

MEMORANDUM

TO: Interim Administrative Rules Committee
FROM: Julie Leer, ND Department of Human Services
RE: Proposed Amendments to Early Childhood Services rules
DATE: December 14, 2010

This is in follow-up to some concerns raised during the Administrative Rules Committee's discussion of the proposed amendments to the Department of Human Services' Early Childhood Services rules at the committee's September meeting.

- Department staff told providers not to contact legislators
 - This comment was made by a person who had heard it from another provider.
 - Department staff contacted the provider to whom this statement was attributed.
 - This provider didn't remember this comment being made by Department staff.
 - Department staff contacted other staff who were present at meetings with providers.
 - Other staff also did not recall this comment.
 - While we have been unable to substantiate the origin of this comment, it is possible that Department staff would have instructed providers to send comments to the Department so we could address them in the summary of comments. Other than that, Department staff is unable to determine what comment was made that gave rise to the concern identified at the September meeting.
- The Department waited until just before session to present these rules.
 - Legislation passed by the Legislative Assembly in 2009 allowed the Department to adopt rules beyond the 9-month deadline for rules in response to legislation; however, it also required the Department to have the rules completed by the end of the year.
- It is unreasonable to expect a provider to check on a sleeping infant every 15 minutes. This requirement is addressed in the amendments being presented. The new requirement is that a sleeping infant be checked on "regularly".
- It is unreasonable to expect a provider to keep a child within "sight and hearing range". We had received this comment

during the comment period and had already changed the rule to read "sight or hearing range" so no further change was made.

Department staff, Chairman Klein, and Representative Keiser met with a group of providers on November 4, 2010, to discuss their concerns. The amendments that are being presented are the result of that meeting. During the meeting on November 4th, the following items were discussed without changes being made:

- Terminology changes that were made to the rules based on terminology changes made within the statutes during the 2009 Legislative Session.
- Several items that the group raised were based on the rules as initially presented, not as presented to the committee in September after changes had been made based on the comments received during the comment period.
- Items that the group raised that are not being changed now are items that we have encouraged them to bring to the advisory committee during its next round of reviews. The work of the advisory committee is not done, they will be meeting again during the 2011-2013 biennium.
- The rulemaking process was discussed in general.

The rules being presented to you assume that all changes presented in September were approved. The overstruck and underscored language in the rules being presented to you represent the changes being made as a result of the November 4, 2010, meeting with the child care providers, plus additional follow-up the Department's Early Childhood Services Administrator. In addition to the amendments that are presented here to you, the Department proposes that the effective date of all rule changes be January 1, 2011 (this would also be the effective date of the repeal of any sections identified in the original set of rules).

I'd be happy to answer any questions you might have.

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

Section	
75-03-07.1-00	Definitions
75-03-07.1-01	Repealed
75-03-07.1-02	Self-Declaration Standards -Application
75-03-07.1-03	Repealed
75-03-07.1-04	Self-Declaration Restricted to One Per Residence - Nontransferability of Self-Declaration and Emergency Designee
75-03-07.1-05	Appeals
75-03-07.1-06	Denial or Revocation of Self-Declaration Document
75-03-07.1-07	Minimum Sanitation Requirements
75-03-07.1-08	Infant Care
75-03-07.1-09	Minimum Requirements for the Care of Children with Special Needs
75-03-07.1-10	Correction of Violations
75-03-07.1-11	Fiscal Sanctions

Original changes found on page 541

SECTION 5. Section 75-03-07.1-04 is amended as follows:

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

1. The department may not authorize more than one self-declaration 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 ~~October 1, 2010~~ January 1, 2011. Existing providers will be exempt from this provision until ~~October 1, 2015~~ 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.
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.

General Authority: NDCC 50-11.1-08

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

Original changes found on pages 544-548

SECTION 8. Section 75-03-07.1-07 is created as follows:

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

1. The provider shall operate according to the recommendations by the federal centers for disease control and prevention including washing hands, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and individually designated cloth towels or paper towels must be available at each sink. Clean towels must be provided at least daily.
2. The provider shall ensure that the residence, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The provider shall establish routine cleaning procedures to protect the health of the children.
3. **Pets and Animals**
 - a. The provider shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs, ~~and small pets that are contained in an aquarium or other approved enclosed container~~ 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 and may approve additional pets that do not pose a health or safety risk to children.
 - b. The provider shall ensure that animals are maintained in good health and are appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
 - c. The provider shall ensure parents are aware of the presence of pets and animals in the family child care.
 - d. The provider shall notify parents immediately if a child is bitten or scratched and skin is broken.
 - e. The provider shall ensure that all contact between pets and children is closely supervised. The provider shall immediately remove the pet if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
 - f. The provider shall ensure that pets, pet feeding dishes, cages and litter boxes are not present in any food preparation, food storage, or serving areas. The provider shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
 - g. The provider shall ensure that indoor and outdoor areas accessible to children must be free of animal excrement.

- h. The provider shall ensure that the child care is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.

History: Effective January 1, 2011.

General Authority: NDCC 50-11.1-08

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

SECTION 9. Section 75-03-07.1-08 is created as follows:

75-03-07.1-08. Infant care.

1. Environment and interactions.
 - a. A provider serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
 - b. The provider shall ensure that each infant receives positive stimulation and verbal interaction such as being held, rocked, talked with, or sung to.
 - c. The provider shall respond promptly to comfort an infant's or toddler's physical and emotional distress.
 - (1) Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
 - (2) Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
 - d. The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.
 - e. The provider shall take children outdoors or to other areas within the child care for a part of each day to provide some change of physical surroundings and to be with other children.
 - f. ~~When a child is awake, the provider may not confine the child to a crib, portable crib, or other equipment for longer than twenty minutes, taking into consideration the child's emotional state.~~
 - g. The provider shall ensure that infants are not shaken or jostled.
 - ~~h-g.~~ The provider shall ensure that low chairs and tables or, high chairs with trays must be, or other age-appropriate seating systems are provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.
 - ~~i-h.~~ The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.
2. Feeding.
 - a. The provider shall ensure that infants are provided developmentally-appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six

- months of age, unless otherwise instructed in writing by the infant's parent or medical provider.
- b. The provider shall ensure that infants are fed only the specific brand of iron fortified infant formula requested by the parent. The provider shall use brand-specific mixing instructions unless alternative mixing instructions, are directed by a child's medical provider.
 - c. The provider shall ensure that mixed formula that has been unrefrigerated more than one hour, is discarded.
 - d. The provider shall ensure that frozen breast milk is thawed under cool running tap water, or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent at the end of each day within twenty-four hours.
 - e. The provider shall ensure that an infant is not fed by propping a bottle.
 - f. The provider shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.
 - g. The provider shall be within sight and hearing range of an infant during the infant's feeding or eating process.
3. Diapering.
- a. The provider shall ensure that there is a designated cleanable diapering station-area, located separately from food preparation and serving areas in the child care if children requiring diapering are in care.
 - b. The provider shall ensure that diapers are changed promptly when soiled or wet and in a sanitary manner.
 - c. Diapers must be changed on a non-porous surface area which must be cleaned and disinfected after each diapering.
 - d. The provider shall ensure that soiled or wet diapers are stored in a sanitary, covered container separate from other garbage and waste until removed from the child care.
4. Sleeping.
- a. The provider shall ensure that infants are placed on their back 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 infants 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. Waterbeds, 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 the crib or portable crib, except for one infant blanket and security item that does not pose a risk of suffocation to the infant.
- f. The provider shall ensure that mattresses and sheets are tightly 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 ~~every fifteen minutes~~ regularly or have a monitor in the room with sleeping infants.

History: Effective January 1, 2011.

General Authority: NDCC 50-11.1-08

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

Original changes found on pages 549-550

SECTION 11. Section 75-03-07.1-10 is created as follows:

75-03-07.1-10. Correction of violations.

1. A provider shall correct violations noted in a correction order within the following times:
 - a. For a violation of paragraphs (5) and (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 subsection 4 of section 75-03-07.1-02, within twenty four hours.
 - b. For all other deficiencies of Chapter 75-03-07.1, within twenty days.
2. All periods of correction begin on the date of the 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. The provider shall notify the parent of each child receiving care at the residence and each staff member ~~of the process for reporting~~ how to report a complaint or suspected rule violation.
6. Within three business days of the receipt of the correction order, the provider shall notify the parents of each child receiving care by this provider that a correction order has been issued. In addition to providing notice to the parent of each child, the provider also must post the correction order in a conspicuous location within the residence until the violation has been corrected or five days, whichever is longer.
7. A provider who 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 provider 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 provider. 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.

History: Effective January 1, 2011.

General Authority: NDCC 50-11.1-08

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

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

Section	
75-03-08-01	[Repealed]
75-03-08-02	[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
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	[Repealed]
75-03-08-08.1	Duties of the Provider
75-03-08-09	Staffing Requirements
75-03-08-10	Minimum Qualifications of Family Child Care Providers
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 for Facility
75-03-08-15	Minimum Standards for Provision of Transportation
75-03-08-16	Minimum Emergency Evacuation and Disaster Plan
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
75-03-08-27	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

Original changes found on page 555

SECTION 9. Section 75-03-08-07 is amended as follows:

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

1. An application for a license must be submitted to the authorized agent in the county in which the family child care is located. Application must be made in the form and manner prescribed by the department.
2. The license is nontransferable and valid only for the premises indicated on the license. A new application for a license must be filed upon change of provider or location.
3. The department may not issue more than one childcare 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 ~~October 4, 2010~~ January 1, 2011. Existing operators will be exempt from this provision until ~~October 1, 2015~~ 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.

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

Original changes found on pages 560-562

SECTION 16. Section 75-03-08-14 is amended as follows:

75-03-08-14. Minimum requirements of the facility.

1. The family child care must contain adequate space, indoors and out, for the daily activities of the children. Adequate space must include a minimum of thirty-five square feet [3.25 square meters] of space per child indoors and a minimum of seventy-five square feet [6.97 square meters] of play space per child outdoors. 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.
2. The family child care must be clean and maintained to protect the health and safety of children. The family child care and outdoor play area must be free of clutter, accumulation of refuse, standing water, unprotected wells, debris, and other health and safety hazards. Garbage must be regularly removed.
3. The provider shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children.
4. The provider shall ensure that the family child care is equipped with one properly installed smoke detector located in each sleeping area used by the children, and one properly installed smoke detector and fire extinguisher per level. Properly installed means installed according to manufacturer's or fire inspector's directions.
5. The provider shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
6. The provider shall ensure that the family child care has a drinking water supply from an approved community water system or from a source tested and approved by the state department of health.
7. The provider shall ensure that each child has a comfortable and clean place to sleep or rest and an individual blanket. The provider may allow a child to sleep or rest on the floor only when the floor is carpeted or padded, warm, and free from drafts. A provider caring for a child between the hours of eight p.m. and six a.m. shall ensure that the child has an individual sleeping place.
8. The provider shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
9. The provider shall ensure that potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, noncovered electrical outlets, and poisonous plants are not accessible to children. The provider shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The provider shall ensure other

- weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
10. The provider shall ensure indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The provider shall ensure that all toys and equipment are kept clean and sanitary. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
 11. The provider shall ensure that exit doorways and pathways are not blocked.
 12. The provider shall ensure that the family child care has a working telephone in the location used for child care. The provider shall post emergency numbers of parents and first responders.
 13. The family child care must have an indoor bathroom with a minimum of one sink and one flush toilet.
 14. The family child care must have hot and cold running water. The water in the faucets used by children must not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
 15. The family child care must meet the local minimum fire and safety standards. If the fire, safety, health, or sanitation environment of the family child care appears questionable, the department or authorized agent may require the provider to obtain an appropriate inspection from the appropriate fire authority or state department of health, and to submit the results of the inspection to the authorized agent. The provider shall obtain fire and safety inspections prior to licensure if the family child care is located in a manufactured home, a mobile home, an apartment building, a home in which care is provided to children in the basement, or a home having alternate heating devices, such as wood burning stoves, propane heaters, or fireplaces. Any inspection fees are the provider's responsibility. The provider shall ensure that any problems found are corrected.
 16. The provider shall ensure that ~~steps and walkways are kept free from~~ accumulations of water, ice, snow, or debris are removed from steps and walkways as quickly as possible.
 17. The provider shall ensure that combustible materials are kept away from light bulbs and other heat sources.

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

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

Original changes found on pages 567-570

SECTION 22. Section 75-03-08-21.1 is amended as follows:

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

1. Children shall have received all immunizations appropriate for the child's age, as prescribed by the state department of health, unless the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs.
2. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, individually designated cloth towels, or paper towels must be available at each sink.
3. The provider shall have a statement on file, signed by the child's parents, authorizing emergency medical care for each child.
4. The provider shall ensure at least one department-approved first-aid kit maintained and kept in a designated location, inaccessible to children, yet readily accessible to staff members at all times.
5. The provider shall have plans to respond to illness and emergencies, including evacuation in case of fire, serious injury, and ingestion of poison.
6. If children in care require medication, the provider shall secure written permission and follow proper instructions as to the administration of medication.
 - a. The provider shall store medications in an area inaccessible to children.
 - b. Medications stored in a refrigerator must be stored collectively in a spill proof container.
 - c. The provider shall keep a written record of the administration of medication, including over-the-counter medication, for each child. Records must include the date and time of each administration, the dosage, the name of the staff member administering the medication, and the name of the child. Completed medication records must be included in the child's record.
7. The provider shall establish practices in accordance with guidance obtained through consultation with local or state health department authorities regarding the exclusion and return of children with infectious or communicable conditions. The provider may obtain this guidance directly or through current published materials regarding exclusion and return to the family child care.
8. The provider may release a child only to the child's parent, or individual who has been authorized by the child's parent.
9. The provider shall ensure that children playing outdoors are clothed appropriately for weather conditions.

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

16. The provider shall ensure that garbage stored outside is kept away from areas used by children and is kept in covered containers. Open burning is not permitted. The provider shall keep indoor garbage in containers with lids. The provider may allow paper waste to be kept in open waste containers.

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

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

Original changes found on pages 572-576

SECTION 25. Section 75-03-08-24 is created as follows:

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

1. Infant care.

a. Environment and interactions.

- (1) A provider serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
- (2) The provider shall ensure that each infant receives positive stimulation and verbal interaction with a staff member responsible for caring for or teaching children such as being held, rocked, talked with, or sung to.
- (3) The staff members responsible for caring for or teaching children or emergency designee shall respond promptly to comfort an infant's or toddler's physical and emotional distress.
 - i. Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
 - ii. Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
- (4) The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.
- (5) Staff members responsible for caring for or teaching children ~~must~~ shall take children outdoors or to other areas within the family child care for a part of each day to provide some change of physical surroundings and to ~~be~~ interact with other children.
- (6) ~~When a child is awake, staff members may not confine the child to a crib, portable crib, or other equipment for longer than twenty minutes, taking into consideration the child's emotional state.~~
- (7) The provider shall ensure that infants are not shaken or jostled.
- ~~(8)~~(7) The provider shall ensure that low chairs and tables ~~or~~, high chairs with trays ~~must be~~, or other age-appropriate seating systems are provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.

- (8) The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.
- b. Feeding.
- (1) The provider shall ensure that infants are provided developmentally-appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six months of age, unless otherwise instructed in writing by the infant's parent or medical provider.
 - (2) The provider shall ensure that infants are fed only the specific brand of iron fortified infant formula requested by the parent. Staff members shall use brand-specific mixing instructions unless alternative mixing instructions are directed by a child's medical provider.
 - (3) The provider shall ensure that mixed formula that has been unrefrigerated more than one hour, is discarded.
 - (4) The provider shall ensure that frozen breast milk is thawed under cool running tap water, or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent at the end of each day within twenty-four hours.
 - (5) The provider shall ensure that an infant is not fed by propping a bottle.
 - (6) The provider shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.
 - (7) The provider shall ensure that a staff member responsible for caring for or teaching children is within sight and hearing range of an infant during the infant's feeding or eating process.
- c. Diapering.
- (1) The provider shall ensure that there is a designated cleanable diapering station area, located separately from food preparation and serving areas in the family child care if children requiring diapering are in care.
 - (2) The provider shall ensure that diapers are changed promptly when ~~soiled or wet~~ needed and in a sanitary manner.
 - (3) Diapers must be changed on a non-porous surface area which must be cleaned and disinfected after each diapering.
 - (4) The provider shall ensure that soiled or wet diapers are stored in a sanitary, covered container separate from other garbage and waste until removed from the family child care.
- d. Sleeping.
- (1) The provider shall ensure that infants are placed on their back initially when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a

- note from the infant's medical provider specifying otherwise. The infants 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) Waterbeds, 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 the crib or portable crib, except for one infant blanket, a pacifier, and a security item that does not pose a risk of suffocation to the infant.
 - (6) The provider shall ensure that mattresses and sheets are tightly 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 ~~every fifteen minutes~~ regularly or have a monitor in the room with the sleeping infant.

2. Night care.

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

- e. The provider shall ensure that comfortable beds, cots, or cribs, complete with a mattress or pad, are available and the provider shall ensure:
 - (1) Pillows and mattresses have clean coverings.
 - (2) Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
 - (3) If beds are used by different children, sheets and pillowcases are laundered before use by other children.
 - (4) Each bed or cot has sufficient blankets available.
- f. The provider shall require each child in night care to have night clothing and a toothbrush marked for identification.

History: Effective January 1, 2011.

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

Original changes found on pages 579-580

SECTION 29. 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 section 75-03-08-09, subsections 2, 7, and 10 of section 75-03-08-14, or section 75-03-08-23, 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 ~~notify~~ inform the parent of each child receiving care at the family child care and each staff member ~~of the process for reporting 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 section 50-11.1-07.5.
8. 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.

General Authority: NDCC 50-11.1-08

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

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

Section	
75-03-09-01	[Repealed]
75-03-09-02	[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

Original changes on pages 586-587

SECTION 8. Section 75-03-09-07 is amended as follows:

75-03-09-07. Application for and nontransferability of group child care license.

1. An application for license must be submitted to the authorized agent. Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and valid only for the premises indicated on the license.
3. An application for a new license must be filed upon change of provider or location.
4. The department may not issue more than one child care 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 ~~October 1, 2010~~ January 1, 2011. Existing operators will be exempt from this provision until ~~October 1, 2015~~ 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.

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

Original changes found on pages 600-603

SECTION 20. Section 75-03-09-18 is amended as follows:

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

1. In facilities other than an occupied private residence with license capabilities of up to eighteen children and where meals are prepared, the provider shall ensure that the state department of health conducts an annual inspection. If only snacks or occasional cooking projects are prepared, a state department of health inspection is not required. The provider shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the authorized agent.
2. The provider shall ensure that the group child care bathroom sinks, toilets, tables, chairs, and floors are cleaned daily. Cots and mats, if used, must be maintained in a clean, sanitary condition.
3. The provider shall ensure that the group child care building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. Routine maintenance and cleaning procedures must be established to protect the health of the children and the staff members.
4. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, individually designated cloth towels, or paper towels must be available at each sink.
5. The provider shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The provider shall ensure that all toys and equipment are kept clean and in sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
6. The provider shall ensure that the group child care ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
7. The provider shall ensure that garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The provider shall keep indoor garbage in covered containers. The provider may allow paper waste to be kept in open waste containers.
8. The provider shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
9. The provider shall ensure that potential hazards, such as non-covered electrical outlets, guns, household cleaning chemicals, uninsulated wires,

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

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

History: Effective December 1, 1981; amended effective January 1, 1999; January 1, 2011.

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

Original changes found on pages 609-615

SECTION 26. Section 75-03-09-24 is amended as follows:

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

1. Infant care.

a. Environment and interactions.

- (1) A group child care serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
- (2) The provider shall ensure that each infant receives positive stimulation and verbal interaction with a staff member responsible for caring for or teaching children or emergency designee such as being held, rocked, talked with, or sung to.
- (3) The staff members responsible for caring for or teaching children or emergency designee shall respond promptly to comfort an infant's or toddler's physical and emotional distress.
 - i. Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
 - ii. Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
- (4) The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.
- (5) Staff members responsible for caring for or teaching children ~~must~~ shall take children outdoors or to other areas within the group child care for a part of each day to provide some change of physical surroundings and to ~~be~~ interact with other children.
- (6) ~~When a child is awake, staff members may not confine the child to a crib, portable crib, or other equipment for longer than twenty minutes, taking into consideration the child's emotional state.~~
- (7) The provider shall ensure that infants are not shaken or jostled.
- ~~(8)~~(7) The provider shall ensure that low chairs and tables ~~or~~ high chairs with trays must be, or other age-appropriate seating systems are provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.

- ~~(9)~~(8) The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.

b. Feeding.

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

c. Diapering.

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

d. Sleeping.

- (1) The provider shall ensure that infants are placed on their back initially when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a

- note from the infant's medical provider specifying otherwise. The infants 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) Waterbeds, 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 the crib or portable crib, except for one infant blanket, a pacifier, and a security item that does not pose a risk of suffocation to the infant.
 - (6) The provider shall ensure that mattresses and sheets are ~~tightly~~ 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 every fifteen minutes or have a monitor in the room with the sleeping infant.

2. Night care.

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

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

General Authority: NDCC 50-11.1-08

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

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

Section	
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
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75-03-10-18	Minimum Sanitation and Safety Requirements
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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

Original changes found on page 628

SECTION 6. Section 75-03-10-07 is amended as follows:

75-03-10-07. Application for and nontransferability of child care center license. An application for a license must be submitted to the authorized agent.

1. An applicant shall submit an application for a license to the authorized agent. Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and is valid only for the premises that are indicated on the license.
3. An application for a new license must be filed by the operator upon change of operator or location.
4. The department may not issue more than one child care 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 ~~October 1, 2010~~ January 1, 2011. Existing operators will be exempt from this provision until ~~October 1, 2015~~ 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.

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

Original changes found on pages 647-653

SECTION 19. 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. 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 provide separate storage for personal blankets or coverings.
3. 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.
4. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, single use cloth towels, or paper towels must be available at each sink.
5. 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 that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
6. 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.
7. 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.
8. 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. The operator shall ensure that potential hazards, such as non-covered 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.
10. 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.
 11. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
 12. 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.
 13. The operator shall ensure that exit doorways and pathways are not blocked.
 14. If the child care 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.
 15. The operator shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
 16. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
 17. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by 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]
 18. 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. The operator shall ensure that personal items including combs, pacifiers, and toothbrushes are individually identified and stored in a sanitary manner.
20. 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, ~~and small pets that are contained in an aquarium or other approved enclosed container~~ 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. 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. All swimming pools used by children must be approved annually by the local health unit.
23. 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].
24. 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.
25. 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.
26. 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 linen 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 is 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.

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

Original changes found on pages 661-666

SECTION 25. Section 75-03-10-24 is amended as follows:

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

1. Infant care.
 - a. Environment and interactions.
 - (1) A child care center serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
 - (2) The operator shall ensure that each infant receives positive stimulation and verbal interaction with a staff member responsible for caring for or teaching children or emergency designee such as the staff member or emergency designee holding, rocking, talking with, or singing to the child.
 - (3) A staff member shall respond promptly to comfort an infant's or toddler's physical and emotional distress:
 - i. Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
 - ii. Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
 - (4) The operator shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, uncluttered area.
 - (5) Staff members responsible for caring for or teaching children ~~must~~ shall take children outdoors or to other areas within the child care center for a part of each day to provide children with some change of physical surroundings and to allow them to be interact with other children.
 - ~~(6) When a child is awake, staff members may not confine the child to a crib, portable crib, or other equipment for longer than twenty minutes, taking into consideration the child's emotional state.~~
 - ~~(7)~~(6) The operator shall ensure that low chairs and tables or high chairs with trays must be provided for mealtime for infants no longer being held for feeding. Highchairs, if used, must have a wide base and a safety strap.
 - ~~(8)~~(7) The operator shall ensure that infants are not shaken or jostled.
 - ~~(9)~~(8) The operator shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.
 - b. Feeding.

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

c. Diapering.

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

d. Sleeping.

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

pad that meets consumer product safety commission standards.

- (3) The operator shall ensure that if an infant falls asleep while not in a crib 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) Waterbeds, 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 the crib or portable crib, except for one infant blanket and security item that does not pose a risk of suffocation to the infant. The infant's face must remain uncovered when sleeping.
 - (6) The operator shall ensure that mattresses and sheets are tightly 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 every fifteen minutes or that a monitor is in the room with the infants.
- e. The operator shall ensure that parents of each infant receive a written daily report detailing the infant's sleeping and eating processes for the day, and the infant's diapering schedule for the day.
2. Night care.
- a. Any child care center offering night care shall provide program modifications for the needs of children and their parents during the night.
 - b. In consultation with parents, attention must be given by the staff member responsible for caring for or teaching children to provide a transition into this type of care appropriate to the child's needs.
 - c. The operator shall encourage parents to leave their children in care and pick them up before and after their normal sleeping period when practical, to ensure minimal disturbance of the child during sleep, with consideration given to the parent's work schedule.

- d. The operator shall ensure that children under the age of six are supervised directly when bathing.
 - e. The operator shall ensure that comfortable beds, cots, or cribs, complete with a mattress or pad, are available and shall ensure:
 - (1) Pillows and mattresses have clean coverings;
 - (2) Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, but at least weekly. If beds are used by different children, sheets and pillowcases are laundered before use by other children;
 - (3) Each bed or cot has sufficient blankets available.
 - f. The operator shall require each child in night care to have night clothing and a toothbrush marked for identification.
 - g. The operator shall ensure that during sleeping hours, staff members are awake and within hearing range to provide for the needs of children and to respond to an emergency.
3. Drop-in child care.
- a. If a child care center serves drop-in children, schoolchildren, or before-school and after-school children, the child care center must be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the program and to maintain the proper staff member to child ratio.
 - b. The operator shall ensure that the program reflects the individual needs of the children who are provided drop-in care.
 - c. The operator shall ensure that admission records comply with all enrollment requirements contained in section 75-03-10-22, except the immunization verification record requirement.
 - d. The operator shall ensure that admittance procedures provide for a period of individual attention for the child to acquaint the child with the child care center, its equipment, and the staff members.
 - e. A child care center may not receive drop-in care or part-time children who, when added to the children in regular attendance, cause the child care center to exceed the total number of children for which the child care center is licensed.
4. An operator shall ensure that a child care center serving only drop-in care children complies with this chapter, but is exempt from the following provisions:
- a. Subsections 12, 14, and 15 of section 75-03-10-20; subdivision f of subsection 2 of section 75-03-10-22; and subsection 1 of section 75-03-10-25; and
 - b. 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.

General Authority: NDCC 50-11.1-08

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

CHAPTER 75-03-11
PRESCHOOL EARLY CHILDHOOD SERVICES

Section	
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
75-03-11-25	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 Decisions
75-03-11-29	Correction of Violations
75-03-11-30	Fiscal Sanctions
75-03-11-31	Appeals

Original changes found on page 679

SECTION 6. Section 75-03-11-07 is amended as follows:

75-03-11-07. Application for and nontransferability of preschool license.

1. An applicant shall submit an application for a license to the authorized agent. Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and valid only for the premises indicated on the license. An application for a new license must be filed upon change of operator or location.
3. The department may not issue more than one child care 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 ~~October 1, 2010~~ January 1, 2011. Existing operators will be exempt from this provision until ~~October 1, 2015~~ 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.

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

Original changes found on pages 692-695

SECTION 20. Section 75-03-11-18 is amended as follows:

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

1. The operator shall ensure that the preschool bathroom sinks, toilets, tables, chairs, and floors are cleaned daily. Cots and mats, if used, must be maintained in a clean, sanitary condition.
2. The operator shall ensure that the preschool's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and staff members.
3. The operator shall ensure that in preschools where meals are prepared, the state department of health conducts an annual inspection. If only snacks or occasional cooking projects are prepared, a state department of health inspection is not required. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the authorized agent.
4. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys and equipment are kept clean and in a sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
5. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by the local fire authorities. When the preschool is occupied by children, the room temperature may not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
6. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
7. The operator shall ensure that potential hazards, such as non-covered electrical outlets, guns, cleaning chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
8. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.

9. The operator shall ensure that elevated areas including stairs and porches have railings and safety gates where necessary to prevent falls.
10. The operator shall take steps to keep the preschool free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the preschool. Insect repellent may be applied outdoors on children with written parental permission.
11. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
12. The operator shall ensure that exit doorways and pathways are not blocked.
13. An operator shall ensure that all preschool buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chewed condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the state department of health.
14. Staff members responsible for caring for or teaching children shall supervise strictly wading pools used by the preschool and shall empty, clean, and sanitize wading pools daily.
15. All swimming pools used by children must be approved annually by the local health unit.
16. 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, ~~and small pets that are contained in an aquarium or other approved enclosed container~~ are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
 - b. The operator shall ensure that animals are maintained in good health and appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
 - c. The operator shall ensure parents are aware of the presence of pets and animals in the preschool.
 - d. The operator shall notify parents immediately if a child is bitten or scratched and skin is broken.

- e. A staff member responsible for caring for or teaching children shall closely supervise all contact between pets or animals and children. The staff member shall remove the pet or animal immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
 - f. The operator shall ensure that pets, pet feeding dishes, cages and litter boxes are not present in any food preparation, food storage, or serving areas. The operator shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
 - g. The operator shall ensure that indoor and outdoor areas accessible to children are free of animal excrement.
 - h. The operator shall ensure that the preschool is in compliance with all applicable state and local ordinances regarding the number, type and health status of pets or animals.
17. 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.

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.

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

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

Section	
75-03-11.1-03	Definitions
75-03-11.1-04	Effect of Licensing and Display of License
75-03-11.1-05	Denial or Revocation of License
75-03-11.1-06	Provisional License
75-03-11.1-06.1	Restricted License
75-03-11.1-07	Application for and Nontransferability of School-Age Child Care Program License
75-03-11.1-08	Duties of School-Age Child Care Program Operator
75-03-11.1-08.1	Minimum Qualifications of a School-Age Child Care Program Director
75-03-11.1-08.2	Duties of School-Age Child Care Program Director
75-03-11.1-08.3	Minimum Qualifications of School-Age Child Care Program Supervisor
75-03-11.1-08.4	Minimum Qualifications for All School-Age Child Care Program Staff Members Responsible for Caring for or Teaching Children
75-03-11.1-08.5	Minimum Qualifications for Volunteers
75-03-11.1-08.6	Duties of School-Age Child Care Program Supervisor
75-03-11.1-09	Staffing and Group Size Requirements
75-03-11.1-13	Minimum Health Requirements for All Applicants, Operators, and Staff Members
75-03-11.1-15	Minimum Standards for Provision of Transportation
75-03-11.1-16	Minimum Emergency Evacuation and Disaster Plan
75-03-11.1-17	Fire Inspections
75-03-11.1-18	Minimum Sanitation and Safety Requirements
75-03-11.1-19	Minimum Requirements Regarding Space and Lighting
75-03-11.1-20	Program Requirements
75-03-11.1-21	Minimum Standards for Food and Nutrition
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75-03-11.1-23	Discipline - Punishment Prohibited
75-03-11.1-24	Specialized Types of Care and Minimum Requirements
75-03-11.1-25	Minimum Requirements for Care of a Child With Special Needs
75-03-11.1-26	Minimum Provisions Regarding Emergency Care for Children
75-03-11.1-27	Effect of Conviction on Licensure and Employment
75-03-11.1-28	Child Abuse and Neglect Decisions
75-03-11.1-29	Correction of Violations
75-03-11.1-30	Fiscal Sanctions
75-03-11.1-31	Appeals

Original changes found on pages 712-713

SECTION 6. Section 75-03-11.1-07 is amended as follows:

75-03-11.1-07. Application for and nontransferability of school-age child care program license.

1. An applicant shall submit an application for a license to the authorized agent. Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and is valid only for the premises indicated on the license.
3. An application for a new license must be filed upon change of operator or location.
4. The department may not issue more than one child care 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 ~~October 1, 2010~~ January 1, 2011. Existing operators will be exempt from this provision until ~~October 1, 2015~~ 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.

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

Original changes found on pages 726-732

SECTION 19. Section 75-03-11.1-18 is amended as follows:

75-03-11.1-18. 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 school-age child care-program's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and the staff members.
3. The operator shall ensure that the school-age child care program ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
4. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
5. The operator shall ensure that garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The operator shall keep indoor garbage in covered containers. The operator may allow paper waste to be kept in open waste containers.
6. The operator shall ensure that wading pools used by the school-age child care program are strictly supervised and are emptied, cleaned, and sanitized daily.
7. The operator shall ensure that all swimming pools are approved annually by the local health unit.
8. The operator shall ensure that all school-age child care program buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chewed condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the state department of health.
9. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall

- ensure that all toys are kept clean and in a sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
10. 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.
 11. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
 12. If the school-age child care program is providing care to children in wheelchairs, the operator shall provide doors of sufficient width and construction to accommodate any children in wheelchairs who are receiving care.
 13. The operator shall ensure that exit doorways and pathways are not blocked.
 14. The operator shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
 15. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
 16. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by local fire authorities. During the heating season when the school-age child care program is occupied by children, the room temperature must not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
 17. The operator shall ensure that school-age child care program bathroom sinks, toilets, tables, chairs, and floors are cleaned daily. Cots and mats must be individually designated, and cleaned and sanitized at least weekly. If different children use the same cots or mats, the cots or mats must be cleaned thoroughly and sanitized between each use. The operator shall provide separate storage for personal blankets or coverings.
 18. The operator shall ensure that personal items including combs and toothbrushes are individually identified and stored in a sanitary manner.
 19. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and paper towels, sanitary hand-drying equipment, or single use cloth towels must be available at each sink.
 20. The operator shall ensure that potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, poisonous plants, and open stairways are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.

21. Water supply standards:
 - a. The operator shall ensure that the school-age child care program has a drinking supply from an approved community water system or from a source tested and approved annually by the state department of health;
 - b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking cups; and
 - c. The school-age child care program must have hot and cold running water.
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.
23. The operator of a school-age child care program not on a municipal or public water supply or wastewater disposal system shall ensure the school-age child care program's sewage and wastewater system has been approved by the state department of health.
24. Laundry:
 - a. If the school-age child care program provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation;
 - b. The operator shall ensure that soiled linens are placed in closed containers or hampers during storage and transportation;
 - c. The operator shall ensure that in all new or extensively remodeled school-age child care programs, the handling, sorting, or washing of soiled linen or blankets takes place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas;
 - d. The operator shall ensure that in an existing school-age child care program where physical separation of laundry and kitchen areas is impractical, procedures are developed to prohibit the washing or transportation of laundry while meals are being prepared or served;

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

- h. The operator shall ensure that the school-age child care program is in compliance with all applicable state and local ordinances regarding the number, type and health status of pets or animals.

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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