

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

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**Section 1.** Subdivision a of subsection 3 of section 75-03-07.1-02 is amended as follows:

3. An applicant for a self-declaration document shall be directly responsible for the care, supervision, and guidance of the child or children; shall comply with the following standards; and shall certify:
  - a. That the applicant:
    - (1) Is at least eighteen years of age;
    - (2) Shall provide an environment that is physically and socially adequate for the children; and that the applicant is an adult 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 applicant'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 applicant's care;
    - (5) Shall provide proper care and protection for children in the applicant's care;
    - (6) May not use or be under the influence of, and will not allow any household member or staff member to use or be under the influence of any illegal drugs or alcoholic beverages while caring for children;
    - (7) May not leave children without supervision;

- (8) Shall verify that the child has received all immunizations appropriate for the child's age, as prescribed by the state department of health, or have on file a document stating that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs, unless the child is a drop-in or school-age child;
- (9) Shall report immediately, as a mandated reporter, suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- (10) Shall provide a variety of games, toys, books, crafts, and other activities and materials to enhance the child's intellectual and social development and to broaden the child's life experience. Each provider shall have enough play materials and equipment so that at any one time each child in attendance may be involved individually or as a group;
- (11) Shall ensure a current health assessment or a health assessment statement completed by the parent is obtained at the time of initial enrollment of the child, which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually; and
- (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; and
- (13) Has completed a department-approved basic child care course.

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

**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 2.** Section 75-03-07.1-04 is amended as follows:

**75-03-07.1-04. ~~Self-declaration restricted to one~~ One per residence -  
Nontransferability of self-declaration and emergency designee.**

1. The department may not authorize more than one in-home registration, self-declaration, or license per residence. A residence means real property that is typically used as a single family dwelling. ~~This applies to new self-declarations issued on or after January 1, 2011. Existing providers~~ A provider or operator with more than one in-home registration, self-declaration, or license in a single residence or two or more providers or operators operating under in-home registrations, self-declarations, or licenses out of the same residence prior to January 1, 2011 will be exempt from this provision-subsection until January 1, 2016, after which time all providers will be subject to the requirements of this subsection.
2. The applicant shall identify one emergency designee for the self-declaration at the time of the application. The emergency designee must be at least eighteen years old and must be approved by the department.

3. The provider shall be on the premises supervising the children at all times when children are present, except in situations during which the emergency designee is providing care.
4. The self-declaration is nontransferable to another residence.

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

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

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

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

5. A provider shall ensure safe care for the children receiving services in the provider's residence. If a services-required decision made under North Dakota Century Code chapter 50-25.1 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 self-declaration document may be denied or revoked.
  - a. If a services-required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 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 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 or neglect. The department shall furnish the determination of ability to the applicant or provider and to the director of the regional human service center or the director's designee for consideration and action on the application or self-declaration document.
  - b. Each applicant, provider, emergency designee, and staff member shall complete a department-approved authorization for background check form no later than the first day of employment.
  - c. Household members over the age of twelve ~~must~~ shall complete 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.

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

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

**Section 4.** Subsection 4 of 75-03-07.1-08 is amended as follows:

4. **Sleeping.**

- a. The provider shall ensure that infants are placed on their back initially when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise. The infant's face must remain uncovered when sleeping.
- b. The provider shall ensure that infants sleep in a crib with a firm mattress or in a portable crib with the manufacturer's pad that meets consumer product safety commission standards.
- c. The provider shall ensure that if an infant falls asleep while not in a crib or portable crib, the infant must be moved immediately to a crib or portable crib, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise.
- d. Water beds, adult beds, sofas, pillows, soft mattresses, and other soft surfaces are prohibited as infant sleeping surfaces.
- e. The provider shall ensure that all items are removed from and that no toys or objects are hung over or attached to the crib or portable crib, except for when an infant is sleeping or preparing to sleep. With written parental permission, the provider may place one individual infant blanket or sleep sack, a pacifier, and a security item that does not pose a risk of suffocation to the infant in the crib or portable crib while the infant is sleeping or preparing to sleep.
- f. The provider shall ensure that mattresses and sheets are properly fitted. The provider shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when cribs are used by different infants, or at least weekly.
- g. ~~The provider shall ensure that each infant has an individual infant blanket or infant sleep sack.~~
- h. ~~The provider shall ensure that toys or objects hung over an infant crib or portable crib must be held securely and be of size and weight that would not injure an infant if the toy or object accidentally falls or if the infant pulls on the object.~~
- i. The provider shall check on sleeping infants regularly or have a monitor in the room with sleeping infants.

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

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

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

**Section 5.** Subsection 1 of section 75-03-07.1-10 is amended as follows:

1. A provider shall correct violations noted in a correction order within the following times:
  - a. For a violation of paragraphs subsection 23 of North Dakota Century Code section 50-11.1-02; North Dakota Century Code

section 50-11.1-02.2; paragraph 5 and or 7 of subdivision a of subsection 3 of section 75-03-07.1-02; subdivision b of subsection 3 of section 75-03-07.1-02, and; or subsection 4 of section 75-03-07.1-02, within twenty-four hours.

- b. For a violation of subdivision g or h of subsection 1 of North Dakota Century Code section 50-11.1-17 or all other deficiencies of chapter 75-03-07.1, within twenty days.

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

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

**Law Implemented:** NDCC 50-11.1-07, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-08

**Section 6.** Section 75-03-07.1-11 is amended as follows:

**75-03-07.1-11. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of subdivisions North Dakota Century Code chapter 50-11.1; subdivision b, c, d, and or e of subsection 3 of section 75-03-07.1-02; or subsection 4 of section 75-03-07.1-02 for each day that the provider has not verified correction, after the allowable time for correction of violations ends.
2. The department shall assess fiscal sanction of five dollars per day for each violation of any other provision of this chapter for each day that the provider has not verified correction, after the allowable time for correction of violations ends.

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

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

**Law Implemented:** NDCC 50-11.1-07.4, 50-11.1-07.5, 50-11.1-08

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

**Section 7.** Section 75-03-08-05.1 is repealed:

**75-03-08-05.1. Family child care license.** ~~The right to operate a licensed family child care is dependent upon continuing compliance with the applicable provisions of North Dakota Century Code chapter 50-11.1 and the applicable standards contained in this chapter Repealed effective January 1, 2013.~~

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

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

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

**Section 8.** Subsection 3 of section 75-03-08-07 is amended as follows:

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

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

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

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

**Section 9.** Section 75-03-08-08.1 is amended as follows:

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

1. A provider shall maintain, whenever services are provided, at least one staff member who:
  - a. Is certified in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs approved by the department; and
  - b. Is certified or trained in a department-approved program to provide first aid.
2. Substitute staff are exempt from the requirements of subsection 1. If a provider utilizes a substitute or emergency designee who is not certified in cardiopulmonary resuscitation or first aid when no other staff member who is certified is on duty, the provider shall notify the parents of the date and

- time that the substitute or emergency designee will be caring for the children.
3. The provider shall have an adult staff member responsible for caring for or teaching children present in the family child care at all times to supervise staff members under the age of eighteen and children in care.
  4. A staff member may not at any time place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health.
  5. The provider shall report to the authorized agent within twenty-four hours:
    - a. A death or serious accident or illness requiring hospitalization of a child while in the care of the family child care or attributable to care received in the family child care;
    - b. An injury to any child which occurs while the child is in the care of the family child care and which requires medical treatment;
    - c. Poisonings or errors in the administration of medication;
    - d. Closures or relocations of child care programs due to emergencies; and
    - e. Fire that occurs or explosions that occur in or on the premises of the family child care.
  - ~~6. The provider shall develop and ensure compliance with a written policy and procedure for accountability when a normally unaccompanied child fails to arrive for the program.~~
  - ~~7.~~ The provider shall be present in the family child care no less than sixty percent of the time when children are in care.
  - ~~87.~~ The provider, as a mandatory reporter, shall report any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03.
  - ~~98.~~ The provider shall select an emergency designee.
  - ~~409.~~ The provider shall maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the family child care.
  - ~~4410.~~ The provider must be an adult of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care.
  - ~~4211.~~ The provider shall ensure safe care for the children under supervision. Supervision means a staff member responsible for caring for or teaching children being within sight or hearing range of an infant, toddler, or preschooler at all times so that the staff member is capable of intervening to protect the health and safety of the child. For the school-age child, it means a staff member responsible for caring for or teaching children being available for assistance and care so the child's health and safety is protected.

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

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

**75-03-08-09. Staffing requirements.**

1. Staffing requirements are established by the number of children physically in care at the family child care at any given time, rather than total enrollment.
- ~~1.~~ ~~A provider may provide care to no more than a total of four children if all are under age twenty-four months.~~
2. ~~A provider providing care to five or more children may provide care to no more than three children under age twenty-four months.~~
- ~~3.~~ If a child with special needs is admitted to the program, the child's developmental age level must be used in determining the number of children for which care may be provided.
- 4~~3~~. Children using the family 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 January 1, 1999; amended effective January 1, 2011; January 1, 2013.

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

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

**Section 11.** Section 75-03-08-19 is amended as follows:

**75-03-08-19. Admission procedures.**

1. The provider shall request a preadmission visit with the child and the child's parents to acquaint the child and the parent with the family child care and its surroundings, the other children, and the provider.
2. The provider shall inform parents about the child care program, places and times of special activities outside the family child care, policies, and emergency procedures, and shall discuss information concerning the child to identify and accommodate the child's needs. Written policies must include:
  - a. ~~An explanation of how accidents and illnesses may will be dealt with must be provided, as well as handled;~~
  - b. The methods of discipline and developmentally appropriate discipline and guidance techniques that are to be used;
  - c. The process for a parent or staff member to report a complaint, a suspected licensing violation, or suspected child abuse or neglect;
  - d. Hiring practices and personnel policies for staff members;
  - e. Informing parents that they may request daily reports for their child, including details regarding eating, napping, and diapering;
  - f. Procedure for accountability when a child fails to arrive as expected at the child care; and
  - g. Transportation procedures, if the provider provides transportation.
3. The provider shall notify parents of the payment rates and the time of payment.

4. The provider shall provide parents with unlimited access and opportunities to observe their children at any time their children are in care. This does not prohibit a provider from locking the doors of the family child care while children are in care.
5. The provider 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.
6. The provider shall ~~inform parents that they may request daily reports for their child, including details regarding eating, napping, and diapering~~ ensure that children do not depart from the child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once he or she leaves the child care premises.

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

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

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

**Section 12.** Subdivision d of subsection 1 of section 75-03-08-24 is amended as follows:

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

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

- (6) The provider shall ensure that mattresses and sheets are properly fitted. The provider shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when cribs are used by different infants, or at least weekly.
- (7) ~~The provider shall ensure that each infant has an individual infant blanket or infant sleep sack.~~
- (8) ~~The provider shall ensure that toys or objects hung over an infant crib or portable crib must be held securely and be of size and weight that would not injure an infant if the toy or object accidentally falls or if the infant pulls on the object.~~
- (9) The provider shall check on sleeping infants regularly or have a monitor in the room with the sleeping infant.

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

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

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

**Section 13.** Section 75-03-08-28 is amended as follows:

**75-03-08-28. Child abuse and neglect decisions.** A provider shall ensure safe care for the children receiving services in the provider's family child care.

1. If a services-required decision made under North Dakota Century Code chapter 50-25.1 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 services-required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 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 and to the regional director of the human service center or the director's designee for consideration and action on the application or license.

2. Each applicant, provider, emergency designee, and staff member in the family child care shall complete a department-approved authorization for background check form no later than the first day of employment.
3. Household members over the age of twelve ~~must~~ shall complete 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.

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

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

**Section 14.** Section 75-03-08-29 is amended as follows:

**75-03-08-29. Correction of violations.**

1. A provider shall correct violations noted in a correction order within the following times:
  - a. For a violation of subsection 8 of North Dakota Century Code section 50-11.1-02; North Dakota Century Code section 50-11.1-02.2; section 75-03-08-04, or 75-03-08-09, subsections; subsection 2, 7, and 10 or 9 of section 75-03-08-14, or; section 75-03-08-23; or subsection 1 of section 75-03-08-24, within twenty-four hours.
  - b. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-08-14, within sixty days.
  - c. For a violation that requires substantial building remodeling, construction, or change, within sixty days.
  - d. For all other violations, within twenty days.
2. All periods for correction begin on the date of receipt of the correction order by the provider.
3. The regional supervisor of early childhood services may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the provider and a showing that the need for the extension is created by unforeseeable circumstances and the provider has diligently pursued the correction of the violation.
4. The provider shall furnish a written notice to the authorized agent upon completion of the required corrective action. The correction order remains in effect until the authorized agent confirms the corrections have been made.
5. Within three business days of the receipt of the correction order, the provider shall notify the parents of each child receiving care at the family child care that a correction order has been issued. In addition to providing notice to the parent of each child, the provider also shall post the correction order in a conspicuous location within the family child care until the violation has been corrected or for five days, whichever is longer.

6. ~~The provider shall inform the parent of each child receiving care at the family child care and each staff member how to report a complaint or suspected licensing violation.~~
7. A family child care program that has been issued a correction order must be reinspected at the end of the period allowed for correction. If, upon reinspection, it is determined that the program has not corrected a violation identified in the correction order, a notice of noncompliance with the correction order must be mailed by certified mail to the program. The notice must specify the violations not corrected and the penalties assessed in accordance with North Dakota Century Code section 50-11.1-07.5.
87. If a family child care program receives more than one correction order in a single year, the provider may be referred by the department for consulting services to assist the provider in maintaining compliance and to avoid future corrective action.

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

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

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

**Section 15.** Section 75-03-08-30 is amended as follows:

**75-03-08-30. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of ~~subsections North Dakota Century Code chapter 50-11.1; section 75-03-08-09; subsection 1, 2, and or 9 of section 75-03-08-14; subsection 3 of section 75-03-08-21.1; or section 75-03-08-23, 75-03-08-27, or 75-03-08-28~~ for each day that the provider has not verified correction, after the allowable time for correction of violations ends.
2. The department shall assess a fiscal sanction of fifteen dollars per day for each violation of ~~section 75-03-08-09; subsections subsection 8 and or 10 of section 75-03-08-14; or subsection 13 of section 75-03-08-21.1~~ for each day that the provider has not verified correction, after the allowable time for correction of violations ends.
3. The department shall assess a fiscal sanction of five dollars per day for each violation of any other provision of this chapter for each day that the provider has not verified correction, after the allowable time for correction of violations ends.

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

**General Authority:** NDCC 50-11.1-07.4, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-07.4, 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 16.** Subsection 4 of section 75-03-09-07 is amended as follows:

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

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

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

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

**Section 17.** Subsection 1 of section 75-03-09-08 is amended as follows:

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

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

- e. Notify the authorized agent of any major changes in the operation or in the ownership of the group child care, including staff member changes;
- f. Maintain records of enrollment, attendance, health, and other required records;
- g. Select an emergency designee;
- h. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the group child care;
- i. Ensure the group child care is sufficiently staffed at all times to meet the child and staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
- j. Ensure preadmission visits for children and their parents are offered so the facility's program, fees, operating policies, and procedures can be viewed and discussed, including:
  - (1) ~~An explanation of how accidents and illnesses may be handled;~~
  - (2) ~~The methods of developmentally appropriate guidance techniques that are to be used;~~
  - (3) ~~The process for reporting a complaint, a suspected licensing violation, and suspected child abuse or neglect;~~
  - (4) ~~Hiring practices and personnel policies for staff members; and~~
  - (5) ~~Informing parents that they may request daily reports for their child, including details regarding eating, napping, and diapering;~~
- k. Ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
- l. Provide parents, upon request, with progress reports on their children, and provide unlimited opportunities for parents to observe their children while in care. Providing unlimited access does not prohibit a group child care from locking its doors while children are in care;
- m. Provide parents with the name of the group child care provider, the group child care supervisor, staff members, and the emergency designee;
- n. Report, as a mandatory reporter, any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- o. ~~Develop and ensure compliance with a written policy and procedure for accountability when a normally unaccompanied child fails to arrive as expected at the group child care; and~~
- p. Ensure, whenever services are provided, that at least one staff member, on duty meets current certification requirements in basic



cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other cardiopulmonary resuscitation training programs approved by the department, and is certified or trained in a department-approved program to provide first aid. Substitute staff are exempt from this requirement. If a provider utilizes a substitute or emergency designee who is not certified in cardiopulmonary resuscitation or first aid when no other staff member who is certified is on duty, the provider shall notify the parents of the date and time that the substitute or emergency designee will be caring for the children; and

- p. Ensure that children do not depart from the child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once he or she leaves the child care premises.

**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.

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

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

**Section 18.** Subsection 2 of section 75-03-09-10 is amended as follows:

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. ~~A bachelor's~~ An associate's degree with at least ~~twelve semester hours or fifteen quarter hours in child development, child psychology, or directly related fields~~ one of the following:
    - (1) Eight semester hours or twelve quarter hours in early childhood education or child development,
    - (2) 120 hours of department-approved early childhood training,  
or
    - (3) A director's credential approved by the department;
  - c. ~~An associate of arts degree in the field of early childhood development;~~
  - d. Current certification as a child development associate or similar status;
  - ed. Certification from a Montessori teacher training program;

- f.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;
- g.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
- hg. 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.

**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.

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

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

**Section 19.** Subsection 4 of section 75-03-09-14 is amended as follows:

- 4. Toilet and sink facilities:
  - a. The provider shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff.
  - b. Toilets must be located in rooms separate from those used for cooking, eating, and sleeping. A minimum of one ~~sink and one~~ flush toilet must be provided for each fifteen children, excluding those children who are not toilet trained. Two toilets must be provided for each sixteen to eighteen children, excluding those children who are not toilet trained.
  - c. The provider shall provide child-sized toilet adapters, training chairs, or potty chairs for use by children who require them. Training chairs must be emptied promptly and thoroughly cleaned and sanitized after each use.
  - d. The provider shall provide at least one handwashing sink per toilet room facility or diapering area. The provider shall provide sanitary hand-drying equipment, individually designated cloth towels, or paper towels near handwashing sinks.
  - e. The provider shall provide safe step stools to allow standard-size toilets and sinks to be used by the children or the provider shall ensure the availability of child-size toilets and sinks.

**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.

**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 20.** Subdivision d of subsection 1 of section 75-03-09-24 is amended as follows:

- d. Sleeping.
- (1) The provider shall ensure that infants are placed on their back initially when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise. The infant's face must remain uncovered when sleeping.
  - (2) The provider shall ensure that infants sleep in a crib with a firm mattress or in a portable crib with the manufacturer's pad that meets consumer product safety commission standards.
  - (3) The provider shall ensure that if an infant falls asleep while not in a crib or portable crib, the infant must be moved immediately to a crib or portable crib, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise.
  - (4) Water beds, adult beds, sofas, pillows, soft mattresses, and other soft surfaces are prohibited as infant sleeping surfaces.
  - (5) The provider shall ensure that all items are removed from and that no toys or objects are hung over or attached to the crib or portable crib, except for when an infant is sleeping or preparing to sleep. With written parental permission, the provider may place one individual infant blanket or sleep sack, a pacifier, and a security item that does not pose a risk of suffocation to the infant in the crib or portable crib while an infant is sleeping or preparing to sleep.
  - (6) The provider shall ensure that mattresses and sheets are properly fitted. The provider shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when cribs are used by different infants, or at least weekly.
  - (7) ~~The provider shall ensure that each infant has an individual infant blanket or infant sleep sack.~~
  - (8) ~~The provider shall ensure that toys or objects hung over an infant crib or portable crib must be held securely and be of size and weight that would not injure an infant if the toy or object accidentally falls or if the infant pulls on the object.~~
  - (9) The provider shall check on sleeping infants regularly or have a monitor in the room with the sleeping infant.

**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.

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

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

**Section 21.** Subsection 4 of section 75-03-09-24 is amended as follows:

4. A provider shall ensure that a group child care serving only drop-in care children complies with this chapter but is exempt from the following provisions:
  - a. ~~Subsection~~ Subsections 4 and 5 of section 75-03-09-20; subsections 6 and 7 of section 75-03-09-21; subdivision f of subsection 2 of section 75-03-09-22; subsection 3 of section 75-03-09-22; and subsection 1 of section 75-03-09-25.
  - b. A group child care serving only drop-in care children is exempt from the outdoor space requirements.

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

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

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

**Section 22.** Section 75-03-09-28 is amended as follows:

**75-03-09-28. Child abuse and neglect decisions.** A provider shall ensure safe care for the children receiving services in the provider's group child care.

1. If a services-required decision made under North Dakota Century Code chapter 50-25.1 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 services-required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 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 and to the regional director of the human service center or the director's designee for consideration and action on the group child care application or license.

2. Each applicant, provider, emergency designee, and staff member in the group child care shall complete a department-approved authorization for background check form no later than the first day of employment.
3. Household members over the age of twelve ~~must~~ shall complete 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.

**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 23.** Subsection 2 of section 75-03-09-29 is amended as follows:

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

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

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

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

**Section 24.** Section 75-03-09-30 is amended as follows:

**75-03-09-30. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of North Dakota Century Code chapter 50-11.1; subdivision g-i of subsection 1 of section 75-03-09-08; subsection 2 of; section 75-03-09-09; section or 75-03-09-17; subsections 7; subsection 6, 409, and or 4413 of section 75-03-09-18; ; or section 75-03-09-19, and

~~section 75-03-09-23, 75-03-09-27, or 75-03-09-28,~~ for each day that the provider has not verified correction after the allowable time for correction of violations ends.

2. The department shall assess a fiscal sanction of fifteen dollars per day for each violation of ~~subsection 2 of section 75-03-09-10;~~ section 75-03-09-12; ~~subsection 2 and subdivisions or subdivision b and or d of subsection 4 of section 75-03-09-14;~~ section 75-03-09-15; ~~subsections;~~ subsection 3, 5, 8, 9, 10, and or 12 of section 75-03-09-18; ~~subsections;~~ subsection 2 and or 4 of section 75-03-09-20; ~~subsection 1 of section 75-03-09-21, and subsections;~~ or subsection 1 and or 3 of section 75-03-09-24, for each day that the provider has not verified correction, after the allowable time for correction of violations ends.
3. The department shall assess a fiscal sanction of five dollars per day for each violation of any other provision of this chapter for each day that the provider has not verified correction after the allowable time for correction of violations ends.

**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.

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

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

**CHAPTER 75-03-10  
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 25.** Subsection 4 of section 75-03-10-07 is amended as follows:

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

**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.

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

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

**Section 26.** Subdivision a of subsection 2 of section 75-03-10-08 is amended as follows:

2. a. The operator shall ensure that the center is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at one time. The minimum ratio of staff members responsible for caring for or teaching children to children in child care centers and maximum group size of children must be:
  - (1) ~~If all children in care are~~ For children less than eighteen months of age, one staff member may care for four children, a ratio of .25 in decimal form, with a maximum group size of eight children;
  - (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, with a maximum group size of ten children;
  - (3) ~~If all children in care are~~ For children three years of age to four years of age, one staff member may care for seven children, a ratio of .14 in decimal form, with a maximum group size of fourteen children;
  - (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, with a maximum group size of twenty children;
  - (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, with a maximum group size of twenty-four children; and

- (6) ~~If all children in care are~~ For children six years to twelve years of age, one staff member may care for twenty children, a ratio of .05 in decimal form, with a maximum group size of forty children.

**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; January 1, 2013.

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

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

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

**75-03-10-09. Duties of child care center operator.** The operator is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator shall:

1. Designate a qualified director and shall delegate appropriate duties to the director:
  - a. The operator shall ensure that the director or a designated acting director is present at the center at least sixty percent of the time when the center is open;
  - b. The operator shall ensure that the individual designated as an acting director for an ongoing period of more than thirty days meets the qualifications of a director; and
  - c. The operator shall ensure that when the director and acting director are not present at the center, a person who meets the qualifications of a supervisor is on duty;
2. Apply for a license for the child care center;
3. Provide an environment that is physically and socially adequate for children;
4. Notify the authorized agent of any major changes in the operation, ownership, or governing body of the child care center, including staff member changes;
5. Ensure that liability insurance is carried to insure against bodily injury and property damage for the child care center;
6. Formulate written policies and procedures for the operation of the child care center ~~relating to~~. Policies must include:
  - a. Hiring practices and personnel policies for staff members;
  - b. Methods for obtaining references and employment histories of staff members;
  - c. Methods of conducting staff member performance evaluations;
  - d. Children's activities, care, and enrollment; ~~and~~
  - e. The responsibilities and rights of staff members and parents;
  - f. An explanation of how accidents and illnesses will be handled;

- g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
  - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
  - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
  - j. Procedure for accountability when a child fails to arrive as expected at the child care; and
  - k. Transportation procedures, if the operator provides transportation;
7. Maintain records of enrollment, attendance, health, and other required records;
  8. Select an emergency designee;
  9. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the child care center;
  10. Ensure that parents of enrolled children and other interested parties are informed of the goals, policies, procedures, and content of the child care center's program, including:
    - a. ~~An explanation of how the center will handle accidents and illnesses;~~
    - b. ~~The methods of developmentally appropriate discipline and guidance techniques to be used;~~
    - c. ~~The process for reporting a complaint, a suspected licensing violation, and suspected child abuse or neglect; and~~
    - d. ~~Hiring practices and personnel policies for staff members;~~
  11. Ensure that parents of enrolled children:
    - a. Are advised of the center's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director;
    - b. Receive written notice of the effective date, duration, scope, and impact of any significant changes in the center's services; and
    - c. Receive notice that they may request written daily reports for their child, including details regarding eating, napping, and diapering;
  12. Ensure that the center is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
  13. Ensure that the child care center has sufficient qualified staff members available to substitute for regularly assigned staff who are sick, on leave, or otherwise unable to be on duty;
  14. Ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
  15. ~~Ensure that written policies are established which address provision of emergency medical care, the care of a child with special needs when a child with special needs is in care, and the treatment of illness and accident;~~

- ~~16.~~ ~~Ensure that written policies are established concerning the care and safeguarding of personal belongings brought to the child care center by a child or by another on the child's behalf;~~
- ~~17.~~ Provide parents with unlimited access and opportunities for parents to observe their children while in care, and provide parents with regular opportunities to meet with staff members responsible for caring for or teaching children before and during enrollment to discuss their children's needs. Providing unlimited access does not prohibit a child care center from locking its doors while children are in care;
- ~~18.~~ Provide parents, upon request, with progress reports on their children;
- ~~17.~~ Report immediately, as a mandatory reporter, suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- ~~18.~~ Ensure, whenever services are provided, that at least one staff member, emergency designee, or substitute staff is on duty who meets the current certification requirements in cardiopulmonary resuscitation by the American heart association, American red cross, or other department-approved cardiopulmonary resuscitation training programs approved by the department, and is certified or trained in a department-approved program to provide first aid;
- ~~21.~~ ~~Develop and ensure compliance with a written policy and procedure for accountability when a normally unaccompanied child fails to arrive as expected at the child care center;~~
- ~~19.~~ Ensure that staff members responsible for caring for or teaching children under the age of eighteen are supervised by an adult staff member;
- ~~20.~~ Meet the qualifications of the director set forth in section 75-03-10-10, if the operator is also the director; ~~and~~
- ~~21.~~ Report to the authorized agent within twenty-four hours:
  - a. A death or a serious accident or illness requiring hospitalization of a child while in the care of the child care center or attributable to care received in the child care center;
  - b. An injury to any child which occurs while the child is in the care of the child care center and which requires medical treatment;
  - c. Poisonings or errors in the administering of medication;
  - d. Closures or relocations of child care programs due to emergencies; and
  - e. Fire that occurs or explosions that occur in or on the premises of the child care center; ~~and~~
- 22. Ensure that children do not depart from the child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent the child to leave the child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once he or she leaves the child care premises.

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

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

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

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

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

1. Be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care;
2. Possess knowledge or experience in management and interpersonal relationships;
3. Hold at least one of the following qualifications, in addition to those set out in subsection 1:
  - a. A bachelor's degree in the field of early childhood education or child development;
  - b. A bachelor's degree with ~~at least twenty-four semester hours or thirty quarter hours in child development, child psychology, or directly related fields,~~ with at least six months of experience in a child care center or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours in early childhood education or child development,
    - (2) 120 hours of department-approved early childhood training,  
or
    - (3) A director's credential approved by the department;
  - c. An ~~associate of arts~~ associate's degree in the field of early childhood education or child development with at least six months of experience in a child care center or similar setting;
  - d. An associate's degree with at least one year of experience in a child care center or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours in early childhood education or child development,
    - (2) 120 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;
  - ef. A current certification as a child development associate or a similar status, with at least one year of experience in a child care center or similar setting;
  - f. ~~A bachelor's degree with at least twelve semester hours or fifteen quarter hours in child development, child psychology, or directly~~

- related fields, 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) ~~twelve~~ Eight semester hours or ~~fifteen~~ twelve quarter hours in child development, ~~child psychology,~~ or early childhood education, ~~or related fields;~~ and
  - (2) 120 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.

**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.

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

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

**Section 29.** 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;
  - 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. ~~Meet current certification requirements in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other cardiopulmonary resuscitation training programs approved by the department;~~
6. ~~Be certified or trained in a department-approved program to provide first aid;~~
7. Successfully complete a department-approved basic child care course within the first three months of employment; and
86. Successfully complete a minimum of thirteen hours of department-approved training related to child care.

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

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

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

**Section 30.** Section 75-03-10-18 is amended as follows:

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

1. The operator shall ensure that the state department of health conducts an annual inspection. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the authorized agent.
2. The operator shall ensure that the child care center bathroom sinks, toilets, tables, chairs, and floors are cleaned daily.
3. Cots and mats must be designated individually, and cleaned and sanitized at least weekly. If different children use the same cots or mats, they must be cleaned thoroughly and sanitized between each use. The operator shall ensure that aisles between cots, cribs, and portable cribs are a minimum space of two feet [58.42 centimeters] and are kept free of all obstructions while cots, cribs, and portable cribs are occupied. The operator shall provide separate storage for personal blankets or coverings.
34. The operator shall ensure that the child care center's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and the staff members.
45. 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 cloth towels, or paper towels must be available at each sink.
56. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys and equipment are kept clean and in sanitary condition. Books and other toys are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
67. The operator shall ensure that the child care center ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
78. The operator shall ensure that the garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The operator shall keep indoor garbage in covered containers. The operator may allow paper waste to be kept in open waste containers.
89. 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.
- ~~9~~10. The operator shall ensure that potential hazards, such as noncovered electrical outlets, guns, household cleaning chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
- ~~40~~11. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.
- ~~44~~12. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
- ~~42~~13. The operator shall take steps to keep the child care center free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the child care center. Insect repellent may be applied outdoors on children with written parental permission.
- ~~43~~14. The operator shall ensure that exit doorways and pathways are not blocked.
- ~~44~~15. If the center is providing care to children in wheelchairs, the operator shall ensure doors have sufficient width and construction to accommodate any children in wheelchairs who are receiving care at the child care center.
- ~~45~~16. The operator shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
- ~~46~~17. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
- ~~47~~18. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by the local fire authorities. During the heating season when the child care center is occupied by children, the room temperature may not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
- ~~48~~19. The operator shall ensure that all child care center buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chewed condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when

measured by a lead-detecting instrument approved by the state department of health.

~~19~~20. The operator shall ensure that personal items including combs, pacifiers, and toothbrushes are individually identified and stored in a sanitary manner.

~~20~~21. Pets and animals.

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

~~21~~22. Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the child care center and shall empty, clean, and sanitize wading pools daily.

~~22~~23. All swimming pools used by children must be approved annually by the local health unit.

~~23~~24. Water supply:

- a. The operator shall ensure that the child care center has a drinking supply from an approved community water system or from a source tested and approved annually by the state department of health.



- b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking cups.
  - c. The child care center must have hot and cold running water. The water in the faucets used by children may not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
2425. Toilet and sink facilities:
- a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members.
  - b. Toilets must be located in rooms separated from those used for cooking, eating, and sleeping. A minimum of one sink and one flush toilet must be provided for each fifteen children, excluding those children who are not toilet trained.
  - c. The operator shall ensure that separate restrooms are provided for boys and girls six years of age and over, and partitions are installed to separate toilets in these restrooms.
  - d. The operator shall provide child-sized toilet adapters, training chairs, or potty chairs for use by children who require them. Training chairs must be emptied promptly and thoroughly cleaned and sanitized after each use.
  - e. The operator shall provide at least one handwashing sink per toilet room facility or diapering area. ~~The operator shall ensure that sanitary hand-drying equipment, single-use cloth towels, or paper towels are available near handwashing sinks.~~
  - f. The operator shall provide safe step stools to allow children to use standard-size toilets and sinks or the operator shall ensure the availability of child-size toilets and sinks.
2526. The operator of a child care center not on a municipal or public water supply or wastewater disposal system shall ensure the child care center's sewage and wastewater system has been approved by the state department of health.
2627. Laundry:
- a. If the child care center provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation.
  - b. The operator shall ensure that soiled linens are placed in closed containers or hampers during storage and transportation.
  - c. The operator shall ensure that in all new or extensively remodeled child care centers, the handling, sorting, or washing of soiled linens or blankets takes place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas.
  - d. The operator shall ensure that in an existing child care center where physical separation of laundry and kitchen areas is

- impractical, procedures are developed that prohibit the washing or transportation of laundry while meals are being prepared or served.
- e. The operator shall ensure that sorting of laundry is not allowed in food preparation, serving, or kitchen areas.
  - f. If the child care center provides laundry service for common use linens, towels, or blankets, or if different children's clothing, towels, or blankets are laundered together, the operator shall ensure that water temperature must be greater than one hundred forty degrees Fahrenheit [60 degrees Celsius].
  - g. The operator shall ensure that if the water temperature is less than one hundred forty degrees Fahrenheit [60 degrees Celsius], bleach or sanitizer is used in the laundry process during the rinse cycle or the center shall use a clothes dryer that reaches a temperature of at least one hundred forty degrees Fahrenheit [60 degrees Celsius].

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

**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.** Subdivision d of subsection 1 of section 75-03-10-24 is amended as follows:

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

provider may place one individual infant blanket or sleep sack, a pacifier, and a security item that does not pose a risk of suffocation to the infant in the crib or portable crib while the infant is sleeping or preparing to sleep. The infant's face must remain uncovered when sleeping.

- (6) The operator shall ensure that mattresses and sheets are properly fitted. The operator shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when used by different infants, or at least weekly.
- (7) ~~The operator shall ensure that each infant has an individual infant blanket or infant sleep sack.~~
- (8) ~~The operator shall ensure that toys or objects hung over an infant crib or portable crib are secured and are of size and weight that would not injure an infant if the toy or object accidentally falls or if the infant pulls on the object.~~
- (9) The operator shall ensure that a staff member responsible for caring for or teaching children checks on sleeping infants regularly or that a monitor is in the room with the infants.

**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.

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

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

**Section 32.** Subsection 4 of section 75-03-10-24 is amended as follows:

4. An operator shall ensure that a child care center serving only drop-in care children complies with this chapter, but is exempt from the following provisions:
  - a. The maximum group size requirements listed in section 75-03-10-08;
  - b. Subsections 5, 9, 12, 13, 14, and 15, and 19 of section 75-03-10-20; subsections 6 and 7 of section 75-03-10-21; subdivision f of subsection 2 of section 75-03-10-22; and subsection 1 of section 75-03-10-25; and
  - b-c. A child care center serving only drop-in care children is exempt from the outdoor space requirements.

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

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

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

**Section 33.** Section 75-03-10-28 is amended as follows:

**75-03-10-28. Child abuse and neglect decisions.** An operator shall ensure safe care for the children receiving services in the child care center.

1. If a services-required decision made under North Dakota Century Code chapter 50-25.1 exists, indicating that a child has been abused or neglected by an applicant, operator, director, supervisor, emergency designee, substitute staff member, or staff member, that decision has a direct bearing on the applicant's or operator's ability to serve the public in a capacity involving the provisions of child care and the application or license may be denied or revoked. If a services-required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 exists indicating that any child has been abused or neglected by the applicant, operator, director, supervisor, emergency designee, substitute staff member, or staff 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 and to the director of the regional human service center or the director's designee for consideration and action on the application or license.
2. Each applicant, operator, director, supervisor, emergency designee, substitute staff member, and staff member shall complete a department-approved authorization for background check form no later than the first day of employment.

**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.

**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 34.** Subsection 2 of section 75-03-10-29 is amended as follows:

2. Violations noted in a correction order must be corrected:
  - a. For a violation of North Dakota Century Code section 50-11.1-02.2; section 75-03-10-04, or 75-03-10-08, subsections; subsection 12 of section 75-03-10-09; subsection 3, 6, and 9, or 10 of section 75-03-10-18, and; section 75-03-10-23; or subsection 1 of section 75-03-10-24, within twenty-four hours;
  - b. For a violation requiring the hiring of a child care supervisor with those qualifications set forth in section 75-03-10-11.1, or a child care center director with those qualifications set forth in section 75-03-10-10, within sixty days;
  - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-10-17, within sixty days;

- d. For a violation that requires substantial building remodeling, construction, or change, within sixty days; and
- e. For all other violations, within twenty days.

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

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

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

**Section 35.** Section 75-03-10-30 is amended as follows:

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

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

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

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

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

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

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

**Section 36.** Subsection 2 of section 75-03-11-07 is amended as follows:

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

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

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

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

**Section 37.** Section 75-03-11-08 is amended as follows:

**75-03-11-08. Duties of preschool operator.** The operator of a preschool is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator shall:

1. Designate a qualified director, delegate appropriate duties to the director, and shall:
  - a. Ensure that the preschool director or designated acting director is present at the preschool at least sixty percent of the time that the preschool is open; and
  - b. Ensure that the individual designated as an acting director for an ongoing period of more than thirty days meets the qualifications of a preschool director; and
  - c. Ensure that the individual designated as a teacher for more than 32 hours per month meets the qualifications of a preschool teacher;
2. Apply for a license for the preschool;
3. Possess knowledge or experience in management and interpersonal relations;
4. Notify the authorized agent of any major changes in the operation or in the ownership or governing body of the preschool, including staff member changes;
5. Ensure that liability insurance against bodily injury and property damage for the preschool is carried;
6. Formulate written policies and procedures for the operations of the preschool ~~relating to~~. Policies must include:
  - a. Hiring practices and personnel policies for staff members;
  - b. Methods for obtaining references and employment histories of staff members;

- c. Methods of conducting staff member performance evaluations;
  - d. Children's activities, care, and enrollment; ~~and~~
  - e. The responsibilities and rights of staff members and parents;
  - f. An explanation of how accidents and illnesses will be handled;
  - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
  - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
  - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
  - j. Procedure for accountability when a child fails to arrive as expected at the preschool; and
  - k. Transportation procedures, if the operator provides transportation;
7. Maintain records of enrollment, attendance, health, financial, and other required records;
  8. Be responsible for all preschool staff members, teachers, preschool assistants, substitute staff members, emergency designees, volunteers, or others who provide services in the preschool;
  9. Report immediately, as a mandatory reporter, any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
  10. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the preschool;
  11. Ensure preadmission visits for children and their parents are offered so the preschool's program, fees, operating policies, and procedures can be viewed and discussed, including:
    - ~~a. An explanation of how accidents and illnesses may be handled;~~
    - ~~b. The methods of developmentally appropriate discipline and guidance techniques to be used; and~~
    - ~~c. The process for reporting a complaint, a suspected licensing violation, and suspected child abuse or neglect;~~
  12. Ensure that there are signed written agreements with the parents of each child which specify the fees to be paid, methods of payments, and policies regarding delinquency of fees;
  13. Ensure the preschool is sufficiently staffed at all times to meet the child and staff member ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
  14. ~~Ensure that written policies are established concerning the care and safeguarding of personal belongings brought to the preschool by children or others on their behalf;~~
  15. Provide parents, upon request, with progress reports on their children and provide unlimited opportunities for parents to observe their children while in care;
  - ~~15.~~ Provide parents with the name of the preschool operator, the director, teachers, preschool assistants, staff members, substitute staff members, and the emergency designee;



- ~~17.~~ Develop and ensure compliance with a written policy and procedure for accountability when a normally unaccompanied child fails to arrive as expected at the preschool;
- ~~18~~16. Ensure, whenever services are provided, that at least one staff member, substitute staff member, or emergency designee, is on duty who meets current certification requirements in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other cardiopulmonary resuscitation training programs approved by the department and is certified or trained in a department-approved program to provide first aid;
- ~~19~~17. Meet the qualifications of the director set forth in section ~~75-03-11-2875-~~03-11-08.1 if the operator is also the director; ~~and~~
- ~~20~~18. Report to the authorized agent within twenty-four hours:
- a. A death or serious accident or illness requiring hospitalization of a child while in the care of the preschool or attributable to care received in the preschool;
  - b. An injury to any child which occurs while the child is in the care of the preschool which requires medical treatment;
  - c. Poisonings or errors in the administering of medication;
  - d. Closures or relocations due to emergencies; and
  - e. Fire that occurs or explosions that occur in or on the premises of the preschool; ~~and~~
19. Ensure that children do not depart from the child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once he or she leaves the child care premises.

**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.

**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 75-03-11-08.1 is amended as follows:

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

1. A preschool director shall be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care.
2. The director shall hold at least one of the following qualifications, in addition to those set out in subsection 1:

- a. A bachelor's degree in the field of early childhood education with eight or more weeks of supervised student teaching experience in a preschool or similar setting;
- b. A bachelor's degree with ~~at least twenty-four quarter hours or sixteen semester hours in child development, child psychology, or directly related fields,~~ with at least six months of experience in a preschool or similar setting and one of the following:
  - (1) Eight semester hours or twelve quarter hours in early childhood education or child development,
  - (2) 120 hours of department approved early childhood training,  
or
  - (3) A director's credential approved by the department;
- c. An associate degree in the field of early childhood education or child development with at least six months of experience in a preschool or similar setting;
- d. An associate's degree with at least one year of experience in a preschool or similar setting and one of the following:
  - (1) Eight semester hours or twelve quarter hours in early childhood education or child development,
  - (2) 120 hours of department approved early childhood training,  
or
  - (3) A director's credential approved by the department;
- e. Current certification as a child development associate or similar status, with at least one year of experience in a preschool or similar setting;
- e. ~~A bachelor's degree with at least eight semester hours or twelve quarter hours in child development, child psychology, or directly related fields, with at least one year of experience in a preschool or similar setting; or~~
- f. Certification from a Montessori teacher training program with at least one year of experience in a Montessori school, preschool, or similar setting.

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

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

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

**Section 39.** Section 75-03-11-08.2 is amended as follows:

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

- 1. Be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care and early childhood education.
- 2. Hold at least one of the following qualifications:

- a. A bachelor's degree with at least eight semester hours or twelve quarter hours in early childhood education or child development, child psychology, or directly related fields;
  - b. A teaching certificate in elementary education or kindergarten endorsement;
  - c. An ~~associate~~-associate's degree in the field of early childhood education or child development;
  - d. An associate's degree with at least one year of experience in a preschool or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours in early childhood education or child development or
    - (2) 120 hours of department approved early childhood training;
  - e. Current certification as a child development associate or similar status; or
  - ef. Certification from a Montessori teacher training program.
3. Meet the qualifications of the director and perform the function of a director as defined in section 75-03-11-08.1, if the teacher is also the director.

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

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

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

**Section 40.** Subsection 3 of section 75-03-11-14 is amended as follows:

- 3. Toilet and sink facilities:
  - a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members;
  - b. The operator shall provide a minimum of ~~one sink and~~ one flush toilet for each fifteen children, excluding those children who are not toilet trained;
  - c. The operator shall provide at least one handwashing sink per toilet room facility; and
  - d. The operator shall provide hand soap, sanitary hand-drying equipment, single-use cloth towels, or paper towels near handwashing sinks.

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

**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 75-03-11-19 is amended as follows:

**75-03-11-19. Minimum requirements regarding space.**

1. Each preschool shall provide adequate indoor and outdoor space for the daily activities of all children for the licensed capacity of the preschool.
2. Adequate space must include a minimum of thirty-five square feet [3.25 square meters] of indoor space per child ~~and a minimum of seventy-five square feet [6.97 square meters] of outdoor play space per child.~~ Indoor space considered must exclude bathrooms, pantries, passageways leading to outdoor exits, areas occupied by furniture or appliances that children should not play on or under, and space children are not permitted to occupy. ~~If available outdoor play space does not accommodate the licensed capacity of the preschool, the total appropriate outdoor play space available must be no less than the number of children in the largest class or group of the preschool multiplied by seventy-five square feet [6.97 square meters]. The operator shall prepare a written schedule of outdoor playtime which limits use of the play area to its capacity, giving each class or group an opportunity to play outdoors daily.~~

**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.

**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 42.** Section 75-03-11-20 is amended as follows:

**75-03-11-20. Program requirements.**

1. A preschool must have a written curriculum which describes the program's philosophy, goals, objectives, and a program evaluation process.
  - a. The curriculum must promote cognitive, social, emotional, and physical growth of children in care.
  - b. The curriculum must be based on the developmental levels and needs of children enrolled.
  - c. The curriculum must provide for daily outdoor play.
2. The director shall exchange information with parents concerning the program, its activities, and the adjustment of the child to the program.
3. Each child's cultural and ethnic background and primary language or dialect must be respected by the staff members.
4. The director or teacher shall design a written daily plan of program activities for the children enrolled in the program.

**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.

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

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

**Section 43.** 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 services-required decision made under North Dakota Century Code chapter 50-25.1 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, 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 services-required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 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, 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 and to the director of the regional human service center or the director's designee for consideration and action on the preschool application or license.
2. Each applicant, operator, director, teacher, assistant, staff member, substitute staff member, and emergency designee shall complete a department-approved authorization for background check form no later than the first day of employment.

**History:** Effective January 1, 1999; amended effective January 2, 2011; January 1, 2013.

**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 44.** Subsection 2 of section 75-03-11-29 is amended as follows:

2. Violations noted in a correction order must be corrected:
  - a. For a violation of North Dakota Century Code section 50-11.1-02.2; section 75-03-11-05; subsection 13 of section 75-03-11-08; section 75-03-11-09, section or 75-03-11-23<sub>1</sub>; or subsection-subsection 2, 7, or 8 of section 75-03-11-18, within twenty-four hours;
  - b. For a violation requiring the hiring of a director with those qualifications set forth in section 75-03-11-08.1 or a teacher with those qualifications as set forth in section 75-03-11-08.2, within sixty days;
  - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-11-17, within sixty days;

- d. For a violation that requires substantial building remodeling, construction, or change, within sixty days; and
- e. For all other violations, within twenty days.

**History:** Effective January 1, 1999; amended effective January 2, 2011; January 1, 2013.

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

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

**Section 45.** Section 75-03-11-30 is amended as follows:

**75-03-11-30. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of North Dakota Century Code chapter 50-11.1; subsection 13 of section 75-03-11-08; or section 75-03-11-09, 75-03-11-13, 75-03-11-17, 75-03-11-18, or 75-03-11-19 for each day that the operator has not verified correction, after the allowable time for correction of violations ends, that the operator has not verified correction.
2. The department shall issue a fiscal sanction of fifteen dollars per day for each violation of section ~~75-03-11-09~~ 75-03-11-08.1, 75-03-11-08.2, 75-03-08.3, or 75-03-11-15; subsection 1, 2, or 4 of section 75-03-11-18; or subsection 1 of section 75-03-11-20 for each day that the operator has not verified correction, after the allowable time for correction of violations ends, that the operator has not verified correction.
3. The department shall issue a fiscal sanction of five dollars per day for each violation of any other provision of this chapter for each day that the operator has not verified correction, after the allowable time for correction of violations ends, that the operator has not verified correction.

**History:** Effective January 1, 1999; amended effective January 2, 2011; January 1, 2013.

**General Authority:** NDCC 50-11.1-07.4, 50-11.1-08

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

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

Section	
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75-03-11.1-02	[Reserved]
75-03-11.1-03	Definitions
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75-03-11.1-08.1	Minimum Qualifications of a School-Age Child Care Program Director
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75-03-11.1-11	[Reserved]
75-03-11.1-12	[Reserved]
75-03-11.1-13	Minimum Health Requirements for All Applicants, Operators, and Staff Members
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75-03-11.1-15	Minimum Standards for Provision of Transportation
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75-03-11.1-30	Fiscal Sanctions

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

**Section 46.** Subsection 4 of section 75-03-11.1-07 is amended as follows:

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

**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.

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

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

**Section 47.** Section 75-03-11.1-08 is amended as follows:

**75-03-11.1-08. Duties of school-age child care program operator.** The operator of a school-age child care program is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator:

1. Shall designate a qualified director, shall delegate appropriate duties to the director, and shall:
  - a. Ensure that the director is present at the school-age child care program at least sixty percent of the time that the program is open. If the operation has satellite sites, the director shall be present a combined total of sixty percent of the school-age program's hours of operation.
  - b. Ensure that when the director and designated acting director are not present at the program, a person who meets the qualifications of a supervisor is on duty.
  - c. Ensure that the individual designated as an acting director for longer than thirty consecutive days meets the qualifications of a school-age child care program director.
  - d. Ensure that if the operator of the school-age child care program is also the director, that the operator meets the qualifications of a director set forth in section 75-03-11.1-08.1;
2. Shall apply for a license for the school-age child care program;



3. Shall provide an environment that is physically and socially adequate for children;
4. Shall notify the authorized agent of any major changes in the operation of, or in the ownership or governing body of the school-age child care program, including staff member changes;
5. Shall ensure that the school-age child care program carries liability insurance against bodily injury and property damage;
6. Shall formulate written policies and procedures for the operation of the school-age child care program relating to:
  - a. Hiring practices and personnel policies for all staff members;
  - b. Methods for obtaining references and employment histories of staff members;
  - c. Methods of conducting staff member performance evaluations;
  - d. Children's activities, care, and enrollment; and
  - e. The responsibilities and rights of staff members and parents;
  - f. An explanation of how accidents and illnesses may be handled;
  - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
  - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
  - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
  - j. Procedure for accountability when a child fails to arrive as expected at the school-age child care program; and
  - k. Transportation procedures, if the operator provides transportation;
7. Shall maintain enrollment, attendance, health, and other required records;
8. Shall select an emergency designee;
9. Shall maintain necessary information to verify staff member qualifications and to ensure safe care for the children in the school-age child care program;
10. Shall inform parents of enrolled children and other interested parties about the school-age child care program's goals, policies, procedures, and content of the program, including:
  - a. ~~How accidents and illnesses will be handled;~~
  - b. ~~Methods of developmentally appropriate discipline and guidance techniques to be used; and~~
  - c. ~~The process for reporting a complaint, a suspected licensing violation, and suspected child abuse or neglect;~~
11. Shall advise parents of enrolled children of the school-age child care program's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director;
12. Shall provide parents of enrolled children information regarding the effective date, duration, scope, and impact of any significant changes in the school-age child care program's services;

13. Shall ensure that the school-age child care program is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
14. Shall ensure that the school-age child care program has sufficient qualified staff members available to substitute for regularly assigned staff who are sick, on leave, or who are otherwise unable to be on duty;
15. Shall ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
16. ~~Shall ensure that written policies are established which address the provision of emergency medical care, the care of a child with special needs if a child with special needs is in care, and the treatment of illness and accident;~~
17. ~~Shall ensure that written policies are established concerning the care and safeguarding of personal belongings brought to the school-age child care program by a child or by another on the child's behalf;~~
18. Shall provide parents with unlimited access and opportunities for parents to observe their children while in care and provide parents with regular opportunities to meet with staff members responsible for caring for or teaching children before and during enrollment to discuss their children's needs. Providing unlimited access does not prohibit a school-age child care program from locking its doors when children are in care;
- ~~17.~~ 17. Shall provide parents, upon request, with progress reports on their children;
- ~~20.~~ 18. Shall ensure that provisions are made for safe arrival and departure of all children, and a system is developed to ensure that children are released only as authorized by the parent;
21. ~~Shall develop and ensure compliance with a written policy and procedure for accountability when a normally unaccompanied child fails to arrive as expected at the program;~~
- ~~22.~~ 19. Shall develop a system to ensure the safety of children whose parents have agreed to allow them to leave the program without supervision, which must include, at a minimum:
  - a. Written permission from the parents allowing a child to leave the program without supervision; and
  - b. Consistent sign-out procedures for released children;
- ~~23.~~ 20. Shall report immediately, as a mandated reporter, any suspected child abuse or neglect as required by North Dakota Century Code chapter 50-25.1 ~~and shall develop a written policy to address reporting by staff members;~~
- ~~24.~~ 21. Shall ensure that a staff member is on duty at all sites who meets current certification requirements in cardiopulmonary resuscitation by the American heart association, American red cross, or other department-approved cardiopulmonary resuscitation training program and in a department-approved first-aid program;

- 2522. Shall meet the qualifications of the director set forth in section 75-03-11.1-08.1 if the operator of the school-age child care program is also the director;
- 2623. Shall ensure that staff members responsible for caring for or teaching children under the age of eighteen are directly supervised by an adult staff member; and
- 2724. Shall report to the authorized agent within twenty-four hours:
  - a. The death or serious accident or illness requiring hospitalization of a child while in the care of the program or attributable to care received in the program;
  - b. An injury to any child which occurs while the child is in the care of the program and which requires medical treatment;
  - c. Poisonings or errors in the administration of medication;
  - d. Closures or relocations of child care programs due to emergencies; and
  - e. Fire that occurs or explosions that occur in or on the premises of the school-age child care program.

**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.

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

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

**Section 48.** Section 75-03-11.1-08.1 is amended as follows:

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

- 1. ~~The director shall be~~ Be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care;
- 2. ~~The director shall possess~~ Possess knowledge and experience in management and interpersonal relationships;
- 3. ~~The director shall hold~~ Hold at least one of the following qualifications, in addition to those set out in subsection 1:
  - a. A bachelor's degree in the field of early childhood education, child development, or elementary education;
  - b. A bachelor's degree with ~~at least twenty-four semester hours or thirty-quarter hours in child development, child psychology, or directly related fields with~~ at least six months of experience in a school-age care program or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours in early childhood education, child development, or elementary education,
    - (2) 120 hours of department approved early childhood training,  
or
    - (3) A director's credential approved by the department;

- c. An associate degree in the field of early childhood education or child development with at least six months of experience in a school-age child care program or similar setting;
  - d. ~~A teaching certificate in elementary education with at least six months of experience in a child care program~~ An associate's degree with at least one year of experience in a school-age child care program and one of the following:
    - (1) Eight semester hours or twelve quarter hours in early childhood education, child development or elementary education,
    - (2) 120 hours of department approved early childhood training,  
or
    - (3) A director's credential approved by the department;
  - e. A current certification as a child development associate or similar status with at least one year of experience in a school-age child care program or similar setting;
  - f. ~~A bachelor's degree with twelve semester hours or fifteen quarter hours in child development, child psychology, or directly related fields with at least one year of experience in a child care program or similar setting; or~~
  - g. Certification from a Montessori teacher training program with one year of experience in a Montessori school, school-age child care program, or similar setting, and at least one of the following:
    - (1) ~~twelve~~ Eight semester hours or ~~fifteen~~ twelve quarter hours in child development, ~~child psychology, early childhood education, or fields directly related;~~ and elementary education,
    - (2) 120 hours of department approved early childhood training,  
or
    - (3) A director's credential approved by the department; and
4. ~~The director shall certify~~ Certify annual completion of a minimum of thirteen hours of department-approved training related to child care.

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

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

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

**Section 49.** Subsection 1 of section 75-03-11.1-18 is amended as follows:

- 1. ~~The~~ In school-age child care programs where meals are prepared, the operator shall ensure that the state department of health conducts an annual inspection. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the authorized agent. If only snacks or occasional cooking projects are prepared, a health inspection is not required.

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

**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 50.** Subsection 22 of section 75-03-11.1-18 is amended as follows:

22. Toilet and sink facilities:
  - a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members;
  - b. Toilets must be located in rooms separate from those used for cooking, eating, and sleeping;
  - c. A minimum of ~~one sink and one~~ flush toilet must be provided for each fifteen children;
  - d. The operator shall provide separate restrooms for boys and girls and shall ensure that partitions are installed to separate toilets in these restrooms;
  - e. The operator shall provide at least one handwashing sink per toilet room facility; and
  - f. The operator shall provide safe step stools to allow children to use standard-size toilets and sinks or the operator shall ensure the availability of child-size toilets and sinks.

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

**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 51.** 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 services-required decision made under North Dakota Century Code chapter 50-25.1 exists, indicating that a child has been abused or neglected by an applicant, operator, director, supervisor, emergency designee, substitute staff member, or staff 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 services-required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 exists indicating that a child has been abused or neglected by the applicant, operator, director, supervisor, emergency designee, substitute staff member, or staff 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 and to the director of the regional human service center or the director's designee for consideration and action on the application or license.

2. Each applicant, operator, director, supervisor, emergency designee, substitute staff member, and staff member shall complete a department-approved authorization for background check form no later than the first day of employment.

**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.

**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 52.** Subsection 2 of section 75-03-11.1-29 is amended as follows:

2. Violations noted in a correction order must be corrected:
  - a. For a violation of North Dakota Century Code section 50-11.1-02.2; subsection 13 of section 75-03-11.1-08; section 75-03-11.1-09; subsections; subsection 2, 3, 10 and or 20 of section 75-03-11.1-18; and; or section 75-03-11.1-23, within twenty-four hours.
  - b. For a violation requiring the hiring of a school-age child care program director with those qualifications set forth in section 75-03-11.1-08.1 or a child care supervisor with those qualifications set forth in section 75-03-11.1-08.3, within sixty days.
  - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-11.1-17, within sixty days.
  - d. For a violation that requires substantial building remodeling, construction, or change, within sixty days.
  - e. For all other violations, within twenty days.

**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.

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

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

**Section 53.** Section 75-03-11.1-30 is amended as follows:

**75-03-11.1-30. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of North Dakota Century Code chapter 50-11.1; subsections-subsection 13 of section 75-03-11.1-08; section 75-03-11.1-09; subsection 2, 3, 10, and or 20 of section 75-03-11.1-18; and or section 75-03-11.1-23 for each day that the

operator has not verified correction, after the allowable time for correction of violations ends.

2. The department shall assess a fiscal sanction of fifteen dollars per day for each violation of section 75-03-11.1-08, except a violation of subsection 13 of section 75-03-11.1-08; subsections-subsection 1, 2, 4, 5, 10, 17, and 20 or 19 of section 75-03-11.1-18; subsection 1 of section 75-03-11.1-19; subsections 3 and 11 of section 75-03-11.1-20; section 75-03-11.1-23; and subdivision a of or subsection 1 of section 75-03-11.1-24 for each day that the operator has not verified correction, after the allowable time for correction of violations ends.
3. The department shall assess a fiscal sanction of five dollars per day for each violation of any other provision of this chapter for each day that the operator has not verified correction, after the allowable time for correction of violations ends.

**History:** Effective 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.

**General Authority:** NDCC 50-11.1-07.4, 50-11.1-08

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