.

15.4.a. A center shall ensure that staff members observe a child daily and watch for changes that may indicate injury, infestation or illness, and record any observed changes in the child's file.

Compliance will be determined through one or more of the following: observation; file review; staff interview. It will not be sufficient to have this as an administrative policy or program statement. The staff member will typically observe the child when first arriving for illness, injury or obvious behavioral changes. This observation will also be the basis for determining if the child exhibits illness, injury or behavioral changes during the time at the center.

15.4.b. When staff members observe changes in a child that may indicate illness or when a child is ill, staff members shall:

15.4.b.1. Remove the child to a designated quiet area to rest comfortably under supervision;

15.4.b.2. Take the child's temperature and record it in the child's file;

15.4.b.3. Use universal precautions, as required; and  
**See 3.72 and 17.1.b.**

15.4.b.4. Contact the child's parent or other individual authorized by the parent to assume responsibility for the child.

**The parent or designee must be contacted when the center observes the child to be ill or whose behavior and physical characteristics suggest illness. If the parent or designee will not pick the child up from the center prior to the normal scheduled time or if the parent or designee cannot be reached, the center will document this in the child's record.**

15.4.c. When taking a child's temperature, staff members shall not use a mercury thermometer or the rectal method for any child.

**According to Caring for Our Children, aural (ear) thermometers may underestimate fever and should not be used in children less than 4 months old.**

15.4.d. A center shall inform the parent and suggest that the parent consult a licensed health care provider for a child who has a fever:

15.4.e. A center shall exclude a sick child from the center:

15.4.e.1. Immediately when a child has a serious communicable illness;

15.4.e.2. When the illness prevents a child from participating in routine activities;

15.4.e.3. When a child's illness results in a greater need for care than staff members can provide without compromising the health and safety of the other children;

15.4.e.4. When a child appears to have any of the following symptoms, unless a licensed health care provider determines that they do not indicate a communicable disease:

15.4.e.4.A. Fever with stiff neck, lethargy, irritability, or persistent crying;

15.4.e.4.B. Diarrhea in addition to signs of dehydration, such as a decrease in urination as indicated by a reduction in the number of wet diapers, no tears when crying or a decrease in activity, or blood or mucus in the stool;

15.4.e.4.C. Vomiting three or more times, or with signs of dehydration;  
**Signs of dehydration may include dry mouth, lack of tears, lethargy and sunken fontanelle (soft spot).**

15.4.e.4.D. Undiagnosed rash that is accompanied by a behavior change, difficulty in breathing or joint pain, or that is characterized by open sores, blood, red or purple pin-head spots, or bruises not associated with an injury, or lasts more than one day;

15.4.e.4.E. Mouth sores with drooling;

15.4.e.4.F. Infestation, such as scabies or head lice;

15.4.e.4.G. Abdominal pain that is persistent, or intermittent with other signs such as a fever;

15.4.e.4.H. Difficulty in breathing; or

15.4.e.4.I. Lethargy such that the child does not play.

15.4.e.5. When a child has any of the following diagnosed conditions;

15.4.e.5.A. Diarrhea and blood or mucus in the stool;

15.4.e.5.B. Contagious signs of pertussis, measles, mumps, chicken pox, rubella or diphtheria;

15.4.e.5.C. Streptococcal infection until treated with antibiotics for 24 hours;

15.4.e.5.D. Pinkeye with yellow or white discharge;

15.4.e.5.E. Untreated tuberculosis; or

15.4.e.5.F. Other conditions as determined by a licensed health care provider.

15.4.f. When excluding a child to prevent transmission of illness or readmitting a child who has been excluded, the center shall abide by the following guidelines:

15.4.f.1. During the course of an identified outbreak of any communicable illness, the center shall exclude the child if a licensed health care provider determines that the child is contributing to the transmission of the illness;

15.4.f.2. When a child has been diagnosed with a vaccine-preventable communicable disease, a center shall exclude the child who has not been immunized against the disease until a licensed health care provider determines that a risk of disease transmission has passed;

15.4.f.3. When a licensed health care provider excludes a child because of a communicable illness, a center shall readmit the child only after the child's parent provides a signed statement from a licensed health care provider that the risk of transmission is no longer present and the child is well enough to participate in center activities; and

15.4.f.4. After receiving a signed statement from a licensed health care provider that the child poses no health risk to the children at the center, the center may permit the child to remain at the center.

15.4.g. Guidelines for handling reportable diseases introduced in a center include that:

15.4.g.1. A center shall report to the local health department the introduction of a diagnosed reportable disease as listed in Appendix 78-1-B of this rule, including, chickenpox, diphtheria, giardia lamblia, hepatitis A, mumps, meningitis, pertussis (whooping cough), rheumatic fever, rubella (German measles), rubeola (measles), salmonella, shigella, and tuberculosis;

If the local health department instructs the center on actions to take or requests the center not to report, this information needs to be included in the serious occurrence report made to the licensing authority.

15.4.g.2. A center shall inform the parent of each child immediately of the presence of the disease and the need to contact a licensed health care provider for further information; and

15.4.g.3. A center shall complete a serious occurrence report as required under this rule.

15.4.h. Medication Administration. With advice from a licensed health care provider, a center shall develop, implement and maintain health policies and procedures that include the following procedures for the administration of medication:

Centers are not required to administer medication; however, a center is required to inform parents about medication administration (7.1.a.5.C.2.). Therefore, if the center chooses not to administer medication, that information must be provided to the parent. Even though a center may choose to have a policy of not administering medication, it may be necessary, in certain cases, in order for the center to comply with the Americans with Disabilities Act; it is advisable for the licensee to seek legal consultation.

Forms related to medication administration can be found here:

[http://www.wvearlychildhood.org/resources/WV\\_Med\\_Admin\\_Instructional\\_Program\\_Sample\\_Forms.pdf](http://www.wvearlychildhood.org/resources/WV_Med_Admin_Instructional_Program_Sample_Forms.pdf)

15.4.h.1. A center shall only administer medication with written permission from the child's parent, and with a prescription or a written order from a licensed health care provider except as provided for in paragraph 15.4.h.7.;

The use of non-prescription medication is intentionally limited.

15.4.h.2. The center shall secure instructions from the child's parent for each medication to be administered. The center may not accept instructions that indicate to administer the medication on an as needed basis unless the order is accompanied by a medical treatment plan written by the child's licensed health care provider which describes the as needed condition. All medication instruction must be legibly written, signed by the parent, attached to the medication log and shall include:

For an as needed medication, the health care provider shall describe in the medical treatment

plan what symptoms or conditions must be present in order for the medication to be administered; this removes any medical decision from the center staff. See 15.4.h.10.A. regarding a medication log. For a sample medication log, see the above listed website.

15.4.h.2.A. The child's first and last name;

15.4.h.2.B. The name of the medication to be given;

15.4.h.2.C. The reason the medication is being given; and

15.4.h.2.D. Directions for the administration of the medication including the specific dosage, specific frequency or time to be given, route to be given and the time of the last dosage administered by the parent.

15.4.h.3. A center may secure a parent's written permission to apply sun screen supplied by the center provided the center gives the parent information, in writing, about the product prior to its application.

15.4.h.4. A center shall store medication in its original packaging and shall place the medication in a locked cabinet or container that is inaccessible to children and can be opened only by key or combination. The container or cabinet shall be away from food, and refrigerated or unrefrigerated according to instructions on the prescription, order or label. Sunscreen, diaper ointment and emergency medication are exempt from being stored in a locked cabinet or container, but shall remain inaccessible to children.

15.4.h.4.A. Refrigerated medication shall be in a container which cannot leak.

15.4.h.4.B. If the container used is plastic, it shall be a hard-molded plastic container. Plastic bags are prohibited for storage.

It is acceptable to store the original medication container in a plastic bag within the hard molded plastic container as a means of easily separating one child's medication from another. However, staff must still go through the step of verifying the medication is being administered to the correct child.

15.4.h.4.C. Medication for staff shall be stored separately from children's medication.

15.4.h.5. A center shall ensure that medication is only administered by designated qualified staff members who have passed the approved training in medication administration.

Center staff must pass the approved training in medication administration prior to administering medication unless the medication is sunscreen (see 8.6.g.).

15.4.h.6. A center shall ensure that prescription medication is only administered when the prescriptive medicine bottle or package has the original pharmacy label showing the prescription number, name of the medication, date the prescription was filled, the licensed health care provider's name, the child's first and last names, specific, legible directions for administration and storage, and the expiration date.



15.4.h.7. A center shall ensure that non-prescription medication is only administered when the following criteria are met:

15.4.h.7.A. The center administers oral non-prescription medication for no more than three consecutive days within a 30-day period without written instruction from a licensed health care provider;

15.4.h.7.B. The center applies non-prescription topical products (ointments, creams, or lotions) for no more than five consecutive days within a 30-day period without written instruction from a licensed health care provider. Sunscreens, diaper ointments or lip balms used for preventative purpose are excluded from this requirement;

15.4.h.7.C. The original non-prescriptive medicine bottle or package has a label with the child's first and last names written by the parent, specific, legible directions for administration including the appropriate dosage based on weight or age, directions for storage, and verification that the medicine will not expire during the time to be used;

15.4.h.7.D. Medication to reduce fever does not contain aspirin or any product containing aspirin listed as an ingredient such as sodium bicarbonate (Alka-Seltzer®) or bismuth subsalicylate (Pepto-Bismol®);

15.4.h.7.E. Medication for teething pain that contains benzocaine is not to be used without instruction from the child's health care provider;

The Food and Drug Administration recommends that products with benzocaine not be used in children under the age of two years because it can lead to a serious condition in which the amount of oxygen carried through the blood stream is greatly reduced. Therefore, the parent must provide instruction from the child's health care provider for using such a product.

15.4.h.7.F. Any topical containing diphenhydramine hydrochloride (Benadryl®) shall not be applied without written instruction from a licensed health care provider;

The center staff must read any product's label to be certain; there are store and generic brands of this medication.

15.4.h.7.G. That the medication shall not be administered in a manner inconsistent with the manufacturer's recommendations without written instructions from the child's licensed health care provider;

Instruction from the parent to administer the medication in a manner different from manufacturer's recommendation is not acceptable.

15.4.h.7.H. The center shall ensure that a staff member assists as needed in the application of sunscreen or lip balm for a child up to school age. The sunscreen shall be applied in accordance with the product labeling guidelines; and

15.4.h.7.I. The center shall permit a school age child to apply his or her own sun screen or lip balm under the direct supervision of a staff member.

15.4.h.8. A center shall ensure that before administering medication when the directions are not legible, the parent checks with the child's licensed health care provider or, if applicable, the pharmacy that filled the prescription;

15.4.h.9. When a child no longer needs the medication or its expiration date passes, a center shall return the medication to the parent, and document the date of its return. A center shall not administer medication after its expiration date;

When the center cannot return the medication to the parent, it must properly dispose of the medication and document the date and method of disposal. The licensee should consult with the center's health consultant or pharmacist on the disposal of the medication.

15.4.h.10. A center shall ensure that records of medication administration are individual and kept:

15.4.h.10.A. In a medication log that is cumulative; and

15.4.h.10.B. Completed in ink by the staff member who administers the medication, and includes the child's name, the name of the medication, the date and time of the administration, the dosage and route of the medication, the child's reaction, if any, and the name of the staff member who administered it.

15.4.h.10.C. Sunscreen and lip balm application are not required to be logged.

15.4.h.11. A center shall ensure when a documentation error is made that a single line is drawn through the error with the staff person correcting the error initialing it.

15.4.h.12. A center shall ensure if and when a medication error is made, the staff member who makes the error:

See 3.36 for the definition of medication error.

15.4.h.12.A. Informs the center director and the parent of the child affected by the error;

15.4.h.12.B. Completes a serious occurrence report as required under this rule; and

15.4.h.12.C. Observes the child for any reaction to the error. If the child shows a reaction, contact 911, and in the case of an overdose, contacts the poison control center. If 911 service is not available to the area, then emergency services shall be contacted.

15.4.h.13. A center may permit a child to self-administer his or her own medication under the following circumstances:

15.4.h.13.A. With written permission from the child's parent and licensed health care provider and in accordance with procedures established in this rule, a child may self-administer asthma medication, emergency allergy medication, or other similar emergency medication;

15.4.h.13.B. With written permission from the child’s parent and licensed health care provider, the center may establish procedures to permit the child, under supervision, to self-administer insulin or other injected medication that the child requires; and

15.4.h.13.C. When the child self-administers medication, qualified staff members shall keep a written record of the administration in the medication log.

15.4.h.14. A center shall have a procedure that requires medication logs be reviewed on a daily basis to ensure that medicine is being properly administered and documented.

15.4.h.15. A center shall post the “Seven Rights of Medication Administration” near to the storage of medication.

**This includes all locations of medication storage. This should be posted near the storage of all medication, including those used for an emergency.**

### 15.5. Dental Health.

15.5.a. A center shall develop a dental health plan that provides for staff training in oral health concepts and child oral health education, appropriate to the age of the children at the center.

**The plan is to be included with the center’s health policies as stated in 6.3.a.6.**

**A child under 25 months of age with a tooth or teeth is to be included in the oral health plan.**

15.5.b. Staff members shall not give a child a bottle, a sipping cup of milk or juice as a pacifier.

15.5.c. For a child of 25 months and over, a center shall ensure that the child:

15.5.c.1. Has a personally labeled toothbrush with bristles in good condition, that is stored in a sanitary manner so that it does not touch another toothbrush and that its bristles are exposed to the air to dry;

15.5.c.2. Does not share his or her toothbrush with other children; and

15.5.c.3. Uses toothpaste that is dispensed in a sanitary manner.

### **§78-1-16. Nutrition and Food.**

16.1. A center shall have a nutrition program that provides children with meals and snacks that are consistent with the United States Department of Agriculture’s (USDA) Child and Adult Care Food Program (CACFP), Meal and Snack Patterns (Appendix 78-1-C).

**A center must have a nutrition program and may not require a child to bring his/her own meals and snacks with the exception of infants in accordance with requirement 16.8.b.**

16.2. Special Dietary Needs. When planning meals and snacks a center shall:

16.2.a. Consider information provided by the parent or a licensed health care provider about a child's special dietary needs, including special needs because of a medical condition, allergy or religious prohibition;

**It is at the licensee's discretion whether or not the center will accommodate parental preferences for foods that are not due to medical condition, allergy or religious practice.**

16.2.b. Obtain a written care plan from the parent stating any foods to be avoided, any foods to be substituted and any need for special utensils; and

16.2.c. Keep information about the child's special dietary needs in a location that is accessible to staff who prepare and serve food, while protecting a child's right to confidentiality.

16.3. Frequency of Meals. A center shall offer food at intervals no more than three hours apart and ensure that no more than four hours elapse between meals and snacks for any child. A center shall provide meals and snacks according to the following requirements:

**Centers serving school aged children who attend the center after school need to communicate with the school(s) to know when the last meal or snack is served at school so that the school age children receive a snack or meal at the center (after school) that is within the four hour time frame, if at all possible.**

16.3.a. A center that is open from morning through afternoon shall serve a morning snack or breakfast, lunch and afternoon snacks;

16.3.b. A center that provides care before 7 o'clock in the morning shall serve breakfast; and

16.3.c. A center that provides care to the child whose planned attendance extends until after 7 o'clock in the evening shall serve supper.

16.4. Requirements for Milk and Juice.

16.4.a. When serving milk, a center shall serve the child only pasteurized, inspected, Grade A approved milk to drink, and shall not use powdered milk except for cooking.

16.4.b. When serving juice, a center shall serve the child only commercially pasteurized, 100 percent, vitamin C fortified fruit juice to drink.

**The center is not required to serve juice but must meet the requirement if juice is served.**

16.5. Food Service. A center shall serve food according to the following:

16.5.a. A center shall provide a child with age-appropriate and developmentally suitable eating utensils;

16.5.b. Staff members shall encourage a child to eat the food served, but shall not coerce or force feed a child;

16.5.c. Staff members shall eat or participate in meals and snacks with a child 25 of months of age and over and shall model healthy eating habits;  
Staff members must participate in the meal with children whether or not the staff members eat. Standing and observing children while the meal takes place is not participation and modeling. Also, modeling healthy eating habits extends beyond meal time and includes any time a staff person consumes food or drink in the presence of children.

16.5.d. The meals shall be served in a setting that encourages socialization, where the children and staff members are seated when eating, and staff members provide supervision and model positive eating behaviors and social interactions;  
This requirement includes infants and toddlers that are not held while feeding.

16.5.e. Food shall not be served directly on the table or chair tray; and

16.5.f. The center shall give children time to eat their food without rushing.

#### 16.6. Menus.

16.6.a. A center shall post menus for all food served a minimum of one week in advance for the parent to see.

16.6.b. A center shall follow written menus as planned and write any changes on the posted menus.

16.6.c. A center shall date menus and keep them on file for a minimum of two months.

#### 16.7. Food Safety. A center shall ensure that:

16.7.a. Food preparation areas, service areas, storage areas, and equipment and utensils are clean and in good repair;

16.7.b. An off-site supplier of meals or snacks has a Food Service Permit;

16.7.c. The Bureau for Public Health has approved the method of transporting and distributing the food not prepared at the center or which is served off-site;

16.7.d. Leftover portions of food that have been served are discarded;

16.7.e. Prior to serving milk to a child, except when its original container is a single service container, staff pours the milk from the original container into a clean, sanitized and labeled bottle or a disposable, sterile bottle liner, or into a sanitized glass or single-service cup and shall not pour the milk back to its original container or store it for later use;  
Sanitized pitchers can be used for family style eating as long as any unused milk is discarded.

16.7.f. Ice for consumption is made with drinking water; and

16.7.g. Ice used for cooling is not consumed by the child, and water from melted ice used for cooling does not contaminate food to be served.

16.8. Additional Nutrition and Feeding Requirements for a Child 12 Months of Age and Under.

16.8.a. The center shall feed solid foods and fruit juices to a child four months of age and younger only upon receipt of and in accordance with a written plan of care signed by the child's licensed health care provider.

**A parent's request or instruction for fruit juices or solid foods for the child is not sufficient.**

16.8.b. A center caring for a child 12 months of age and under shall feed the child according to a plan developed in consultation with the parent and may include advice from the child's licensed health care provider. Due to the differences in development and nutritional needs of an infant, a center is not required to provide baby food to an infant not yet eating table food, but must ensure that the food provided by the parent meets nutritional guidelines as found in Appendix 78-1-C. The option to have parents supply the baby food must meet the requirements of subsection 16.9. of this rule.

16.8.c. When a child is being breast fed, a center shall ensure that the child's plan makes a provision for the mother to provide sufficient portions of breast milk or an alternative to satisfy the child throughout the day, and a center shall not give commercial formula to the child receiving breast milk without written permission from the mother.

16.8.d. For the child between six months and three years of age a center shall not replace formula or breast milk with water.

16.8.e. Until a child is able to hold a bottle securely, a staff member shall hold the child while bottle feeding. When a child is no longer being held for feeding, the staff shall ensure that seating is age-appropriate and shall not prop bottles or allow the child to carry a bottle while moving about or walking.

**An infant needs the one-on-one interaction with the caregiver while being held for feeding. In addition, only one child is to be held at one time during bottle feeding. Caring for Our Children states, "Cross-contamination among children whom one adult is feeding simultaneously poses significant risk. In addition, mealtime should be a socializing occasion."**

16.8.f. For food safety a center shall:

16.8.f.1. Store perishable food, formula and expressed breast milk in the refrigerator;

16.8.f.2. Have the parent clearly label each bottle of formula with the child's name, contents and the date received;

16.8.f.3. Have the parent clearly label each bottle of breast milk with the child's name, date expressed, date frozen if applicable, and date received;

16.8.f.4. Cap bottles of formula or breast milk during storage;

16.8.f.5. Ensure each staff person follows the hand washing requirement found in section 17 of this rule prior to preparing a bottle;

16.8.f.6. Thaw frozen breast milk in the refrigerator or under cold running water. The center must not refreeze breast milk;

16.8.f.7. Not use a microwave oven to warm a bottle of formula or breast milk;

16.8.f.8. Not give any formula or breast milk that is not labeled to a child;

16.8.f.9. Discard any unused breast milk after each feeding;

16.8.f.10. Clean and sanitize bottles, bottle caps, and nipples by washing in a dishwasher and storing them in a sanitary manner, or by boiling them for five minutes immediately before filling them; and

16.8.f.11. Handle baby food in the following manner:

16.8.f.11.A. A center shall not accept previously opened baby food containers;

16.8.f.11.B. A center shall remove commercially packaged baby food from its container and serve it in a clean bowl or cup;

16.8.f.11.C. A center shall not place solid food in a bottle or feeder apparatus and shall use a spoon to feed solid food in a sanitary manner; and

Solid food includes the mixing of cereal into water, formula, juice or breast milk; this may only occur when in accordance with a health care plan signed by the child's health care provider.

Also see 16.8.a.

16.8.f.11.D. A center shall discard leftover food that has come into contact with the feeding spoon.

16.8.f.12. A center shall handle breast milk and formula in the following manner:

16.8.f.12.A. A center shall store breast milk in hard plastic or glass bottles with tight lids only;

16.8.f.12.B. A center shall remove breast milk and bottles of formula from the refrigerator immediately before using only;

16.8.f.12.C. A center shall discard breast milk or formula when it remains at a temperature higher than 41 degrees Fahrenheit for more than one hour or within 30 minutes after a child has finished feeding; and

16.8.f.12.D. A center shall use fresh refrigerated breast milk within 48 hours of receipt, breast milk that has been frozen and properly thawed within 24 hours of receipt and frozen

breast milk within two weeks of receipt if it is reported that it has been stored in the back of a freezer.

16.8.g. In order to provide sufficient amounts of safe drinking water, the center shall ensure that:

16.8.g.1. Drinking water is available to children and staff members and is freely accessible at all times; and

16.8.g.2. A single service drinking cup is discarded after one use, and a non-disposable cup or glass is washed and sanitized after each use.

16.9. A center must offer a nutrition program, but may choose to allow a child to bring meals and snacks to the center if:

Refer to 16.1

16.9.a. The center has written policies that address:

The center must have specific policies that address food from home if the licensee chooses to permit this.

16.9.a.1. Providing parents and staff with nutritional guidelines in this rule;

16.9.a.2. Providing to parents and staff guidelines on the proper preparation and storage of food so that foods do not present a cross-contamination threat;

16.9.a.3. Providing to parents and staff a list of foods the center will not permit, including known food allergens to other children;

16.9.a.4. An explanation to parents of how the center will address the issue if a child does not bring meals or snacks, or if the meals or snacks the child does bring are not within the nutritional guidelines or guidelines provided by the center;

Staff responsible for supervising children must understand the nutritional guidelines in order to be able to communicate to the parent(s) if the food being sent from home does not meet those guidelines. Parents need to know the process and consequences if the food from home is not meeting nutritional guidelines.

16.9.a.5. That the food prepared from an unapproved source is for consumption by the child and not to be shared with other children or the group.

Unapproved source means any source that does not have a food service permit issued by a local health department.

16.9.b. The center has safe storage and refrigeration of the food as needed. Storage must be approved by the Health Department;

16.9.c. Each child's meal or snack is clearly labeled with the child's first and last names and the date it was brought to the center;



16.9.d. No additional food preparation is required by the center;  
With the exception of infant bottles that need warmed and placing infant food in a serving dish, the staff should not have to perform additional preparation of food brought from home.

16.9.e. The center provides a meal or snack when the parent fails to provide a meal or snack from home;

16.9.f. The center includes children with food allergies in the group during meal or snack time and closely supervises all children under school age during meal or snack time to prevent the cross-contamination of food or accidental ingestion of a food allergen; and

16.9.g. The center has milk available at meal times in accordance with meal patterns described in Appendix 78-1-C of this rule.

### **§78-1-17. Sanitation.**

17.1. Personal Hygiene. All individuals on the center premises or participating in center activities shall practice good personal hygiene, including:

Good hygiene practices by staff helps reduce incidences of illness and models good hygiene practices for children. Compliance will be determined by observation.

17.1.a. Hand Washing.

17.1.a.1. Staff members shall wash their hands before starting work; and

17.1.a.2. Staff members and children shall wash their hands with soap and warm, running water for at least 20 seconds:

The Centers for Disease Control and Prevention (CDC) guidelines recommend washing hands that are visibly soiled or contaminated with organic material with soap and water. Alcohol based hand sanitizers may be used with children over 24 months when the hands are not visibly soiled with organic material provided they are supervised during the use. Some hand sanitizing products contain non-alcohol and “natural” ingredients. The efficacy of non-alcohol containing hand sanitizers is variable and therefore a non-alcohol-based product is not recommended for use. The use of hand sanitizers in lieu of washing visibly non-soiled hands needs to meet Standard 3.2.2.5.: Hand Sanitizers, in *Caring For Our Children*.

17.1.a.2.A. When hands are contaminated with body fluids;

17.1.a.2.B. Before preparing, handling or serving food, or setting the table;

17.1.a.2.C. After toileting, handling diapers or assisting a child with toilet use;

17.1.a.2.D. Before and after eating meals or snacks;

17.1.a.2.E. After handling pets or other animals;

17.1.a.2.F. Before giving medication;

17.1.a.2.G. After playing outdoors;

17.1.a.2.H. After handling garbage; and

17.1.a.2.I. After removing gloves used for any purpose.

17.1.b. Universal Precautions. With the exception of breast milk, staff members shall adopt universal precautions when exposed to blood and body fluids that might contain blood; and

17.1.c. Diapering and Toileting. A center shall ensure that diapering and toilet training follow the guidelines in Appendix 78-1-D of this rule.

17.1.c.1. Toilet Training.

17.1.c.1.A. A center shall discuss with the parent and document in the child's record the toilet-training methods to be used with the child being trained.

**Mastery of toileting is developmental and not based upon a chronologic age; the center and parent need to agree on an individualized plan for toilet-training.**

17.1.c.1.B. Staff members shall not use any form of punishment in connection with toilet training.

17.1.c.1.C. Staff members shall not force a child to sit on a potty or training chair.

17.1.c.2. Toilet Equipment and Fixtures.

17.1.c.2.A. A center shall disinfect the potty or training chairs after each use; and

17.1.c.2.B. A center shall provide toilet fixtures that are sized so that the child can use them without assistance, and provide step stools, or modified toilet seats that are safe and easily disinfected.

17.2. Physical Facilities.

17.2.a. A center shall keep all areas of the premises and all equipment clean and in a neat and orderly condition at all times.

**When an activity area is in use by children it may not appear orderly, but the general surrounding and fixed equipment can reflect an orderly space.**

17.2.b. The center shall ensure that floors, walls and ceiling are of easily cleanable material.

17.2.c. The center shall ensure that the floor area immediately adjacent to the diaper changing table has a moisture-resistant, non-absorbent surface extending three feet from the base of the table on all sides, except when one side of the table is against a wall.

For the purpose of this requirement, any designated surface for diaper changing is considered a diaper changing table. Carpet is not a suitable floor surface for this requirement. More than one side of the changing table can be against a wall.

17.2.d. The center shall have a hand-washing sink located in the immediate area of the diaper-changing space. Centers licensed prior to the effective date of this rule are not out of compliance with this requirement if the existing diaper-changing space does not include a hand-washing sink in the immediate area. Upon the effective date of this rule, the Department shall not approve an additional diaper-changing space without a sink in the immediate area.

See 3.25 for the definition of immediate area.

#### **§78-1-18. Animals.**

18.1. A center shall ensure that animals on the premises show no signs of disease or illness.

18.2. The center shall maintain documentation of current vaccinations on all dogs and cats.

18.3. A center shall not have on the premises ferrets, birds, reptiles, including snakes, lizards and turtles, or any wild or dangerous animals.

18.4. A center shall ensure that a staff member is always present when a child is with an animal.

18.5. A center shall inform the child's parent in advance of the presence of animals at the center.

A center that plans to introduce an animal or animals into the center must notify parents in advance of bringing the animal(s) to the center. A parent must be informed during the admission process when a center has an animal or animals present at the center. Generally, insects are considered under this section with the exception of ant farms and non-venomous insects such as crickets that are within secure containers and to be used for science activity (observation) or used for feeding to other animals.

#### **§78-1-19. Safety and Emergency Operating Procedures.**

19.1. A center shall develop, implement and maintain attendance policies and procedures to ensure that it has a current and updated written record of the first and last name of each child who is participating in center activities, onsite and offsite, and who is being transported in a vehicle provided by the center.

Also see 6.3.a.7. and 7.4.m. Attendance logs, transportation logs and daily rosters are safety measures and are tools that help determine accountability for children.

19.2. Daily Attendance Sign-In and Sign Out.

19.2.a. A center shall ensure that the responsible person bringing the child to the center signs the child in as the child arrives and that the responsible person picking up the child signs the child out as the child departs the center.

19.2.b. A center shall require the following sign-in and sign-out information:

19.2.b.1. Arrival time including the date and time;

19.2.b.2. Departure time including the date and time;

19.2.b.3. The name and signature of the responsible person who drops off the child;

and

The name needs to include a first and last name and may include a designation of relationship or title. If the center uses an electronic sign-in and sign-out process, it must meet the following requirements in order to be considered a valid signature: the parent or designated adult can be distinguished (unique); the signature cannot be edited once it is entered; the date and time of the signature is part of the electronic record; signatures entered in error are not deleted, but can be identified as errors; the electronic record can be used to determine when the center's accountability for the child begins and ends (19.2.b.1 and 19.2.b.2).

19.2.b.4. The name and signature of the responsible person who picks up the child.

The name needs to include a first and last name and may include a designation of relationship or title.

If the center uses an electronic sign-in and sign-out process, the licensee should be able to answer these questions: can the parent or designated adult be identified/distinguished (unique); can the signature be altered or deleted once it is entered; is the date and time of the signature part of the electronic record meaning does the electronic record capture when the center's accountability for the child begins and ends (19.2.b.1 and 19.2.b.2); can the record be audited for activity and changes; can the individual child's record be stored or printed out for hard copy.

19.2.c. A center shall have an attendance procedure for notifying the parent when a school-age child does not arrive as scheduled.

### 19.3. Transportation Log.

19.3.a. A center shall provide a passenger log to be kept by the driver of the vehicle, the designated staff member, or the volunteer riding in the vehicle that shall include the first and last names of each child boarding the vehicle. There shall be a notation on the log each time a child boards the vehicle or departs the vehicle.

To be compliant, the log must be able to distinguish between each transportation episode. For example, if the center transports children to school in the morning and then transports children from school to the center in the afternoon, the morning transportation must be distinguishable from the afternoon transportation.

#### Acceptable:

Elementary School Transportation Log				Date: January 3, 2015		
Child	Boarding Time	Drop-off Time	Staff Person/Driver	Afternoon School Boarding Time	Afternoon School Center Arrival Time	Staff Person/Driver

Johnson, Joe	7:35am	8:05 am	Sue Smith	2:45pm	3:05pm	Dale Jones
Johnson, Mary	7:35am	8:05am	Sue Smith	2:50pm	3:05pm	Dale Jones

**Not Acceptable:**

Elementary School Transportation Log		Date: January 4, 2015			
Child	Drop-off	Pick-up	Staff/Driver		
Johnson, Joe	X	X	Sue Smith		
Johnson, Mary	XX	XX	Sue Smith / Dale Jones		

**Acceptable:**

Filed Trip Transport Log: (Date)		Depart From Center: (Time)		Return to Center: (Time)	
<b>Child</b>	<b>Boarding at Center</b>	<b>Boarding #1 (location and time)</b>	<b>Boarding #2 (location and time)</b>	<b>Unloading at Center</b>	<b>Staff Signature</b>
Johnson, Joe	x	x	na	x	Sue Smith

19.3.b. Immediately upon unloading the last child from a vehicle, or before parking the vehicle, the driver or the designated staff member shall physically search the vehicle to ensure that all children have been unloaded. The transportation log shall then be reviewed either by the driver or the designated staff member to check that the information is correct.

19.3.c. The driver or the designated staff member shall deliver the transportation log to the person responsible for maintaining attendance records.

19.4. Daily Roster.

19.4.a. A center shall prepare a written, daily roster that includes the first and last names of each child in each group of children, the name of the staff member responsible for the group, and the space designated for use by the group both at the center and at off-site locations used during field trips.

The daily roster is separate from the sign-in and sign-out log.

19.4.b. Periodically throughout the day, the staff member responsible for each group of children shall check the daily roster to ensure that all children are present or accounted for.

Compliance will be determined by review of the roster, staff interview and observation.

19.4.c. A center shall keep each daily roster in a designated location where it is readily available in case of emergencies and can be used to confirm attendance following an evacuation from the premises or upon returning from a field trip.

The designated location for each group's roster needs to be available to the staff responsible for that group. For example, keeping the roster in the office located down the hallway from the designated group location would not be readily available to the staff person needing the roster.

19.4.d. A center shall ensure that its attendance procedures include accounting for a child at all times and taking action when a child is lost on or off the premises.

Compliance will be determined by review of procedures, observation or by staff interview. Staff persons need to be able to explain the procedures for accounting for children and the procedures for when a child is noticed as missing.

How quickly staff recognizes a child is missing and initiates action is taken into consideration when determining what, if any, regulatory action may be necessary.

19.5. Emergency File. A center shall develop and maintain an emergency file with information for each enrolled child that is accessible to all staff members, including at off-site activities.

See 7.5.b.

19.6. Emergency Disaster Plan. A center shall develop, implement and maintain an emergency and disaster plan which addresses:

19.6.a. Medical and non medical emergencies, including situations that could pose a hazard to staff and children, such as a fire, storm, flood, chemical spill, power failure, bomb threat, persons coming onto the premises whose health or behavior may be harmful to a child or staff member or kidnapping;

The plan must address medical and non-medical emergencies. It is acceptable for the two categories to be separated in the written procedures, but staff trained in how to implement each and how the plan will be implemented when procedures for both types of emergencies need implemented at the same time. The plan should include the center's policy on operation when an anticipated or occurring emergency is known prior to the beginning of daily operations.

19.6.b. Evacuation from the center in the event of an emergency that could cause damage to the center or pose a hazard to the staff and children;

19.6.c. Evacuation from a vehicle used to transport children;

19.6.d. The age and physical and mental abilities of the enrolled children; types of emergencies that are likely to affect the area; the requirements of the State Fire Marshal; and advice from the Red Cross or other health and emergency professionals;

Children will be at various developmental levels both physically and cognitively therefore the staff needs to be prepared to implement procedures with all children.

The plan must address procedures for disasters that have potential to occur that are specific to the geographic location. For example, the plan needs to describe procedures for flooding when the center is located next to a river or stream.

The licensee must be able to verify consultation with persons or resources that have informed the emergency planning process for the center.

19.6.e. Review of the emergency plans with new staff during orientation and with all staff at least once a year;

The orientation and staff review must be documented for compliance.

19.6.f. The notification of parents of procedures for relocation and reunification during evacuation emergencies and disasters;

19.6.g. Submission of an emergency and disaster evacuation plan to the Director of the Office of Emergency Services in the county where the center is located or any other designated authority with a procedure to submit any changes to that plan by December 31 of each year;  
The licensee will need to review the plan on an annual basis in order to determine if changes are needed.

19.6.h. In the case of a medical emergency, identification of the staff responsible for implementing the plan. The plan for a medical emergency shall include:

19.6.h.1. The procedures to be followed;

19.6.h.2. The location of a center's first aid kit and other emergency supplies;

19.6.h.3. The location of the child's emergency information;

19.6.h.4. The name, address and telephone number of a health professional or facility available to provide medical consultation to the center;

19.6.h.5. The name, address, telephone number and location of the emergency facility to be used when a center cannot reach the child's parent or licensed health care provider, or when transporting the ill or injured child to the preferred hospital could result in a serious delay in obtaining medical attention;

19.6.h.6. Identification of a means of transportation that is always available in case of an emergency, and telephone numbers for an ambulance or other transportation that might be required; and

19.6.h.7. Other emergency telephone numbers as required in this rule; and

19.6.i. For a non-medical emergency that identifies staff members responsible for implementing the plan and includes:

19.6.i.1. The procedures to be followed;

19.6.i.2. The location of the center's first aid kit and other emergency supplies;

19.6.i.3. The location of the child's attendance records and emergency information;

19.6.i.4. The identification of a safe location within a center where a children and staff members can stay until the threat of danger passes;

19.6.i.5. A diagram of the routes to be used by the child and staff members to reach the safe location and a copy of the plan for moving to the safe location that the center shall post by the telephone and in each room of the center;

19.6.i.6. A procedure for notifying the local fire department when a center offers evening or night time care;

19.6.i.7. A procedure for practicing moving to the safe location within a center at least two times a year;

This drill includes all persons on the premises.

19.6.i.8. A procedure for practicing relocation with staff members two times per year; The staff must practice relocation; it is not required that children practice the relocation. If the drill is practiced while children are being served, then it is director's responsibility to plan the drill in such a way that children are supervised in accordance with regulation while staff members practice. Centers may wish to practice these drills while children are not present; many centers conduct staff meetings and in-service training outside of operating hours.

19.6.i.9. A procedure for maintaining a written record of the dates and times when the practice sessions are conducted; and

19.6.i.10. A procedure for ensuring that a staff member determines that all of the children attending at the time of the non-medical emergency are safe during an emergency or practice.

#### 19.7. Evacuation and Drill Plan.

19.7.a. A center shall have a plan for evacuating the center in an emergency posted by the telephone in each room of the center that identifies staff members responsible for implementing the plan that includes:

19.7.a.1. The procedures to be followed;

19.7.a.2. The location of the child's attendance records and emergency information;

19.7.a.3. A diagram of safe routes by which the child and staff members may exit each area of the center used by the child; and

19.7.a.4. The name and address of a nearby relocation site and the name and address of a more distant relocation site that the center has arranged to use in temporarily relocating during an emergency or disaster, that can accommodate the children and staff until reunification of the children and parents can occur.

The center needs to have a nearby relocation site and a more distant relocation site. The distant relocation site should be away from the immediate area of the center and at a safe distance. What that safe distance may be depends upon the likely reason for needing to evacuate the location of the center. For example, if the likely reason would be flooding, then the relocation site needs to be away from the possible flooding zone. The licensee/director should consult



with the local emergency planning authorities on the type of disasters/emergencies for which they plan.

The licensee must plan for transportation for evacuations that require relocating to a distant location when necessary or for nearby relocation when foot travel is not feasible. The plan needs to address transport of non-ambulatory persons and children during relocations.

19.7.b. A center shall conduct a fire drill at least two times a month during its regular hours of operation, keeping a written record of the dates and times when fire drills are conducted. Two drills must take place each month during operating hours regardless of the season. Compliance will be confirmed through record review and staff interview; children may also be interviewed to determine compliance. If the licensee is an owner that is not present on site on a regular basis, it is advisable that the licensee or, in cases of non-profit organizations, a member of the board periodically observe and participate in evacuation procedures.

19.7.c. When a center offers evening or night time care, a center shall also conduct fire drills during the hours of operation of its evening or night time program at least once a month. This is in addition to the drills required in 19.7.b. See the definitions for evening and night time care in 3.19 and 3.39.

19.7.d. A center shall ensure that a staff member is responsible for determining that all of the children attending at the time of the event have been evacuated safely during an emergency evacuation or practice.

#### 19.8. Evacuation from a Vehicle.

19.8.a. A vehicle evacuation plan shall be posted in each vehicle regularly used by the center to transport a child that includes:

19.8.a.1. The procedures to be followed;

19.8.a.2. The location of the vehicle's first aid kit and other emergency supplies;

19.8.a.3. The location of the vehicle's transportation passenger log and the children's emergency information; and

19.8.a.4. The name and address of the emergency medical facilities closest to the vehicle's route.

19.8.b. When it provides transportation according to a regular schedule, a center shall conduct a vehicle evacuation drill at least two times a year.

A regular schedule will be considered any transportation event that takes place more than 1 x in a calendar month to the same location. For example, if children are transported to the indoor soccer field every other Friday, then a drill for this trip must take place in accordance with this requirement. Any center offering transport to and from school must comply with this requirement.

19.8.c. A center shall maintain a written record of the dates and times when vehicle evacuation drills are conducted.

Compliance will be confirmed through record review and staff interview; children may also be interviewed to determine compliance.

19.8.d. A center shall ensure that a staff member is responsible for determining that all of the children have been evacuated safely during an emergency evacuation or practice.

#### 19.9. Staff Responsibility Regarding Medical Emergencies and Evacuation.

19.9.a. For a medical emergency at a center, a center shall develop, implement and maintain procedures for ensuring that staff members:

19.9.a.1. Attend to the injured child with first aid or follow appropriate emergency procedures if the child is experiencing an acute condition, including an asthma attack, seizure, or life-threatening anaphylactic reaction;

19.9.a.2. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response; and

19.9.a.3. Complete the required documentation.

19.9.b. For a medical emergency requiring treatment at a medical facility, a center shall provide staff to:

19.9.b.1. Accompany the ill or injured child to the medical facility;

19.9.b.2. Ensure that signed authorization for treatment accompanies the ill or injured child to a medical facility;

When the child is being transported from the center by an emergency vehicle and the child's parent is not present, a staff person should also go to the medical facility with the child's emergency information (see 19.9.b.2) and ensure that the parent or designated person is there to assume care of the child.

19.9.b.3. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response;

19.9.b.4. Inform the medical facility that the ill or injured child is being transported for treatment; and

19.9.b.5. Obtain substitute staff, if needed, to provide adequate supervision for the children who remain at the center.

19.9.c. A center shall ensure that staff members are informed of their responsibilities in the event of an evacuation of the premises or a center's vehicle, as required by the center's procedures and notify the Secretary.

19.10. First Aid Kit. A center shall provide a first aid kit for every 20 children that is stored where it is easily accessible to staff members, but out of reach of the children. The location of the first aid kit shall be clearly marked and in view of the staff member. The kit shall be:

19.10.a. Equipped with band aids, a non-mercury thermometer, gauze, tape, scissors, tweezers, disposable nonporous gloves, a first aid guide, the telephone number of a poison control center, and pencil and paper. A bottle of clean water shall be stored with or accompany the first aid kit; and

**Recommended that any items other than what is listed and emergency medication be removed from the first aid kit. Any items found in the first aid kit cannot be expired.**

19.10.b. Readily available at all times, including in the outdoor activity area, on all field trips away from the center and in each vehicle provided by the center for the transportation of children.

**When transporting the first aid kit to the outdoor activity area or on field trips, it must remain inaccessible to children, but easily accessible to staff.**

19.11. Telephone. A center shall provide at least one operable landline telephone that is in the center space, is not a pay station or locked telephone, and is available during the center's hours of operation, or shall provide at least one activated mobile or cellular telephone that remains on-site at all times. Close to the location of each landline telephone or, in case of a center using a mobile phone, in each administrative space and classroom, a center shall post:

19.11.a. The name, address and telephone number of the center;

19.11.b. A list of emergency numbers, including 911, the fire department, police department, ambulance service, the center's medical consultant and a poison control center;

19.11.c. When a center operates at more than one site, the name and telephone number of the center's principal place of business; and

19.11.d. When a center occupies space it does not own, the name and telephone number of the owner of the building.

**If the licensee does not own the space occupied by the center, then the posted information must include the owner or management of the building and the contact number for such.**

19.12. Reporting a Serious Occurrence. A center shall:  
**See 3.58 for the definition of serious occurrence.**

19.12.a. Immediately inform the parent or parent's authorized designee when a child is involved in a serious occurrence;

19.12.b. Verbally report the occurrence within 24 hours or by the next work day to the Secretary, and before the end of the day, ensure that the staff member in charge prepares and signs a serious occurrence report; and

The staff member in charge during the serious occurrence must sign the report as verification that the staff person in charge has reviewed the written report and verifies the content's veracity. If the person-in-charge at the time of the serious occurrence is not available, the current person-in-charge must indicate in the report how she/he has verified to the best of her/his ability that the report is accurate. Typically, the center director is the person in charge, but if the center director was not present during the occurrence, then the person-in-charge (see 3.42 and 9.1.i ) must sign the report. This does not mean that the director cannot prepare the report and also sign it. The intent is to have a report that reflects the facts as known at the time of the incident and what may have been determined after the incident. In cases of reporting suspected abuse or neglect occurring at the center, it is important that the suspicion be reported to child care licensing with the details of what occurred or why it is suspected, but an internal investigation is not to occur beyond that until the Institutional Investigative Unit with the Department has given the clearance to do so.

19.12.c. Complete a report of each serious occurrence ensuring that the report is signed by the staff member completing it and by the child's parent. Copies of the report are to be placed in the child's file and in a separate cumulative file maintained by the center.

#### **§78-1-20. Environmental Safety.**

20.1. A center shall take all necessary precautions to ensure an accident-free and smoke-free environment for the children, staff members and visitors to the center.

Smoke-free includes vapors from electronic cigarettes even when the vapor is not from a nicotine delivery system.

20.1.a. Smoking and tobacco product use by anyone is prohibited on the premises and everywhere in the presence of children.

Smoking includes electronic cigarettes or any type of nicotine delivery system.

20.1.b. Smoking is prohibited anytime in vehicles operated by the center, even in the absence of children.

Smoking includes electronic cigarettes or any type of nicotine delivery system.

20.1.c. All tobacco products, lighters and matches shall be kept out of the children's reach and sight.

This includes electronic cigarettes or any type of nicotine delivery system.

20.2 Safety of Premises, Furnishings, Equipment and Supplies. A center shall:

20.2.a. Ensure that the premises, furnishings, equipment and supplies are in good repair and present no hazard to the health and safety of the children;

20.2.b. Only use furnishings, equipment and supplies that meet the standards of the Consumer Product Safety Commission (CPSC) and shall not use any product recalled by the CPSC;

This does not include any furnishings, equipment or supplies prohibited by this rule; if this rule prohibits any item then it shall not be used. The Consumer Product Safety Commission (CPSC) may not address all of the furnishings, equipment and supplies in use by the center, but if the CPSC has any standards or guidance on the type of furnishings, equipment and supplies in use by the center, the center must comply. Most of the products used by a center, when purchased from a retailer, should comply provided they are manufactured for the purpose the center is using the product and are not subject to recall. It is advisable that centers not make purchases from second-hand vendors or yard sales unless the original labeling and packaging accompanies the product and can provide information on the product. The CPSC has standards on hazardous products such as lead in products. There are standards and guidance on helmets, bikes, car seats, art supplies, etc.; therefore, making purchases from reputable suppliers and using products only in the manner described by the manufacturer is the licensee's best effort at meeting this requirement. The CPSC also has consumer guides for selecting toys for children birth through twelve years of age and the licensee can subscribe to the CPSC for alerts on recalls of child related items.

20.2.c. Position indoor and outdoor furnishings, equipment and supplies to:

20.2.c.1. Allow a child freedom to participate in center activities;

20.2.c.2. Permit direct access to emergency exits; and

20.2.c.3. Provide clear sight lines for staff supervision;

The position of furnishings and equipment along with the position of the supervising staff member(s) needs to eliminate blind spots. For example, a diaper changing area that requires a staff member to be positioned in such a way that she is unable to supervise the other children for which she is responsible does not comply.

20.2.d. Ensure that sleeping equipment, including cribs, cots and beds are a minimum of 24 inches apart from each other on all sides;

Cribs may not be placed end-to-end even when the cribs are designed for such unless the licensee first secures a waiver through the local health department and then requests and is approved for a waiver to this requirement from the Secretary.

20.2.e. Maintain a temperature not less than 68 degrees Fahrenheit at floor level and not higher than 85 degrees Fahrenheit, in all rooms occupied by a child;

The licensee must have a means to verify this.

20.2.f. Ensure sufficient lighting by:

20.2.f.1. Providing a minimum of 50 foot-candles of illumination at floor level, in rooms occupied by a child for program activities;

A foot candle is an industry standard of measuring illumination; a foot candle is the amount of

illumination produced by a standard candle at a distance of one foot. This requirement agrees with the requirement in the rule promulgated by the Bureau for Public Health, § 64-21.5.5.a. The Local Health Department sanitarian issuing the Health permit should be able to check the illumination.

20.2.f.2. Providing at least 30 foot-candles of illumination at floor level in areas not occupied by a child;

A foot candle is an industry standard of measuring illumination; a foot candle is the amount of illumination produced by a standard candle at a distance of one foot. This requirement agrees with the requirement in the rule promulgated by the Bureau for Public Health, § 64-21.5.5.a. The Local Health Department sanitarian issuing the Health permit should be able to check the illumination. There are a variety of light meters on the market that can measure foot candles.

20.2.f.3. Providing light for supervision when a child is sleeping; and While it is acceptable for rooms to be dimmed, there must be sufficient light during nap and sleep time for supervision. Hand held lighting such as a flashlight is not acceptable for compliance.

20.2.f.4. Provide outdoor lighting at all entrances and exits used by a child when a center operates evening or night time programs.

### 20.3. Potential Hazards of Premises, Furnishings, Equipment and Supplies.

20.3.a. Firearm Prohibition. A center shall prohibit firearms unless carried by a regulatory or law enforcement professional in the line of duty; and shall prohibit projectile weapons, including pellet or BB guns, darts, cap pistols, bows and arrows, slingshots and paint ball guns.

A law enforcement professional for this rule is a law enforcement officer of the Department of Public Safety, a municipality or county sheriff's office, or court personnel or other state personnel who are required to carry a firearm within the scope of their duties. If the law enforcement professional is off duty and not required to carry a firearm while off-duty, then the requirement applies. A citizen who holds a permit to carry a weapon does not meet the criteria of being a law enforcement professional carrying a firearm in the line of duty.

20.3.b. Hazardous Chemical and Toxic Items. A center shall ensure that:

20.3.b.1. Products containing potentially hazardous chemicals, including identified poisons, medications, certain cleaning supplies, and art supplies, not clearly labeled as "nontoxic," are inaccessible to the children in a locked cabinet away from food, and when possible, stored in their original containers and never in containers originally designed for food; and

20.3.b.2. For each product containing potentially hazardous chemicals, a center has on file a material safety data sheet, available at the point of purchase or from the manufacturer.

20.3.c. Lead Paint. A center shall seal or remove lead paint from the premises according to current safety standards and at a time when the children are absent during the entire sealing or

removal process. The center shall secure approval from the Health Department prior to implementing a plan to deal with lead paint.

For information and state level contacts on Lead Abatement: <http://www.wvdhhr.org/rtia/lead.asp>

#### 20.3.d. Electrical Equipment.

20.3.d.1. Electrical cords. A center shall ensure that each electrical cord is insulated and in good repair.

20.3.d.2. Extension cords and plug-in strips. A center shall not use an electrical extension cord except on a temporary basis, but if using it shall ensure that the cord is in good repair. A center may use an electrical multiple plug-in strip with a circuit breaker in good repair.

20.3.d.3. Electrical Outlet. A center shall ensure that when an electrical outlet within reach of a child younger than school age is not in use, it is protected by a cover.

See 3.55 for the definition of school age.

20.3.d.4. Electrical Appliance. A center shall not locate an electrical appliance in an activity area used by a child except for a brief period when an adult supervises the use of the electrical appliance for a program.

20.3.e. Microwave Oven. If a center uses a microwave oven, the center shall train staff members in the correct use and potential dangers of the oven and post a warning on or near the oven to check the temperature of food heated in the oven before feeding it to a child.

There must be written instruction for staff on how to determine the food is at a safe temperature to serve when the microwave is used for heating or cooking food for children. It is advisable to have a digital read out food thermometer for use when heating food in a microwave.

20.3.f. Heating Devices. A center shall provide a shield to protect the children from a hot pipe or radiator and shall not use unvented fuel fire heaters.

20.3.g. Doors. A center shall ensure that:

20.3.g.1. All doors close properly and fire doors are closed at all times; and  
It is advisable that doors should have finger pinch prevention devices or adjustable rate closing devices to help prevent finger pinch and finger amputation.

20.3.g.2. All clear glass doors are clearly marked at the children's eye level.  
This is an injury prevention requirement. Consult your State Fire Marshal for acceptable material for marking the door.

20.3.h. Floors. A center shall firmly anchor all floor coverings.

20.3.i. Barriers and Gates. The center shall ensure that:

20.3.i.1. All temporary walls or items being used as physical barriers are firmly anchored or cannot be moved or tipped by a child so that they pose no threat to the safety of the child; and

20.3.i.2. Stairways to which the child has access have appropriate railings and safety gates or other barriers at the top and bottom.

All stairways accessible to children must have railings and it is recommended that all stairways have railings. Most models call for the handrail height to be between 34 and 38 inches; the State Fire Marshal can advise the licensee regarding the requirement(s) for a specific center.

When the stairway is an open stairway, there must be an acceptable barrier to prevent the child from falling from the stairway and should not be designed in a way to allow the handrail or barrier to be a ladder or head entrapment.

Centers licensed to care for infants and toddlers must have safety gates or other proper barriers, such as doors, at the tops and bottoms of the stairways. Gates located at the top of stairs must be firmly attached; pressure mounted gates are not acceptable for use at the top of stairways.

#### 20.3.j. Strings, Cords and Hanging Items.

20.3.j.1. When a child wears a piece of clothing with a drawstring, a center shall: Strings and drawstrings can cause injury and death from entanglement. For guidance and information the Licensing authority consults and recommends the center to consult material from the Consumer Product Safety Commission and Caring For Our Children.

20.3.j.1.A. Inform the child's parent of the potential risk of strangulation; and

20.3.j.1.B. Ensure that prior to the child's participation in an activity, staff members remove or secure any drawstring that might pose a risk to the child.

It is advisable to inform parents in your handbook or educational materials regarding drawstrings. Staff need to watch for any hazard such as drawstrings and necklaces prior to children using equipment on which the item could snag and cause injury.

20.3.j.2. Pacifiers. A center shall ensure that a pacifier attached to a string or ribbon that is six inches or more in length, is not placed around a child's neck or affixed to the child's clothing.

20.3.j.3. A center shall ensure that a child under school age does not have access to a string or cord that is six inches or more in length and attached to a fixed object, such as a window shade, or access to other hanging items, such as a tablecloth.

#### 20.4. Outdoor Safety.

##### 20.4.a. Barriers and Exits.

20.4.a.1. A center shall ensure that the outdoor activity area for a child under school age:



20.4.a.1.A. Is enclosed on all sides by a natural barrier or secure fence that is at least four feet high with a bottom edge that is less than 3 ½ inches from the ground;  
**In order for the natural barrier to be a compliant barrier, it must prevent passage during any season of the year and must not be a hazard for entrapment or impaling by a child. Also see 20.4.a.1.C.**

20.4.a.1.B. If it has a fence, the fence has no openings greater than 3 ½ inches;

20.4.a.1.C. If it has a natural barrier, the barrier has the strength and density to prevent humans and animals from entering or exiting the playground;

20.4.a.1.D. If it is attached to a building, the barrier or fence provides at least two exits from the play area, including one exit that is at a distance from the building; and  
**One of the two exits can be an entrance into the building if approved by the State Fire Marsal**

20.4.a.1.E. When it has an exit that does not lead directly indoors, that it is protected by a gate equipped with a closure mechanism that is out of the reach of a small child and prevents the child from leaving the play area, but can be easily opened by an adult.

20.4.a.2. A center may use an unenclosed outdoor activity area for school-aged children if it is determined to be hazard-free by the Secretary.

**This requirement refers to the approved outdoor activity area. Outdoor activity areas located next to a traffic area will be considered hazardous and shall require a fence or barrier (see 20.4.c.3). Unenclosed outdoor activity areas for school-aged children will be evaluated for hazards on a case-by-case basis. For example, an unenclosed area with a steep embankment will most likely require a fence or barrier to prevent falling down the embankment, whereas an outdoor area with a sloping hillside may not require a fence or barrier.**

20.4.b. Surfaces for Play Area. A center shall ensure:

20.4.b.1. That the play area has more than one type of surface, including a surface that is suitable for children’s wheeled vehicles and pull toys;

**The surface suitable for children’s wheeled vehicles and pull toys must allow the child to use a “ride-on” toy or other wheeled vehicle such as a tricycle or bicycle. Therefore, the area of the surfacing must be reasonably sufficient to allow the activity. Some centers use one area for the surfacing while other centers provide a path or trail. Grass is not an acceptable surface for wheeled vehicles and pull toys. There must be at least one other type of surface such as natural grass. The material in a piece of equipment’s use zone for a fall surface is not sufficient for compliance to this requirement.**

20.4.b.2. That the surface of the play area in an equipment use zone complies with the current Consumer Product Safety Commission’s publication entitled “Public Playground Safety Handbook,” publication # 325, sections 2.4. *et seq.* and 5.3. *et seq.* A licensee whose outdoor space was approved prior to July 1, 2014, and who remains in compliance with the previous rule, and who does not undergo renovation or relocation of the outdoor space, has until July 1, 2018, to comply with the current requirements.

20.4.c. Hazards. A center shall ensure that:

20.4.c.1. The play area is well drained and free of debris;

20.4.c.2. The outdoor environment is clear of hazards and all potential hazards such as heat pumps, air conditioning units, wiring, meters and telephone boxes, are inaccessible to the child;

Heat pumps, air conditioning units, satellite dishes, etc., that are located on the premises, must be inaccessible to children. In some instances, it is acceptable for the licensee to place a fence or barrier around such a hazard in order to make it inaccessible. The fence or barrier used for this purpose must not be a hazard and must comply with specifications in 20.4.a.1.A.

20.4.c.3. The child is protected from moving vehicles; and

20.4.c.4. When there is reason to believe that exposure to the soil in the outdoor activity area might harm the child, it has on file evidence that the soil does not contain hazardous levels of any toxic chemical or substances.

For example, if the site was previously the site of a gas station or a toxic clean-up site, or if the site has land in which it is probable that toxic chemicals could have leached into the soil, then the licensee must obtain assurance that the soil does not present a hazard to children. Sites that once housed older buildings that were torn down may have lead or asbestos in the soil. The licensee needs to know the history of the structure, its premises and the surrounding area in order to determine if an environmental audit needs to be secured.

#### **§78-1-21. Pest Management.**

21.1. A center shall document that it has an integrated pest management program as required by the WV Department of Agriculture.

Verification is in the form of a letter from the WV Department of Agriculture.

21.2. A center shall provide for insect and rodent control that does not compromise the safety of children.

#### **§78-1-22. Transportation. When providing transportation, a center shall ensure that:**

With the exception of a parent transporting a child(ren) on rare field trips, when the center provides transportation through another entity, then transportation must be the entity's business service. For example, the licensee may contract with a local metro service to provide transportation between the center and school. In this example, transportation is the service the business is designed to deliver. The center may contract with a county school board for transportation in which instance, the school system has a recognized transportation system with laws and regulations it follows.

22.1. The vehicle used is currently licensed, inspected, insured, and is equipped with signs and warning lights or alternative warning devices as required by West Virginia Code §17C-12-7a;

22.2. Any vehicle used for transportation that has a capacity that exceeds 10 passengers shall be a school bus or multifunction school activity bus equipped with passenger safety restraints appropriate to the children being transported. Provided no school bus shall be operated that has aftermarket installed seat belts without certification from the installer that the school bus seat was seat belt ready prior to the installation and that the bus continues to meet federal safety standards for school buses after the installation;

School buses not designed for seat belts should not be retrofitted due to compromising the compartmentalization of the seat design. The licensee is cautioned that many of the used large school buses on the market are ones manufactured prior to the most recent safety upgrades for seat height and compartmentalization. Also see 22.4.

22.3. The driver holds a current driver's license for the type of vehicle being driven;

22.4. The driver or a qualified staff member ensures that each child is in an approved child safety restraint system appropriate to the age and size of the child;

When the center provides transportation, all children must be in safety restraints appropriate to the age and size of the child regardless of the type of vehicle used for transportation; this includes when the center owns a school bus.

22.5. The vehicle is equipped with emergency supplies, including a first-aid kit, fire extinguisher, and, if only one adult is in the vehicle, a mobile telephone or two-way radio;

22.6. When the center owns the vehicle, identifying information is placed on the outside of the vehicle, which can be read by a pedestrian or other passing vehicle, that includes the name, address and telephone number of the center; and

When the licensee has multiple sites licensed as child care and a vehicle services more than one site, it is acceptable to place the address and phone number for the site that is "home" to the vehicle; there must be a director or staff member who has knowledge of the vehicle's routes at the telephone number listed on the vehicle.

22.7. When the center owns the vehicle, a weekly safety check is conducted and recorded. The safety check shall include vehicle tire pressure, headlights, windshield wipers, emergency flashers, brake lights, turn signals, first aid kit, gas gauge, oil and other fluids.

Compliance will be determined by record review and observation of the vehicle.

### **§78-1-23. School-Age Program.**

If a licensee operates an out-of-school time program, has space designated solely for school-aged children and staff that are employed for the school-age program only, then the licensee may consider the option of licensing the program separately as an out-of-school time center (To see the regulations for Out-of-School Time centers, Legislative rule 78-21 go to: <http://www.wvdhhr.org/bcf/ece/earlycare/regs.asp> )

The following section has requirements that apply to all school-aged programs licensed under this rule and some that apply to specific types of school age programs: day camp, out-of-school time and summer recreation camp.

23.1. Centers which operate school-age programs shall comply with previous sections of this rule except as follows:

23.2. Training.

23.2.a. Prior to working with children, staff in a summer recreation camp or day camp shall have:

See 3.62 for the definition of summer recreation camp.

23.2.a.1. Current CPR certification appropriate to the age of the children in care;

23.2.a.2. Current child first aid training;

23.2.a.3. Training in child abuse recognition and prevention;

23.2.a.4. Approved training in medication administration if applicable;

23.2.a.5. Training in guidance and discipline, behavior management, and conflict resolution related to the age of children in care; and

23.2.a.6. An additional four hours of instructional training related to camp responsibilities.

23.2.b. Summer recreation camp and day camp staff are not required to maintain a WVTCECE credential.

See 3.13 for the definition of day camp.

23.2.c. Summer recreation camps and day camps shall have a plan for training late-hires and substitutes who were unable to attend pre-camp training.

Compliance will be determined through one or more of the following: observation; file review; staff interview.

23.3. Staff Responsibilities and Qualifications.

23.3.a. In addition to the qualifications stated in section 9 of this rule, qualified staff members acting as a person in charge in a summer recreation camp or day camp shall:

23.3.a.1. Be at least 21 years of age;

23.3.a.2. Have at least one season of leadership experience in a summer recreation program; and

When the program is a day camp, one season of leadership in a day camp may be substituted for one season of leadership in a summer recreation camp. Leadership means the person must have been in charge of planning and supervising for the program or for a group of children.

23.3.a.3. Have knowledge of the camp administrative practices.

23.3.b. Director

23.3.b.1. When the center operates a school-age program only, the director may substitute the early childhood credit hours described in section 9 of this rule with credit hours in elementary education;

23.3.b.2. The director of a summer recreation camp shall substitute the early childhood credit hours described in section 9 of this rule with credit hours in recreation or elementary education;

23.3.c. Qualified staff positions may substitute the early childhood credit hours described in section 9 of this rule with credit hours in elementary education.

23.3.d. Teen aides used in school-age programs shall be at least 16 years of age.

23.4. Supervision of Children in Groups.

23.4.a. In determining and maintaining the staff-to-child ratio, the school-age program shall not include any staff member who is performing other duties such as cooking, bookkeeping, or any individual with designated responsibility for a special activity except in an emergency situation when staff may be reassigned to supervise the children.

23.4.b. In a summer recreation camp program, a certified lifeguard employed by the center may be used to meet staff-to-child ratio provided the program is using a pool that is reserved exclusively for the program and at least one other staff person who is not lifeguarding is present to supervise the group.

23.4.c. An individual school-age child may be permitted to go to a non-public rest room unattended if the restroom is within vision of a supervising staff person.

23.4.d. Two or more school-age children going to the same restroom at the same time must be accompanied to the restroom by staff and be within staff hearing at all times.

23.5. Staff interaction, Guidance and Supervision.

23.5.a. The school-age program shall group children according to their developmental levels and skill levels taking into account that the physical, emotional, intellectual, and social development of early middle childhood differs from that of older middle childhood and pre-adolescence.

23.5.b. A center shall ensure that staff members in school-age programs have the skills and training to respond to the needs of the older child and recognize that interactions with the school-age child differ significantly from interactions with the younger child. The staff members shall:

23.5.b.1. Be available and responsive to the child;

23.5.b.2. Engage the child in meaningful conversation about events of importance and topics of interest, encouraging the child to share experiences, ideas and emotions;

23.5.b.3. Listen to the child with attention and respect;

23.5.b.4. Help a child develop problem-solving skills by describing problems and encouraging him or her to evaluate the situation;

23.5.b.5. Facilitate learning by guiding, providing positive reinforcement, encouraging efforts and recognizing accomplishments; and

23.5.b.6. Have developmentally appropriate expectations of a child's social behavior.

23.5.c. At all times, staff members shall provide positive guidance that is appropriate to each child's age, understanding and circumstances. Staff members shall:

23.5.c.1. Teach by example;

23.5.c.2. Recognize and encourage acceptable behavior;

23.5.c.3. Make eye contact with the child whenever possible when speaking to the child;

23.5.c.4. Supervise with kindness, understanding and firmness;

23.5.c.5. Set expectations for behavior, define clear limits, set fair and consistent rules and when appropriate, permit the school-age child to participate in the development of rules and procedures;

23.5.c.6. Help a child develop self-control to assume responsibility for his or her own actions;

23.5.c.7. State expectations in the positive; and

23.5.c.8. Visually post expectations so that children are encouraged to regulate their own behaviors.

23.5.d. When unacceptable behavior persists with the school-age child, the qualified staff member in accordance with the child's age and developmental level shall:

23.5.d.1. Talk with the child privately and calmly;

23.5.d.2. Help the child to verbalize the expectation that is not being met;

23.5.d.3. Help the child to verbalize the reason for the expectation;

23.5.d.4. Help the child to verbalize acceptable choices and possible solutions; and

23.5.d.5. Help the child to verbalize possible consequences if the unacceptable behavior continues.

23.5.e. When conflict between children becomes physical, staff shall intervene immediately and use positive problem-solving methods.

Intervention should begin with verbal instruction. Should physical intervention be necessary, it must comply with 11.4.c.

23.6. Space. When a center operates a summer recreation camp:

23.6.a. The center shall provide at least 10 square feet of useable indoor activity space per child inside or provide a covered permanent structure that has the required activity space; Ten square feet is not sufficient for active play or moderate to strenuous physical activity in most cases. It is anticipated that the indoor activity space for summer camps will be used for meals or snacks or for activities that are seated such as board games, crafts, reading, socializing, etc. The capacity of the summer recreation camp is based upon the indoor or permanently covered space. The capacity will not exceed the amount of space needed to comply with this requirement since it is necessary for all children to be sheltered during certain weather conditions. It is advisable for the summer recreation camp to have an alternate plan for activity away from the indoor space if weather conditions will require extensive time indoors.

23.6.b. The center shall submit a plan for the Secretary's approval for outdoor activity space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

Because most of the programming for a summer recreation camp takes place outdoors, there must be sufficient outdoor space to accommodate the group(s) size(s) and activity type planned for the space. It will not be possible to rotate groups of children as described in 12.3.a.1. as the outdoor space will be in use by all groups the majority of the time. See 23.8.c.3.

23.7. Toilets. A summer recreation camp program that receives written approval from the local health department may use a commercial portable toilet and warm water, soap, paper towels, rinse water and a pit or other method for disposing of waste water.

There must be verification that the local health department has given approval.

23.8. Program. Programs for school-age children shall:

23.8.a. Meet the goals of the center as established by the statement of purpose;

23.8.b. Be based on knowledge of child development for the school-age child;

23.8.c. Have a schedule for routines that is posted and is predictable and in accordance with subsection 14.1. of this rule other than the following:

23.8.c.1. Out-of-school time programs shall reflect the time of day and the number of hours that care is provided before school, after school, and on days when school is closed;

23.8.c.2. Out-of-school time programs shall provide activity that transitions the child from home to school in the morning and from school to home in the evenings;

23.8.c.3. Summer recreation camps shall have a schedule that provides for outdoor and/or off-site activity 80% of the time weather permitting.

23.8.d. Have varied and well-planned activities;

23.8.e. Have a qualified staff person verbally communicate the expectations for each activity;

28.8.f. Have activities which are age appropriate, offer challenges and incorporate skill level progression of the school-age child;

28.8.g. Offer options when it is recognized that the skill level is too difficult for the child;

28.8.h. Engage children in decision making and program activity development;

23.8.i. Offer the opportunity for projects that can be completed independently with only guidance from staff;

23.8.j. Offer group projects, group play and interest group involvement;

23.8.k. Offer interest centers such as art, dramatic play, school work, science, nature, music, reading, construction, physical activity;

23.8.l. Include activities within the community such as field trips, community work projects or volunteer activities;

23.8.m. Include diversity within activities;

23.8.n. Offer activities without bias to gender; and

23.8.o. Encourage the development of life skills.

23.9. A center operating a summer recreation camp may allow for an occasional overnight activity. When offering the overnight activity, the summer recreation camp shall:

23.9.a. Have a written plan of the activity and its oversight that is kept in an administrative file;

23.9.b. Provide staff with written instructions on the operation of the activity;

23.9.c. Provide parents with written information and any special instructions for the activity;

23.9.d. Ensure that the child's daily nutritional requirements are met;



23.9.e. Ensure there is safe drinking water available;

23.9.f. Provide a mat, cot or bed for each child;

23.9.g. Not have a child in care for more than 24 hours; and

23.9.h. Ensure that no staff member must remain awake for more than 18 hours and that if children are sleeping at least one staff member is awake at all times.

23.10. Nutrition. A center with an out-of-school time program shall serve a snack to the school-age child arriving after school.

23.11. Emergency procedures. A summer recreation camp and day camp shall comply with section 19 of this rule regarding emergency procedures except as set forth in this subsection:

23.11.a. The camp shall have a procedure for practicing moving to the safe location within the first two days of camp and mid-way through the summer;

**See 19.6.i.4. The practice/drill must be documented for compliance.**

23.11.b. The camp shall teach and implement a system that has staff and children taking account of children in the camp and immediately reporting if a child is missing;

23.11.c. A qualified staff member assigned to each group of children shall be responsible for carrying or having immediately available a first aid kit; and

23.11.d. When a center operates a summer recreation camp program or day camp program at a site where a direct-line telephone is not available then the center shall ensure that staff members have access to a working communication device that will allow contact to emergency personnel.

**If the center chooses to use mobile phones, the licensee must be certain that mobile cell service is available at the location.**

#### **§78-1-24. Enforcement Actions.**

The Secretary may revoke or make a license provisional, or issue an order of closure to a Child Care Center in accordance with West Virginia Code, Chapter 49, Article 2, (Part I).

**TITLE 78  
LEGISLATIVE RULE  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 1  
CHILD CARE CENTER LICENSING**

**APPENDICES**

78-1-A: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES

78-1-B: REPORTABLE ILLNESSES

78-1-C: NUTRITION – MEAL AND SNACK PATTERNS

78-1-D: DIAPER CHANGING AND TOILET TRAINING

78-1-E: STAFF-TO-CHILD RATIO

**APPENDIX 78-1-A: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES**

**TABLE A: EQUIPMENT AND MATERIALS FOR THE CHILD UP TO 6 MONTHS OF AGE**

Type of Materials	Types of Supplies and Equipment
<b>Social and Fantasy</b>	<b>Non-breakable Mirrors:</b> well-secured crib and wall mirrors; <b>Dolls:</b> soft-bodied or rag dolls; <b>Stuffed Toys:</b> washable stuffed toys and play animals; <b>Puppets:</b> simple hand puppets of visual and social interest for holding by adults.
<b>Exploration and Mastery of Skills and Language</b>	<b>Visuals:</b> materials that provide a focus for the child's eyes; <b>Grasping Toys:</b> simple rattles, teething toys, squeeze toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls.
<b>Music, Art and Movement</b>	<b>Musical Instruments:</b> bell on a handle, wrist or ankle bells, rattles; <b>Audio-Visual:</b> adult-operated music boxes, tapes or discs with gently rhythmic songs or lullabies.
<b>Gross Motor</b>	<b>Large-Movement:</b> balls to clutch.

**TABLE B: EQUIPMENT AND MATERIALS FOR THE CHILD 7 TO 12 MONTHS OF AGE**

Type of Materials	Types of Supplies and Equipment
<b>Social and Fantasy</b>	<b>Non-breakable Mirrors:</b> well-secured wall mirrors, unbreakable hand mirrors; <b>Dolls:</b> soft-bodied or rag dolls; <b>Stuffed Toys:</b> washable stuffed toys and play animals, soft rubber or vinyl animals for grasping and exploring; <b>Puppets:</b> simple hand puppets of visual and social interest for holding by adults; <b>Transportation:</b> simple transportation toys of one piece with wheels or rollers that may make a noise when pushed (for the child who can sit and is mobile).
<b>Exploration and Mastery of Skills and Language</b>	<b>Grasping Toys:</b> teething toys, beads on rings, rubber or plastic pop beads, squeeze-squeak toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls; <b>Construction:</b> light-weight blocks for grasping and stacking; <b>Puzzles:</b> simple two- or three-piece fit-together objects used as grasping toys; <b>Skill-Development:</b> pop-up boxes, simple activity boxes or cubes, texture pads, simple nesting cups, stacking ring cones, container to empty and fill; <b>Books:</b> small picture books of cloth or plastic or cardboard to hold; simple picture books for lap reading.
<b>Music, Art and Movement</b>	<b>Art and Crafts:</b> large, nontoxic crayons, large paper taped to a surface; <b>Musical Instruments:</b> bell on a handle, wrist or ankle bells, rattles or materials that make a sound when shaken, banging materials that are simple and light-weight; <b>Audio-Visual Materials:</b> adult-operated tapes or discs with simple rhymes and songs.
<b>Gross Motor</b>	<b>Large-Movement:</b> push and pull toys without rods, such as simple cars on large wheels or rollers; <b>Balls and Sports:</b> balls, including clutch and texture balls, chime, flutter and action balls; <b>Outdoor and Gym:</b> safe swings sized and designed for infants, low soft or padded climbing platforms for the child who crawls.

**TABLE C: EQUIPMENT AND MATERIALS FOR THE CHILD 13 - 24 MONTHS OF AGE**

Type of Materials	Types of Supplies and Equipment
<b>Exploration and Mastery of</b>	<b>Grasping Toys:</b> (the child may be losing interest in small hand-held manipulatives); <b>Sand and Water:</b> simple floating objects that are easily grasped in one hand, a small shovel and pail, and (from about 18 months) nesting materials for pouring, funnels, colanders, water

<b>Skills and Language</b>	activity centers and small sand tools; <b>Construction:</b> light blocks made of soft cloth, rubber or rounded plastic, wooden cubes for grasping and stacking (15 – 25 pieces) and (from about 18 months) unit blocks (20 – 40 pieces), large plastic bricks of the press together type; <b>Puzzles:</b> simple pre-puzzles or form boards in familiar shapes (2-3 pieces) and (from about 18 months) fit-in puzzles with very firmly attached knobs (3-5 pieces); <b>Skill-Development:</b> pop-up boxes that operate easily, simple activity boxes or cubes with doors, lids or switches, simple nesting cups and stacking materials, and (from about 18 months) activity boxes with more complex mechanisms such as a turning knob or dial or simple key, simple lock boxes, more complex nesting materials, objects in closed containers that may be opened, stacking materials (4-5 pieces), cylinder blocks, pegboards with a few large pegs, simple matching and lotto materials; <b>Books:</b> picture books made of cloth, plastic or cardboard, simple picture and rhyme book with repetition for lap reading, and (from about 18 months) touch-me or tactile books.
<b>Music, Art and Movement</b>	<b>Art and Crafts:</b> a few large, nontoxic crayons and large paper taped to a surface; <b>Musical Instruments:</b> rhythm instruments operated by shaking (bell, rattles) and (from about 18 months) instruments for banging (cymbals, drums); <b>Audio-Visual Materials:</b> adult-operated tapes or discs, music with simple repeating rhythms, rhymes and songs, and (from about 14 months) music to “dance” (bounce) to, and (from about 18 months) simple point-to and finger-play games and songs.
<b>Gross Motor</b>	<b>Large-Movement – Push and Pull Toys:</b> push toys with rods with handles on the ends, toys to push along the floor, including simple cars or animals on large wheels or rollers, and (from about 18 months) simple doll carriages and wagons and push and pull toys filled with multiple objects; <b>Balls and Sports:</b> soft, light-weight balls especially balls with interesting audio or visual effects, larger balls including balls the size of beach balls, and (from about 18 months) balls for beginning throwing and kicking; <b>Ride-On Equipment:</b> stable ride-ons propelled by pushing with the feet, ride-ons with storage bins; <b>Outdoor and Gym:</b> climbing platforms that are low, soft or padded, tunnels for climbing through, baby swings
<b>TABLE D: EQUIPMENT AND MATERIALS FOR THE CHILD 24 - 36 MONTHS OF AGE</b>	
<b>Type of Materials</b>	<b>Types of Supplies and Equipment</b>
<b>Social and Fantasy</b>	<b>Non-breakable Mirrors:</b> well-secured unbreakable wall mirrors, unbreakable hand mirrors; <b>Dolls:</b> soft-bodied or washable rubber or vinyl baby dolls, simple accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, small peg or other people figures for fantasy scenes; <b>Stuffed Toys:</b> soft rubber, wood or vinyl animals for exploration and pretend play, including mother and baby animals; <b>Puppets:</b> small hand puppets sized to fit the child’s hand and representing familiar human and animal figures and community diversity; <b>Transportation:</b> small cars and vehicles to use with unit blocks; larger vehicles for pushing and fantasy play, large wood trucks to ride on, simple trains with coupling systems but no tracks; <b>Role-Play:</b> dress-up materials, housekeeping equipment, simple doll equipment; <b>Play Scenes:</b> small people or animal figures with simple supporting

<p><b>Exploration and Mastery of Skills and Language</b></p>	<p><b>Sand and Water:</b> people, animals and vehicles for fantasy play, small containers for pouring, small tools such as a shovel or scoop; <b>Construction:</b> wooden unit blocks, large plastic bricks, large nuts and bolts; <b>Puzzles:</b> 4-5 pieces fit-in puzzles (from 24 months), and (from 30 months) 6-12 pieces fit-in puzzles; <b>Skill-Development:</b> 5-10 pieces to nest or stack, simple lock boxes, hidden-object pop-up boxes, safe pounding/hammering toys, cylinder blocks, shape sorters, matching materials, color or picture dominoes, feel bags or boxes or smell jars; <b>Books:</b> sturdy books with heavy paper or cardboard pages, tactile or touch-me, pop-up or hidden picture and dressing books; <b>Pattern-Making:</b> peg-boards with large pegs, color cubes, magnetic boards with forms; <b>Dressing, Lacing, Stringing:</b> large beads, cards and frames.</p>
<p><b>Music, Art and Movement</b></p>	<p><b>Art and Crafts:</b> large, nontoxic crayons and markers, adjustable easel, large paint brushes, nontoxic paint and finger paint; large paper, colored construction paper, blunt-ended scissors, chalkboard and large chalk; <b>Musical Instruments:</b> rhythm instruments operated by shaking (bell, rattles) or banging (cymbals, drums) and more complex instruments (tambourine, sand blocks, triangle, rhythm sticks); <b>Audio-Visual Materials:</b> adult-operated tapes or discs, music with repeating rhythms for rhythm instruments, music to “dance” (bounce) to, simple point-to and finger-play games and songs, short films and videos of familiar objects and</p>

<b>Gross Motor</b>	<b>Large-Movement – Push and Pull Toys:</b> simple doll carriages and wagons, push toys that look like adult equipment; <b>Balls and Sports:</b> balls of all sizes, especially balls for kicking and throwing; <b>Ride-On Equipment:</b> stable ride-ons propelled by pushing with the feet, bouncing or rocking ride-ons, and (as the child nears 36 months) small tricycles; <b>Outdoor and Gym:</b> tunnels, appropriately sized and safe swings, low climbing structures and slides.
<b>TABLE E: EQUIPMENT AND MATERIALS FOR THE CHILD 36 -72 MONTHS OF AGE</b>	
<b>Type of Materials</b>	<b>Types of Supplies and Equipment</b>
<b>Social and Fantasy</b>	<b>Mirrors:</b> full-length mirrors, unbreakable hand mirrors; <b>Dolls:</b> washable rubber or vinyl baby dolls and (for the child over 60 months), child-proportioned dolls with culturally relevant features and skin tones, accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, small peg or other people figures for fantasy scenes; <b>Stuffed Toys:</b> rubber, wood or vinyl animals for pretend play and to provide replicas of real domestic and wild animals for learning; <b>Puppets:</b> small hand or arm or finger puppets sized to fit the child’s hand and representing familiar human and animal figures and community diversity, simple puppet theater; <b>Transportation:</b> cars and vehicles to use with unit blocks; larger vehicles with simple working parts for pushing and fantasy play, large wood trucks to ride on, small trains with magnetic or hook connections and
<b>Exploration and Mastery of Skills and Language</b>	<b>Sand and Water:</b> people, animals and vehicles for fantasy play, small containers for pouring or measuring, large and small sand tools, and (after 48 months) sand molds and a water pump; <b>Construction:</b> wooden unit blocks, large hollow blocks, plastic bricks, and (from 48 months) most types of interlocking blocks, except metal or very small blocks; <b>Puzzles:</b> (at 36 months) fit-in or framed – puzzles up to 30 pieces; (at 48 months), 20-30 pieces; (at 60 months) up to 50 pieces; simple jig-saw puzzles – 10-25 pieces; number and letter puzzles, puzzle clocks; <b>Skill-Development:</b> materials for matching and sorting and ordering, geometric concept materials, number materials that are simple and concrete, measuring materials, simple mechanical devices such as gears and levers, science materials, natural materials to sort, plants and animals to care for, printmaking materials, beginning computer software; <b>Books:</b> picture books with simple stories and rhymes, complex pop-up books, age-appropriate stories; <b>Pattern-Making:</b> peg-boards with smaller pegs, color cubes, magnetic boards with forms, and (from 48 months) a variety of beads for stringing, mosaic books, felt boards, and (by 60 months) block printing materials; <b>Dressing, Lacing, Stringing:</b> cards
<b>Music, Art and Movement</b>	<b>Art and Crafts:</b> large, nontoxic crayons and markers in many colors, adjustable easel, paint brushes of various sizes, nontoxic paint and finger paint; large paper, colored construction paper, easy-to-use-round-ended scissors, chalkboard and large chalk, paste and nontoxic glue, collage materials, clay and dough and tools, and (from 48 months) workbench and hammer, and (from 60 months) smaller crayons and markers, watercolor paints and simple sewing forms with blunt needles; <b>Musical Instruments:</b> all rhythm instruments, blowing instruments (for one-child use only) <b>Audio-Visual Materials:</b> live or recorded music for

<b>Gross Motor</b>	<b>Large-Movement – Push and Pull Toys:</b> small wagons and wheelbarrows, push toys that look like adult equipment, and (from 60 months) full-sized wagons and sweepers that really work; <b>Balls and Sports:</b> balls of all sizes, especially balls for kicking and throwing, and (from 48 months) lightweight softballs and bats, and (from 60 months) jump rope and a lightweight flying disc; <b>Ride-On Equipment:</b> tricycles sized to the child, three and four-wheeled pedal toys, vehicles with a steering mechanism, full size rocking or bouncing “horse,” ride-ons that several children can use together, and (from 48 months) low-slung tricycles; <b>Outdoor and Gym:</b> stationary outdoor climbing equipment, appropriately sized and safe swings, and (from 48 months) slides with side rails and ladders and ropes or hanging bars and rings on a swing or climbing equipment and outdoor building materials.
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**TABLE F: EQUIPMENT AND MATERIALS FOR THE CHILD 6 -8 YEARS OF AGE**

<b>Type of Materials</b>	<b>Types of Supplies and Equipment</b>
<b>Social and Fantasy</b>	<b>Mirrors:</b> mirrors that adults would use, unbreakable hand mirrors; <b>Dolls:</b> washable rubber or vinyl baby dolls with culturally relevant features and skin tones and accessories for care giving (feeding, diapering and sleeping), small peg or other people figures for fantasy scenes; <b>Stuffed Toys:</b> realistic rubber, wood or vinyl animals to incorporate into scenes and models or show characteristics for learning; <b>Puppets:</b> puppets that represent familiar and fantasy figures for acting out stories, simple puppet theater; <b>Transportation:</b> generic small models of cars and vehicles, construction or workbench materials to make models of forms of transportation; <b>Role-Play:</b> materials for creating and practicing real-life activities and letter-creating materials; <b>Play Scenes:</b> small people or animal figures with supporting materials to create fantasy scenes or models related to curriculum themes.
<b>Exploration and Mastery of Skills and Language</b>	<b>Construction:</b> large number of varied materials for detailed construction and for creating models (including metal parts and nuts and bolts); <b>Puzzles:</b> three-dimensional puzzles, and jig-saw puzzles with 50 to 100 pieces; <b>Skill-Development:</b> materials for making books, math manipulatives and fraction and geometrical materials, measuring materials, science materials, natural materials to examine and classify, plants and animals to study and care for, computer programs for language arts and books at a wide variety of difficulty levels for children to read, story books for reading aloud, books made by the children; <b>Books:</b> picture books with simple stories and rhymes, complex pop-up books, age-appropriate stories; <b>Pattern-Making:</b> mosaic tiles, geometric puzzles, art and craft materials for creating permanent designs; <b>Dressing, Lacing, Stringing:</b> bead stringing, braiding, weaving, spool-knitting and sewing materials; <b>Games:</b> simple card and board games, games based on words, reading and spelling, memory, and numbers and counting (dominoes, Pachisi) and beginning strategy games (checker, Chinese checkers).
<b>Music, Art and Movement</b>	<b>Art and Crafts:</b> a large variety of materials – crayons, markers, colored pencils, art chalks and pastels – in many colors, paint brushes of various sizes, a variety of paints including water colors, a variety of art papers for drawing and tracing and painting, regular scissors, paste and nontoxic glue, collage materials, clay that hardens, tools, more complex printing equipment, craft materials – simple looms, leather for sewing and braiding, papier-mache, plaster of paris, beads for jewelry- and a workbench with tools and wood for projects; <b>Musical Instruments:</b> a wide range of real instruments <b>Audio-Visual Materials:</b> live or recorded music for singing, movement or use with rhythm

	instruments, adult-operated tapes or discs with songs, rhymes and stories for listening or for the child's independent use.
<b>Gross Motor</b>	<b>Balls and Sports:</b> youth or standard-size balls and equipment for beginning team play, materials for target activities; <b>Ride-On Equipment:</b> (riding bicycles is no longer considered a center activity); <b>Outdoor and Gym:</b> complex climbing structures including ropes, ladders, hanging bars and rings.

**Source: Adapted from Martha B. Bronson, *The Right Stuff for Children Birth to 8: Selecting Play Materials to Support Development* (Washington, D.C.: National Association for the Education of Young Children, 1995.)**



## APPENDIX 78-1-B: REPORTABLE ILLNESSES \*

Reporting of the following communicable diseases\* is required by state law (West Virginia Code 16-3-1 and Division of Health Rule, "Reportable Diseases, Events and Conditions," 64CSR7). This list is updated periodically by the Bureau for Public Health.

AIDS (within 30 days)  
Amebiasis (*Entamoeba histolytica*)  
Anthrax (*Bacillus anthracis*)  
Botulism (*Clostridium botulinum*) \*\*  
Brucellosis (*Brucella abortus*, *B. melitensis*, *B. suis*, *B. canis*)\*\*  
Campylobacteriosis (*Campylobacter jejuni*, *C. coli*)  
Chancroid  
Chickenpox (Varicella) – Numerical totals only  
*Chlamydia trachomatis*  
Cholera (*Vibrio cholerae*)  
Cryptosporidiosis (*Cryptosporidium parvum*)  
Cyclospora infection  
Dengue Fever  
Diphtheria (*Corynebacterium diphtheriae*)\*\*  
E. coli O 157:H7 Disease  
Encephalitis, arboviral  
    Eastern Equine Encephalitis  
    LaCrosse Encephalitis (California Group)  
    St. Louis Encephalitis  
    West Nile Virus  
Encephalitis, Other primary and unspecified  
Food borne Disease  
Giardiasis (*Giardia lamblia*)  
Gonococcal Disease – Drug-resistant disease, Neonatal conjunctivitis, or Pelvic Inflammatory Disease (within 24 hours)  
Gonococcal Disease – All other  
*Haemophilus Influenzae*, Invasive Disease\*\*  
Hantavirus Disease\*\*  
Hemolytic Uremic Syndrome, postdiarrheal  
Hepatitis A, acute\*\*  
Hepatitis B, acute or perinatal\*\*  
Hepatitis C/other non-A or non-B, acute\*\*  
Hepatitis Delta\*\*  
Herpes, Genital  
HIV (within 30 days)  
Influenza-Like Illness – Numerical totals only  
Leptospirosis\*\*  
Listeriosis (*Listeria monocytogenes*)  
Lyme Disease (*Borrelia burgdorferi*)\*\*  
Malaria\*\*  
Meningitis, Other Bacterial – organisms not otherwise listed\*\*

Meningitis, Viral or Aseptic  
 Mumps  
 Outbreaks, suspect or confirmed  
 Pertussis (Whooping Cough) (*Bordetella pertussis*)\*\*  
 Plague (*Yersinia pestis*)  
 Poliomyelitis\*\*  
 Psittacosis (*Chlamydia psittaci*)  
 Rabies, human\*\*  
 Rheumatic Fever  
 Rocky Mountain Spotted Fever\*\*  
 Rubella Congenital Syndrome  
 Rubella (German measles)\*\*  
 Rubeola (Measles)\*\*  
 Salmonellosis (except Typhoid Fever – listed separately)  
 Shigellosis (*Shigella dysenteriae*, *S. boydii*, *S. flexneri*, *S. sonnei*)  
 Streptococcal Disease, Group A Invasive and/or Streptococcal Toxic Shock Syndrome (*S. pyogenes*)\*\*  
 Streptococcus pneumoniae, drug-resistant invasive disease – include antibiotic susceptibility patterns\*\*  
 Syphilis – primary, secondary, early latent, or congenital (within 24 hours)  
 Syphilis – late latent, late symptomatic, or neurosyphilis  
 Tetanus (*Clostridium tetani*)\*\*  
 Trichinosis\*\*  
 Tuberculosis – include antibiotic susceptibility patterns  
 Tularemia (*Francisella tularensis*)  
 Typhoid Fever (*Salmonella typhi*)\*\*  
 Waterborne Disease  
 Yellow Fever  
 Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance

\*This is a general information list. The official list can be found in the reportable diseases rule.

\*\*A supplemental CDC or WVBPH report form is required in addition to the general case report.

STDs, HIV/AIDS, and tuberculosis are reported on special forms. Other diseases are submitted on the general “Confidential Reportable Disease Case Report.” All report forms (general, supplemental, STD, Tuberculosis, and HIV/AIDS) can be obtained from your local health department. For questions or disease reporting or for epidemiologic consultation, call your local health department or the WV Bureau for Public Health, Division of surveillance and Disease Control: HIV/AIDS Surveillance 1-800-423-1271; Immunization Program 1-800-642-3634; STD Program 1-800-642-8244; Tuberculosis Program 1-800-330-8126; all other diseases 1-800-423-1271 or 304-558-5358. The website address is: [www.wvdhhr.org/bph](http://www.wvdhhr.org/bph).

For emergency contact information after hours, call 1-304-558-4117.

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### APPENDIX 78-1-C: NUTRITION -- MEAL AND SNACK PATTERNS

When planning meals and snacks, child care centers shall follow the meal and snack patterns developed for the United State Department of Agriculture's (USDA) Child and Adult Care Food Program (CACFP) or the West Virginia Leap of Taste Child Nutrition Standards (WV CACFP standards). The tables shown are current at the effective date of this rule; please refer to the following web site for current meal and snack patterns: <http://wvde.state.wv.us/child-nutrition/leap-of-taste/>

#### A: MEAL PATTERNS FOR THE CHILD UP TO 12 MONTHS OF AGE

Age	Breakfast	Lunch or Supper	Supplement
Birth through 3 months	4-6 fl. oz. Formula <sup>1</sup> or Breast milk <sup>2,3</sup>	4-6 fl. oz. Formula <sup>1</sup> or Breast milk <sup>2,3</sup>	4-6 fl. oz. Formula <sup>1</sup> or Breast <sup>2,3</sup> milk
4 through 7 months	4-6 fl. oz. Formula <sup>1</sup> or Breast milk <sup>2,3</sup>	4-6 fl. oz. Formula <sup>1</sup> or Breast <sup>2,3</sup> milk	4-6 fl. oz. Formula <sup>1</sup> or Breast <sup>2,3</sup> milk
8 through 11 months	6-8 fl. oz. Formula <sup>1</sup> or Breast milk <sup>2,3</sup>  2-4 Tbs. Infant Cereal <sup>1</sup>  1-4 Tbsp. Fruit and/or Vegetables	6-8 fl. oz. Formula <sup>1</sup> or Breast <sup>2,3</sup> milk  2-4 Tbs. Infant Cereal <sup>4</sup> and/or  1-4 Tbsp. Meat, fish, poultry, egg yolk, cooked dried beans or peas or 1-4 oz. cottage cheese, cheese food or cheese spread; and 1-4 Tbsp. Fruit and/or vegetable	2-4 fl. oz. Formula <sup>1</sup> , Breast milk <sup>2,3</sup> or Fruit juice <sup>5</sup>  ½ Bread <sup>4,6</sup> or  0-2 Crackers <sup>4,6</sup>

<sup>1</sup>Infant formula and dry infant cereal shall be iron fortified

<sup>2</sup>It is recommended that breast milk be served in place of formula from birth through 11 months.

<sup>3</sup>For some breast fed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered with additional breast milk offered if the infant is still hungry.

<sup>4</sup>A serving of this component shall be optional.

<sup>5</sup>Fruit Juice shall be full strength.

<sup>6</sup>Bread and bread alternates shall be made from whole grain or enriched meal or flour.

**B: MEAL PATTERNS FOR THE CHILD BETWEEN 1 YEAR AND 12 YEARS OF AGE**

	<b>Age 1 and 2</b>	<b>3 through 5 years</b>	<b>6 through 12 years</b>
<b>BREAKFAST</b>			
Milk, fluid	½ cup	¾ cup	1 cup
Juice or fruit or vegetable	¼ cup	½ cup	½ cup
Bread and/or cereal, enriched or whole grain			
Bread or	½ slice	½ slice	1 slice
Cereal: Cold dry or	¼ cup <sup>1</sup>	1/3 cup <sup>2</sup>	¾ cup <sup>3</sup>
Hot cooked	¼ cup	¼ cup	½ cup

**MIDMORNING OR MIDAFTERNOON SNACK (SUPPLEMENT)**

(Select 2 of these 4 components)

Milk, fluid	½ cup	½ cup	1 cup
Meat and meat alternate or yogurt, plain or sweetened and flavored	½ oz. 2 oz. or ¼ cup	½ oz. 2 oz. or ¼ cup	1 oz. 4 oz. or ½ cup
eggs (large)	½ egg	½ egg	½ egg
Juice or fruit or vegetable	½ cup	½ cup	¾ cup
Bread and/or cereal, enriched or whole grain			
Bread or	½ slice	½ slice	1 slice
Cereal: Cold dry or	¼ cup <sup>1</sup>	1/3 cup <sup>2</sup>	¾ cup <sup>3</sup>
Hot Cooked	¼ cup	¼ cup	½ cup

**LUNCH OR SUPPER**

Milk, fluid	½ cup	¾ cup	1 cup
Meat or meat alternate Meat, poultry, or fish, cooked (lean meat with bone)	1 oz.	1 ½ oz.	2 oz.
Cheese	1 oz.	1 ½ oz.	2 oz.
Eggs (large)	½ egg	¾ egg	1 egg
Cooked dry beans and peas	¼ cup	3/8 cup	½ cup
Peanut Butter, soy nut, or other nut seed butter	1 Tbsp.	3 Tbsp.	4 Tbsp.
Peanuts, soy nuts, or tree nuts or seeds	½ oz. (50%)	¾ oz. (50%)	1 oz. (50%)
Yogurt	4 oz.	6 oz.	8 oz.
Vegetable and/or fruit (two or more)	¼ cup	½ cup	¾ cup
Bread or alternate, enriched or whole grain	½ slice ¼ cup	½ slice ¼ cup	1 slice ½ cup

<sup>1</sup> 1/4 cup (volume) or 1/3 ounce (weight), whichever is less<sup>2</sup> 1/3 cup (volume) or 1/3 ounce (weight), whichever is less<sup>3</sup> 3/4 cup (volume) or 1 ounce (weight), whichever is less

**Source: The Child and Adult Care Food Program, WV Leap of Taste**

**APPENDIX 78-1-D – DIAPER CHANGING AND TOILET TRAINING****§64-21-9. Diaper Changing and Toilet Training.**

9.1. Children shall be diapered or have soiled underwear changed in an established diaper changing area. The changing area shall not be located in food preparation areas.

9.2. Staff shall change children diapers or soiled underwear on a clean, safe, impervious, nonabsorbent surface that is used for no other purpose.

9.3. Staff shall clean the child's perineal (urinary and anal) area with disposable wipes.

9.4. After removing a soiled diaper and before putting a fresh diaper on a child, staff members shall wipe their own hands with a pre-moistened towelette or a damp paper towel.

9.5. Both the child's and the staff member's hands shall be thoroughly washed after each diaper change. If disposable gloves are used, they must be discarded immediately and hands washed.

9.6. Changing tables and surfaces shall be cleaned and disinfected after each use by cleaning to remove visible soil, followed by wiping with an approved disinfectant solution, whether or not disposable, nonabsorbent paper is used. If disposable paper is used, it shall be discarded immediately after each diapering.

9.7. Soiled cloth diapers and/or soiled training pants shall be stored in a labeled container with a tight-fitting lid provided by a commercial diaper service or in a sealed plastic bag that is sent home with the child at the end of the day. If diapers are laundered by a commercial diaper service, the service shall be accredited by the Diaper Service Accreditation Council. Feces from soiled cloth diapers or training pants shall be disposed of by dumping in a toilet.

9.8. Soiled disposable diapers shall be stored in conveniently located, washable, plastic-lined, tightly covered waste containers. Each container shall be labeled and kept clean and free of buildup of soil or odor.

9.9. Toilet training chairs, if used, shall be of easily cleanable construction and after each use shall be emptied into a toilet, and thoroughly cleaned and sanitized in a utility sink.

9.10. Hand washing sinks shall not be used for rinsing soiled diapers or clothing or for cleaning toilet training equipment.

**Source: Division of Health rule, "Child Care Centers," 64CSR21, §64-21-9 (1997).**

**APPENDIX 78-1-E: STAFF-TO-CHILD RATIO**

Table A: Staff-to-Child Ratio for Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN TO BE CARED FOR BY ONE QUALIFIED STAFF MEMBER	MAXIMUM NUMBER OF CHILDREN IN A GROUP
6 weeks – 1 year (6 weeks – 12 months)	4	8
1 year – 2 years (13 months – 24 months)	4	12
2 years (25 - 35 months)	8	16
3 years (36 – 47 months)	10	20
4 years (48 – 59 months)	12	24
5 years – school-age (60 months – school-age)	12	24
School-age	16	32

Table B: Staff-to-Child Ratio While Children Are Participating in Water Activities – Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN	NUMBER OF QUALIFIED STAFF MEMBERS
12 months and under	1	1
13 months – 24 months	2	1
25 – 59 months	4	1
60 months and over	8	1