

**CHAPTER 75-03-07  
IN-HOME CHILD CARE EARLY CHILDHOOD SERVICES**

Section

- 75-03-07-01 Purpose [Repealed]
- 75-03-07-02 Objective of Rules [Repealed]
- 75-03-07-03 Definitions
- 75-03-07-04 In-Home Registration and Standards
- 75-03-07-05 Minimum Requirements for Care of Children With Special Needs
- 75-03-07-06 Denial or Revocation of In-Home Registration
- 75-03-07-07 Appeals

**SECTION 1:** Subsection 2 of section 75-03-07-04 is amended as follows:

**75-03-07-04. In-home registration and standards.**

2. An applicant for an in-home registration document shall be directly responsible for the care, supervision, and guidance of the child or children in the child or children's home and shall comply with the following standards, certifying in the application that the applicant:
  - a. Is at least eighteen years of age.
  - b. Is physically, cognitively, socially, and emotionally healthy and will use mature judgment when making decisions impacting the quality of child care.
  - c. Shall devote adequate time and attention to the children in the applicant's care and provide an environment that is physically and socially adequate for children.
  - d. Shall participate in specialized training related to child care if provided by or approved by the department, ~~including one hour of.~~
  - e. Shall complete one hour department-approved training annually on sudden infant death prevention if the prior to in-home provider provides care having unsupervised access to infants.
  - e.f. Shall provide food of sufficient quantity and nutritious quality in accordance with the United States department of agriculture standards which satisfies the dietary needs of the children while in the applicant's care.
  - f.g. Shall provide proper care, supervision, and protection for children in the applicant's care. Supervision means the provider being within sight or hearing range of an infant, toddler, or preschooler at all

times so the provider is capable of intervening to protect the health and safety of the child. For the school-age child, it means a provider being available for assistance and care so that the child's health and safety are protected.

- g-h. Shall provide for a safe and sanitary environment while children are in care.
- h-i. May not use or be under the influence of any illegal drugs or alcoholic beverages while children are in care.
- i-j. May not leave children without supervision.
- j-k. Shall ensure that discipline is constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, praising appropriate behavior, or gentle physical restraint, such as holding. A child may not be subjected to physical harm, fear, or humiliation. Disregard of any of the following disciplinary rules or any disciplinary measure resulting in physical or emotional injury, or neglect or abuse, to any child is grounds for denial or revocation of an in-home registration.
  - (1) Authority to discipline may not be delegated to children nor may discipline be administered by children.
  - (2) Separation, when used as discipline, must be appropriate to the child's development and circumstances. The child must be in a safe, lighted, well-ventilated room within sight or hearing range of the in-home provider. An in-home provider may not isolate a child in a locked room or closet.
  - (3) A child may not be punished for lapses in toilet training.
  - (4) An in-home provider may not use verbal abuse or make derogatory remarks about a child, or a child's family, race, or religion when addressing the child or in the presence of a child.
  - (5) An in-home provider may not use profane, threatening, unduly loud, or abusive language in the presence of a child.
  - (6) An in-home provider may not force-feed a child or coerce a child to eat, unless medically prescribed and administered under a medical provider's care.

- (7) An in-home provider may not use deprivation of meals or snacks as a form of discipline or punishment.
- (8) An in-home provider may not kick, punch, spank, shake, pinch, bite, roughly handle, strike, mechanically restrain, or physically maltreat a child.
- (9) An in-home provider may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in a child's mouth to deter the child from biting other children.
- (10) An in-home provider may not withhold active play from a child as a form of discipline or punishment, beyond a brief period of separation.

~~k-l.~~ Shall discuss methods of discipline and child management with the parent or parents.

**History:** Effective December 1, 1981; amended effective January 1, 1987; January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-02, 50-11.1-06, 50-11.1-07, 50-11.1-08

**SECTION 2:** Subsection 3 of section 75-03-07-06 is amended as follows:

**75-03-07-06. Denial or revocation of in-home registration.**

- 3. a. The applicant or in-home provider may not have been found guilty of, pled guilty to, or pled no contest to:
  - (1) An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2 sexual performances by children; or ~~12.1-40, human trafficking~~ 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under

subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; ~~or 14-09-22, abuse or neglect of a child; or 14-09-22.1, neglect of child;~~

- (2) An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in paragraph 1; or
  - (3) An offense, other than an offense identified in paragraph 1 or 2, if the department determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.
- b. The department has determined that the offenses enumerated in paragraphs 1 and 2 of subdivision a have a direct bearing on the applicant's or provider's ability to serve the public in a capacity as a provider.
- c. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.

**History:** Effective January 1, 2011; amended effective April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-06, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

**CHAPTER 75-03-07.1  
SELF-DECLARATION PROVIDERS EARLY CHILDHOOD SERVICES**

Section	
75-03-07.1-00.1	Definitions
75-03-07.1-01	Fees [Repealed]
75-03-07.1-02	Self-Declaration Standards - Application
75-03-07.1-03	Smoke-Free Environment [Repealed]
75-03-07.1-04	One Per Residence - Nontransferability of Self-Declaration and Emergency Designee
75-03-07.1-05	Appeals
75-03-07.1-06	Denial or Revocation of Self-Declaration Document
75-03-07.1-07	Minimum Sanitation Requirements
75-03-07.1-08	Infant Care
75-03-07.1-09	Minimum Requirements for the Care of Children With Special Needs
75-03-07.1-10	Correction of Violations
75-03-07.1-11	Fiscal Sanctions
75-03-07.1-12	Restricted Self-Declaration

**SECTION 3:** Subdivision a of subsection 3 of section 75-03-07.1-02 is amended as follows:

**75-03-07.1-02. Self-declaration standards - Application.**

3. The provider shall be directly responsible for the care, supervision, and guidance of the children.
  - a. The provider:
    - (1) Must be at least eighteen years of age;
    - (2) Shall provide an environment that is physically and socially adequate for the children; and that the provider is of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care;
    - (3) Shall devote adequate time and attention to the children in the provider's care;
    - (4) Shall provide food of sufficient quantity and nutritious quality in accordance with the United States department of agriculture standards which satisfies the dietary needs of the children while in the provider's care;

- (5) Shall provide proper care and protection for children in the provider's care;
- (6) May not use or be under the influence of, and will not allow any household member or emergency designee to use or be under the influence of any illegal drugs or alcoholic beverages while caring for children;
- (7) May not leave children without supervision;
- (8) Shall verify that the child has received all immunizations appropriate for the child's age, as prescribed by the state department of health, or have on file a document stating that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs, unless the child is a drop-in or school-age child;
- (9) Shall report immediately, as a mandated reporter, suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- (10) Shall provide a variety of games, toys, books, crafts, and other activities and materials to enhance the child's intellectual and social development and to broaden the child's life experience. Each provider shall have enough play materials and equipment so that at any one time each child in attendance may be involved individually or as a group;
- (11) Shall ensure a current health assessment or a health assessment statement completed by the parent is obtained at the time of initial enrollment of the child, which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually;
- (12) Shall ensure a child information form completed by the parent is obtained at the time of initial enrollment of the child and annually thereafter;
- (13) Shall ~~complete~~certify completion of a department-approved basic child care course within ~~three months of~~ninety days of being approved as a provider;
- (14) Shall be currently certified in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary

resuscitation and automated external defibrillator training programs that are approved by the department;

(15) Shall be currently certified in first aid by a program approved by the department;

(16) Shall complete a minimum of three hours of department-approved training annually, including one hour on sudden infant death prevention if the prior to provider provides care having unsupervised access to infants. The same training courses may be counted toward self-declaration annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of sudden infant death prevention annual training;

(17) Shall ensure that the emergency designee is currently certified in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department;

(18) Shall ensure that the emergency designee is currently certified in first aid by a program approved by the department;

(19) Shall ensure that the emergency designee certifies completion of a department approved basic child care course within ninety days;

~~(15)~~(20) Shall ensure that the emergency designee completes one hour of department-approved training annually on sudden infant death prevention if the provider provides care prior to emergency designee having unsupervised access to infants;  
and

~~(16)~~(21) Shall release a child only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

**History:** Effective June 1, 1995; amended effective January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-07, 50-11.1-08, 50-11.1-16, 50-11.1-17

**SECTION 4:** Section 75-03-07.1-04 is amended as follows:

**75-03-07.1-04. One per residence - Nontransferability of self-declaration and emergency designee.**

1. The department may not authorize more than one in-home registration, self-declaration, or license per residence. A residence means real property that is typically used as a single family dwelling. ~~A provider or operator with more than one in-home registration, self-declaration, or license in a single residence or two or more providers or operators operating under in-home registrations, self-declarations, or licenses out of the same residence prior to January 1, 2011, will be exempt from this subsection until January 1, 2016, after which time all providers will be subject to this subsection.~~
2. The applicant ~~shall~~may identify one emergency designee for the self-declaration at the time of the application. The emergency designee must be at least eighteen years old and must be approved by the department.
3. The provider shall be on the premises supervising the children at all times when children are present, except in situations during which the emergency designee is providing care.
4. The self-declaration is nontransferable to another residence.

**History:** Effective June 1, 1995; amended effective January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-16, 50-11.1-17

**SECTION 5:** Subsection 3 of section 75-03-07.1-06 is amended as follows:

**75-03-07.1-06. Denial or revocation of self-declaration document.**

3. a. The applicant, self-declaration provider, emergency designee, and household members may not have been found guilty of, pled guilty to, or pled no contest to:
  - (1) An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or ~~12.1-40, human trafficking~~12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while



fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; ~~or 14-09-22, abuse or neglect of a child; or 14-09-22.1, neglect of child;~~

- (2) An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in paragraph 1; or
  - (3) An offense, other than an offense identified in paragraph 1 or 2, if the department determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.
- b. The department has determined that the offenses enumerated in paragraphs 1 and 2 of subdivision a have a direct bearing on the applicant's, provider's, or emergency designee's ability to serve the public in a capacity as a provider or emergency designee.
  - c. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.

**History:** Effective June 1, 1995; amended effective January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08, 50-11.1-09

**Law Implemented:** NDCC 50-11.1-06.2, 50-11.1-08, 50-11.1-09, 50-11.1-16, 50-11.1-17

**SECTION 6:** Subsection 1 of section 75-03-07.1-07 is amended as follows:

**75-03-07.1-07. Minimum sanitation requirements.**

1. The provider shall operate according to the recommendations by the federal centers for disease control and prevention, including washing hands, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and single-use or individually designated cloth towels or paper towels must be available at each sink. Clean towels must be provided at least daily.

**History:** Effective January 1, 2011; amended effective April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-08, 50-11.1-16, 50-11.1-17

**SECTION 7:** Subsection 2 of section 75-03-07.1-08 is amended as follows:

**75-03-07.1-08. Infant care.**

**2. Feeding.**

- a. The provider shall ensure that infants are provided developmentally appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six months of age, unless otherwise instructed by the infant's parent or medical provider in writing.
- b. The provider shall ensure that infants are fed only the specific brand of iron-fortified infant formula requested by the parent. The provider shall use brand-specific mixing instructions unless alternative mixing instructions are directed by a child's medical provider in writing.
- c. The provider shall ensure that mixed formula that has been unrefrigerated more than one hour is discarded.
- d. The provider shall ensure that frozen breast milk is thawed under cool running tap water or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent within twenty-four hours.
- e. The provider shall ensure that an infant is not fed by propping a bottle.
- f. The provider shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.

- g. The provider shall be within sight and hearing range of an infant during the infant's feeding or eating process.

**History:** Effective January 1, 2011; amended effective January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-08, 50-11.1-16, 50-11.1-17

**SECTION 8:** Section 75-03-07.1-13 is created as follows:

**75-03-07.1-13. Minimum emergency and disaster plans.**

1. Each self-declared provider shall establish and post an emergency disaster plan for the safety of the children in care. Written disaster plans must be developed in cooperation with local emergency management agencies. The plan must include:
  - a. Emergency procedures, including the availability of emergency food, water, and first aid supplies;
  - b. What will be done if parents are unable to pick up their child as a result of the emergency; and
  - c. What will be done if the self-declared provider has to be relocated or must close as a result of the emergency.
2. Fire and emergency evacuation drills must be performed monthly.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-17

**CHAPTER 75-03-08  
FAMILY CHILD CARE EARLY CHILDHOOD SERVICES**

Section	
75-03-08-01	Purpose [Repealed]
75-03-08-02	Authority and Objective [Repealed]
75-03-08-03	Definitions
75-03-08-04	Effect of Licensing and Display of License
75-03-08-05	Denial or Revocation of License
75-03-08-05.1	Family Child Care License [Repealed]
75-03-08-06	Provisional License
75-03-08-06.1	Restricted License
75-03-08-07	Application for and Nontransferability of Family Child Care License
75-03-08-08	Family Child Care Homes Registered Prior to Effective Date [Repealed]
75-03-08-08.1	Duties of the Provider
75-03-08-09	Staffing Requirements
75-03-08-10	Minimum Qualifications of Providers
75-03-08-11	[Reserved]
75-03-08-12	Minimum Qualifications for All Staff Members Responsible for Caring for or Teaching Children
75-03-08-12.1	Minimum Qualifications of Volunteers
75-03-08-13	Minimum Health Requirements for All Applicants, Providers, and Staff Members Responsible for Caring for or Teaching Children
75-03-08-14	Minimum Requirements of the Facility
75-03-08-15	Minimum Standards for Provision of Transportation
75-03-08-16	Minimum Emergency Evacuation and Disaster Plan
75-03-08-17	[Reserved]
75-03-08-18	[Reserved]
75-03-08-19	Admission Procedures
75-03-08-20	Program Requirements
75-03-08-21	Minimum Standards for Food and Nutrition
75-03-08-21.1	Minimum Sanitation and Safety Requirements
75-03-08-22	Records
75-03-08-23	Discipline - Punishment Prohibited
75-03-08-24	Specialized Types of Care and Minimum Requirements
75-03-08-25	Minimum Requirements for Care of Children With Special Needs
75-03-08-26	[Reserved]
75-03-08-27	Effect of Conviction on Licensure and Employment
75-03-08-28	Child Abuse and Neglect Decisions
75-03-08-29	Correction of Violations
75-03-08-30	Fiscal Sanctions
75-03-08-31	Appeals

**SECTION 9:** Subsection 3 of section 75-03-08-07 is amended as follows:

**75-03-08-07. Application for and nontransferability of family child care license.**

3. The department may not issue more than one in-home registration, self-declaration, or license per residence. A residence means real property that is typically used as a single family dwelling. ~~A provider or operator with more than one in-home registration, self-declaration, or license in a single residence or two or more providers or operators operating under in-home registrations, self-declarations, or licenses out of the same residence prior to January 1, 2011, be exempt from this subsection until January 1, 2016, after which time all operators will be subject to this subsection.~~

**History:** Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

**SECTION 10:** Section 75-03-08-08.1 is amended as follows:

**75-03-08-08.1. Duties of the provider.**

1. A provider shall ~~maintain, whenever services are provided, at least one staff member who~~ be currently certified:
  - a. ~~Is certified in basic~~In infant and pediatric cardiopulmonary resuscitation that meets the requirements of and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department; and
  - b. ~~Is certified or trained in a department approved program to provide~~ In first aid by a program approved by the department.
2. The provider shall have an adult staff member responsible for caring for or teaching children present in the family child care at all times to supervise staff members under the age of eighteen and children in care.
3. A staff member may not at any time place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health.
4. The provider shall report to the authorized agent within twenty-four hours:

- a. A death or serious accident or illness requiring hospitalization of a child while in the care of the family child care or attributable to care received in the family child care;
  - b. An injury to any child which occurs while the child is in the care of the family child care and which requires medical treatment;
  - c. Poisonings or errors in the administration of medication;
  - d. Closures or relocations of child care programs due to emergencies; and
  - e. Fire that occurs or explosions that occur in or on the premises of the family child care.
5. The provider shall be present in the family child care no less than sixty percent of the time when children are in care.
  6. The provider, as a mandatory reporter, shall report any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03.
  7. The provider ~~shall~~may select an emergency designee.
  8. The provider shall maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the family child care.
  9. The provider must be an adult of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care.
  10. The provider shall ensure safe care for the children under supervision. Supervision means a staff member responsible for caring for or teaching children being within sight or hearing range of an infant, toddler, or preschooler at all times so that the staff member is capable of intervening to protect the health and safety of the child. For the school-age child, it means a staff member responsible for caring for or teaching children being available for assistance and care so the child's health and safety is protected.
  11. The provider shall ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

**History:** Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08  
**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 11:** Section 75-03-08-10 is amended as follows:

**75-03-08-10. Minimum qualifications of providers.**

A provider shall:

1. Be at least eighteen years of age;
2. ~~Complete~~Certify completion of a department-approved basic child care course ~~during the first three months~~within ninety days of licensure;
3. Certify completion of a minimum of nine hours of department-approved training related to child care every licensing year. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of sudden infant death prevention annual training; and
4. Certify annual completion of one hour of department-approved sudden infant death prevention training ~~if the prior to provider provides care~~having unsupervised access to infants.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08  
**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 12:** Section 75-03-08-12 is amended as follows:

**75-03-08-12. Minimum qualifications for all staff members responsible for caring for or teaching children.**

Each staff member who provides care shall:

1. Be at least fourteen years of age, provided that each staff member under age sixteen provides written parental consent for employment as a staff member, and the employment arrangements comply with North Dakota Century Code chapter 34-07. A member of the immediate family of the provider may provide care if the family member is at least twelve years of age;
2. Be an individual of good physical, cognitive, social, and emotional health and use mature judgment when making decisions impacting the quality of child care;

3. ~~Complete~~ Certify completion of a department-approved basic child care course during the first three months within ninety days of employment, with the exception of substitute staff and emergency designees;
4. Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department;
5. Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in first aid by a program approved by the department;
6. Certify annual completion of one hour of department-approved sudden infant death prevention training if the prior to staff member provides care having unsupervised access to infants; and
- ~~5-7.~~ Receive orientation related to child care policies, emergency procedures, special needs of children in care, and child care activities during the first week of employment.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 13:** Section 75-03-08-21.1 is amended as follows:

**75-03-08-21.1. Minimum sanitation and safety requirements.**

1. Children shall have received all immunizations appropriate for the child's age, as prescribed by the state department of health, unless the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs.
2. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, single-use or individually designated cloth towels, or paper towels must be available at each sink.



3. The provider shall have a statement on file, signed by the child's parents, authorizing emergency medical care for each child.
4. The provider shall ensure at least one department-approved first-aid kit is maintained and kept in a designated location, inaccessible to children, yet readily accessible to staff members at all times.
5. The provider shall have plans to respond to illness and emergencies, including evacuation in case of fire, serious injury, and ingestion of poison.
6. If children in care require medication, the provider shall secure written permission and follow proper instructions as to the administration of medication.
  - a. The provider shall store medications in an area inaccessible to children.
  - b. Medications stored in a refrigerator must be stored collectively in a spill proof container.
  - c. The provider shall keep a written record of the administration of medication, including over-the-counter medication, for each child. Records must include the date and time of each administration, the dosage, the name of the staff member administering the medication, and the name of the child. Completed medication records must be included in the child's record.
7. The provider shall establish practices in accordance with guidance obtained through consultation with local or state health department authorities regarding the exclusion and return of children with infectious or communicable conditions. The provider may obtain this guidance directly or through current published materials regarding exclusion and return to the family child care.
8. The provider may release a child only to the child's parent or individual who has been authorized by the child's parent.
9. The provider shall ensure that children playing outdoors are clothed appropriately for weather conditions.
10. The provider shall ensure that a staff member responsible for caring for or teaching children is supervising directly any child who is bathing or using a pool.
11. The provider shall ensure that children receive proper supervision when playing outdoors.

12. Children's personal items, including combs, brushes, pacifiers, and toothbrushes, must be individually identified and stored in a sanitary manner.
13. Pets and animals.
  - a. The provider shall ensure that only small pets that are contained in an aquarium or other approved container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
  - b. The provider shall ensure that animals are maintained in good health and are appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
  - c. The provider shall ensure parents are aware of the presence of pets and animals in the family child care.
  - d. The provider shall notify parents immediately if a child is bitten or scratched and skin is broken.
  - e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall immediately remove the pet if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
  - f. The provider shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The provider shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
  - g. The provider shall ensure that indoor and outdoor areas accessible to children must be free of animal excrement.
  - h. The provider shall ensure that the child care is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.

14. Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the family child care and shall empty, clean, and sanitize wading pools daily.
15. All swimming pools used by the children must be approved annually by the local health unit.
16. Aquatic activities:
  - a. The provider shall have policies that ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the program may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
  - b. The provider may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
17. The provider shall ensure that garbage stored outside is kept away from areas used by children and is kept in covered containers. Open burning is not permitted. The provider shall keep indoor garbage in containers with lids. The provider may allow paper waste to be kept in open waste containers.
18. The provider shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the provider shall ensure:
  - a. Pillows and mattresses have clean coverings.
  - b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
  - c. If beds, cots, mats, or cribs are used by different children, sheets and pillowcases are laundered before use by other children.
  - d. Cots, mats, and cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children.
  - e. That cots, mats, and cribs are single occupancy.
  - f. Each bed, cot, or mat has sufficient blankets available.

- g. That aisles between beds, cots, mats, or cribs are a minimum space of two feet (60.96 centimeters) and are kept free of all obstructions while beds, cots, mats, or cribs are occupied.
- h. Provide separate storage for personal blankets or coverings.
- i. That mattresses and sheets are properly fitted.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 14:** Section 75-03-08-24 is amended as follows:

**75-03-08-24. Specialized types of care and minimum requirements.**

**1. Infant care.**

**a. Environment and interactions.**

- (1) A provider serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
- (2) The provider shall ensure that each infant receives positive stimulation and verbal interaction with a staff member responsible for caring for or teaching children, such as being held, rocked, talked with, or sung to.
- (3) The staff members responsible for caring for or teaching children or emergency designee shall respond promptly to comfort an infant's or toddler's physical and emotional distress:
  - (a) Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
  - (b) Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
- (4) The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.

- (5) Staff members responsible for caring for or teaching children shall take children outdoors or to other areas within the family child care for a part of each day to provide some change of physical surroundings and to interact with other children.
- (6) The provider shall ensure that infants are not shaken or jostled.
- (7) The provider shall ensure that low chairs and tables, high chairs with trays, or other age-appropriate seating systems are provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.
- (8) The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.

b. Feeding.

- (1) The provider shall ensure that infants are provided developmentally appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six months of age, unless otherwise instructed by the infant's parent or medical provider in writing.
- (2) The provider shall ensure that infants are fed only the specific brand of iron-fortified infant formula requested by the parent. Staff members shall use brand-specific mixing instructions unless alternative mixing instructions are directed by a child's medical provider in writing.
- (3) The provider shall ensure that mixed formula that has been unrefrigerated more than one hour is discarded.
- (4) The provider shall ensure that frozen breast milk is thawed under cool running tap water, or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent within twenty-four hours.
- (5) The provider shall ensure that an infant is not fed by propping a bottle.

- (6) The provider shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.
- (7) The provider shall ensure that a staff member responsible for caring for or teaching children is within sight and hearing range of an infant during the infant's feeding or eating process.

c. Diapering.

- (1) The provider shall ensure that there is a designated cleanable diapering area, located separately from food preparation and serving areas in the family child care, if children requiring diapering are in care.
- (2) The provider shall ensure that diapers are changed promptly when needed and in a sanitary manner.
- (3) Diapers must be changed on a nonporous surface area which must be cleaned and disinfected after each diapering.
- (4) The provider shall ensure that soiled or wet diapers are stored in a sanitary, covered container separate from other garbage and waste until removed from the family child care.

d. Sleeping.

- (1) The provider shall ensure that infants are placed on their back initially when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise. The infant's face must remain uncovered when sleeping.
- (2) The provider shall ensure that infants sleep in a crib with a firm mattress or in a portable crib with the manufacturer's pad that meets consumer product safety commission standards.
- (3) The provider shall ensure that if an infant falls asleep while not in a crib or portable crib, the infant must be moved immediately to a crib or portable crib, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise.

- (4) Water beds, adult beds, sofas, pillows, soft mattresses, and other soft surfaces are prohibited as infant sleeping surfaces.
- (5) The provider shall ensure that all items are removed from and that no toys or objects are hung over or attached to the crib or portable crib when an infant is sleeping or preparing to sleep. With written parental permission, the provider may place one individual infant blanket or sleep sack, a pacifier, and a security item that does not pose a risk of suffocation to the infant in the crib or portable crib while the infant is sleeping or preparing to sleep.
- (6) ~~The provider shall ensure that mattresses and sheets are properly fitted. The provider shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when cribs are used by different infants, or at least weekly.~~
- (7) ~~A staff member shall check on sleeping infants regularly and have a monitor in the room with the sleeping infant, unless a staff member is in the room with the infants while the infants are sleeping.~~

## 2. **Night care.**

- a. Any family child care offering night care shall provide program modifications for the needs of children and their parents during the night.
- b. In consultation with parents, special attention must be given by the staff member responsible for caring for or teaching children to provide a transition into this type of care, appropriate to the child's needs.
- c. The provider shall encourage parents to leave their children in care or pick them up before and after their normal sleeping period when practical, to ensure minimal disturbance of the child during sleep, with consideration given to the parents' work schedule.
- d. The provider shall ensure that children under the age of six are supervised directly when bathing.
- e. The provider shall ensure that comfortable beds, cots, or cribs, complete with a mattress or pad, are available ~~and the provider shall ensure:~~

- ~~(1) Pillows and mattresses have clean coverings.~~
- ~~(2) Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.~~
- ~~(3) If beds are used by different children, sheets and pillowcases are laundered before use by other children.~~
- ~~(4) Each bed or cot has sufficient blankets available.~~

- f. The provider shall require each child in night care to have night clothing and a toothbrush marked for identification.

**History:** Effective January 1, 2011; amended effective January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 15:** Subsection 1 of section 75-03-08-27 is amended as follows:

**75-03-08-27. Effect of conviction on licensure and employment.**

- 1. An applicant or provider may not be, and a family child care may not employ or allow, in any capacity that involves or permits contact between the emergency designee, staff member, or household member and any child cared for by the family child care, a provider, emergency designee, staff member, or household member who has been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or ~~12.1-40, human trafficking~~ 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating



prostitution; 12.1-31-05, child procurement; ~~or~~ 14-09-22, abuse ~~or~~ neglect of a child; or 14-09-22.1, neglect of child;

- b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
- c. An offense, other than an offense identified in subdivision a or b, if the department in the case of an applicant, provider, or household member, or the provider in the case of a staff member or emergency designee, determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

**CHAPTER 75-03-09  
GROUP CHILD CARE EARLY CHILDHOOD SERVICES**

Section	
75-03-09-01	Purpose [Repealed]
75-03-09-02	Authority and Objective [Repealed]
75-03-09-03	Definitions
75-03-09-04	Effect of Licensing and Display of License
75-03-09-05	Denial or Revocation of License
75-03-09-06	Provisional License
75-03-09-06.1	Restricted License
75-03-09-07	Application for and Nontransferability of Group Child Care License
75-03-09-08	Duties of Group Child Care Provider
75-03-09-09	Staffing Requirements
75-03-09-10	Minimum Qualifications of Group Child Care Supervisor
75-03-09-11	Duties of Group Child Care Supervisor
75-03-09-12	Minimum Qualifications for All Staff Members Responsible for Caring for or Teaching Children
75-03-09-12.1	Minimum Qualifications for Volunteers
75-03-09-13	Minimum Health Requirements for All Applicants, Operators, and Staff Members
75-03-09-14	Minimum Requirements for Facility
75-03-09-15	Minimum Standards for Provision of Transportation
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75-03-09-17	Fire Inspections
75-03-09-18	Minimum Sanitation and Safety Requirements
75-03-09-19	Minimum Requirements Regarding Space
75-03-09-20	Program Requirements
75-03-09-21	Minimum Standards for Food and Nutrition
75-03-09-22	Records
75-03-09-23	Discipline - Punishment Prohibited
75-03-09-24	Specialized Types of Care and Minimum Requirements
75-03-09-25	Minimum Requirements for Care of a Child With Special Needs
75-03-09-26	Minimum Provisions Regarding Emergency Care for Children
75-03-09-27	Effect of Conviction on Licensure and Employment
75-03-09-28	Child Abuse and Neglect Decisions
75-03-09-29	Correction of Violations
75-03-09-30	Fiscal Sanctions
75-03-09-31	Appeals

**SECTION 16:** Subsection 1 of section 75-03-09-08 is amended as follows:

**75-03-09-08. Duties of group child care provider.**

1. The provider of a group child care is responsible for compliance with requirements set forth in the standards and North Dakota Century Code chapter 50-11.1. The provider shall:
  - a. Establish the child care program;
  - b. Apply for a license for the group child care;
  - c. Possess knowledge or experience in management and interpersonal relationships;
  - d. Formulate written policies and procedures for the operation of the group child care. Policies must include:
    - (1) An explanation of how accidents and illnesses will be handled;
    - (2) The methods of developmentally appropriate discipline and guidance techniques that are to be used;
    - (3) The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
    - (4) Hiring practices and personnel policies for staff members;
    - (5) Informing parents that they may request daily reports for their child, including details regarding eating, napping, and diapering;
    - (6) Procedure for accountability when a child fails to arrive as expected at the child care; and
    - (7) Transportation procedures, if the provider provides transportation;
  - e. Notify the authorized agent of any major changes in the operation or in the ownership of the group child care, including staff member changes;
  - f. Maintain records of enrollment, attendance, health, and other required records;
  - g. ~~Select~~May select an emergency designee;

- h. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the group child care;
- i. Ensure the group child care is sufficiently staffed at all times to meet the child and staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
- j. Ensure preadmission visits for children and their parents are offered so the facility's program, fees, operating policies, and procedures can be viewed and discussed;
- k. Ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
- l. Provide parents, upon request, with progress reports on their children, and provide unlimited opportunities for parents to observe their children while in care. Providing unlimited access does not prohibit a group child care from locking its doors while children are in care;
- m. Provide parents with the name of the group child care provider, the group child care supervisor, staff members, and the emergency designee;
- n. Report, as a mandatory reporter, any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- ~~o. Ensure, whenever services are provided, that at least one staff member, on duty meets current certification requirements in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other cardiopulmonary resuscitation training programs approved by the department, and is certified or trained in a department-approved program to provide first aid;~~
- p. Ensure that children do not depart from the child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and

parental responsibility for the child once the child leaves the child care premises; and

- e.p. Ensure that each child is released only to the child's parent, legal custodian, guardian, or individual who has been authorized by the child's parent, legal custodian, or guardian.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 17:** Section 75-03-09-09 is amended as follows:

**75-03-09-09. Staffing requirements.**

1. The number of staff members and their responsibilities must reflect program requirements, individual differences in the needs of the children enrolled, and may permit flexible groupings, if necessary.
2. a. A provider may provide early childhood services for no more than seven children at any one time, which includes no more than three children under twenty-four months of age. A provider may also provide early childhood services to two additional school-age children; or
- b. A provider may elect to staff according to the following minimum ratio of staff members responsible for caring for or teaching children to children in group child care:
  - (1) For children younger than eighteen months of age, a ratio of .25 in decimal form is assigned;
  - (2) For children eighteen months of age to thirty-six months of age, a ratio of .20 in decimal form is assigned;
  - (3) For children thirty-six months of age to four years of age, a ratio of .14 in decimal form is assigned;
  - (4) For children four years of age to five years of age, a ratio of .10 in decimal form is assigned;
  - (5) For children five years of age to six years of age, a ratio of .08 in decimal form is assigned;

- (6) For children six years to twelve years of age, a ratio of .05 in decimal form is assigned; and
  - (7) When there is a mixed-aged group, the number of children in each age category is multiplied by the corresponding ratio number, converted to decimal form, and carried to the nearest hundredth. To determine the number of staff members responsible for caring for or teaching children necessary at any given time, numbers of staff members for all age categories are added, and any fractional staff member count is then rounded to the next highest whole number whenever the fractional staff member count amounts to thirty-five hundredths or more. If lower than thirty-five hundredths, the fractional amount is dropped. No more than four children under the age of eighteen months per staff member are allowed in any mixed-aged group.
3. ~~A provider licensed for at least two years may apply for a waiver of the required ratio, not to exceed .25 decimal point. The department shall consider demonstration of need, health and safety of children, age of children, number of children, and licensing history of the provider in determining whether to approve the application for a waiver. The department may deny an application for waiver and may revoke a waiver granted under this subsection. The decision to deny or revoke a waiver is not an appealable decision. The department shall review each waiver granted under this subsection at least every twelve months to determine if the circumstances which led to granting the waiver continue to exist.~~
4. The provider of a group child care shall ensure that the group child care is sufficiently staffed at all times to meet the child and staff ratios for children in attendance, and that no more children than the licensed capacity are served at one time.
- ~~5.4.~~ If a child with special needs is admitted to the group child care, the child's developmental age level must be used in determining the number of children for which care can be provided.
- ~~6.5.~~ The provider shall ensure that children with special needs requiring more than usual care and supervision have adequate care and supervision provided to them without adversely affecting care provided to the remaining children in the group child care.
- ~~7.6.~~ Children using the group child care for a McGruff safe house, a block house, or a certified safe house program during an emergency are not counted under this section.

**History:** Effective December 1, 1981; amended effective July 1, 1984; January 1, 1987; January 1, 1989; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2013; April 1, 2014; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02.1, 50-11.1-04, 50-11.1-08

**SECTION 18:** Section 75-03-09-10 is amended as follows:

**75-03-09-10. Minimum qualifications of group child care supervisor.**

1. A group child care supervisor must be an adult of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care.
2. The group child care supervisor shall meet at least one of the following qualifications, in addition to those set out in subsection 1:
  - a. A bachelor's degree in the field of early childhood education or child development;
  - b. An associate's degree with at least one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education or child development;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;
  - c. Current certification as a child development associate or successful completion of a department-approved diploma program with emphasis in early childhood or child care;
  - d. Certification from a Montessori teacher training program;
  - e. At least one year of exclusive experience as a self-declaration holder or licensed child care provider with positive references from at least two parents whose children were in the provider's care;
  - f. A high school degree or equivalency with certification of completion in a secondary occupational child care program and at least one year of exclusive experience working with young children, with references from at least two individuals who either had their

children in the group child care supervisor's care or instructed the group child care supervisor in child care programming; or

- g. A minimum of one year of exclusive experience providing care to three or more children, with positive references from at least two parents whose children were in the group child care supervisor's care or a center director or teacher who observed the group child care supervisor's care of children first hand.

3. ~~The group child care supervisor shall:~~

a. ~~Have current certification in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs approved by the department; and~~

b. ~~Be certified or trained in a department approved program to provide first aid.~~

4. ~~The group child care supervisor shall certify completion of a minimum of ten hours of department-approved training related to child care annually, including one hour on sudden infant death prevention if the prior to provider provides care having unsupervised access to infants. The ten hours of training in the first year following initial licensure must include a department-approved basic child care course taken during the first three months of employment. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of sudden infant death prevention annual training.~~

5.4. The group child care supervisor must be present in the group child care no less than sixty percent of the time when children are in care.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 19:** Section 75-03-09-12 is amended as follows:

**75-03-09-12. Minimum qualifications for all staff members responsible for caring for or teaching children.**

Staff members shall:



1. Be at least fourteen years of age, provided that each staff member under age sixteen provides written parental consent for employment as a staff member, and the employment arrangements comply with North Dakota Century Code chapter 34-07. A member of the immediate family of the provider may provide care if the family member is at least twelve years of age;
2. Be individuals of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care;
3. Receive orientation related to child care policies, emergency procedures, special needs of children in care, and group child care activities during the first week of work;
4. Ensure that at no time a child is placed in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health;
5. Certify completion of a department-approved basic child care course within ~~their first three months~~ ninety days of employment ~~with the exception of substitute staff and emergency designees~~;
6. Certify the staff member's own completion of department-approved training related to child care annually as set forth below:
  - a. A staff member working thirty or more hours per week shall certify a minimum of eight hours of department-approved training annually;
  - b. A staff member working fewer than thirty and at least twenty hours per week shall certify a minimum of six hours of department-approved training annually;
  - c. A staff member working fewer than twenty and at least ten hours per week shall certify a minimum of four hours of department-approved training annually;
  - d. A staff member working fewer than ten hours per week shall certify a minimum of two hours of department-approved training annually;
  - e. An emergency designee is exempt from department-approved annual training, with the exception of training required by ~~subsections~~ subsections 5 and 7; and
  - f. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last

completion date of that training course, with the exception of sudden infant death prevention annual training; and

7. Certify annual completion of one hour of department-approved sudden infant death prevention training ~~if the prior to staff member provides care having unsupervised access to infants; and~~
8. Ensure safe care for the children under supervision. Supervision means a staff member responsible for caring for or teaching children being within sight or hearing range of an infant, toddler, or preschooler at all times so the staff member is capable of intervening to protect the health and safety of the child. For the school-age child, it means a staff member responsible for caring for or teaching children being available for assistance and care so that the child's health and safety are protected;
9. Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department; and
10. Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children in care, in first aid by a program approved by the department.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 20:** Section 75-03-09-14 is amended as follows:

**75-03-09-14. Minimum requirements for facility.**

1. The provider shall ensure that the group child care is properly lighted. If the lighting of the group child care appears questionable, the department or authorized agent may require the provider to obtain additional lights.
2. The provider shall ensure that safe and comfortable arrangements for naps for enrolled children are provided.
  - a. The provider may allow a child to sleep or rest on the floor only when the floor is carpeted or padded, warm, free from drafts, and when each child has an individual blanket or sleeping mat.

- ~~b. The provider shall ensure that aisles between cots and cribs are a minimum space of two feet [58.42 centimeters] and are kept free of all obstructions while cots and cribs are occupied.~~
  - e. The provider shall ensure that there is a room available, separate from the nap room, where an individual child can go for supervised play if the child is unable to nap, so as not to disrupt the other children's rest.
- 3. Water supply:
  - a. The provider shall ensure that the group child care has a drinking supply from a community water system or from a source tested and approved by the state department of health.
  - b. The group child care must have hot and cold running water. The water in the faucets used by children must not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
- 4. Toilet and sink facilities:
  - a. The provider shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff.
  - b. Toilets must be located in rooms separate from those used for cooking, eating, and sleeping. A minimum of one flush toilet must be provided for each fifteen children, excluding those children who are not toilet trained.
  - c. The provider shall provide child-sized toilet adapters, training chairs, or potty chairs for use by children who require them. Training chairs must be emptied promptly and thoroughly cleaned and sanitized after each use.
  - d. The provider shall provide at least one handwashing sink per toilet room facility or diapering area. The provider shall provide sanitary hand-drying equipment, single-use or individually designated cloth towels, or paper towels near handwashing sinks.
  - e. The provider shall provide safe step stools to allow standard-size toilets and sinks to be used by the children or the provider shall ensure the availability of child-size toilets and sinks.
- 5. The operator of a group child care not on a municipal or public water supply or wastewater disposal system shall ensure the group child care's

sewage and wastewater system has been approved by the state department of health.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 21:** Section 75-03-09-16 is amended as follows:

**75-03-09-16. Minimum emergency evacuation and disaster plan.**

1. Each provider shall establish and post an emergency disaster plan for the safety of the children in care. Written disaster plans must be developed in cooperation with local emergency management agencies. The plan must include:
  - a. Emergency procedures, including the availability of emergency food, water, and first-aid supplies;
  - b. What will be done if parents are unable to pick up their child as a result of the emergency; and
  - c. What will be done if the group child care has to be relocated or must close as a result of the emergency.
2. Fire and emergency evacuation drills must be performed ~~in accordance with the local fire department's guidelines~~ monthly.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 22:** Section 75-03-09-18 is amended as follows:

**75-03-09-18. Minimum sanitation and safety requirements.**

1. In facilities other than an occupied private residence and where meals are prepared, the provider shall ensure that the state department of health conducts an annual inspection. If only snacks or occasional cooking projects are prepared, a state department of health inspection is not required. The provider shall correct any code violations noted by the

health inspector and shall file reports of the inspections and corrections made with the authorized agent.

2. The provider shall ensure that the group child care bathroom sinks, toilets, tables, chairs, and floors are cleaned daily. ~~Cots and mats, if used, must be maintained in a clean, sanitary condition.~~
3. The provider shall ensure that the group child care building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. Routine maintenance and cleaning procedures must be established to protect the health of the children and the staff members.
4. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, individually designated cloth towels, or paper towels must be available at each sink.
5. The provider shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The provider shall ensure that all toys and equipment are kept clean and in sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
6. The provider shall ensure that the group child care ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
7. The provider shall ensure that garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The provider shall keep indoor garbage in covered containers. The provider may allow paper waste to be kept in open waste containers.
8. The provider shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
9. The provider shall ensure that potential hazards, such as noncovered electrical outlets, guns, household cleaning chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children. The provider shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks . The provider shall ensure other

weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.

10. The provider shall ensure that indoor floors and steps are not slippery and do not have splinters. The provider shall ensure that accumulations of water, ice, snow, or debris are removed from steps and walkways as quickly as possible.
11. The provider shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
12. The provider shall take steps to keep the group child care free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the group child care. Insect repellent may be applied outdoors on children with parental permission.
13. The provider shall ensure that exit doorways and pathways are not blocked.
14. The provider shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
15. The provider shall ensure that combustible materials are kept away from light bulbs and other heat sources.
16. The provider shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by local fire authorities. During the heating season when the group child care is occupied by children, the room temperature must not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
17. A provider shall ensure that all group child care buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chipped condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the state department of health.

18. The provider shall ensure that personal items, including combs, pacifiers, and toothbrushes, are individually identified and stored in a sanitary manner.
19. Pets and animals.
  - a. The provider shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
  - b. The provider shall ensure that animals are maintained in good health and are appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
  - c. The provider shall ensure parents are aware of the presence of pets and animals in the group child care.
  - d. The provider shall notify parents immediately if a child is bitten or scratched and skin is broken.
  - e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall immediately remove the pet if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
  - f. The provider shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The provider shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
  - g. The provider shall ensure that indoor and outdoor areas accessible to children must be free of animal excrement.
  - h. The provider shall ensure that the child care is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.

20. Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the group child care and shall empty, clean, and sanitize wading pools daily.
21. All swimming pools used by children must be approved annually by the local health unit.
22. Aquatic activities:
  - a. The provider shall have policies that ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the program may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
  - b. The provider may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
23. The provider shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the provider shall ensure:
  - a. Pillows and mattresses have clean coverings.
  - b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
  - c. If beds, cots, mats, or cribs are used by different children, sheets and pillowcases are laundered before use by other children.
  - d. Cots, mats, or cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children;
  - e. That cots, mats, and cribs are single occupancy.
  - f. Each bed, cot, or mat has sufficient blankets available.
  - g. That aisles between beds, cots, mats, or cribs are a minimum space of two feet (60.96 centimeters) and are kept free of all obstructions while beds, cots, mats, or cribs are occupied.
  - h. Provide separate storage for personal blankets or coverings.
  - i. That mattresses and sheets are properly fitted.



**History:** Effective December 1, 1981; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 23:** Section 75-03-09-24 is amended as follows:

**75-03-09-24. Specialized types of care and minimum requirements.**

1. Infant care.
  - a. Environment and interactions.
    - (1) A group child care serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
    - (2) The provider shall ensure that each infant receives positive stimulation and verbal interaction with a staff member responsible for caring for or teaching children, or emergency designee, such as being held, rocked, talked with, or sung to.
    - (3) The staff members responsible for caring for or teaching children, or emergency designee, shall respond promptly to comfort an infant's or toddler's physical and emotional distress.
      - (a) Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
      - (b) Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
    - (4) The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.
    - (5) Staff members responsible for caring for or teaching children shall take children outdoors or to other areas within the group child care for a part of each day to provide some change of physical surroundings and to interact with other children.

- (6) The provider shall ensure that infants are not shaken or jostled.
- (7) The provider shall ensure that low chairs and tables, high chairs with trays, or other age-appropriate seating systems are provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.
- (8) The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.

b. Feeding.

- (1) The provider shall ensure that infants are provided developmentally appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six months of age, unless otherwise instructed by the infant's parent or medical provider in writing.
- (2) The provider shall ensure that infants are fed only the specific brand of iron-fortified infant formula requested by the parent. Staff members shall use brand-specific mixing instructions unless alternative mixing instructions are directed by a child's medical provider in writing.
- (3) The provider shall ensure that mixed formula that has been unrefrigerated more than one hour is discarded.
- (4) The provider shall ensure that frozen breast milk is thawed under cool running tap water or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent within twenty-four hours.
- (5) The provider shall ensure that an infant is not fed by propping a bottle.
- (6) The provider shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.
- (7) The provider shall ensure that a staff member responsible for caring for or teaching children is within sight and hearing

range of an infant during the infant's feeding or eating process.

c. Diapering.

- (1) The provider shall ensure that there is a designated cleanable diapering area, located separately from food preparation and serving areas in the group child care if children requiring diapering are in care.
- (2) The provider shall ensure that diapers are changed promptly when needed and in a sanitary manner.
- (3) Diapers must be changed on a nonporous surface area which must be cleaned and disinfected after each diapering.
- (4) The provider shall ensure that soiled or wet diapers are stored in a sanitary, covered container separate from other garbage and waste until removed from the group child care.

d. Sleeping.

- (1) The provider shall ensure that infants are placed on their back initially when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise. The infant's face must remain uncovered when sleeping.
- (2) The provider shall ensure that infants sleep in a crib with a firm mattress or in a portable crib with the manufacturer's pad that meets consumer product safety commission standards.
- (3) The provider shall ensure that if an infant falls asleep while not in a crib or portable crib, the infant must be moved immediately to a crib or portable crib, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise.
- (4) Water beds, adult beds, sofas, pillows, soft mattresses, and other soft surfaces are prohibited as infant sleeping surfaces.
- (5) The provider shall ensure that all items are removed from and that no toys or objects are hung over or attached to the crib or portable crib when an infant is sleeping or preparing

to sleep. With written parental permission, the provider may place one individual infant blanket or sleep sack, a pacifier, and a security item that does not pose a risk of suffocation to the infant in the crib or portable crib while an infant is sleeping or preparing to sleep.

~~(6) The provider shall ensure that mattresses and sheets are properly fitted. The provider shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when cribs are used by different infants, or at least weekly.~~

~~(7) A staff member shall check on sleeping infants regularly and have a monitor in the room with the sleeping infants, unless a staff member is in the room with the infants while the infants are sleeping.~~

## 2. Night care.

- a. Any group child care offering night care shall provide program modifications for the needs of children and their parents during the night.
- b. In consultation with parents, special attention must be given by the staff member responsible for caring for or teaching children to provide a transition into this type of care, appropriate to the child's needs.
- c. The provider shall encourage parents to leave their children in care or pick them up before and after their normal sleeping period when practical, to ensure minimal disturbance of the child during sleep, with consideration given to the parents' work schedule.
- d. The provider shall ensure that children under the age of six are supervised directly when bathing.
- e. The provider shall ensure that comfortable beds, cots, or cribs, complete with a mattress or pad, are available and the provider shall ensure:

~~(1) Pillows and mattresses have clean coverings.~~

~~(2) Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.~~

- ~~(3) If beds are used by different children, sheets and pillowcases are laundered before use by other children.~~
    - ~~(4) Each bed or cot has sufficient blankets available.~~
  - f. The provider shall require each child in night care to have night clothing and a toothbrush marked for identification.
  - g. For a group child care not operating out of an occupied private residence, staff members responsible for caring for or teaching children must be awake and within hearing range during sleeping hours to provide for the needs of children and to respond to an emergency.
3. Drop-in group child care.
- a. If a group child care serves drop-in children, schoolchildren, or before-school and afterschool children, the group child care must be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the program and to maintain the proper staff member to child ratio.
  - b. The provider shall ensure that the program reflects the individual needs of the children who are provided drop-in care.
  - c. The provider shall ensure that records secured comply with all enrollment requirements contained in section 75-03-09-22, except the immunization verification record requirement.
  - d. The provider shall ensure that admittance procedures provide for a period of individual attention for the child to acquaint the child with the group child care, its equipment, and the staff members.
  - e. A group child care may not receive drop-in care or part-time children who, when added to the children in regular attendance, cause the group child care to exceed the total number of children for which the group child care is licensed.
4. A provider shall ensure that a group child care serving only drop-in care children complies with this chapter but is exempt from the following provisions:
- a. Subsections 4 and 5 of section 75-03-09-20, subsections 6 and 7 of section 75-03-09-21, subdivision f of subsections 2 and 3 of section 75-03-09-22, and subsection 1 of section 75-03-09-25.

- b. A group child care serving only drop-in care children is exempt from the outdoor space requirements.

**History:** Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 24:** Subsection 1 of section 75-03-09-27 is amended as follows:

**75-03-09-27. Effect of conviction on licensure and employment.**

1. An applicant or provider may not be, and a group child care may not employ or allow, in any capacity that involves or permits contact between the emergency designee, group child care supervisor, staff member, or household member and any child cared for by the group child care, a provider, emergency designee, group child care supervisor, staff member, or household member who has been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or ~~12.1-40, human trafficking~~ 12.1-40, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; ~~or 14-09-22, abuse or neglect of a child; or~~ 14-09-22.1, neglect of child;
  - b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
  - c. An offense, other than an offense identified in subdivision a or b, if the department in the case of a group child care applicant, provider,

or group child care supervisor, or household member, or the provider in the case of a staff member or emergency designee, determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

**SECTION 25:** Subsection 2 of section 75-03-09-29 is amended as follows:

**75-03-09-29. Correction of violations.**

2. Violations noted in a correction order must be corrected:
  - a. For a violation of North Dakota Century Code section 50-11.1-02.2; section 75-03-09-04; subdivision i of subsection 1 of section 75-03-09-08; section 75-03-09-09; subsection 4 or ~~7~~8 of section 75-03-09-12; subsection 3, 6, 9, or 10 of section 75-03-09-18; section 75-03-09-23; or subsection 1 of section 75-03-09-24, within twenty-four hours;
  - b. For a violation requiring the hiring of a group child care supervisor with those qualifications set forth in section 75-03-09-10, within sixty days;
  - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-09-17, within sixty days;
  - d. For a violation that requires substantial building remodeling, construction, or change, within sixty days; and
  - e. For all other violations, within twenty days.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3



**CHAPTER 75-03-10  
CHILD CARE CENTER EARLY CHILDHOOD SERVICES**

Section	
75-03-10-01	Purpose [Repealed]
75-03-10-02	Authority and Objective [Repealed]
75-03-10-03	Definitions
75-03-10-04	Effect of Licensing and Display of License
75-03-10-05	Denial or Revocation of License
75-03-10-06	Provisional License
75-03-10-06.1	Restricted License
75-03-10-07	Application for and Nontransferability of Child Care Center License
75-03-10-08	Staffing and Group Size Requirements
75-03-10-09	Duties of Child Care Center Operator
75-03-10-10	Minimum Qualifications of Child Care Center Director
75-03-10-11	Duties of Child Care Center Director
75-03-10-11.1	Minimum Qualifications of Child Care Center Supervisor
75-03-10-11.2	Duties of the Child Care Center Supervisor
75-03-10-12	Minimum Qualifications for All Staff Members Responsible for Caring for or Teaching Children
75-03-10-13	Minimum Health Requirements for All Applicants, Operators, and Staff Members
75-03-10-14	Minimum Qualifications for Volunteers
75-03-10-15	Minimum Standards for Provision of Transportation
75-03-10-16	Minimum Emergency Evacuation and Disaster Plan
75-03-10-17	Fire Inspections
75-03-10-18	Minimum Sanitation and Safety Requirements
75-03-10-19	Minimum Requirements Regarding Space and Lighting
75-03-10-20	Program Requirements
75-03-10-21	Minimum Standards for Food and Nutrition
75-03-10-22	Records
75-03-10-23	Discipline - Punishment Prohibited
75-03-10-24	Specialized Types of Care and Minimum Requirements
75-03-10-25	Minimum Requirements for Care of a Child With Special Needs
75-03-10-26	Minimum Provisions Regarding Emergency Care for Children
75-03-10-27	Effect of Conviction on Licensure and Employment
75-03-10-28	Child Abuse and Neglect Decisions
75-03-10-29	Correction of Violations
75-03-10-30	Fiscal Sanctions
75-03-10-31	Appeals
75-03-10-32	Penalties [Repealed]

**SECTION 26:** Section 75-03-10-08 is amended as follows:

**75-03-10-08. Staffing and group size requirements.**

1. The number of staff members and their responsibilities must reflect program requirements and individual differences in the needs of the children enrolled, and may permit mixed-age groups, if necessary. Service personnel engaged in housekeeping and food preparation may not be counted in the child to staff ratio for periods of time when they are engaged in housekeeping or food preparation.
2. a. The operator shall ensure that the center is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at one time. The minimum ratio of staff members responsible for caring for or teaching children to children in child care centers and maximum group size of children must be:
  - (1) For children less than eighteen months of age, one staff member may care for four children, a ratio of .25 in decimal form, with a maximum group size of ten children;
  - (2) For children eighteen months of age to thirty-six months of age, one staff member may care for five children, a ratio of .20 in decimal form, with a maximum group size of fifteen children;
  - (3) For children three years of age to four years of age, one staff member may care for seven children, a ratio of .14 in decimal form, with a maximum group size of twenty children;
  - (4) For children four years of age to five years of age, one staff member may care for ten children, a ratio of .10 in decimal form, with a maximum group size of twenty-five children;
  - (5) For children five years of age to six years of age, one staff member may care for twelve children, a ratio of .08 in decimal form, with a maximum group size of thirty children; and
  - (6) For children six years to twelve years of age, one staff member may care for twenty children, a ratio of .05 in decimal form, with a maximum group size of forty children.
- b. The provisions in subdivision a relating to maximum group size do not apply to operators licensed prior to January 1, 1999, if those operators are otherwise qualified to operate a child care center. Any operator who discontinues operation of the child care center under a valid license or who fails to renew the operator's license upon its expiration will not be exempt subsequently from the

requirements relating to maximum group size. The exemption for operators licensed prior to January 1, 1999, will end on January 1, 2015, after which time all operators will be subject to the requirements of this subsection.

- c. When there are mixed-age groups in the same room, the operator shall ensure:
    - (1) The maximum group size is consistent with the:
      - (a) Age of the majority of the children; or
      - (b) Highest number of children in the youngest age group;
    - (2) When children age zero to eighteen months are in the mixed-age group, the maximum group size does not exceed ten children;
    - (3) The mixed-age group does not exceed the acceptable ratio pursuant to subdivision d of subsection 2 of section 75-03-10-08 and the maximum number of children per staff member pursuant to subdivision a of subsection 2 of section 75-03-10-08; and
    - (4) If the mixed-age group contains the maximum number of children per staff member pursuant to subdivision a of subsection 2 of section 75-03-10-08, the mixed-age group may only contain additional older children.
  - d. When there is a mixed-age group, the number of children in each age category is multiplied by the corresponding ratio number, converted to decimal form, and carried to the nearest hundredth. To determine the number of staff members responsible for caring for or teaching children necessary at any given time, numbers of staff members for all age categories are added, and any fractional staff member count is then rounded to the next highest whole number whenever the fractional staff member count amounts to thirty-five hundredths or more. If lower than thirty-five hundredths, the fractional amount is dropped.
3. If a child with special needs is admitted to the child care center, the child's developmental age level must be used to determine into which age group the child should be placed for determining child to staff ratios.

4. The operator shall ensure that a child with special needs requiring more than usual care and supervision has adequate care and supervision without adversely affecting care provided to the other children in the child care center.
5. Children using the child care center for a McGruff safe house, a block house, or a certified safe house program during an emergency are not counted under this section.
- ~~6. An operator licensed for at least two years may apply for a waiver of the required ratio and maximum group size, not to exceed .25 decimal point per group. The department shall consider demonstration of need, health and safety of children, age of children, number of children, and licensing history of the operator in determining whether to approve the application for a waiver. The department may deny an application for waiver and may revoke a waiver granted under this subsection. The decision to deny or revoke a waiver is not an appealable decision. The department shall review each waiver granted under this subsection at least every twelve months to determine if the circumstances which led to granting the waiver continue to exist.~~

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2013; April 1, 2014; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02.1, 50-11.1-04, 50-11.1-08

**SECTION 27:** Section 75-03-10-09 is amended as follows:

**75-03-10-09. Duties of child care center operator.**

The operator is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator shall:

1. Designate a qualified director and shall delegate appropriate duties to the director:
  - a. The operator shall ensure that the director or a designated acting director is present at the center at least sixty percent of the time when the center is open;
  - b. The operator shall ensure that the individual designated as an acting director meets the qualifications of a supervisor and for an ongoing period of more than thirty days meets the qualifications of a director; and

- c. The operator shall ensure that when the director and acting director are not present at the center, a person who meets the qualifications of a supervisor is on duty;
2. Apply for a license for the child care center;
3. Provide an environment that is physically and socially adequate for children;
4. Notify the authorized agent of any major changes in the operation, ownership, or governing body of the child care center, including staff member changes;
5. Ensure that liability insurance is carried to insure against bodily injury and property damage for the child care center;
6. Formulate written policies and procedures for the operation of the child care center. Policies must include:
  - a. Hiring practices and personnel policies for staff members;
  - b. Methods for obtaining references and employment histories of staff members;
  - c. Methods of conducting staff member performance evaluations;
  - d. Children's activities, care, and enrollment;
  - e. The responsibilities and rights of staff members and parents;
  - f. An explanation of how accidents and illnesses will be handled;
  - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
  - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
  - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
  - j. Procedures for accountability when a child fails to arrive as expected at the child care; and
  - k. Transportation procedures, if the operator provides transportation;

7. Maintain records of enrollment, attendance, health, and other required records;
8. ~~Select~~May select an emergency designee;
9. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the child care center;
10. Ensure that parents of enrolled children and other interested parties are informed of the goals, policies, procedures, and content of the child care center's program;
11. Ensure that parents of enrolled children:
  - a. Are advised of the center's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director;
  - b. Receive written notice of the effective date, duration, scope, and impact of any significant changes in the center's services; and
  - c. Receive notice that they may request written daily reports for their child, including details regarding eating, napping, and diapering;
12. Ensure that the center is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
13. Ensure that the child care center has sufficient qualified staff members available to substitute for regularly assigned staff who are sick, on leave, or otherwise unable to be on duty;
14. Ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
15. Provide parents with unlimited access and opportunities for parents to observe their children while in care, and provide parents with regular opportunities to meet with staff members responsible for caring for or teaching children before and during enrollment to discuss their children's needs. Providing unlimited access does not prohibit a child care center from locking its doors while children are in care;
16. Provide parents, upon request, with progress reports on their children;

17. Report immediately, as a mandatory reporter, suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
18. ~~Ensure, whenever services are provided, that at least one staff member, emergency designee, or substitute staff is on duty who meets the current certification requirements in cardiopulmonary resuscitation by the American heart association, American red cross, or other department-approved cardiopulmonary resuscitation training programs approved by the department, and is certified or trained in a department-approved program to provide first aid;~~
19. Ensure that staff members responsible for caring for or teaching children under the age of eighteen are supervised by an adult staff member;
- ~~20.~~19. Meet the qualifications of the director set forth in section 75-03-10-10, if the operator is also the director;
- ~~21.~~20. Report to the authorized agent within twenty-four hours:
  - a. A death or a serious accident or illness requiring hospitalization of a child while in the care of the child care center or attributable to care received in the child care center;
  - b. An injury to any child which occurs while the child is in the care of the child care center and which requires medical treatment;
  - c. Poisonings or errors in the administering of medication;
  - d. Closures or relocations of child care programs due to emergencies; and
  - e. Fire that occurs or explosions that occur in or on the premises of the child care center;
- ~~22.~~21. Ensure that children do not depart from the child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once the child leaves the child care premises; and
- ~~23.~~22. Ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

**History:** Effective December 1, 1981; amended effective July 1, 1984; January 1, 1987; September 1, 1990; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 28:** Section 75-03-10-10 is amended as follows:

**75-03-10-10. Minimum qualifications of child care center director.**

A director shall:

1. Be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care;
2. Possess knowledge or experience in management and interpersonal relationships;
3. Hold at least one of the following qualifications, in addition to those set out in subsection 1:
  - a. A bachelor's degree in the field of early childhood education or child development;
  - b. A bachelor's degree with at least six months of experience in a child care center or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education or child development;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;
  - c. An associate's degree in the field of early childhood education or child development with at least six months of experience in a child care center or similar setting;
  - d. An associate's degree with at least one year of experience in a child care center or similar setting and one of the following:



- (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education or child development;
  - (2) One hundred twenty hours of department-approved early childhood training; or
  - (3) A director's credential approved by the department;
- e. A teaching certificate in elementary education with at least six months of experience in a child care center or similar setting;
  - f. A current certification as a child development associate or successful completion of a department-approved diploma program with emphasis in early childhood or child care, with at least one year of experience in a child care center or similar setting; or
  - g. Certification from a Montessori teacher training program with at least one year of experience in a Montessori school, child care center, or similar setting and at least one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved child development or early childhood education;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department; and
4. Certify annual completion of a minimum of thirteen hours of department-approved training related to child care, including one hour on sudden infant death prevention ~~if the prior to director provides care~~having unsupervised access to infants. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of sudden infant death prevention annual training.

**History:** Effective December 1, 1981; amended effective January 1, 1987; September 1, 1990; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 29:** Subsection 1 of section 75-03-10-12 is amended as follows:

**75-03-10-12. Minimum qualifications for all staff members responsible for caring for or teaching children.**

1. Staff members:
  - a. Shall be at least fourteen years of age, provided that each staff member under age sixteen has written parental consent for employment as a staff member, and the employment arrangements comply with North Dakota Century Code chapter 34-07;
  - b. Shall be individuals of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care;
  - c. Shall certify completion of a department-approved basic child care course within ~~the first three months~~ninety days of employment, ~~with the exception of substitute staff members and emergency designees;~~
  - d. Shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department;
  - e. Shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in first aid by a program approved by the department;
  - f. Shall certify the staff member's own annual successful completion of the department-approved training related to child care as set forth below:
    - (1) If working thirty or more hours per week, certify thirteen hours of department-approved training annually;
    - (2) If working fewer than thirty hours and more than twenty hours per week, certify eleven hours of department-approved training annually;
    - (3) If working fewer than twenty hours and at least ten hours per week, certify nine hours of department-approved training annually;

- (4) If working fewer than ten hours per week, certify seven hours of department-approved training annually;
- (5) Completion of one hour on sudden infant death prevention if ~~the prior to~~ staff member provides care having unsupervised access to infants;
- (6) The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of sudden infant death prevention annual training; and
- (7) Substitute staff and emergency designees are exempt from the annual training requirement with the exception of subdivision c and paragraph 5; and

e.g. Shall not place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health;

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 30:** Section 75-03-10-16 is amended as follows:

**75-03-10-16. Minimum emergency evacuation and disaster plan.**

1. The operator shall establish and post an emergency disaster plan for the safety of the children in care. The operator shall develop written disaster plans in cooperation with local emergency management agencies. The plan must include:
  - a. Emergency procedures, including the availability of emergency food, water, and first-aid supplies;
  - b. What will be done if parents are unable to pick up their child as a result of the emergency; and
  - c. What will be done if the child care center has to be relocated or must close as a result of the emergency.
2. Fire and emergency evacuation drills must be performed ~~in accordance with the state fire marshal's guidelines~~ monthly.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 31:** Section 75-03-10-18 is amended as follows:

**75-03-10-18. Minimum sanitation and safety requirements.**

1. The operator shall ensure that the state department of health conducts an annual inspection. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the authorized agent.
2. The operator shall ensure that the child care center bathroom sinks, toilets, tables, chairs, and floors are cleaned daily.
3. ~~Cots and mats must be designated individually, and cleaned and sanitized at least weekly.~~ The operator shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the operator shall ensure:
  - a. Pillows and mattresses have clean coverings.
  - b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
  - c. If beds, cots, mats, or cribs are used by different children use the same cots or mats, they must be cleaned thoroughly and sanitized between each use. The operator shall ensure that, sheets and pillowcases are laundered before use by other children.
  - d. Cots, mats, and cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children.
  - e. That cots, mats, and cribs are single occupancy.
  - f. Each bed, cot, or mat has sufficient blankets available.
  - g. That aisles between beds, cots, mats, cribs, and portable cribs are a minimum space of two feet [58.4260.96 centimeters] and are kept free of all obstructions while beds, cots, mats, cribs, and portable cribs are occupied. The operator shall provide

- h. Provide separate storage for personal blankets or coverings.
  - i. That mattresses and sheets are properly fitted.
4. The operator shall ensure that the child care center's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and the staff members.
  5. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, single-use or individually designated cloth towels, or paper towels must be available at each sink.
  6. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys and equipment are kept clean and in sanitary condition. Books and other toys are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
  7. The operator shall ensure that the child care center ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
  8. The operator shall ensure that the garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The operator shall keep indoor garbage in covered containers. The operator may allow paper waste to be kept in open waste containers.
  9. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
  10. The operator shall ensure that potential hazards, such as noncovered electrical outlets, guns, household cleaning chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall

ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.

11. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.
12. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
13. The operator shall take steps to keep the child care center free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the child care center. Insect repellent may be applied outdoors on children with written parental permission.
14. The operator shall ensure that exit doorways and pathways are not blocked.
15. If the center is providing care to children in wheelchairs, the operator shall ensure doors have sufficient width and construction to accommodate any children in wheelchairs who are receiving care at the child care center.
16. The operator shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
17. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
18. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by the local fire authorities. During the heating season when the child care center is occupied by children, the room temperature may not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
19. The operator shall ensure that all child care center buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chipped condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in

excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the state department of health.

20. The operator shall ensure that personal items including combs, pacifiers, and toothbrushes are individually identified and stored in a sanitary manner.
21. Pets and animals.
  - a. The operator shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
  - b. The operator shall ensure that animals are maintained in good health and appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
  - c. The operator shall ensure parents are aware of the presence of pets and animals in the child care center.
  - d. The operator shall notify parents immediately if a child is bitten or scratched and skin is broken.
  - e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall remove the pet or animal immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
  - f. The operator shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The operator shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
  - g. The operator shall ensure that indoor and outdoor areas accessible to children are free of animal excrement.

- h. The operator shall ensure that the child care center is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.
- 22. Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the child care center and shall empty, clean, and sanitize wading pools daily.
- 23. All swimming pools used by children must be approved annually by the local health unit.
- 24. Aquatic activities:
  - a. The operator shall have policies that ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the program may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
  - b. The operator may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
- 25. Water supply:
  - a. The operator shall ensure that the child care center has a drinking supply from an approved community water system or from a source tested and approved annually by the state department of health.
  - b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking cups.
  - c. The child care center must have hot and cold running water. The water in the faucets used by children may not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
- 26. Toilet and sink facilities:
  - a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members.
  - b. Toilets must be located in rooms separated from those used for cooking, eating, and sleeping. A minimum of one flush toilet must



- be provided for each fifteen children, excluding those children who are not toilet trained.
- c. The operator shall ensure that separate restrooms are provided for boys and girls six years of age and over, and partitions are installed to separate toilets in these restrooms.
  - d. The operator shall provide child-sized toilet adapters, training chairs, or potty chairs for use by children who require them. Training chairs must be emptied promptly and thoroughly cleaned and sanitized after each use.
  - e. The operator shall provide at least one handwashing sink per toilet room facility or diapering area.
  - f. The operator shall provide safe step stools to allow children to use standard-size toilets and sinks or the operator shall ensure the availability of child-size toilets and sinks.
27. The operator of a child care center not on a municipal or public water supply or wastewater disposal system shall ensure the child care center's sewage and wastewater system has been approved by the state department of health.
28. Laundry:
- a. If the child care center provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation.
  - b. The operator shall ensure that soiled linens are placed in closed containers or hampers during storage and transportation.
  - c. The operator shall ensure that in all new or extensively remodeled child care centers, the handling, sorting, or washing of soiled linens or blankets takes place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas.
  - d. The operator shall ensure that in an existing child care center where physical separation of laundry and kitchen areas is impractical, procedures are developed that prohibit the washing or transportation of laundry while meals are being prepared or served.
  - e. The operator shall ensure that sorting of laundry is not allowed in food preparation, serving, or kitchen areas.

- f. If the child care center provides laundry service for common use linens, towels, or blankets, or if different children's clothing, towels, or blankets are laundered together, the operator shall ensure that water temperature must be greater than one hundred forty degrees Fahrenheit [60 degrees Celsius].
- g. The operator shall ensure that if the water temperature is less than one hundred forty degrees Fahrenheit [60 degrees Celsius], bleach or sanitizer is used in the laundry process during the rinse cycle or the center shall use a clothes dryer that reaches a temperature of at least one hundred forty degrees Fahrenheit [60 degrees Celsius].

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 32:** Section 75-03-10-24 is amended as follows:

**75-03-10-24. Specialized types of care and minimum requirements.**

- 1. Infant care.
  - a. Environment and interactions.
    - (1) A child care center serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
    - (2) The operator shall ensure that each infant receives positive stimulation and verbal interaction with a staff member responsible for caring for or teaching children or emergency designee such as the staff member or emergency designee holding, rocking, talking with, or singing to the child.
    - (3) A staff member shall respond to comfort an infant's or toddler's physical and emotional distress:
      - (a) Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and

- (b) Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
  - (4) The operator shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, uncluttered area.
  - (5) Staff members responsible for caring for or teaching children shall take children outdoors or to other areas within the child care center for a part of each day to provide children with some change of physical surroundings and to allow them to interact with other children.
  - (6) The operator shall ensure that low chairs and tables, high chairs with trays, or other age-appropriate seating systems are provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.
  - (7) The operator shall ensure that infants are not shaken or jostled.
  - (8) The operator shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.
- b. Feeding.
- (1) The operator shall ensure that infants are provided developmentally appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six months of age, unless otherwise instructed in writing by the infant's parent or medical provider in writing.
  - (2) The operator shall ensure that infants are fed only the specific brand of iron-fortified infant formula requested by the parent. Staff members shall use brand-specific mixing instructions unless alternative mixing instructions are directed by a child's medical provider in writing.
  - (3) The operator shall ensure that mixed formula that has been unrefrigerated more than one hour is discarded.

- (4) The operator shall ensure that frozen breast milk is thawed under cool running tap water, or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent within twenty-four hours.
- (5) The operator shall ensure that an infant is not fed by propping the bottle.
- (6) The operator shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.
- (7) The operator shall ensure that staff members responsible for caring for or teaching children, emergency designee, or substitute staff are within sight and hearing range of an infant during the infant's feeding or eating process.

c. Diapering.

- (1) The operator shall ensure that there is a designated cleanable diapering area, located separately from food preparation and serving areas in the child care center if children requiring diapering are in care.
- (2) The operator shall ensure that diapers are changed promptly and in a sanitary manner when needed.
- (3) Diapers must be changed on a nonporous surface area which must be cleaned and disinfected after each diapering.
- (4) The operator shall ensure that soiled or wet diapers are stored in a sanitary, covered container, separate from other garbage and waste until removed from the child care center.

d. Sleeping.

- (1) The operator shall ensure that infants are placed on their back initially when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise. The infant's face must remain uncovered when sleeping.
- (2) The operator shall ensure that infants sleep in a crib with a firm mattress or in a portable crib with the manufacturer's pad that meets consumer product safety commission standards.

- (3) The operator shall ensure that if an infant falls asleep while not in a crib, the infant must be moved immediately to a crib or portable crib, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise.
- (4) Water beds, adult beds, sofas, pillows, soft mattresses, and other soft surfaces are prohibited as infant sleeping surfaces.
- (5) The operator shall ensure that all items are removed from and that no toys or objects are hung over or attached to the crib or portable crib when an infant is sleeping or preparing to sleep. With written parental permission, the provider may place one individual infant blanket or sleep sack, a pacifier, and a security item that does not pose a risk of suffocation to the infant in the crib or portable crib while the infant is sleeping or preparing to sleep.
- (6) ~~The operator shall ensure that mattresses and sheets are properly fitted. The operator shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when used by different infants, or at least weekly.~~
- (7) —The operator shall ensure that a staff member responsible for caring for or teaching children checks on sleeping infants regularly and that a monitor is in the room with the infants, unless a staff member is in the room with the infants while the infants are sleeping.

- e. The operator shall ensure that parents of each infant receive a written daily report detailing the infant's sleeping and eating processes for the day, and the infant's diapering schedule for the day.

2. Night care.

- a. Any child care center offering night care shall provide program modifications for the needs of children and their parents during the night.
- b. In consultation with parents, attention must be given by the staff member responsible for caring for or teaching children to provide a transition into this type of care appropriate to the child's needs.

- c. The operator shall encourage parents to leave their children in care and pick them up before and after their normal sleeping period when practical, to ensure minimal disturbance of the child during sleep, with consideration given to the parent's work schedule.
  - d. The operator shall ensure that children under the age of six are supervised when bathing.
  - e. The operator shall ensure that comfortable beds, cots, or cribs, complete with a mattress or pad, are available and shall ensure:
    - ~~(1) Pillows and mattresses have clean coverings;~~
    - ~~(2) Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, but at least weekly. If beds are used by different children, sheets and pillowcases are laundered before use by other children; and~~
    - ~~(3) Each bed or cot has sufficient blankets available.~~
  - f. The operator shall require each child in night care to have night clothing and a toothbrush marked for identification.
  - g. The operator shall ensure that during sleeping hours, staff members are awake and within hearing range to provide for the needs of children and to respond to an emergency.
3. Drop-in child care.
- a. If a child care center serves drop-in children, schoolchildren, or before-school and afterschool children, the child care center must be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the program and to maintain the proper staff member to child ratio.
  - b. The operator shall ensure that the program reflects the individual needs of the children who are provided drop-in care.
  - c. The operator shall ensure that admission records comply with all enrollment requirements contained in section 75-03-10-22, except the immunization verification record requirement.
  - d. The operator shall ensure that admittance procedures provide for a period of individual attention for the child to acquaint the child with the child care center, its equipment, and the staff members.

- e. A child care center may not receive drop-in care or part-time children who, when added to the children in regular attendance, cause the child care center to exceed the total number of children for which the child care center is licensed.
4. An operator shall ensure that a child care center serving only drop-in care children complies with this chapter, but is exempt from the following provisions:
- a. The maximum group size requirements listed in section 75-03-10-08;
  - b. Subsections 5, 9, 12, 13, 14, 15, and 19 of section 75-03-10-20; subsections 6 and 7 of section 75-03-10-21; subdivision f of subsection 2 of section 75-03-10-22; and subsection 1 of section 75-03-10-25; and
  - c. A child care center serving only drop-in care children is exempt from the outdoor space requirements.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 33:** Subsection 1 of section 75-03-10-27 is amended as follows:

**75-03-10-27. Effect of conviction on licensure and employment.**

- 1. An applicant, operator, director, or supervisor may not be, and a child care center may not employ or allow, in any capacity that involves or permits contact between the emergency designee, substitute staff member, or staff member and any child cared for by the child care center, an operator, emergency designee, substitute staff member, director, supervisor, or staff member who has been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or ~~12.1-40, human trafficking~~ 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition;

12.1-20-03.1, continuous sexual abuse of child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; ~~or 14-09-22, abuse or neglect of a child; or~~ 14-09-22.1, neglect of child;

- b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
- c. An offense other than an offense identified in subdivision a or b, if the department in the case of a child care center applicant, operator, director, or supervisor, or the operator in the case of an emergency designee, substitute staff, or staff member, determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

**SECTION 34:** Section 75-03-10-30 is amended as follows:

**75-03-10-30. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of North Dakota Century Code chapter 50-11.1; subsection 2 of section 75-03-10-08; subsection 12 of section 75-03-10-09; section 75-03-10-17; subsection 6, 9, or 13 of section 75-03-10-18; or section 75-03-10-19, 75-03-10-23, 75-03-10-27, or 75-03-10-28, for each day that the operator has not verified correction after the allowable time for correction of violations ends.
2. The department shall assess a fiscal sanction of fifteen dollars per day for each violation of section 75-03-10-10, 75-03-10-12, or 75-03-10-15; subsection 2, 3, 4, 7, 8, 11, or 19 ~~or subdivision e of subsection 24 of~~ section 75-03-10-18; subsection 3, 8, or 19 of section 75-03-10-20; or



subdivision a of subsection 1 of section 75-03-10-24, for each day that the operator has not verified correction after the allowable time for correction of violations ends.

3. The department shall assess a fiscal sanction of five dollars per day for each violation of any other provision of this chapter, for each day that the operator has not verified correction after the allowable time for correction of violations ends.

**History:** Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-07.4, 50-11.1-08

**CHAPTER 75-03-11  
PRESCHOOL EARLY CHILDHOOD SERVICES**

Section	
75-03-11-01	Purpose [Repealed]
75-03-11-02	Authority and Objective [Repealed]
75-03-11-03	Definitions
75-03-11-04	Effect of Licensing and Display of License
75-03-11-05	Denial or Revocation of License
75-03-11-06	Provisional License
75-03-11-06.1	Restricted License
75-03-11-07	Application for and Nontransferability of Preschool License
75-03-11-08	Duties of Preschool Operator
75-03-11-08.1	Minimum Qualifications of a Preschool Director
75-03-11-08.2	Minimum Qualifications of a Preschool Teacher
75-03-11-08.3	Minimum Qualifications of a Preschool Assistant
75-03-11-09	Staffing Requirements
75-03-11-10	Duties of a Preschool Director
75-03-11-11	Duties of a Preschool Teacher
75-03-11-12	Minimum Qualifications of Volunteers
75-03-11-13	Minimum Health and Training Requirements for Applicants, Operators, and Staff Members
75-03-11-14	Minimum Requirements for Facility
75-03-11-15	Minimum Standards for Provision of Transportation
75-03-11-16	Minimum Emergency Evacuation and Disaster Plan
75-03-11-17	Fire Inspections
75-03-11-18	Minimum Sanitation and Safety Requirements
75-03-11-19	Minimum Requirements Regarding Space
75-03-11-20	Program Requirements
75-03-11-21	Minimum Standards for the Provision of Snacks
75-03-11-22	Records
75-03-11-23	Discipline - Punishment Prohibited
75-03-11-24	[Reserved]
75-03-11-25	Minimum Requirements for Care of a Child With Special Needs
75-03-11-26	Minimum Provisions Regarding Emergency Care for Children
75-03-11-27	Effect of Conviction on Licensure and Employment
75-03-11-28	Child Abuse and Neglect Determinations
75-03-11-29	Correction of Violations
75-03-11-30	Fiscal Sanctions
75-03-11-31	Appeals

**SECTION 35:** Section 75-03-11-08 is amended as follows:

**75-03-11-08. Duties of preschool operator.**

The operator of a preschool is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator shall:

1. Designate a qualified director, delegate appropriate duties to the director, and shall:
  - a. Ensure that the preschool director or designated acting director is present at the preschool at least sixty percent of the time that the preschool is open;
  - b. Ensure that the individual designated as an acting director for an ongoing period of more than thirty days meets the qualifications of a preschool director; and
  - c. Ensure that the individual designated as a teacher for more than thirty-two hours per month meets the qualifications of a preschool teacher;
2. Apply for a license for the preschool;
3. Possess knowledge or experience in management and interpersonal relations;
4. Notify the authorized agent of any major changes in the operation or in the ownership or governing body of the preschool, including staff member changes;
5. Ensure that liability insurance against bodily injury and property damage for the preschool is carried;
6. Formulate written policies and procedures for the operations of the preschool. Policies must include:
  - a. Hiring practices and personnel policies for staff members;
  - b. Methods for obtaining references and employment histories of staff members;
  - c. Methods of conducting staff member performance evaluations;
  - d. Children's activities, care, and enrollment;
  - e. The responsibilities and rights of staff members and parents;
  - f. An explanation of how accidents and illnesses will be handled;

- g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
  - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
  - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
  - j. Procedure for accountability when a child fails to arrive as expected at the preschool; and
  - k. Transportation procedures, if the operator provides transportation;
7. Maintain records of enrollment, attendance, health, financial, and other required records;
  8. Be responsible for all preschool staff members, teachers, preschool assistants, substitute staff members, emergency designees, volunteers, or others who provide services in the preschool;
  9. Report immediately, as a mandatory reporter, any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
  10. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the preschool;
  11. Ensure preadmission visits for children and their parents are offered so the preschool's program, fees, operating policies, and procedures can be viewed and discussed;
  12. Ensure that there are signed written agreements with the parents of each child which specify the fees to be paid, methods of payments, and policies regarding delinquency of fees;
  13. Ensure the preschool is sufficiently staffed at all times to meet the child and staff member ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
  14. Provide parents, upon request, with progress reports on their children and provide unlimited opportunities for parents to observe their children while in care;

15. Provide parents with the name of the preschool operator, the director, teachers, preschool assistants, staff members, substitute staff members, and the emergency designee;
16. ~~Ensure, whenever services are provided, that at least one staff member, substitute staff member, or emergency designee, is on duty who meets current certification requirements in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other cardiopulmonary resuscitation training programs approved by the department and is certified or trained in a department-approved program to provide first aid;~~
17. ~~Meet the qualifications of the director set forth in section 75-03-11-08.1 if the operator is also the director;~~
17. Report to the authorized agent within twenty-four hours:
  - a. A death or serious accident or illness requiring hospitalization of a child while in the care of the preschool or attributable to care received in the preschool;
  - b. An injury to any child which occurs while the child is in the care of the preschool which requires medical treatment;
  - c. Poisonings or errors in the administering of medication;
  - d. Closures or relocations due to emergencies; and
  - e. Fire that occurs or explosions that occur in or on the premises of the preschool;
18. Ensure that children do not depart from the child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once the child leaves the child care premises; and
19. Ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996;

amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 36:** Section 75-03-11-08.1 is amended as follows:

**75-03-11-08.1. Minimum qualifications of a preschool director.**

1. A preschool director shall be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care.
2. The director shall hold at least one of the following qualifications, in addition to those set out in subsection 1:
  - a. A bachelor's degree in the field of early childhood education with eight or more weeks of supervised student teaching experience in a preschool or similar setting;
  - b. A bachelor's degree with at least six months of experience in a preschool or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education or child development;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;
  - c. An associate degree in the field of early childhood education or child development with at least six months of experience in a preschool or similar setting;
  - d. An associate's degree with at least one year of experience in a preschool or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education or child development;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;

- e. Current certification as a child development associate or similar status, with at least one year of experience in a preschool or similar setting; or
- f. Certification from a Montessori teacher training program with at least one year of experience in a Montessori school, preschool, or similar setting.

**History:** Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 37:** Section 75-03-11-08.2 is amended as follows:

**75-03-11-08.2. Minimum qualifications of a preschool teacher.**

A teacher shall:

- 1. Be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care and early childhood education.
- 2. Hold at least one of the following qualifications:
  - a. A bachelor's degree with at least eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education or child development;
  - b. A teaching certificate in elementary education or kindergarten endorsement;
  - c. An associate's degree in the field of early childhood education or child development;
  - d. An associate's degree with at least one year of experience in a preschool or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education or child development; or
    - (2) One hundred twenty hours of department-approved early childhood training;

- e. Current certification as a child development associate or similar status; or
  - f. Certification from a Montessori teacher training program.
3. Meet the qualifications of the director and perform the function of a director as defined in section 75-03-11-08.1, if the teacher is also the director.

**History:** Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 38:** Section 75-03-11-13 is amended as follows:

**75-03-11-13. Minimum health and training requirements for applicants, operators, and staff members.**

- 1. If the physical, cognitive, social, or emotional health capabilities of an applicant, operator, or staff member appears questionable, the department may require the individual to present evidence of the individual's ability to provide the required care based on a formal evaluation. The department is not responsible for the costs of any required evaluation.
- 2. A staff member may not use or be under the influence of any alcoholic beverages or illegal drugs while children are in care.
- 3. A staff member may not place a child in an environment that is harmful or dangerous to the child's physical, cognitive, social, or emotional health.
- 4. All staff members responsible for caring for or teaching children shall certify completion of department-approved training related to child care annually.
  - a. A staff member working thirty or more hours per week shall certify a minimum of thirteen hours of department-approved training annually.
  - b. A staff member working fewer than thirty hours and at least twenty hours per week shall certify a minimum of eleven hours of department-approved training annually.
  - c. A staff member working fewer than twenty hours and at least ten hours a week shall certify a minimum of nine hours of department-approved training annually.



- d. A staff member working fewer than ten hours per week shall certify a minimum of seven hours of department-approved training annually.
  - e. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course.
5. All staff members responsible for caring for or teaching children shall ~~successfully complete~~certify completion of a department-approved basic child care course within ~~the first three months~~ninety days of employment, ~~with the exception of substitute staff and emergency designees.~~
  6. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department.
  7. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in first aid by a program approved by the department.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 39:** Section 75-03-11-14 is amended as follows:

**75-03-11-14. Minimum requirements for facility.**

1. The preschool must be properly lighted. If the lighting of the preschool appears questionable, the department may require the operator to obtain additional lights so that a minimum of sixty-five foot-candles of light is used in the areas generally used for children's activities.
2. Water supply.
  - a. The operator shall ensure that the preschool has a drinking water supply from an approved community water system or from a source tested and approved annually by the state department of health;

- b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual single-service drinking cups; and
    - c. The preschool must have hot and cold running water. The water in the faucets used by children must not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
  3. Toilet and sink facilities:
    - a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members;
    - b. The operator shall provide a minimum of one flush toilet for each fifteen children, excluding those children who are not toilet trained;
    - c. The operator shall provide at least one handwashing sink per toilet room facility; and
    - d. The operator shall provide hand soap, sanitary hand-drying equipment, single-use or individually designated cloth towels, or paper towels near handwashing sinks.
  4. The operator of a preschool not on a municipal or public water supply or wastewater disposal system shall ensure the preschool's sewage and wastewater system has been approved by the state department of health.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 40:** Section 75-03-11-16 is amended as follows:

**75-03-11-16. Minimum emergency evacuation and disaster plan.**

1. Each operator shall establish and post an emergency disaster plan for the safety of the children in care. Written disaster plans must be developed in cooperation with local emergency management agencies. The plan must include:
  - a. Emergency procedures, including the availability of emergency food, water, and first-aid supplies;

- b. What will be done if parents are unable to pick up their child as a result of the emergency; and
  - c. What will be done if the preschool has to be relocated or must close as a result of the emergency.
2. Fire and emergency evacuation drills must be performed ~~in accordance with the local fire department's guidelines~~ monthly.

**History:** Effective January 1, 2011; amended effective April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 41:** Subsection 1 of section 75-03-11-27 is amended as follows:

**75-03-11-27. Effect of conviction on licensure and employment.**

- 1. An applicant, operator, or director may not be, and a preschool may not employ or allow, in any capacity that involves or permits contact between the teacher, assistant, emergency designee, or staff member and any child cared for by the preschool, an operator, director, staff member, teacher, assistant, or emergency designee, who has been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or ~~12.1-40, human trafficking~~ 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; ~~or 14-09-22, abuse or neglect of a child; or 14-09-22.1, neglect of child;~~
  - b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or

- c. An offense, other than an offense identified in subdivision a or b, if the department in the case of an applicant, operator, or director, or the operator in the case of a staff member, teacher, assistant, substitute staff member, or emergency designee, determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.

**History:** Effective January 1, 1999; amended effective January 2, 2011; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

**CHAPTER 75-03-11.1**  
**SCHOOL-AGE CHILD CARE PROGRAM EARLY CHILDHOOD SERVICES**

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75-03-11.1-08.3	Minimum Qualifications of School-Age Child Care Program Supervisor
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75-03-11.1-08.6	Duties of School-Age Child Care Program Supervisor
75-03-11.1-09	Staffing and Group Size Requirements
75-03-11.1-10	[Reserved]
75-03-11.1-11	[Reserved]
75-03-11.1-12	[Reserved]
75-03-11.1-13	Minimum Health Requirements for All Applicants, Operators, and Staff Members
75-03-11.1-14	[Reserved]
75-03-11.1-15	Minimum Standards for Provision of Transportation
75-03-11.1-16	Minimum Emergency Evacuation and Disaster Plan
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75-03-11.1-26	Minimum Provisions Regarding Emergency Care for Children
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75-03-11.1-28	Child Abuse and Neglect Decisions
75-03-11.1-29	Correction of Violations
75-03-11.1-30	Fiscal Sanctions

75-03-11.1-31 Appeals  
75-03-11.1-32 Appeals [Repealed]

**SECTION 42:** Section 75-03-11.1-08 is amended as follows:

**75-03-11.1-08. Duties of school-age child care program operator.**

The operator of a school-age child care program is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator:

1. Shall designate a qualified director, shall delegate appropriate duties to the director, and shall:
  - a. Ensure that the director is present at the school-age child care program at least sixty percent of the time that the program is open. If the operation has satellite sites, the director shall be present a combined total of sixty percent of the school-age program's hours of operation.
  - b. Ensure that when the director and designated acting director are not present at the program, a person who meets the qualifications of a supervisor is on duty.
  - c. Ensure that the individual designated as an acting director for longer than thirty consecutive days meets the qualifications of a school-age child care program director.
  - d. Ensure that if the operator of the school-age child care program is also the director, that the operator meets the qualifications of a director set forth in section 75-03-11.1-08.1;
2. Shall apply for a license for the school-age child care program;
3. Shall provide an environment that is physically and socially adequate for children;
4. Shall notify the authorized agent of any major changes in the operation of, or in the ownership or governing body of the school-age child care program, including staff member changes;
5. Shall ensure that the school-age child care program carries liability insurance against bodily injury and property damage;
6. Shall formulate written policies and procedures for the operation of the school-age child care program relating to:

- a. Hiring practices and personnel policies for all staff members;
  - b. Methods for obtaining references and employment histories of staff members;
  - c. Methods of conducting staff member performance evaluations;
  - d. Children's activities, care, and enrollment;
  - e. The responsibilities and rights of staff members and parents;
  - f. An explanation of how accidents and illnesses may be handled;
  - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
  - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
  - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
  - j. Procedure for accountability when a child fails to arrive as expected at the school-age child care program; and
  - k. Transportation procedures, if the operator provides transportation;
7. Shall maintain enrollment, attendance, health, and other required records;
  8. ~~Shall~~May select an emergency designee;
  9. Shall maintain necessary information to verify staff member qualifications and to ensure safe care for the children in the school-age child care program;
  10. Shall inform parents of enrolled children and other interested parties about the school-age child care program's goals, policies, procedures, and content of the program;
  11. Shall advise parents of enrolled children of the school-age child care program's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director;

12. Shall provide parents of enrolled children information regarding the effective date, duration, scope, and impact of any significant changes in the school-age child care program's services;
13. Shall ensure that the school-age child care program is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
14. Shall ensure that the school-age child care program has sufficient qualified staff members available to substitute for regularly assigned staff who are sick, on leave, or who are otherwise unable to be on duty;
15. Shall ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
16. Shall provide parents with unlimited access and opportunities for parents to observe their children while in care and provide parents with regular opportunities to meet with staff members responsible for caring for or teaching children before and during enrollment to discuss their children's needs. Providing unlimited access does not prohibit a school-age child care program from locking its doors when children are in care;
17. Shall provide parents, upon request, with progress reports on their children;
18. Shall ensure that provisions are made for safe arrival and departure of all children, and a system is developed to ensure that children are released only as authorized by the parent;
19. Shall develop a system to ensure the safety of children whose parents have agreed to allow them to leave the program without supervision, which must include, at a minimum:
  - a. Written permission from the parents allowing a child to leave the program without supervision; and
  - b. Consistent sign-out procedures for released children;
20. Shall report immediately, as a mandated reporter, any suspected child abuse or neglect as required by North Dakota Century Code chapter 50-25.1;
21. ~~Shall ensure that a staff member is on duty at all sites who meets current certification requirements in cardiopulmonary resuscitation by the~~



~~American heart association, American red cross, or other department-approved cardiopulmonary resuscitation training program and in a department-approved first-aid program;~~

~~22.~~— Shall meet the qualifications of the director set forth in section 75-03-11.1-08.1 if the operator of the school-age child care program is also the director;

~~23.~~22. Shall ensure that staff members responsible for caring for or teaching children under the age of eighteen are directly supervised by an adult staff member; and

~~24.~~23. Shall report to the authorized agent within twenty-four hours:

- a. The death or serious accident or illness requiring hospitalization of a child while in the care of the program or attributable to care received in the program;
- b. An injury to any child which occurs while the child is in the care of the program and which requires medical treatment;
- c. Poisonings or errors in the administration of medication;
- d. Closures or relocations of child care programs due to emergencies; and
- e. Fire that occurs or explosions that occur in or on the premises of the school-age child care program.

~~25.~~24. Shall ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 43:** Section 75-03-11.1-08.1 is amended as follows:

**75-03-11.1-08.1. Minimum qualifications of a school-age child care program director.**

A director shall:

1. Be an adult of good physical, cognitive, social, and emotional health, and shall use mature when making decisions impacting the quality of child care;
2. Possess knowledge and experience in management and interpersonal relationships;
3. Hold at least one of the following qualifications, in addition to those set out in subsection 1:
  - a. A bachelor's degree in the field of early childhood education, child development, or elementary education;
  - b. A bachelor's degree with at least six months of experience in a school-age child care program or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education, child development, or elementary education;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;
  - c. An associate degree in the field of early childhood education or child development with at least six months of experience in a school-age child care program or similar setting;
  - d. An associate's degree with at least one year of experience in a school-age child care program and one of the following:
    - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved early childhood education, child development, or elementary education;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;
  - e. A current certification as a child development associate or similar status with at least one year of experience in a school-age child care program or similar setting;

- f. Certification from a Montessori teacher training program with one year of experience in a Montessori school, school-age child care program, or similar setting, and at least one of the following:
  - (1) Eight semester hours or twelve quarter hours ~~in~~of department-approved child development, early childhood education, or elementary education;
  - (2) One hundred twenty hours of department-approved early childhood training; or
  - (3) A director's credential approved by the department; and
4. Certify annual completion of a minimum of thirteen hours of department-approved training related to child care. The same training courses may be counted toward licensing annual requirements only if three years has passed since the last completion date of that training course.

**History:** Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 44:** Section 75-03-11.1-08.3 is amended as follows:

**75-03-11.1-08.3. Minimum qualifications of school-age child care program supervisor.**

1. A supervisor shall hold at least one of the following qualifications:
  - a. An associate degree in the field of early childhood development or elementary education, or a secondary degree with an emphasis on middle school or junior high training;
  - b. Current certification as a child development associate;
  - c. Certification from a Montessori teacher training program; or
  - d. A high school diploma or high school equivalency with at least one year of experience in a child care program or similar setting.
2. The supervisor shall demonstrate the ability to work with children and the willingness to increase skills and competence through experience, training, and supervision.
3. The supervisor shall be an adult of good physical, emotional, social, and cognitive health, and shall use mature judgment when making decisions

impacting the quality of child care. A supervisor must possess knowledge and experience in building and maintaining interpersonal relationships.

4. ~~The supervisor shall be certified or trained in a department-approved program to provide first aid.~~
5. —The supervisor shall certify annual completion of a minimum of thirteen hours of department-approved training related to child care annually. The same training courses may be counted toward licensing annual requirements only if three years has passed since the last completion date of that training course.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2014; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 45:** Section 75-03-11.1-08.4 is amended as follows:

**75-03-11.1-08.4. Minimum qualifications for all school-age child care program staff members responsible for caring for or teaching children.**

1. Each staff member shall be at least sixteen years of age, shall be an individual of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care.
2. a. Each staff member shall certify the staff member's own annual completion of department-approved training related to child care as set forth below:
  - (1) Staff members working more than thirty hours per week shall certify a minimum of thirteen hours of department-approved training annually;
  - (2) Staff members working fewer than thirty hours and at least twenty hours per week shall certify a minimum of eleven hours of department-approved training annually;
  - (3) Staff members working fewer than twenty hours and at least ten hours per week shall certify a minimum of nine hours of department-approved training annually; and
  - (4) Staff members working fewer than ten hours per week shall certify a minimum of seven hours of department-approved training annually.

- b. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course.
3. All staff members responsible for caring for or teaching children shall ~~successfully complete~~certify completion of a department-approved basic child care course within ~~their first three months~~ninety days of employment, ~~with the exception of substitute staff and emergency designees.~~
4. The director shall provide newly hired staff members with responsibilities for caring for or teaching children a two-day onsite orientation to the child care program during the first week of employment. The director shall document orientation of each staff member on an orientation certification form. The orientation must address:
  - a. Emergency health, fire, and safety procedures for the school-age child care program;
  - b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children and staff members;
  - c. Any special health or nutrition problems of the children assigned to the staff member;
  - d. Any special needs of the children assigned to the staff member;
  - e. The planned program of activities at the school-age child care program;
  - f. Rules and policies of the school-age child care program; and
  - g. Child abuse and neglect reporting laws.
5. Staff members shall ensure safe care for children under supervision. For the school-age child, supervision means a staff member responsible for caring for or teaching children being available for assistance and care so that the child's health and safety are protected.
6. A staff member may not place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health.
7. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation

and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department.

8. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in first aid by a program approved by the department.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 46:** Section 75-03-11.1-16 is amended as follows:

**75-03-11.1-16. Minimum emergency evacuation and disaster plan.**

1. The operator shall establish and post an emergency disaster plan for the safety of the children in care. The operator shall develop written disaster plans in cooperation with local emergency management agencies. The plan must include:
  - a. Emergency procedures, including the availability of emergency food, water, and first-aid supplies;
  - b. What will be done if parents are unable to pick up their child as a result of an emergency; and
  - c. What will be done if the school-age child care program has to be relocated or must close as a result of the emergency.
2. Fire and emergency evacuation drills must be performed in accordance ~~with the state fire marshal's guidelines~~ monthly.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 47:** Section 75-03-11.1-18 is amended as follows:

**75-03-11.1-18. Minimum sanitation and safety requirements.**

1. In school-age child care programs where meals are prepared, the operator shall ensure that the state department of health conducts an annual inspection. The operator shall correct any code violations noted by the

health inspector and shall file reports of the inspections and corrections made with the authorized agent. If only snacks or occasional cooking projects are prepared, a health inspection is not required.

2. The operator shall ensure that the school-age child care program's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and the staff members.
3. The operator shall ensure that the school-age child care program ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
4. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
5. The operator shall ensure that garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The operator shall keep indoor garbage in covered containers. The operator may allow paper waste to be kept in open waste containers.
6. The operator shall ensure that wading pools used by the school-age child care program are strictly supervised and are emptied, cleaned, and sanitized daily.
7. The operator shall ensure that all swimming pools are approved annually by the local health unit.
8. Aquatic activities:
  - a. The operator shall have policies which ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the program may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
  - b. The operator may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.

9. The operator shall ensure that all school-age child care program buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chewed condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the state department of health.
10. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys are kept clean and in a sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
11. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.
12. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
13. If the school-age child care program is providing care to children in wheelchairs, the operator shall provide doors of sufficient width and construction to accommodate any children in wheelchairs who are receiving care.
14. The operator shall ensure that exit doorways and pathways are not blocked.
15. The operator shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
16. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
17. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by local fire authorities. During the heating season when the school-age child care program is occupied by children, the room temperature must not be less than sixty-five degrees



Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].

18. The operator shall ensure that school-age child care program bathroom sinks, toilets, tables, chairs, and floors are cleaned daily. ~~Cots and mats must be individually designated and cleaned and sanitized at least weekly. If different children use the same cots or mats, the cots or mats must be cleaned thoroughly and sanitized between each use. The operator shall provide separate storage for personal blankets or coverings.~~
19. The operator shall ensure that personal items including combs and toothbrushes are individually identified and stored in a sanitary manner.
20. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and paper towels, sanitary hand-drying equipment, or single-use or individually designated cloth towels must be available at each sink.
21. The operator shall ensure that potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, poisonous plants, and open stairways are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
22. Water supply standards:
  - a. The operator shall ensure that the school-age child care program has a drinking supply from an approved community water system or from a source tested and approved annually by the state department of health;
  - b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking cups; and
  - c. The school-age child care program must have hot and cold running water.
23. Toilet and sink facilities:
  - a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members;

- b. Toilets must be located in rooms separate from those used for cooking, eating, and sleeping;
  - c. A minimum of one flush toilet must be provided for each fifteen children;
  - d. The operator shall provide separate restrooms for boys and girls and shall ensure that partitions are installed to separate toilets in these restrooms;
  - e. The operator shall provide at least one handwashing sink per toilet room facility; and
  - f. The operator shall provide safe step stools to allow children to use standard-size toilets and sinks or the operator shall ensure the availability of child-size toilets and sinks.
24. The operator of a school-age child care program not on a municipal or public water supply or wastewater disposal system shall ensure the school-age child care program's sewage and wastewater system has been approved by the state department of health.
25. Laundry:
- a. If the school-age child care program provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation;
  - b. The operator shall ensure that soiled linens are placed in closed containers or hampers during storage and transportation;
  - c. The operator shall ensure that in all new or extensively remodeled school-age child care programs, the handling, sorting, or washing of soiled linens or blankets takes place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas;
  - d. The operator shall ensure that in an existing school-age child care program where physical separation of laundry and kitchen areas is impractical, procedures are developed to prohibit the washing or transportation of laundry while meals are being prepared or served;
  - e. The operator shall ensure that sorting of laundry is not allowed in food preparation, serving, or kitchen areas;

- f. If the school-age child care program provides laundry service for common use linens, towels, or blankets, or if different children's clothing, towels, or blankets are laundered together, the water temperature must be greater than one hundred forty degrees Fahrenheit [60 degrees Celsius]; and
  - g. The operator shall ensure that if the water temperature is less than one hundred forty degrees Fahrenheit [60 degrees Celsius], bleach or sanitizer is used in the laundry process during the rinse cycle or the program shall use a clothes dryer that reaches a temperature of at least one hundred forty degrees Fahrenheit [60 degrees Celsius].
26. The operator shall take steps to keep the school-age child care program free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the school-age child care program. Insect repellent may be applied outdoors on children with written parental permission.
27. Pets and animals:
- a. The operator shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
  - b. The operator shall ensure that animals are maintained in good health and appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
  - c. The operator shall ensure parents are aware of the presence of pets and animals in the school-age child care program.
  - d. The operator shall notify parents immediately if a child is bitten or scratched and skin is broken.
  - e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall remove the pet or animal immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.

- f. The operator shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The operator shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
  - g. The operator shall ensure that indoor and outdoor areas accessible to children are free of animal excrement.
  - h. The operator shall ensure that the school-age child care program is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.
28. The operator shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the operator shall ensure:
- a. Pillows and mattresses have clean coverings.
  - b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
  - c. If beds, cots, mats, or cribs are used by different children, sheets and pillowcases are laundered before use by other children.
  - d. Cots, mats, or cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children;
  - e. That cots, mats, and cribs are single occupancy.
  - f. Each bed, cot, or mat has sufficient blankets available.
  - g. That aisles between beds, cots, mats, or cribs are a minimum space of two feet (60.96 centimeters) and are kept free of all obstructions while beds, cots, mats, or cribs are occupied.
  - h. Provide separate storage for personal blankets or coverings.
  - i. That mattresses and sheets are properly fitted.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 48:** Section 75-03-11.1-24 is amended as follows:

**75-03-11.1-24. Specialized types of care and minimum requirements.**

**1. Night care.**

- a. Any school-age child care program offering night care shall provide program modifications for the needs of children and their parents during the night;
- b. In consultation with parents, attention must be given by the staff member responsible for caring for or teaching children to provide for a transition into this type of care appropriate to the child's needs;
- c. The operator shall encourage parents to leave their children in care or pick them up before and after their normal sleeping period when practical, to ensure minimal disturbance of the child during sleep, with consideration given to the parent's work schedule;
- d. The operator shall ensure that comfortable beds and cots, complete with a mattress or pad, are available ~~and shall ensure:~~
  - ~~(1) Pillows and mattresses have clean coverings;~~
  - ~~(2) Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, but at least weekly. The operator shall ensure that if beds are used by different children, sheets and pillowcases are laundered before use by other children; and~~
  - ~~(3) Each bed or cot has sufficient blankets available;~~
- e. The school-age child care program shall require each child in night care to have night clothing and a toothbrush marked for identification; and
- f. The operator shall ensure that during sleeping hours, staff members responsible for caring for or teaching children are awake and within hearing range to provide for the needs of children and to respond to an emergency.

**2. Drop-in school-age child care.**

- a. If a school-age child care program serves drop-in children, it shall be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the program and to maintain the proper staff member to child ratio.

- b. The operator shall ensure that the program reflects the individual needs of the children who are provided drop-in care.
  - c. The operator shall ensure that admission records comply with all enrollment requirements contained in section 75-03-11.1-22.
  - d. The operator shall ensure that admittance procedures provide for a period of individual attention for the child to acquaint the child with the school-age child care program, its equipment, and the staff members.
  - e. A school-age child care program may not receive drop-in care or part-time children who, when added to the children in regular attendance, cause the school-age child care program to exceed the total number of children for which the school-age child care program is licensed.
3. **Drop-in school-age child care programs.** An operator shall ensure that a school-age child care program serving only drop-in care children complies with this chapter, but is exempt from the following provisions:
- a. Subsections 12, 14, and 15 of section 75-03-11.1-20; subdivision f of subsection 1 of section 75-03-11.1-22; and subsection 1 of section 75-03-11.1-25; and
  - b. A school-age child care program serving only drop-in children is exempt from the outdoor space requirements.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 49:** Subsection 1 of section 75-03-11.1-27 is amended as follows:

**75-03-11.1-27. Effect of conviction on licensure and employment.**

- 1. An applicant, operator, director, or supervisor may not be, and a school-age child care program may not employ or allow, in any capacity that involves or permits contact between the emergency designee, substitute staff member, or staff member and any child cared for by the school-age child care program, an operator, emergency designee, substitute staff member, director, supervisor, or staff member who has been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances

by children; or ~~12.1-40, human trafficking~~ 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; ~~or 14-09-22, abuse or neglect of a child; or 14-09-22.1, neglect of child;~~

- b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
- c. An offense, other than an offense identified in subdivision a or b, if the department in the case of a school-age child care program applicant, operator, director, or supervisor, or the school-age child care program operator in the case of an emergency designee, substitute staff member, or staff member, determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09