

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

Section 1. Section 75-03-09-09 is amended as follows:

75-03-09-09. Staffing requirements.

1. The number of staff members and their responsibilities must reflect program requirements, individual differences in the needs of the children enrolled, and may permit flexible groupings, if necessary.
2.
 - a. A provider may provide early childhood services for no more than seven children at any one time, which includes no more than three children under twenty four months of age. A provider may also provide early childhood services to two additional school-age children during the three hours immediately before and after the school day and all day, except for Saturday and Sunday, when school is not in session during the official school year; or
 - b. The-A provider may elect to staff according to the following minimum ratio of staff members responsible for caring for or teaching children to children in group child care-must be:
 - a. (1) If all children in care are-For children less younger than eighteen months of age, one staff member may care for four children, a ratio of .25 in decimal form is assigned;
 - b. (2) If all children in care are-For children eighteen months of age to thirty-six months of age, one staff member may care for five children, a ratio of .20 in decimal form is assigned;
 - e. (3) If all children in care are-For children thirty-six months of age to four years of age, one staff member may care for seven children, a ratio of .14 in decimal form is assigned;
 - d. (4) If all children in care are-For children four years of age to five years of age, one staff member may care for ten children, a ratio of .10 in decimal form is assigned;
 - e. (5) If all children in care are-For children five years of age to six years of age, one staff member may care for twelve children, a ratio of .08 in decimal form is assigned;
 - f. (6) If all children in care are-For children six to twelve years of age, one staff member may care for eighteen children, a ratio of .05 in decimal form is assigned; and
 - g. (7) If children in care are of mixed age categories, the staff to child ratio is calculated in accordance with subsection 6
When there is a mixed-age group, the number of children in each age category is multiplied by the corresponding ratio number, converted to decimal form, and carried to the nearest hundredth. To determine the number of staff members responsible for caring for or teaching children necessary at any given time, numbers of staff members for all age categories are added, and any fractional staff

member count is then rounded to the next highest whole number whenever the fractional staff member count amounts to thirty-five hundredths or more. If lower than thirty-five hundredths, the fractional amount is dropped. No more than four children under the age of eighteen months per staff member are allowed in any mixed-age group.

3. A provider licensed for at least two years may apply for a waiver of the required ratio, not to exceed .25 decimal points. The department shall consider demonstration of need, health and safety of children, age of children, number of children, and licensing history of the provider in determining whether to approve the application for a waiver. The department may deny an application for waiver and may revoke a waiver granted under this subsection. The decision to deny or revoke a waiver is not an appealable decision. The department shall review each waiver granted under this subsection at least every twelve months to determine if the circumstances which led to granting the waiver continue to exist.
- ~~34.~~ The provider of a group child care shall ensure that the group child care is sufficiently staffed at all times to meet the child and staff ratios for children in attendance, and that no more children than the licensed capacity are served at one time.
- ~~45.~~ If a child with special needs is admitted to the group child care, the child's developmental age level must be used in determining the number of children for which care can be provided.
- ~~56.~~ The provider shall ensure that children with special needs requiring more than usual care and supervision have adequate care and supervision provided to them without adversely affecting care provided to the remaining children in the group child care.
- ~~6.~~ ~~When there is a mixed-age group, the number of children in each age category is multiplied by the corresponding ratio number, converted to decimal form, and carried to the nearest hundredth. To determine the number of staff members responsible for caring for or teaching children necessary at any given time, numbers of staff members for all age categories are added, and any fractional staff member count is then rounded to the next highest whole number whenever the fractional staff member count amounts to thirty-five hundredths or more. If lower than thirty-five hundredths, the fractional amount is dropped.~~
7. Children using the group child care for a McGruff safe house, a block house, or a certified safe house program during an emergency are not counted under this section.

History: Effective December 1, 1981; amended effective July 1, 1984; January 1, 1987; January 1, 1989; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2012.

General Authority: NDCC 50-11.1-08

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

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

Section 1. Section 75-03-10-08 is amended as follows:

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

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

care center under a valid license or who fails to renew the operator's license upon its expiration will not be exempt subsequently from the requirements relating to maximum group size. The exemption for operators licensed prior to January 1, 1999, will end on January 1, 2015, after which time all operators will be subject to the requirements of this subsection.

- c. When there are mixed-age groups in the same room, the operator shall ensure:
 - (1) The maximum group size is consistent with the:
 - (a) Age of the majority of the children; or
 - (b) Highest number of children in the youngest age group;
 - (2) When children age zero to eighteen months are in the mixed-age group, the maximum group size does not exceed eight children;
 - (3) The mixed-age group does not exceed the acceptable ratio pursuant to subdivision d of subsection 2 of section 75-03-10-08 and the maximum number of children per staff member pursuant to subdivision a of subsection 2 of section 75-03-10-08; and
 - (4) If the mixed-aged group contains the maximum number of children per staff member pursuant to subdivision a of subsection 2 of section 75-03-10-08, the mixed-age group may only contain additional older children.
 - d. When there is a mixed-age group, the number of children in each age category is multiplied by the corresponding ratio number, converted to decimal form, and carried to the nearest hundredth. To determine the number of staff members responsible for caring for or teaching children necessary at any given time, numbers of staff members for all age categories are added, and any fractional staff member count is then rounded to the next highest whole number whenever the fractional staff member count amounts to thirty-five hundredths or more. If lower than thirty-five hundredths, the fractional amount is dropped.
- 3. If a child with special needs is admitted to the child care center, the child's developmental age level must be used to determine into which age group the child should be placed for determining child to staff ratios.
 - 4. The operator shall ensure that a child with special needs requiring more than usual care and supervision has adequate care and supervision without adversely affecting care provided to the other children in the child care center.
 - 5. ~~When there are mixed-age groups in the same room, the group size must be consistent with the age of the majority of the children when no children age zero to eighteen months are in the group. When children age zero to eighteen months are in the mixed-age group, the group size may not exceed eight children.~~

6. ~~When there is a mixed age group, the number of children in each age category is multiplied by the corresponding ratio number, converted to decimal form, and carried to the nearest hundredth. To determine the number of staff members responsible for caring for or teaching children necessary at any given time, numbers of staff members for all age categories are added, and any fractional staff member count is then rounded to the next highest whole number whenever the fractional staff member count amounts to thirty five hundredths or more. If lower than thirty five hundredths, the fractional amount is dropped.~~
7. Children using the child care center for a McGruff safe house, a block house, or a certified safe house program during an emergency are not counted under this section.
6. An operator licensed for at least two years may apply for a waiver of the required ratio and maximum group size, not to exceed .25 decimal points per group. The department shall consider demonstration of need, health and safety of children, age of children, number of children, and licensing history of the operator in determining whether to approve the application or a waiver. The department may deny an application for waiver and may revoke a waiver granted under this subsection. The decision to deny or revoke a waiver is not an appealable decision. The department shall review each waiver granted under this subsection at least every twelve months to determine if the circumstances which led to granting the waiver continue to exist.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2012.

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