

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

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SECTION 1. Section 75-03-07.1-00.1 is amended as follows:

75-03-07.1-00.1. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter:

1. “Annual” is defined as the provider’s approved self-declaration year.
2. “Application” means all forms the department requires when applying or reapplying for a self- declaration.
- ~~2.3.~~ “Aquatic activity” means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
- ~~3.4.~~ “Attendance” means the total number of children present at any one time.
- ~~4.5.~~ “Child with special needs” means a child whose medical providers have determined that the child has or is at risk for chronic physical, developmental, behavioral, or emotional conditions.
- ~~5.6.~~ “Emergency designee” means an individual designated by a provider to be a backup staff member for emergency assistance or to provide substitute care.

~~6.7.~~ "Infant" means a child who is less than twelve months of age.

~~7.8.~~ "Provider" means the holder of a self-declaration document.

~~8.9.~~ "Supervision" means a provider or emergency designee 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 provider or emergency designee is capable of intervening to protect the health and safety of the child. For the school-age child, it means a provider or emergency designee responsible for caring for or teaching children being available for assistance and care so that the child's health and safety is protected.

History: Effective January 1, 2011; amended effective April 1, 2016; January 1, 2022; January 1, 2023.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02, 50-11.1-08, 50-11.1-17

SECTION 2. Section 75-03-07.1-02 is amended as follows:

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

1. An applicant for a self-declaration document shall submit the application to the department or its authorized agent in which the applicant proposes to provide early childhood services. An application, including a department-approved authorization for background check for household members age twelve and older, an emergency designee, and an applicant, and an application for a fingerprint-based criminal history record check for the applicant and emergency designee, must be made in the form and manner prescribed by the department.
2. The current self-declaration document must be displayed prominently in the premises to which it applies.
3. A provisional self-declaration document may be issued:
 - a. The department may issue a provisional self-declaration document although the applicant or provider fails to, or is unable to, comply with all applicable standards and rules of the department.
 - b. A provisional self-declaration document must:
 - (1) State that the provider has failed to comply with all applicable standards and rules of the department;
 - (2) State the items of noncompliance;

- (3) Expire at a set date, not to exceed six months from the date of issuance; and
 - (4) Be exchanged for an unrestricted self-declaration document, which bears an expiration date of one year from the date of issuance of the provisional self-declaration document, after the applicant or operator demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
 - c. The department may issue a provisional self-declaration document only to an applicant or provider who has waived, in writing:
 - (1) The right to a written statement of charges as to the reasons for the denial of an unrestricted self-declaration document; and
 - (2) The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted self-declaration document, either at the time of application or during the period of operation under a provisional self-declaration document.
 - d. Any provisional self-declaration document issued must be accompanied by a written statement of violations signed by the department and must be acknowledged in writing by the provider.
 - e. Subject to the exceptions contained in this section, a provisional self-declaration document entitles the provider to all rights and privileges afforded the provider of an unrestricted self-declaration document.
 - f. The provider shall display prominently the provisional self-declaration document and agreement.
 - g. The provider shall provide parents written notice that the provider is operating on a provisional self-declaration document and the basis for the provisional self-declaration document.
- 4. 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 public health~~ division of the department of health and human services, 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 certify completion of a department-approved basic child care course within 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 pediatric 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 prior to provider ~~having unsupervised access~~ providing care 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 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 the emergency designee is currently certified in pediatric first aid by a program approved by the department;
- (19) Shall ensure the emergency designee certifies completion of a department- approved basic child care course within ninety days;

- (20) Shall ensure that the emergency designee completes one hour of department-approved training on sudden infant death prevention prior to emergency designee ~~having unsupervised access~~ providing care to infants and annually thereafter; and
- (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;
- (22) Shall report to the department or its 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 self-declaration provider or attributable to care received by the self-declaration provider;
 - (b) An injury to any child which occurs while the child is in the care of the self-declaration provider and which requires medical treatment;
 - (c) Poisonings or errors in the administration of medication;
 - (d) Closures or relocation of self-declaration program due to emergencies; and
 - (e) Fire that occurs or explosions that occur in or on the premises of the self-declaration provider;
- (23) Shall secure written permission and follow proper instructions as to the administration of medication.
- (a) Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to dosage and storage and labeled with the child's name and date.
 - (b) The provider shall store medications in an area inaccessible to children.
 - (c) Medications stored in a refrigerator must be stored collectively in a spillproof container.
 - (d) 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; and

(24) Shall notify parents, legal custodians, or guardians of child's exposure to a presumed or confirmed reportable infectious disease.

- b. The provider shall ensure that discipline will be 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 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 a self-declaration document.
- (1) A child may not be kicked, punched, spanked, shaken, pinched, bitten, roughly handled, struck, mechanically restrained, or physically maltreated by the provider, emergency designee, household member, or any other adult in the residence.
 - (2) Authority to discipline may not be delegated to or be administered by children.
 - (3) Separation, when used as discipline, must be appropriate to the child's development and circumstances, and the child must be in a safe, lighted, well-ventilated room within sight or hearing range of an adult. A child may not be isolated in a locked room or closet.
 - (4) A child may not be punished for lapses in toilet training.
 - (5) A provider may not use verbal abuse or make derogatory remarks about the child, or the child's family, race, or religion when addressing a child or in the presence of a child.
 - (6) A provider may not use profane, threatening, unduly loud, or abusive language in the presence of a child.

- (7) A provider may not force-feed a child or coerce a child to eat unless medically prescribed and administered under a medical provider's care.
 - (8) A provider may not use deprivation of snacks or meals as a form of discipline or punishment.
 - (9) A 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) A provider may not withhold active play from a child as a form of discipline or punishment, beyond a brief period of separation.
- c. The provider shall ensure that a working smoke detector is properly installed and in good working order on each floor used by children.
 - d. The provider shall ensure that a fire extinguisher that is inspected annually is properly installed, is in good working order, and is located in the area used for child care.
 - e. The provider shall ensure that a working telephone is located in the location used for child care. Current emergency numbers for parents and first responders must be posted.
 - f. When transportation is provided by a provider, children must be protected by adequate supervision, safety precautions, and liability insurance.
 - (1) Drivers must be eighteen years of age or older and must comply with all relevant federal, state, and local laws, including child restraint laws.
 - (2) A child must not be left unattended in a vehicle.
 - g. Aquatic activities:
 - (1) 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 the children participating in aquatic activities, and additional safety precautions to be taken.
 - (2) 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.

5. Potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, noncovered electrical outlets, poisonous plants, and open stairways must not be accessible to children. Guns and ammunition must be kept in separate locked storage, or trigger locks must be used. Other weapons and dangerous sporting equipment, such as bows and arrows, must not be accessible to children.
6. If the physical, cognitive, social, or emotional health capabilities of an applicant or provider appear to be questionable, the department may require that the individual present evidence of capability to provide the required care based on a formal evaluation. The department is not responsible for costs of any required evaluation.
7. A self-declaration document is only effective for one year.

History: Effective June 1, 1995; amended effective January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2022; January 1, 2023.

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 3. Subsection 6 of section 75-03-07.1-06 is amended as follows:

6. A provider shall ensure safe care for the children receiving services in the provider's residence. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that a child has been abused or neglected by an applicant, provider, emergency designee, or household member, that decision has a direct bearing on the applicant's or provider's ability to serve the public in a capacity involving the provision of child care, and the application or self-declaration document may be denied or revoked.
 - a. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant, provider, emergency designee, or household member, the applicant or provider shall furnish information to the department, from which the department can determine the applicant's, provider's, or emergency designee's ability to provide care that is free of abuse or neglect. The department shall furnish the determination of ability to the applicant or provider.
 - b. Each applicant, provider, and emergency designee shall complete,

and the provider shall submit to the department or its authorized agent, a department-approved authorization for background check form no later than the first day of employment.

- c. Household members ~~over the age of twelve~~ and older shall complete, and the provider shall submit to the department or its authorized agent, a department-approved authorization for background check form at the time of application or upon obtaining residence at the location of the child care.

History: Effective June 1, 1995; amended effective January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2022; January 1, 2023.

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

**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
75-03-09-21	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 4. Section 75-03-08-03 is amended as follows:

75-03-08-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. “Annual” is defined as the provider’s licensing year.
2. “Application” means all forms the department requires when applying or reapplying for a license.
- 2.3. “Aquatic activity” means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
- 3.4. “Attendance” means the total number of children present at any one time at the family child care.
- 4.5. “Child with special needs” means a child determined by a medical provider to have or to be at risk for chronic physical, developmental, behavioral, or emotional conditions.
- 5.6. “Emergency designee” means an individual designated by the provider to be a backup staff member for emergency assistance or to provide substitute care.
- 6.7. “Infant” means a child who is younger than twelve months of age.
- 7.8. “Medication” is defined as any drug or remedy which is taken internally or orally, inhaled, or applied topically.
- 8.9. “Provider” means owner or operator of a family child care.
- 9.10. “Substitute staff” means paid or unpaid staff who work less than thirty-two hours per month and are not regularly scheduled for work.
- 10.11. “Volunteer” means an individual who visits or provides an unpaid service, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

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; January 1, 2022; January 1, 2023.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 5. Subsection 1 of section 75-03-08-08.1 is amended as follows:

1. A provider shall be currently certified:
 - a. 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
 - b. In pediatric first aid by a program approved by the department.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023.

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 6. 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. Certify completion of a department-approved basic child care course within ninety days of licensure;
3. Certify completion of a minimum of nine hours of department-approved training related to childcare 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 prior to provider ~~having unsupervised access to~~ providing care to infants and annually thereafter.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018; January 1, 2023.

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 7. 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. Certify completion of a department-approved basic child care course within ninety days of employment;
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 pediatric first aid by a program approved by the department;
6. Certify ~~annual~~ completion of one hour of department-approved sudden infant death prevention training prior to staff member ~~having unsupervised access~~ providing care to infants and annually thereafter; and
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; January 1, 2023.

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 8. Subsection 6 of section 75-03-08-14 is amended as follows:

6. The provider shall ensure that the family child care has a drinking water supply from an approved community water system or from a source tested and approved by the ~~state department of~~ public health division of the department of health and human services.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2023.

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 9. 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 public health~~ division of the department of health and human services, 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. Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to dosage and storage and labeled with the child's name and date.
 - b. The provider shall store medications in an area inaccessible to children.
 - c. Medications stored in a refrigerator must be stored collectively in a ~~spill proof~~ spillproof container.

- d. 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 health unit authorities or ~~state~~ authorities from the public health division of the department authorities of health and human services 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. Provider shall notify parents, legal custodians, or guardians of child's exposure to a presumed or confirmed reportable infectious disease.
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; July 1, 2020; January 1, 2023.

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 10. Section 75-03-08-22 is amended as follows:

75-03-08-22. Records.

1. A copy of this chapter must be kept on the premises and available to staff members at all times.
2. The provider shall maintain the following records:

- a. The child's full name, birth date, current home address, legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - b. A written statement from the parents or legal guardian authorizing emergency medical care;
 - c. Names and telephone numbers of individuals authorized to take the child from the family child care;
 - d. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the ~~state department of public health~~ division of the department of health and human services, or have on file a document citing 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~~; and
 - e. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child, that must indicate any special precautions for diet, medication, or activity. This assessment shall be completed annually.
3. The provider shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents of each child, and to the following, unless otherwise protected by law:
- a. Authorized agent and department representatives;
 - b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
 - c. Individuals who possess written authorization from the child's parent. The family child care shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2022; January 1, 2023.

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 11. Section 75-03-08-28 is amended as follows:

75-03-08-28. Child abuse and neglect decisions.

1. A provider shall ensure safe care for the children receiving services in the provider's family child care. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by an applicant, provider, emergency designee, staff member, or household member, that decision has a direct bearing on the applicant's or provider's ability to serve the public in a capacity involving the provision of child care, and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that any child has been abused or neglected by the applicant, provider, emergency designee, staff member, or household member, the applicant or provider shall furnish information satisfactory to the department, from which the department can determine the applicant's, provider's, or staff member's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or provider.
2. Each applicant, provider, emergency designee, and staff member in the family child care shall complete, and the provider shall submit to the department or its authorized agent, a department-approved authorization for background check form no later than the first day of employment.
3. Household members ~~over the age of twelve~~ and older shall complete, and the provider shall submit to the department or its authorized agent, a department-approved authorization for background check form at the time of application, relicensure, or upon obtaining residence at the location of the family child care.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023.

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

**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
75-03-09-16	Minimum Emergency Evacuation and Disaster Plan
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 12. Section 75-03-09-03 is amended as follows:

75-03-09-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the

context or subject matter otherwise requires:

1. "Annual" is defined as the provider's licensing year.
2. "Application" means all forms the department requires when applying or reapplying for a license.
- 2.3. "Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
- 3.4. "Attendance" means the total number of children present at any one time at the group child care.
- 4.5. "Child with special needs" means a child whose medical providers have determined that the child has or is at risk for chronic physical, developmental, behavioral, or emotional conditions.
- 5.6. "Emergency designee" means an individual designated by the operator to be a backup caregiver for emergency assistance or to provide substitute care.
- 6.7. "Group child care supervisor" means an individual responsible for overseeing the day-to-day operation of a group child care.
- 7.8. "Infant" means a child who is less than twelve months of age.
- 8.9. "Medications" means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
- 9.10. "Operator" means the individual or governing board who has the legal responsibility and the administrative authority for the operation of a group child care.
- 10.11. "Provider" means the group child care owner or operator.
- 11.12. "Substitute staff" means paid or unpaid staff who work less than thirty-two hours per month and are not regularly scheduled for work.
- 12.13. "Volunteer" means an individual who visits or provides an unpaid service or visit, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

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; January 1, 2022; January 1, 2023.

General Authority: NDCC 50-11.1-08
Law Implemented: NDCC 50-11.1-02

SECTION 13. 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 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 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 prior to ~~provider having unsupervised access~~providing care to infants. ~~The ten hours of training in the first year following initial licensure must include a department approved~~A department-approved basic child care course must be completed within ninety days 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.
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; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 14. 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 ninety days of employment;
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 each licensing year;
 - 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 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 prior to staff member ~~having unsupervised access~~ providing care to infants and annually thereafter;
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 pediatric 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; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 15. Subsection 1 of section 75-03-09-18 is amended as follows:

1. In facilities other than an occupied private residence and where meals are prepared, the provider shall ensure that the ~~state department of public health~~ division of the department of health and human services conducts an annual inspection. If only snacks or occasional cooking projects are prepared, ~~a state department of health~~ an inspection by the public health division of the department of health and human services 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 department or its authorized agent.

History: Effective December 1, 1981; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 16. Section 75-03-09-22 is amended as follows:

75-03-09-22. Records.

1. The provider shall keep a copy of this chapter on the premises of the group child care and shall make it available to staff members at all times.
2. The provider shall maintain the following records:
 - a. The child's full name, birthdate, and current home address;

- b. Legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individuals legally responsible for the child cannot be reached immediately in an emergency;
 - d. A written statement from the parents authorizing emergency medical care;
 - e. Names and telephone numbers of individuals authorized to take the child from the group child care;
 - f. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the ~~state department of~~ public health division of the department of health and human services, or have on file a document citing 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~~; and
 - g. A current health assessment or a health assessment statement completed by the parent, 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.
3. The provider must verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the provider considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
4. The provider shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents of each child, and to the following, unless otherwise protected by law:
- a. The authorized agent and department representatives;
 - b. Individuals having a definite interest in the well-being of the children concerned and who, in the judgment of the department, are in a position to serve the children's interests should that be necessary; and

- c. Individuals who possess a written authorization from the child's parent. The group child care shall have a release of information form available and shall have the form signed prior to the release of information.

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, 2022; January 1, 2023.

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 17. Subsection 3 of section 75-03-09-24 is amended as follows:

- 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.

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; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 18. Section 75-03-09-26 is amended as follows:

75-03-09-26. Minimum provisions regarding emergency care for children.

The group child care must have written plans to respond to illness and emergencies, including burns, serious injury, and ingestion of poison. The provider shall ensure that parents of enrollees are advised of these plans. Plans must:

1. Establish emergency response procedures;
2. Provide accessible posting of emergency response procedures and require training for all staff members concerning those emergency procedures;
3. Require the availability of at least one working flashlight;
4. Require at least one department-approved first-aid kit maintained and kept in a designated location, inaccessible to children, yet readily accessible to staff members at all times;
5. Provide a working telephone line immediately accessible to staff members with a list of emergency telephone numbers conspicuously posted;
6. Require a plan for responding to minor illnesses and minor accidents when children are in the care of the group child care;
7. Require written permission to dispense medication and proper instructions for the administration of medication obtained from the parent of a child in the group child care who requires medication.
 - a. Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to dosage and storage, and labeled with the child's name and date.
 - b. Medication must be stored in an area inaccessible to children, and medication stored in a refrigerator must be stored collectively in a spillproof 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. The provider shall include completed medication records in the child's record;
8. Require a supervised temporary isolation area designated for a child who is too ill to remain in the group child care or who has an infectious or contagious disease, with the following procedures being followed when those signs or symptoms are observed:

- a. Parents are notified immediately and asked to pick up their child; and
 - b. First aid is provided and medical care is sought, as necessary;
9. Identify a source of emergency health services available to the group child care, including:
- a. A prearranged plan for emergency medical care in which the parent of each enrolled child is advised of the arrangement; and
 - b. Provisions for emergency transportation, specifically that when a child is to be brought to another place for emergency care, an adult staff member responsible for caring for or teaching children shall remain with the child until medical personnel assume responsibility for the child's care and until the parent or emergency contact is notified;
10. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or ~~state authorities~~ from the public health division of the department of health authorities and human services regarding the exclusion and return of children with infectious or communicable conditions. The operator may obtain this guidance directly or through current published materials regarding exclusion and return to the group child care; ~~and~~
11. Require that the group child care operator inform parents in writing of any first aid administered to their child within twenty-four hours of the incident, and immediately notify parents of any injury which requires emergency care beyond first aid, and require each injury report to be made part of the child's record; and
12. Notify parents, legal custodians, or guardians of child's exposure to a presumed or confirmed reportable infectious disease.

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, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 19. Section 75-03-09-28 is amended as follows:

75-03-09-28. Child abuse and neglect decisions.

- 1. A provider shall ensure safe care for the children receiving services in the provider's group child care. If a confirmed decision made under North

Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by an applicant, provider, emergency designee, staff member, or household member, that decision has a direct bearing on the applicant's or provider's ability to serve the public in a capacity involving the provision of child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant, provider, emergency designee, staff member, or household member, the applicant or provider shall furnish information satisfactory to the department, from which the department can determine the applicant's, provider's, emergency designee's, or staff member's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or provider.

2. Each applicant, provider, emergency designee, and staff member in the group child care shall complete, and the provider shall submit to the department or its authorized agent, a department-approved authorization for background check form no later than the first day of employment.
3. Household members ~~over the age of twelve~~ and older shall complete, and the provider shall submit to the department or its authorized agent, a department-approved authorization for background check form at the time of application or relicensure or upon obtaining residence at the location of the group child care.

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, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023.

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

**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 20. Section 75-03-10-03 is amended as follows:

75-03-10-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. “Annual” is defined as the provider’s licensing year.
2. “Application” means all forms the department requires when applying or reapplying for a license.
- ~~2.3.~~ “Aquatic activity” means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
- ~~3.4.~~ “Attendance” means the total number of children present at any one time at the facility.
- ~~4.5.~~ “Child with special needs” means a child whose medical providers have determined that the child has or is at risk of chronic physical, developmental, behavioral, or emotional conditions.
- ~~5.6.~~ “Director” means the individual responsible for overseeing the general operation and implementing the policies and procedures of the child care center.
- ~~6.7.~~ “Emergency designee” means an individual designated by the operator to be a backup staff member for emergency assistance or to provide substitute care.
- ~~7.8.~~ “Infant” means a child who is less than twelve months of age.
- ~~8.9.~~ “Medication” means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
- ~~9.10.~~ “Operator” means the individual or governing board who has the legal responsibility and the administrative authority for the operation of a child care center.
- ~~10.11.~~ “Substitute staff” means staff who work less than thirty-two hours per month and are not regularly scheduled for work.
- ~~11.12.~~ “Supervisor” means any individual with the responsibility for organizing and supervising daily child care center activities.
- ~~12.13.~~ “Volunteer” means an individual who visits or provides an unpaid service, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

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; January 1, 2022; January 1, 2023.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 21. 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 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 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 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 prior to the director ~~having unsupervised access~~ providing care to infants. A department-approved basic child care course must be completed within ninety days 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.

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; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 22. Section 75-03-10-11.1 is amended as follows:

75-03-10-11.1. Minimum qualifications of child care center supervisor.

A supervisor 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. Have a demonstrated ability in working with children;
3. Hold at least one of the following qualifications:
 - a. An associate degree in the field of early childhood development;
 - b. Current certification as a child development associate or successful completion of a department-approved diploma program with an emphasis in early childhood or child care;
 - 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 or similar setting;
4. Possess knowledge and experience in building and maintaining interpersonal relationships;
5. Successfully complete a department-approved basic child care course within ~~the first three months~~ ninety days of employment; and
6. Successfully complete a minimum of thirteen hours of department-approved training related to child care, ~~including one hour on sudden infant death prevention if the supervisor provides care to infants each year, and annually thereafter. The supervisor shall certify completion of one hour of department-approved sudden infant death prevention training prior to providing care to infants and annually thereafter.~~ 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 January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2016; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 23. 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 ninety days of employment;
 - 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 pediatric 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 each year, and annually thereafter, 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 prior to the staff member ~~having unsupervised access~~providing care to infants and annually thereafter;
 - (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 of paragraph 5; and
- 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;
2. Receive 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 responsible for caring for or teaching children on an orientation certification form. The orientation must address the following:
- a. Emergency health, fire, and safety procedures for the center;
 - 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 child care center;
 - f. Rules and policies of the child care center; and
 - g. Child abuse and neglect reporting laws; and
3. Ensure safe care for 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 is protected.

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; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 24. Subsection 1 of section 75-03-10-18 is amended as follows:

1. The operator shall ensure that in child care centers, other than an occupied private residence, where meals are prepared, the ~~state department of public health~~ division of the department of health and human services conducts an annual inspection. If only snacks or occasional cooking projects are prepared, ~~a state department of health~~ an inspection by the public health division of the department of health and human services is not required. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the department or its authorized agent.

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; July 1, 2020; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

Section 25. Section 75-03-10-22 is amended as follows:

75-03-10-22. Records.

1. The operator shall keep a copy of this chapter on the premises of the child care center and shall make it available to staff members at all times.
2. The operator shall maintain the following records:
 - a. The child's full name, birth date, and current home address;
 - b. Legal names of the child's parents and current business and personal telephone numbers where they can be reached;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individuals legally responsible for the child cannot be reached immediately in an emergency;
 - d. A written statement from the parents authorizing emergency

- medical care;
- e. Names and telephone numbers of individuals authorized to take the child from the child care center;
 - f. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the ~~state department of public health~~ division of the department of health and human services, 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~~; and
 - g. A current health assessment or a health assessment statement completed by the parent, 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.
3. The operator shall record and verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the operator considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
 4. The operator shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents of each child, and to the following, unless otherwise protected by law:
 - a. The authorized agent and department representatives;
 - b. Individuals having a definite interest in the well-being of the children concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
 - c. Individuals who possess a written authorization from the child's parent. The child care center shall have a release of information form available and shall have the form signed prior to the release of information.

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, 2022; January 1, 2023.

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 26. Subsection 3 of Section 75-03-10-24 is amended as follows:

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.

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; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 27. Section 75-03-10-26 is amended as follows:

75-03-10-26. Minimum provisions regarding emergency care for children.

The child care center shall have written plans to respond to illness and emergencies, including burns, serious injury, and ingestion of poison. The operator shall ensure that parents of enrollees are advised of these plans. Plans must:

1. Establish emergency response procedures;
2. Provide accessible posting of emergency response procedures and require training for all staff members concerning those emergency procedures;
3. Require the availability of at least one working flashlight;

4. Require at least one department-approved first-aid kit maintained and kept in a designated location, ~~inaccessible~~inaccessible to children, yet readily accessible to staff members at all times;
5. Provide a working telephone line immediately accessible to staff members with a list of emergency telephone numbers conspicuously posted;
6. Require a plan for responding to minor illnesses and minor accidents when children are in the care of the child care center;
7. Require written permission to dispense medication and proper instructions for the administration of medication obtained from the parent of a child in the child care center who requires medication:
 - a. Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to dosage and storage, and labeled with the child's name and date;
 - b. Medication must be stored in an area ~~inaccessible~~inaccessible to children, and medication stored in a refrigerator must be stored collectively in a spillproof container;
 - c. The operator 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; and
 - d. The operator shall include completed medication records in the child's record;
8. Require a supervised temporary isolation area designated for a child who is too ill to remain in the child care center or who has an infectious or contagious disease, with the following procedures being followed when those signs or symptoms are observed:
 - a. Parents are notified immediately and asked to pick up their child; and
 - b. First aid is provided and medical care is sought as necessary;
9. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or ~~state authorities~~from the public health division of the department of health authorities implemented and human services regarding the exclusion and return of children with infectious or communicable conditions. The program may

obtain this guidance directly or through current published materials regarding exclusion and return to the child care center;

10. Notify parents, legal custodians, or guardians of child's exposure to a presumed or confirmed reportable infectious disease;

~~40-11.~~ Identify a source of emergency health services readily available to the child care center, including:

- a. A prearranged plan for emergency medical care in which parents of enrollees are advised of the arrangement; and
- b. Provisions for emergency transportation, specifically that when a child is to be brought to another place for emergency care, an adult staff member responsible for caring for or teaching children shall remain with the child until medical personnel assume responsibility for the child's care and until the parent is notified;

~~44-12.~~ Require information be provided to parents, as needed, concerning child health and social services available in the community; and

~~42-13.~~ Require that the child care center inform parents in writing of any first aid administered to their child within twenty-four hours of the incident, immediately notify parents of any injury which requires emergency care beyond first aid, and require each injury report to be made a part of the child's record.

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, 2023.

General Authority: NDCC 50-11.1-08

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

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

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75-02-11-02	Authority and Objective [Repealed]
75-03-11-03	Definitions
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75-03-11-06	Provisional License
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75-03-11-07	Application for and Nontransferability of Preschool License
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75-03-11-08.1	Minimum Qualifications of a Preschool Director
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75-03-11-29	Correction of Violations
75-03-11-30	Fiscal Sanctions
75-03-11-31	Appeals

SECTION 28. Section 75-03-11-03 is amended as follows:

75-03-11-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the

context or subject matter otherwise requires:

1. “Annual” is defined as the provider’s licensing year.
2. “Application” means all forms the department requires when applying or reapplying for a license.
- 2.3. “Aquatic activity” means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
- 3.4. “Assistant” means any individual who works directly with children in a preschool under the supervision of a teacher or a director.
- 4.5. “Attendance” means the total number of children present at any one time at the facility.
- 5.6. “Child with special needs” means a child whose medical providers have determined that the child has or is at risk for chronic physical, developmental, behavioral, or emotional conditions.
- 6.7. “Director” means an individual responsible for supervising and organizing program activities in a preschool.
- 7.8. “Emergency designee” means an individual designated by the operator to be a backup staff member for emergency assistance or to provide substitute care.
- 8.9. “Medication” means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
- 9.10. “Operator” means the individual or governing board who has the legal responsibility and the administrative authority for the operation of a preschool.
- 10.11. “Preschool” means a program licensed to provide early childhood services which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
- 11.12. “Substitute staff” means staff who work less than thirty-two hours per month, and are not regularly scheduled for work.
- 12.13. “Teacher” means an individual with the responsibility of implementing program activities, either as the director or under the supervision of the director.

~~13-14.~~ "Volunteer" means an individual who visits or provides an unpaid service or visit, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

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; January 1, 2022; January 1, 2023.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 29. Section 75-03-11-13 is amended as follows:

75-03-11-13. Minimum health and training requirements for applicants, operators, and staffmembers.

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 or household 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 certify completion of a department-approved basic child care course within ninety days of employment.
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 pediatric 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; January 1, 2023.

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 30. Section 75-03-11-18 is amended as follows:

75-03-11-18. Minimum sanitation and safety requirements.

1. The operator shall ensure that the preschool's bathroom sinks, toilets, tables, chairs, and floors are cleaned daily. Cots and mats, if used, must be maintained in a clean, sanitary condition.
2. The operator shall ensure that the preschool'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 staff members.
3. The operator shall ensure that in preschools where meals are prepared, the ~~state department of~~ public health division of the department of health

and human services conducts an annual inspection. If only snacks or occasional cooking projects are prepared, ~~a state department of health~~ inspection by the public health division of the department of health and human services is not required. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the department or its authorized agent.

4. 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 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.
5. 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. When the preschool 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].
6. 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.
7. The operator shall ensure that potential hazards, such as noncovered electrical outlets, guns, 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.
8. 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 accumulation of water, ice, snow, or debris.
9. The operator shall ensure that elevated areas including stairs and porches have railings and safety gates where necessary to prevent falls.
10. The operator shall take steps to keep the preschool 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 preschool. Insect repellent may be applied outdoors on children with written parental

permission.

11. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
12. The operator shall ensure that exit doorways and pathways are not blocked.
13. An operator shall ensure that all preschool 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 department of environmental quality.
14. Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the preschool and shall empty, clean, and sanitize wading pools daily.
15. All swimming pools used by children must be approved annually by the local health unit.
16. Aquatic activities:
 - a. An 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.
17. 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 preschool.
 - 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 closely supervise 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 preschool is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.
18. 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.
19. The operator shall ensure that soiled or wet clothes or diapers are stored in a sanitary, covered container, separate from other garbage and waste until removed from the preschool facility.

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; April 1, 2016; July 1,

2020; January 1, 2023.

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 31. Section 75-03-11-22 is amended as follows:

75-03-11-22. Records.

1. The operator shall keep a copy of this chapter on the premises of the preschool and shall make it available to staff members at all times.
2. The operator shall maintain the following records:
 - a. The child's full name, birth date, current home address, legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - b. A written statement from the parents authorizing emergency medical care;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individuals legally responsible for the child cannot be reached immediately in an emergency;
 - d. Names and telephone numbers of individuals authorized to take the child from the preschool;
 - e. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the ~~state department of public health~~ division of the department of health and human services, or have on file a document citing that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs, ~~unless the child is a drop-in child~~; and
 - f. A current health assessment or a health assessment statement completed by the parent, 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.
3. The operator shall verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the provider considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.

4. The operator shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents, and to the following, unless otherwise protected by law:
 - a. The authorized agent and department representatives;
 - b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
 - c. Individuals who possess written authorization from the child's parent. The preschool shall have a release of information form available and shall have the form signed prior to the release of information.

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, 2022; January 1, 2023.

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 75-03-11-23 is amended as follows:

75-03-11-23. Discipline - Punishment prohibited.

Disregard of any of the following disciplinary rules or any disciplinary measure resulting in physical or emotional injury, neglect, or abuse to any child is grounds for license denial or revocation:

1. The preschool must have a written policy regarding the discipline of children. The operator shall provide the policy to, and discuss the policy with, staff members responsible for caring for or teaching children before the preschool begins operation or before staff members begin working with children.
2. Discipline must be 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.
3. Authority to discipline may not be delegated to children nor may discipline be administered by children.
4. 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 a staff member responsible for caring for or teaching children. A staff member may not isolate a child in a locked room or closet.

5. A child may not be punished for lapses in toilet training.
6. A staff member 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 other children.
7. A staff member may not use profane, threatening, unduly loud, or abusive language in the presence of a child.
8. A staff member may not force-feed a child or coerce a child to eat unless medically prescribed and administered under a medical provider's care.
9. A staff member may not use deprivation of meals or snacks as a form of discipline or punishment.
10. A staff member, household member, or any other adult in or at the preschool may not kick, punch, spank, shake, pinch, bite, roughly handle, strike, mechanically restrain, or physically maltreat a child.
11. A staff member may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in the mouth of a child to deter the child from biting other children.
12. A staff member may not withhold active play as a form of discipline or punishment, beyond a brief period of separation.

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, 2023.

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 33. Section 75-03-11-26 is amended as follows:

75-03-11-26. Minimum provisions regarding emergency care for children.

The preschool must have written plans to respond to illness and emergencies including burns, serious injury, and ingestion of poison. The operator shall ensure that parents of enrolled children are advised of these plans. Plans must:

1. Establish emergency response procedures;
2. Provide accessible posting of emergency response procedures and

- require training for all staff members concerning those emergency procedures;
3. Require the availability of at least one working flashlight;
 4. Require at least one department-approved first-aid kit maintained and kept in a designated location, inaccessible to children, yet readily accessible to staff members at all times;
 5. Provide a working telephone line immediately accessible to staff members with a list of emergency telephone numbers conspicuously posted;
 6. Provide a plan for responding to minor illnesses and minor accidents when children are in the care of the preschool, and provide a plan for accessing available medical consultation regarding special care and medication;
 7. Require written permission to dispense medication and proper instructions for the administration of medication, obtained from the parent of a child in the preschool who requires medication.
 - a. Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to dosage and storage, and labeled with the child's name and date;
 - b. Medication must be stored in an area inaccessible to children, and medication stored in a refrigerator must be stored collectively in a spillproof container; and
 - c. The operator 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 dose administered, the dosage, the name of the staff member administering the medication, and the name of the child. The operator shall include completed medication records in the child's record;
 8. Require a supervised temporary isolation area designated for a child who is too ill to remain in the preschool, or who has an infectious or contagious disease, with the following procedures being followed when those signs or symptoms are observed:
 - a. Parents are notified immediately and asked to pick up their child; and
 - b. First aid is provided and medical care is sought, as necessary;
 9. Identify a source of emergency services available to the preschool, including:

- a. A prearranged plan for emergency medical care in which parents of enrolled children are advised of the arrangement; and
 - b. Provisions for emergency transportation, specifically that when a child is to be brought to another place for emergency care, an adult staff member responsible for caring for or teaching children shall remain with the child until medical personnel assume the responsibility for the child's care and until the parent is notified;
10. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or state authorities from the public health division of the department of health and human services regarding the exclusion and return of children with infectious or communicable conditions. The operator may obtain this guidance directly or through current published materials regarding exclusion and return to the preschool;
 11. Require information be provided to parents, as needed, concerning child health and social services available in the community; ~~and~~
 12. Require that the preschool inform parents in writing of any first aid administered to their child within twenty-four hours of the incident, immediately notify parents of any injury which requires emergency care beyond first aid, and require each injury report to be made a part of the child's record; ~~and~~.
 13. Notify parents, legal custodians, or guardians of child's exposure to a presumed or confirmed reportable infectious disease.

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 2, 2011; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 34. 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, or household member and any child cared for by the preschool, an operator, director, staff member, teacher, assistant, ~~or~~ emergency designee, 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 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.2, domestic violence; 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, harassment; 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; 14-09-22, abuse of 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, household member, 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.
2. The department has determined that the offenses enumerated in subdivision a or b of subsection 1 have a direct bearing on the applicant's, operator's, director's, teacher's, assistant's, substitute staff member's, emergency designee's, or a staff member's ability to serve the public as an operator, director, teacher, assistant, emergency designee, or a staff member.
 3. 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, harassment; 12.1-17-07.1, stalking; in the case of a class B misdemeanor offense

described in North Dakota Century Code section 12.1-17-01.2, domestic violence; 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.

4. The operator shall establish written policies and engage in practices that conform to those policies to effectively implement this section, before hiring any directors, staff members, teachers, assistants, substitute staff members, or emergency designees.
5. An operator shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The operator shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.
6. Review of fingerprint-based criminal history record check results.
 - a. If an individual disputes the results of the criminal history record check required under this chapter, the individual may request a review of the results by submitting a written request for review to the department within thirty calendar days of the date of the department's memo outlining the results. The individual's request for review must include a statement of each disputed item and the reason for the dispute.
 - b. The department shall assign the individual's request for review to a department review panel. An individual who has requested a review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.
 - c. The department shall notify the individual of the department's final decision in writing within sixty calendar days of receipt of the individual's request for review.

History: Effective January 1, 1999; amended effective January 2, 2011; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022; January 1, 2023.

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 35. Section 75-03-11-28 is amended as follows:

75-03-11-28. Child abuse and neglect determinations.

An operator shall ensure safe care for the children receiving services in the preschool.

1. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by any applicant, operator, director, teacher, assistant, staff member, substitute staff member, ~~or~~ emergency designee, or household member, it has a direct bearing on the applicant's or operator's ability to serve the public in a capacity involving the provision of child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant, operator, director, teacher, assistant, staff member, substitute staff member, ~~or~~ emergency designee, or household member, the applicant or operator shall furnish information satisfactory to the department, from which the department can determine the applicant's, operator's, director's, teacher's, assistant's, staff member's, substitute staff member's, or emergency designee's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or operator.
2. Each applicant, operator, director, teacher, assistant, staff member, substitute staff member, and emergency designee shall complete, and the operator shall submit to the department or its authorized agent, a department-approved authorization for background check form no later than the first day of employment.
3. Household members age twelve and older shall complete, and the operator shall submit to the department or its authorized agent, a department-approved authorization for background check form at the time of application, relicensure, or upon obtaining residence at the location of the preschool.

History: Effective January 1, 1999; amended effective January 2, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023.

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

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

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

SECTION 36. Section 75-03-11.1-03 is amended as follows:

75-03-11.1-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. “Annual” is defined as the provider’s licensing year.
2. “Application” means all forms the department requires when applying or reapplying for a license.
- ~~2.3.~~ “Aquatic activity” means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
- ~~3.4.~~ “Attendance” means the total number of children present at any one time at the facility.
- ~~4.5.~~ “Child with special needs” means a child whose medical providers have determined that the child has or is at risk of chronic physical, developmental, behavioral, or emotional conditions.
- ~~5.6.~~ “Director” means an individual responsible for overseeing the general operation of, and implementing the policies and procedures of, the school-age child care program.
- ~~6.7.~~ “Emergency designee” means an individual designated by the school-age child care program to be a backup staff member for emergency assistance or to provide substitute care.
- ~~7.8.~~ “Medication” means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
- ~~8.9.~~ “Operator” means the individual or governing board who has the legal responsibility and the administrative authority for the operations of a school-age child care program.
- ~~9.10.~~ “School-age child care program” or “program” means a program licensed to provide early childhood services exclusively to school-age children before and after school, during school holidays, and during summer vacation.

~~40-11.~~ "Substitute staff" means staff who work less than thirty-two hours per month and are not regularly scheduled for work.

~~41-12.~~ "Supervisor" means any person with the responsibility for organizing and supervising daily program activities.

~~42-13.~~ "Volunteer" means an individual who visits or provides an unpaid service or visit, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

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, 2016; January 1, 2022; January 1, 2023.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 37. Subsection 8 of section 75-03-11.1-08.4 is amended as follows:

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 pediatric 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; January 1, 2023.

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 75-03-11.1-13 is amended as follows:

75-03-11.1-13. Minimum health requirements for all applicants, operators, and staffmembers.

1. If the physical, cognitive, social, or emotional health capabilities of an applicant, operator, or staff member appear 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 or household member may not use or be under the influence of any illegal drugs or alcoholic beverages while caring for children.

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, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 39. Subsection 1 of section 75-03-11.1-18 is amended as follows:

1. In school-age child care programs where meals are prepared, the operator shall ensure that the ~~state department of public health~~ division of the department of health and human services 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 department or its authorized agent. If only snacks or occasional cooking projects are prepared, ~~a health~~ an inspection by the public health division of the department of human services is not required.

History: Effective June 1 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023.

General Authority: NDCC 50-11.1-08

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

SECTION 40. Section 75-03-11.1-22 is amended as follows:

75-03-11.1-22. Records.

1. The operator shall keep a copy of this chapter on the premises of the school-age child care program and shall make it available to staff members at all times.
2. The operator shall maintain the following records and shall keep copies at the school age program premises where the child is enrolled:
 - a. The child's full name, birth date, and current home address;
 - b. Legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individual legally responsible for the child cannot be reached immediately in an emergency;
 - d. A written statement from the parents authorizing emergency medical care;
 - e. Names and telephone numbers of individuals authorized to take the child from the school-age child care program; ~~and~~
 - f. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the public health division of the department of health and human services, or have

on file a document stating that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs; and

- g. _____ A current health assessment or a health assessment statement completed by the parent, 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.
3. The operator shall record and verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the operator considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
 4. The operator shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents, and to the following, unless protected by law:
 - a. The authorized agent and department representatives;
 - b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
 - c. Individuals who possess written authorization from the child's parent. The school-age child care program shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022; January 1, 2023.

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 41. Section 75-03-11.1-23 is amended as follows:

75-03-11.1-23. Discipline - Punishment prohibited.

Disregard of any of the following disciplinary rules or disciplinary measure resulting in physical or emotional injury, neglect, or abuse to any child is grounds for license denial or revocation.

1. The school-age child care program must have a written policy regarding the discipline of children. The operator shall provide the policy to, and

discuss the policy with, the staff members before the school-age child care program begins operation or before staff members begin working with children.

2. Discipline must be 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.
3. Authority to discipline may not be delegated to children nor may discipline be administered by children.
4. 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 a staff member responsible for caring for or teaching children. A staff member may not isolate a child in a locked room or closet.
5. A child may not be punished for lapses in toilet training.
6. A staff member may not use verbal abuse or make derogatory remarks about a child, or a child's family, race, or religion when addressing a child or in the presence of a child.
7. A staff member may not use profane, threatening, unduly loud, or abusive language in the presence of a child.
8. A staff member may not force-feed a child or coerce a child to eat, unless medically prescribed and administered under a medical provider's care.
9. A staff member may not use deprivation of meals or snacks as a form of discipline or punishment.
10. A staff member, household member, or any other adult at the school-age child care program may not kick, punch, spank, shake, pinch, bite, roughly handle, strike, mechanically restrain, or physically maltreat a child.
11. A staff member 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.
12. A staff member may not withhold active play from children as a means of discipline or punishment, beyond a brief period of separation.

History: Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2023.

General Authority: NDCC 50-11.1-01, 50-11.1-08

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

SECTION 42. Subsection 3 of section 75-03-11.1-24 is amended as follows:

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 4~~2~~ of section 75-03-11.1-22; and subsection 1 of 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.

SECTION 43. Section 75-03-11.1-26 is amended as follows:

75-03-11.1-26. Minimum provisions regarding emergency care for children.

The school-age child care program shall have written plans to respond to illness, accidents, and emergencies, including burns, serious injury, and ingestion of poison. The operator shall ensure that parents of enrolled children are advised of these plans. Plans must:

1. Establish emergency response procedures;
2. Provide accessible posting of emergency response procedures and training for all staff members concerning those emergency procedures;
3. Require the availability of at least one working flashlight;
4. Require at least one department-approved first-aid kit be maintained and kept in each major activity area, inaccessible to children, yet readily accessible to staff members at all times;
5. Provide a working telephone immediately accessible to staff members with a list of emergency telephone numbers conspicuously posted;
6. Require that the program inform parents in writing of any first aid administered to their child within twenty-four hours of the incident and immediately notify parents of any injury which requires emergency care beyond first aid, and require an injury report to be made a part of the child's record;
7. Require a plan for responding to minor illnesses and minor accidents when children are in the care of the school-age child care program;

8. Require written permission to dispense medication and require proper instructions for the administration of medication be obtained from the parent of a child in the school-age childcare program who requires medication:
 - a. Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to its dosage and storage, and labeled with the child's name and date.
 - b. The program 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. The program shall include completed medication records in the child's record.
 - c. Medication must be stored in an area inaccessible to children, and medication stored in a refrigerator must be stored collectively in a spillproof container;
9. Require a supervised, temporary isolation area be designated for a child who is too ill to remain in the school-age child care program, or who has an infectious or contagious disease, with the following procedures being followed when those signs or symptoms are observed:
 - a. Parents are notified immediately and asked to pick up their child; and
 - b. First aid is provided and medical care sought, as necessary;
10. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or ~~state department of health~~ authorities from the public health division of the department of health and human services regarding the exclusion and return of children with infectious or communicable conditions. The program may obtain this guidance directly or through current published material regarding exclusion and return to the school-age child care program;
11. Notify parents, legal custodians, or guardians of child's exposure to a presumed or confirmed reportable infectious disease;
12. Identify a source of emergency health services readily available to the school-age child care program, including:
 - a. A prearranged plan for emergency medical care in which parents of enrolled children are advised of the arrangement; and

- b. Provisions for emergency transportation, specifically when a child is to be brought to another place for emergency care, an adult staff member responsible for caring for or teaching children shall remain with the child until medical personnel assume responsibility for the child's care and until the parent is notified; and

~~42-13.~~ Require information be provided to parents, as needed, concerning child health and social services available in the community.

History: Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2023.

General Authority: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01

SECTION 44. 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,~~ or household 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,~~ 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 12.1-41, 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; 12.1-17-01.2, domestic violence; 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, harassment; 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; 14-09-22, abuse of 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 household member, 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.
2. The department has determined that the offenses enumerated in subdivisions a and b of subsection 1 have a direct bearing on the applicant's, operator's, emergency designee's, substitute staff member's, director's, supervisor's, or staff member's ability to serve the public as an operator, emergency designee, substitute staff member, director, supervisor, or staff member.
 3. 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, harassment; 12.1-17-07.1, stalking; in the case of a class B misdemeanor offense described in North Dakota Century Code section 12.1-17-01.2, domestic violence; 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.
 4. The operator shall establish written policies, and engage in practices that conform to those policies, to effectively implement this section before hiring any staff member.
 5. An operator shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The operator shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years ~~from~~ from the date of initial approval and at least once every five years thereafter. The department may excuse a person from providing

fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

6. Review of fingerprint-based criminal history record check results.
 - a. If an individual disputes the results of the criminal history record check required under this chapter, the individual may request a review of the results by submitting a written request for review to the department within thirty calendar days of the date of the department's memo outlining the results. The individual's request for review must include a statement of each disputed item and the reason for the dispute.
 - b. The department shall assign the individual's request for review to a department review panel. An individual who has requested a review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.
 - c. The department shall notify the individual of the department's final decision in writing within sixty calendar days of receipt of the individual's request for review.

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; January 1, 2022; January 1, 2023.

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 45. Section 75-03-11.1-28 is amended as follows:

75-03-11.1-28. Child abuse and neglect decisions.

An operator shall ensure safe care for the children receiving services in the school-age child care program.

1. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by an applicant, operator, director, supervisor, emergency designee, substitute staff member, ~~or~~ staff member, or household member, that decision has a direct bearing on the applicant's or operator's ability to serve the public in a capacity involving the provision of

child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that a child has been abused or neglected by the applicant, operator, director, supervisor, emergency designee, substitute staff member, ~~or~~ staff member, or household member, the applicant or operator shall furnish information satisfactory to the department from which the department can determine the applicant's, operator's, director's, supervisor's, emergency designee's, substitute staff member's, or staff member's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or operator.

2. Each applicant, operator, director, supervisor, emergency designee, substitute staff member, and staff member shall complete, and the operator shall submit to the department or its authorized agent, a department-approved authorization for background check form no later than the first day of employment.
3. Household members age twelve and older shall complete, and the operator shall submit to the department or its authorized agent, a department-approved authorization for background check form at the time of application, relicensure, or upon obtaining residence at the location of the school age child care.

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, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023.

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