

RULE ADOPTIONS

CHILDREN AND FAMILIES

(a)

OFFICE OF LICENSING

Manual of Requirements for Child Care Centers Readoption with Amendments: N.J.A.C. 3A:52 Adopted New Rule: N.J.A.C. 3A:52-5.1

Proposed: September 19, 2016, at 48 N.J.R. 1877(a).

Adopted: January 12, 2017, by Allison Blake, Ph.D., L.S.W.,
Department of Children and Families.

Filed: January 31, 2017, as R.2017 d.034, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:5B-1 through 15.1.

Effective Dates: January 31, 2017, Readoption;
March 6, 2017, Amendments and New Rule.

Expiration Date: January 31, 2024.

Take notice that the Department of Children and Families, in conjunction with the Office of Administrative Law, administratively recodified N.J.A.C. 3A:52 from N.J.A.C. 10:122. See 49 N.J.R. 98(a), therefore, this notice is a readoption with amendments and a new rule of N.J.A.C. 3A:52.

Summary of Public Comments and Agency Responses:

Comments were received from Carla J. Myer, Director of Early Childhood Education, the Hunterdon County YMCA; Lisa T. Forrester, the Harmony School; Ana I. Berdecia, Chair, Policy Advisory Board and Arlene Martin, Executive Director, Professional Impact NJ (PINJ); Lorin Powell, Director, Just Kids Program, Archway Programs; Debbie Grice, Darlene Mount, and Brenda Simmons, Hightstown-East Windsor YMCA; Elmorina Thomas and Marica Bennett, Co-Chairpersons, New Jersey Early Care and Education Alliance (NJECE Alliance); Jennifer Santana, President, Coalition of Infant/Toddler Educators (CITE); Corinne Orlando, Director, Government Relations, American Heart Association/American Stroke Association (AHA/ASA); Cecilia Zalkind, President and CEO, Advocates for Children of New Jersey (ACNJ); Rori Pipeling, The Work-Family Connection After School Enrichment Programs; Curt Macysyn, Executive Director, New Jersey Child Care Association (NJCCA); and Cindy Terebush, Certified Professional Coach and Certified Youth, Parent, Family Coach Education and Parenting Consultant.

1. COMMENT: Require enrollment in the Professional IMPACT NJ Registry for all center staff in the first 90 days of employment.

RESPONSE: The Department declines to make this change. All center staff have the option of enrolling in the NJ Registry and enrollment is now mandatory for those centers and providers volunteering to participate in Grow NJ Kids Advocates for Children of New Jersey Quality Rating and Improvement System.

2. COMMENT: Require licensing inspectors to enroll in the NJ Registry.

RESPONSE: The Department declines to make this change. The Department believes that requiring State-employed inspectors to enroll in a registry maintained by a private entity, even under contract with the Department of Human Services, would create an inappropriate appearance of a conflict of interests.

3. COMMENT: PINJ requests that a Group Teacher be required in every classroom.

4. COMMENT: Every infant-toddler classroom should be headed by a Group Teacher with either an NJ Infant/Toddler Credential or an Infant/Toddler Child Development Associate Credential (CDA).

RESPONSE TO COMMENTS 3 AND 4: The Department declines to make this change. The Department believes that this would cause a substantial hardship to centers and operators as credentialed staff are not widely available and command a higher salary.

5. COMMENT: N.J.A.C. 3A:52-1.1(b)2. Clarify the rationale of inspecting non-licensed areas and what hazards constitute a violation.

RESPONSE: Inspectors need to inspect unlicensed areas to ensure that children are not present in unapproved areas of the building and that no imminent hazards are present, such as blocked fire exits, storage of hazardous or toxic substances, or physical damage that would affect the structural integrity of the building.

6. COMMENT: N.J.A.C. 3A:52-1.1(b)2. The Work-Family Connection provides before and afterschool care in public schools. Our staff only has access to the parts of the school that we use. This rule needs to be abated for programs operating within public schools.

RESPONSE: The Department agrees that the requirement as proposed is not always possible to live up to. The Department has deleted the proposed “and rooms that are not approved for use and that are adjacent to the child care center.” The rule now reads “Inspect and examine the physical plant or facilities, including, but not limited to, storage areas and additional floor levels, and program of a child care center without delay or an escort, ...”

7. COMMENT: N.J.A.C. 3A:52-1.2(b). There are different, and lesser, standards for preschools in public or private schools; health and hygiene, napping and resting, physical activity, etc. Why are all centers serving preschoolers not held to the same standards? If it is a necessary requirement in one sector, it should be the same for all service providers.

RESPONSE: The Office of Licensing does not have the authority to enforce this chapter in the exempt child care centers, pursuant to N.J.S.A. 30:5B-3.b and 5.g.

8. COMMENT: N.J.A.C. 3A:52-2.2(i). The New Jersey Early Care and Education Alliance agrees with the amendment to consider centers not operating for six months to be closed.

RESPONSE: The Department thanks the NJECE Alliance for their support.

9. COMMENT: N.J.A.C. 3A:52-2.3(d)3ii. Ms. Terebush requests that existing centers be permitted to exist with no further changes, particularly faith-based centers, wherein it is common that a main entry way is accessible to others sharing the building.

RESPONSE: The Department acknowledges the concern and agrees that flexibility is necessary to accommodate individual situations. N.J.A.C. 3A:52-2.3(d)3 allows this flexibility as “... the Office of Licensing may require the center to have or use a separate entrance ...” The Office of Licensing may impose the requirements of N.J.A.C. 3A:52-2.3(d)3 as appropriate. No change to the rule as proposed is necessary.

10. COMMENT: N.J.A.C. 3A:52-2.3(d)3iv. The NJECE Alliance supports the requirements to prevent sharing common space and to have a schedule for outdoor time if the play area is shared.

RESPONSE: The Department thanks the Alliance for its support.

11. COMMENT: N.J.A.C. 3A:52-2.3(d)3iv. Add “except in case of emergency evacuation egress.”

RESPONSE: Centers need to ensure that staff supervise and track the children at all times including during emergency evacuations. The safety of the children is imperative during an emergency. In accordance with N.J.A.C. 3A:52-2.3(d)3iv, “... the Office of Licensing may require the center to not share common areas, such as hallways ...” The Office of Licensing can allow flexibility in how the center is evacuated during emergencies under the rule as adopted. The Department is adopting this subparagraph without change.

12. COMMENT: N.J.A.C. 3A:52-2.3(d)3iv and v. Before and after school programs that operate in public schools are unable to control public access throughout the school and playground. Remove this requirement for school-aged programs.

RESPONSE: The Department acknowledges the concern, and agrees that some flexibility is necessary to allow for compliance by programs operating in schools and other shared settings. The language in the existing rule and as adopted empowers the Office of Licensing to impose requirements as appropriate, ensuring flexibility to address these unique situations without causing undue hardship.

13. COMMENT: N.J.A.C. 3A:52-3.3(b). There are backlogs in getting Child Abuse Record Information (CARI) background check forms back from the Department. This backlog needs to be taken into consideration when files are being inspected.

RESPONSE: The Department declines to make the change. No backlog for child care CARIs currently exists, and average processing times have been below 45 days for the entirety of calendar years 2015 and 2016.

14. COMMENT: N.J.A.C. 3A:52-3.3(b)2i and 4.10(h)1. School-age programs that operate in public school buildings do not have isolated spaces that guarantee complete confidentiality of employee records for the HIPAA law. We need to store these records in our program's administrative office where we can maintain confidentiality. Licensing inspectors can view the documents there or they can be faxed to the inspectors.

15. COMMENT: N.J.A.C. 3A:52-4.10(h)1. We do not have secure locked rooms to maintain CARI check information on site, so the public has access to the cabinets. Staff move from location to location frequently, so it would be hard to ensure that the Child Abuse Record Information (CARI) information is moved with the staff. The information is kept locked in the administrative offices.

RESPONSE TO COMMENTS 14 AND 15: The Department agrees that requiring information to be kept at each center is burdensome for certain centers. The Department has removed the proposed "at the center" from N.J.A.C. 3A:52-4.10(h)1. This information can be kept confidential and shared quickly with OOL inspectors electronically or by fax.

16. COMMENT: N.J.A.C. 3A:52-3.5(a) and (b). Specify a land line or cell phone.

RESPONSE: Either type of telephone is permissible. No change of the rule as proposed is necessary.

17. COMMENT: N.J.A.C. 3A:52-3.5(b). The NJECE Alliance agrees that centers must have a telephone number for parents to reach the center during business hours.

RESPONSE: The Department thanks the Alliance for its support.

18. COMMENT: N.J.A.C. 3A:52-4.3(a). The Hightstown YMCA agrees with the amendments. Child care providers should encourage children to use the bathroom as independently as they are ready to, and supervise children to ensure that they are following bathroom procedures.

RESPONSE: The Department thanks the Hightstown YMCA for their support.

19. COMMENT: N.J.A.C. 3A:52-4.3(d)2. This paragraph refers to when "a" child wakes from napping. Does this statement mean when one child wakes the center must be in full staff/child ratio as if all the children in that age group were awake? The NJECE Alliance recommends a compromise of one additional staff instead of full sleep-to-awake staff ratios. This would eliminate the economic impact on programs caring for infants.

RESPONSE: The ratios are specified for sleeping and awake children and are applied separately. The waking of an individual child does not require that staffing be resumed at the same ratio it would be if all children were awake, as the remaining sleeping children are still able to be supervised by a smaller number of staff. For example, a single staff member is required to supervise a room with 10 sleeping infants. If one of those infants wakes up, a second staff member is required to supervise the awake child, but a third staff member need not be in the room until the ratio of awake infants to staff exceeds the minimum for the specified age group, in this example 1:4 or when a fifth child wakes up. This mirrors the compromise solution proposed by the commenter. The Department will not change this section.

20. COMMENT: N.J.A.C. 3A:52-4.5(c)2iii. Ms. Terebush is concerned with requiring the director designee to complete 20 hours of staff development training per year.

RESPONSE: The Department declines to make the change. This regulation ensures that there is adequate oversight of the daily operations of the center and consistent communication with the families and staff.

21. COMMENT: N.J.A.C. 3A:52-4.5(e)8. Ms. Terebush is concerned that the required infant/toddler training for staff working in these classrooms may not be readily available.

RESPONSE: The Department declines to make the change. The Department has evaluated available training resources across the State and concluded that sufficient supply exists to meet anticipated demand.

22. COMMENT: 3A:52-4.5(e)8. The Hightstown YMCA is requesting that the regulation not require a CDA for staff working with children under 2.5.

RESPONSE: The rulemaking included no such requirement. The Department does, however, acknowledge that the phrasing in this section may lead to it being read to require program staff to obtain all of the trainings listed as examples. To guard against this, the paragraph is being rewritten to appear as follows "All staff that work with children under 2 1/2 years of age shall have training specific to this age group, which may include, but is not limited to ..."

23. COMMENT: 3A:52-4.5(e)8. ACNJ supports the proposal to require all staff who work with children aged 2 1/2 and younger to have training in working with that age group.

RESPONSE: The Department thanks ACNJ for its support.

24. COMMENT: N.J.A.C. 3A:52-4.5(e)8. ACNJ suggest that by no later than September 1, 2018, all staff providing direct caregiving services to infants and toddlers have a minimum of an Infant-Toddler CDA or a NJ Infant-Toddler Credential. ACNJ recommends that the CDA program be credit-bearing.

RESPONSE: While some Infant-Toddler CDA programs are credit-bearing, others are not. This comment is outside the authority of the Department.

25. COMMENT: N.J.A.C. 3A:52-4.5(e)8. Specify what trainings, how many training hours, etc. All infant-toddler staff will not realistically be able to attain the Infant/Toddler Credential or CDA within one year of employment, teacher aides and support staff in particular.

RESPONSE: Sources of training and the number of hours are not specified in order to allow centers to have flexibility to meet this requirement. Required orientation training topics can be included as part of this requirement. The resources listed are suggestions, not required.

26. COMMENT: N.J.A.C. 3A:52-4.7. Ms. Terebush requests that consideration be given to the issue that those individuals providing the training, such as the director, may not be qualified to provide the trainings in some required areas.

RESPONSE: The Department believes the rule as written allows reasonable flexibility for the centers without unreasonably inhibiting the ability of those centers to obtain and fund the required trainings.

27. COMMENT: N.J.A.C. 3A:52-4.7 and 4.8(d) and (f). PINJ requests that at least 50 percent of professional development should be interactive with group discussion.

RESPONSE: The Department declines to make this change. The Department believes the rule as written allows reasonable flexibility for the centers without unreasonably inhibiting the ability of those centers to obtain and fund the required trainings.

28. COMMENT: 3A:52-4.8(c). Hightstown YMCA requests that the number of required training hours starts at 12 hours the first year and decreases by one hour per year after each year of employment at the center.

RESPONSE: The Department declines to make this change. Ongoing training is critical to ensure that staff develop and maintain the needed skills when providing care for young children.

29. COMMENT: N.J.A.C. 3A:52-4.8(c). In light of a move towards a more coordinated system between departments, the Office must address in this section what is currently available to licensed programs through Professional Impact of New Jersey's NJ Workforce Registry.

RESPONSE: The Department acknowledges the importance of moving towards a comprehensive coordinated system between departments. Since the Department believes the rule as proposed allows reasonable flexibility for center staff, the Department is adopting N.J.A.C. 3A:52-4.8(c) as proposed.

30. COMMENT: N.J.A.C. 3A:52-4.8(d). Include the U.S. Department of Health and Human Services' (DHHS) Policy Statement on Expulsion and Suspension in this section to ensure administrators, directors, and staff are aware of the content within the statement.

RESPONSE: The Department declines to make this change. Although the Department acknowledges the importance of the U.S. DHHS Policy

Statement on Expulsion and Suspension Policies in early childhood settings, the statement prohibits centers from expelling or suspending young children due to behavioral incidents. This document is a valuable reference for centers seeking best practice.

31. COMMENT: N.J.A.C. 3A:52-4.8(g). PINJ requests that the NJ Registry generated transcript be used for renewal inspections to track the yearly staff development hours.

RESPONSE: The Department declines to make this change. The transcripts generated from the NJ Registry are one option centers may use to track the hours of yearly staff development. The Department believes the rule as written allows reasonable flexibility for the centers.

32. COMMENT: N.J.A.C. 3A:52-4.10(b)2. It takes at least five weeks to get the results of a Child Abuse Record Information (CARI) check. The proposed amendment requires overstaffing for that time. Some locations have only two staff persons, so a third person would be needed for that length of time.

RESPONSE: The Department declines to make the change. CARI checks are critical for ensuring child safety and required by statute. The public interest in ensuring that unlicensed staff are not afforded unsupervised access to children greatly outweighs temporary staffing concerns.

33. COMMENT: N.J.A.C. 3A:52-5.3(i)5. The NJECE Alliance agrees that child care centers in public school buildings must ensure the water supply is safe.

RESPONSE: The Department thanks the Alliance for its agreement with this amendment.

34. COMMENT: N.J.A.C. 3A:52-5.3(i)5. For centers operating in public school buildings, this change in water testing requirements should be made at the State level for public schools to address. The children are drinking the same water in the before and after school program as they do during the school day. If the water did not pass the test, the child care center would not have any recourse to rectify the problem, because the building does not belong to the child care center.

RESPONSE: The Office of Licensing has addressed the process at N.J.A.C. 3A:52-5.3(i)5ii(1) through (4) that the center must take if the water testing indicates elevated levels of lead or copper. The center has the responsibility to make sure that the children in its care are safe. Insofar as the commenter suggests State level rules for public schools, such request is outside of DCF's rulemaking authority.

35. COMMENT: N.J.A.C. 3A:52-5.3(i)5i and ii state that if public water tests with excessive amounts of lead and copper, then the center is to notify parents and discontinue use of water for drinking and food preparation. New Jersey American Water publishes lead and copper amounts and at what point lead and copper amounts need to be at an "action level" for correction. Is DCF suggesting that the centers be responsible for additional testing, and, if so, how frequently? Would the age of the facility be a factor as it is for lead paint testing?

RESPONSE: Public water supply systems do provide test results to the public. Their testing does not include testing the specific water sources used by child care centers, such as water fountains and water faucets. The age of the building cannot be used to exempt from testing as the age of the building may not reflect the age of the pipes. The Department declines to make this change.

36. COMMENT: N.J.A.C. 3A:52-5.3(l)5. What locking devices are being referred to? Centers receive annual fire safety inspections, which determine if the center meets standards to insure child safety in the event of an emergency. Does this regulation serve a different purpose?

RESPONSE: Although not required, some centers are incorporating locking devices into their emergency response to civil disaster plans. This rule requires that the use of any locking device be approved by the local fire official.

37. COMMENT: N.J.A.C. 3A:52-6.1(b)6 and 6.3(a)11. ACNJ supports more stringent changes to the rules in nutrition and physical activity to impact negative childhood obesity trends.

RESPONSE: The Department thanks ACNJ for its support of these amendments.

38. COMMENT: N.J.A.C. 3A:52-6.1(b)6. The American Heart Association requests that "energetic physical activity" be replaced with "moderate and vigorous physical activity." This term is more well-

defined and aligns more closely with the YMCA USA's Physical Activity and Screen Time standards.

RESPONSE: The Department declines to make the requested change. The Department believes that "energetic" is synonymous with the proposed language, and, therefore, gives preference to the language already subject to public comment.

39. COMMENT: N.J.A.C. 3A:52-6.1(b)7i. The Coalition of Infant/Toddler Educators requests that this requirement be revised to match the American Academy of Pediatrics recommendations to: prohibit the use of television and video players for children under the age of two; prohibit digital screen devices (computers, tablets, and smartphones) for children under 15 months; and incorporate adult interaction into the regulation for digital screen devices for children 15 to 24 months with a time limit of 15 minutes daily.

RESPONSE: The Department recognizes that the AAP released revised recommendations during the comment period for this rulemaking, but declines to further modify the requirement as proposed. While the AAP recommendation represents a best practice, and such limitations should be considered by programs, the requirements as proposed continue to represent what the Department believes, after consultation with programs and other interested parties and experts in the formulation of this rule, to be the appropriate baseline requirement for centers Statewide.

40. COMMENT: N.J.A.C. 3A:52-6.1(b)7i. The American Heart Association/American Stroke Association applauds the Department for eliminating screen time for children younger than two years old.

RESPONSE: The Department thanks the AHA/ASA for their support.

41. COMMENT: N.J.A.C. 3A:52-6.1(b)7ii. The AHA/ASA encourages the Department to consider expanding the limits on screen time to those of the Young Men's Christian Association for children older than two years in half day programs not to exceed 30 minutes per day or one hour per day for children older than two in full day programs.

RESPONSE: Centers are currently required to develop a written policy for the use of screen media time and the equipment used during these times. Additionally, the use of television, computers, and other video equipment is limited to educational or instructional use. The Department supports the current requirements and declines to make any further changes to this section.

42. COMMENT: N.J.A.C. 3A:52-6.1(g)2. ACNJ suggests adding language requiring centers to use the NJ Infant-Toddler Birth to Three Early Learning Standards to inform practice. Every center should have a copy of the Standards on-site and ensure that their staff have been trained in the use of the standards.

RESPONSE: The Department acknowledges the importance of the NJ Infant/Toddler Birth to Three Early Learning Standards and the positive impact these standards have for young children. The Department at this time declines to make this change. The Department believes that the rule as proposed, requiring training specifically related to the care of infants and toddlers, enhances staff competencies while allowing centers flexibility to complete this training requirement.

43. COMMENT: N.J.A.C. 3A:52-6.1(g)2. Amend to state (additions in bold): Centers serving children less than 18 months of age shall provide **daily opportunities for infants to freely explore their indoor and outdoor environments under adult supervision and** at least four types of children's daily activities including, but not limited to, sensory; language and dramatic play; manipulative; building; large muscle; music; or other comparable activities; and at least four types of supplies and equipment for each activity area chosen by the center, **as listed below.**

RESPONSE: The Department declines to make this change. The Department added required supervised tummy time at least twice a day at N.J.A.C. 3A:52-6.1(g)2ii and limited the use of infant equipment to 30 minutes at a time at N.J.A.C. 3A:52-6.1(g)2iv. These amendments give infants the opportunity to explore their environment. The supplies formerly listed in N.J.A.C. 3A:52-6.1(g)2ii have been removed from the adopted rule.

44. COMMENT: N.J.A.C. 3A:52-6.1(g)2ii. The American Heart Association applauds that age appropriate, supervised tummy time will be required at least twice a day for children under 18 months of age.

RESPONSE: The Department thanks the AHA/ASA for its support.

45. COMMENT: N.J.A.C. 3A:52-6.1(g)2iv. Two commenters asked that the rule follow published standards in Caring for Our Children, National Health and Safety Performance Standards Guidelines in Early Care and Education Programs. That would allow the use of infant equipment for 15 minutes twice a day, rather than 30 minutes consecutively. A least restrictive environment should be encouraged at all times.

46. COMMENT: N.J.A.C. 3A:52-6.1(g)2iv. Prohibit the use of infant equipment due to detrimental effects on physical development and injuries associated with children left unattended in such equipment.

RESPONSE TO COMMENTS 45 AND 46: The Department declines to make these changes. The Department believes that this equipment is safe when used in accordance with the manufacturer's instructions and when the infants are supervised as specified in this chapter. Since the Department has limited use of the equipment to 30 minutes at a time, the Department does not believe that use of the equipment is detrimental to the infant's physical development. The Office of Licensing will continue to monitor research on this topic as it becomes available.

47. COMMENT: N.J.A.C. 3A:52-6.1(g)2iv. Add that children should not be left to sleep in infant equipment.

RESPONSE: N.J.A.C. 3A:52-6.4(b)1 and 2 already specify approved sleeping equipment for children from birth to four years old. The Department declines to amend this subparagraph further.

48. COMMENT: 3A:52-6.3(a)11vi. The American Heart Association/ASA applauds that N.J.A.C. 3A:52 requires centers to serve food in accordance with the Child and Adult Care Food Program's (CACFP) standards. Additionally, the American Heart Association requests that the word "beverages" be added to this requirement.

RESPONSE: The Department thanks the AHA/ASA for their support. The Department agrees to clarify the requirement by adding the word "beverages," in order to match the language in the CACFP standard. The Department considers the change to the rule to state "beverages" a clarification of the existing rule. This change does not place a burden on child care centers, as they are already required to meet the CACFP Standards, which are incorporated into the rule by reference.

49. COMMENT: N.J.A.C. 3A:52-6.3(a)11vi. The AHA/ASA urges the Department to ensure that providers will follow the updated CACFP standards when they go into effect.

RESPONSE: The Department acknowledges that the CACFP will be updating the standards effective October, 2017. All centers will be required to follow the updated standards at that time.

50. COMMENT: N.J.A.C. 3A:52-6.4(a)2. This paragraph makes reference to pillows not covering the face of a child. Therefore, these regulations imply that the use of pillows in a center as sleeping equipment is acceptable, while N.J.A.C. 3A:52-6.4(b)1ii prohibits pillows. Please clarify.

RESPONSE: N.J.A.C. 3A:52-6.4(b)1 regulates sleeping equipment for children 12 months and younger. This rule as published is consistent with safe sleep practices for children up to 12 months. N.J.A.C. 3A:52-6.4(a)2 regulates sleeping for children from 13 to 18 months. For children age 13 to 18 months, blankets and pillows can be used, as long as the child's face is not covered. The Department believes that the rule is correct and understandable as published.

51. COMMENT: N.J.A.C. 3A:52-6.4(a)3. Hightstown YMCA is requesting the use of a snuggie as a means to swaddle infants.

RESPONSE: The Department declines to make this change. There is a concern that the use of a snuggie still restricts the child and may place the child at risk of harm.

52. COMMENT: N.J.A.C. 3A:52-6.4(a)3. Will a physician's note override the prohibition of swaddling? Can you allow swaddling at three or four months to be discontinued by five months?

RESPONSE: The American Academy of Pediatrics and Caring for Our Children do not recommend swaddling in congregate care facilities. The Department declines to change the rule. If directed by a medical professional in writing, the prohibition would be waived.

53. COMMENT: N.J.A.C. 3A:52-6.4(a)4. The American Academy of Pediatrics suggests that children ages three through five sleep a minimum of 10 hours to 13 hours in a 24-hour day. Without the support of DCF policies, it will be impossible for children to get the sleep they need. Centers have always had the option of giving children who aren't

sleeping after 45 minutes the option of quiet activities. This change requires additional staffing and affects the teachers' lunch time and planning time.

RESPONSE: The Department acknowledges the importance of children getting enough hours of sleep in a 24 hour period. It is beyond the purview of the Department to ensure that families meet this requirement at home. The American Academy of Pediatrics is exploring revising the recommended age for naps to three and under, as they may disrupt night sleep patterns. The Department will not change the rule as proposed.

54. COMMENT: N.J.A.C. 3A:52-6.4(b)1ii. Hightstown YMCA requests that children who can crawl, roll over, and sit up should be allowed to have a blanket in the crib.

RESPONSE: The Department declines to make this change. There are recommendations from multiple sources that prohibit the use of blankets for infants under 12 months when sleeping. This provision enhances safe sleep practices at child care centers.

55. COMMENT: N.J.A.C. 3A:52-6.8(d). Is the use of passenger vehicles prohibited? If so, this section needs clarification.

RESPONSE: There has been no change to the rules regarding the use of passenger vehicles.

56. COMMENT: N.J.A.C. 3A:52-6.8(k). Can the Office of Licensing provide examples of policies or samples, rather than each center writing its own, only to find that it does not meet the OOL requirements?

RESPONSE: The Office of Licensing will provide a sample policy.

57. COMMENT: N.J.A.C. 3A:52-7.8. The Hightstown YMCA agrees with the use of wipes as an alternative for washing hands of children under three months of age.

RESPONSE: The Department thanks the Hightstown YMCA for their support.

58. COMMENT: N.J.A.C. 3A:52-9.5(d). Most family car seats and booster seats cannot be properly and safely installed in a school bus according to manufacturer's directions. Specify which types of child restraints must be used if providing transportation by Type I or II school buses.

RESPONSE: The Department references the Motor Vehicle Commission's statutes, N.J.S.A. 39:3B-10 and 11, to address safety for passengers on school buses.

59. COMMENT: N.J.A.C. 3A:52-9.8(c). Consider including a first aid and cardio-pulmonary resuscitation requirement to this section.

RESPONSE: The Department declines to make this change due to the economic impact of compliance on the centers.

Summary of Agency-Initiated Changes:

The Department is changing N.J.A.C. 3A:52-2.2(b) to use the term "chapter" rather than "manual," as noted in the notice of proposal Summary.

The Department is clarifying N.J.A.C. 3A:52-2.3(e) to state that "all new or relocating centers, after March 6, 2018, shall not be located..." rather than "by March 6, 2018."

The Department is changing N.J.A.C. 3A:52-3.6(a)22 to update the website for the Consumer Product Safety Commission.

The Department is changing the chart in N.J.A.C. 3A:52-4.3(d) to say "18 months to under 2 ½ years." This clarifies the rule, as the next section of the chart says "2 ½ years and above." Similarly, the Department is changing paragraph (d)3 to state "... all children under 18 months of age are sleeping." This clarifies that children who are 18 months of age fall into only one category.

The Department is changing the spelling of "license" at N.J.A.C. 3A:52-4.10(a)3 to standardize the spelling of "license" with a lowercase "l" throughout the rule.

The Department is correcting the spelling of "newly-constructed" to add the hyphen at N.J.A.C. 3A:52-5.2(a)2. The Department is also adding a hyphen to leak-proof at N.J.A.C. 3A:52-5.3(a)5i.

The Department is changing N.J.A.C. 3A:52-5.3(i)5i to clarify that an "authorized source" of water testing services is a laboratory certified by the Department of Environmental Protection, and to replace the term "drinking water fountains" with a clearer descriptor "faucets and other sources used for drinking water or food preparation."

The Department is clarifying that the center shall distribute the social media policy to each staff member, rather than to the parent of each staff member, at N.J.A.C. 3A:52-6.8(1), by adding "to."

The Department is clarifying the language of N.J.A.C. 3A:52-7.5(b)10 to make sure that it clearly comports with the referenced New Jersey statute. The fourth sentence is changed to say (additions in bold; deletion in brackets): "[The] **Each center under the jurisdiction of N.J.S.A. 18A:40-12.5** shall store **back-up** epinephrine pens on site consistent with the requirements stated at N.J.S.A. 18A:40-12.5.e(1)."

Federal Standards Statement

The rules readopted with amendments and a new rule do not exceed Federal requirements. They assist the State to meet the requirement of the Child Care Development and Block Grant, 42 U.S.C. §§ 9857 et seq.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 3A:52.

Full text of the adopted amendments and new rule follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 1. GENERAL PROVISIONS

3A:52-1.1 Legal authority

(a) This chapter is promulgated pursuant to the Child Care Center Licensing Act, N.J.S.A. 30:5B-1 et seq.

(b) Under the laws specified in (a) above, the Department of Children and Families is authorized to:

1. (No change.)

2. Inspect and examine the physical plant or facilities, including, but not limited to, storage areas*[,] *and* additional floor levels, *[and rooms which are not approved for use and that are adjacent to the child care center,]* and program of a child care center without delay or an escort, and inspect all documents, records, files, or other data maintained pursuant to the above-referenced law during the center's normal operating hours and without prior notice; and

3. (No change.)

(c) (No change.)

(d) Centers specified in (c)1 and 2 above are required to comply with the physical facility; life/safety; administration and control of medication; environmental sanitation; supervision, minimum staffing, and discipline requirements; and communicable disease reporting provisions of this chapter. Centers with Certificates of Life/Safety Approval may secure regular licenses on a voluntary basis, as long as they comply with all provisions of this chapter.

(e) To be eligible for a license, a center shall demonstrate to the satisfaction of the Department of Children and Families, or the duly authorized agency, that the center complies with all applicable provisions of this chapter.

(f) (No change.)

(g) Responsibility for ensuring that centers comply with the provisions of the laws cited in (a) above and with provisions of this chapter is hereby delegated by the Department of Children and Families to the Office of Licensing.

(h) When a person intends to care for six or more children under 13 years of age, he or she shall apply for and secure from the Office of Licensing a license to operate a child care center. Once licensed, the center is subject to all applicable provisions of this chapter, even if the number or ages of the children attending the center at a particular time should fall outside the definition of a center, as specified in N.J.A.C. 3A:52-1.2(a).

(i) The Office cannot complete initial program inspections unless six or more children are present at the center.

3A:52-1.2 Definition of child care center

(a) "Child care center" or "center" means any home or facility, by whatever name known, which is maintained for the care, development, or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

1. For a facility that is located in a sponsor's or sponsor representative's home, the Office of Licensing shall not count the

children residing in the sponsor's or sponsor representative's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

(b) The term "child care center" shall include, but not be limited to, day care centers; drop-in centers; night-time centers; recreation-type centers sponsored and operated by a county or municipal government recreation or park department or agency; day nurseries; nursery and play schools; cooperative child centers; centers for children with special needs; centers serving sick children; infant-toddler programs; school-age child care programs; employment-related centers; centers that had been licensed by the Department of Human Services prior to the enactment of the Child Care Center Licensing Act of 1984; and kindergartens and pre-kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth.

(c) The term "child care center" shall not include the following programs, since they do not meet the definition of a child care center:

1.-2. (No change.)

3. A child care program operating within a geographic area, enclave, or facility that is owned or operated by the Federal government;

4.-5. (No change.)

6. A program offering child care on an ad hoc, sporadic, and isolated basis in order to meet an emergency or special need, such as during emergency school closings, conferences, or training sessions.

3A:52-1.3 Programs exempt from licensure

(a) The following programs are exempt from licensure pursuant to the laws specified in N.J.A.C. 3A:52-1.1(a):

1. (No change.)

2. Kindergartens, pre-kindergarten programs, or child care centers that are operated by, and are an integral part of, a private educational institution or system providing elementary education in grades kindergarten through sixth;

i. For purposes of this paragraph, operation of a program by a private educational institution or system shall require direct operation and payment of staff by the operating institution or system.

ii. For purposes of this paragraph, a program is an integral part of a private educational institution or system if the program and the institution or system can reasonably demonstrate integration of the program based on geographic proximity, commonality of enrollment, and continuation of enrollment between the program and the institution or system, commonality of staffing, cohesion of an academic curriculum between programs, or some combination of the above.

3. Centers or special classes operated:

i. Primarily for religious instruction. To qualify for an exemption from licensing under this paragraph, a center or special class must:

(1)-(2) (No change.)

(3) Provide a program that is composed primarily of religious instruction in which the curriculum is related to religious themes, stories, or teachings; and

(4) (No change.)

ii. (No change.)

4. Programs of specialized activities or instruction for children that are not designed or intended for child care purposes, including, but not limited to: Boy Scouts, Girl Scouts, 4-H Clubs, Junior Achievement, and commercial indoor playground or sports centers where parents remain with pre-school children; and single activity programs, such as: athletics, gymnastics, hobbies, art, music, dance, and craft instruction, which are supervised by an adult, agency, or institution. To qualify for an exemption from licensing under this paragraph, a program must:

i.-ii. (No change.)

5. Homework or tutorial programs that submit documentation demonstrating that:

i. Time frames are developmentally appropriate for the age group served and children under six years of age do not attend the program for more than two hours;

ii. The tutorial or homework instruction is not designed for child care purposes;

iii. The tutorial or homework program is supervised on a full-time basis by an adult;

iv. There is no agreement, written or implied, between the tutorial or homework program and the parent to assume responsibility for the care of the child; and

v. There is no agreement, written or implied, between the tutorial or homework program that transportation is provided by the program.

6. (No change in text.)

7. Regional schools operated by, or under contract with, the Department of Children and Families; and

8. (No change in text.)

3A:52-1.4 Definitions of other terms

The following words and terms, when used in this chapter, shall have the following meanings:

...

“Health care provider” means a physician, nurse practitioner, physician’s assistant, or other health care professional who is licensed or otherwise authorized by the state in which he or she practices to perform the applicable health care services specified in this chapter.

“Licensed capacity” means the maximum number of children a center can serve in the rooms approved as licensed space by the Office of Licensing.

...

“Regular Certificate of Life/Safety Approval” or “Regular Certificate” means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in full compliance with N.J.A.C. 3A:52-1.1(c).

“Regular license” means a document issued by the Office of Licensing to a center indicating that the center is in full compliance with all applicable provisions of this chapter.

...

“School-age child care program” means a supervised group program serving six or more children under 13 years of age who are enrolled in a public or private school, when their classes are not in session. The term, school-age child care program, may also include programs that serve: kindergarten children before or after their regular school session; and pre-kindergarten children before or after their regular school session if the pre-kindergarten children attend the program for no more than three and a half hours.

...

“Temporary Certificate of Life/Safety Approval” or “Temporary Certificate” means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in substantial compliance with N.J.A.C. 3A:52-1.1(c), provided that no serious or imminent hazard affecting the children exists in the center.

“Temporary license” means a document issued by the Office of Licensing to a center that is in substantial compliance with the applicable provisions of this chapter, provided that no serious or imminent hazard affecting the children exists in the center.

3A:52-1.5 (No change in text.)

SUBCHAPTER 2. LICENSING PROCEDURES

3A:52-2.1 Application for a license

(a)-(c) (No change.)

(d) In lieu of the fees specified in (c) above, an applicant for an initial or renewal license who operates a Head Start Center, pursuant to 42 U.S.C. §§ 9831 et seq., or a school-age child care program that does not charge a fee or require other compensation or services from parents, shall submit with the completed application form a \$110.00 licensing fee, in the form of a check or money order made payable to the “Treasurer, State of New Jersey.”

(e) If the application is denied, or the center does not open, the Office of Licensing shall refund the licensing fee to the applicant.

(f) (No change.)

3A:52-2.2 Issuance of a license

(a) The Office of Licensing shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this chapter.

(b) If the Office of Licensing determines that a center is in substantial compliance with, but does not meet all applicable provisions of this

[manual] ***chapter***, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Office of Licensing shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license. When a center applies for its first license, a temporary license shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 3A:52-5.2 through 5.6.

(c)-(h) (No change.)

(i) For those centers that do not have children in attendance for a period of six months or more, the centers shall be deemed as closed and a new license shall be issued should the center decide to serve children in the future.

3A:52-2.3 Location of a center

(a) The license shall be issued to a specific center sponsor or sponsor representative at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same sponsor or sponsor representative, the sponsor or sponsor representative shall apply to the Office of Licensing for either:

1.-2. (No change.)

(c) (No change.)

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The sponsor or sponsor representative of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.

2. (No change.)

3. During operating hours, the Office of Licensing may require the center to:

i. Operate in a separate room, floor, or section of the building;

ii. Have or use a separate entrance or toilet facility;

iii. Meet any other physical plant, staffing, program, or other operational requirements that are deemed necessary to protect the children from serious risk of harm stemming from the co-location;

iv. Not share common areas, such as hallways, gyms, or bathrooms; and

v. Have a schedule for outdoor time, if the outdoor play area is shared.

4. The sponsor or sponsor representative of a center that has been approved to be located in a multi-use building shall notify the Office of Licensing of any change in use by other occupants of the building, as specified in N.J.A.C. 3A:52-3.2(a).

(e) All new or relocating centers, *[by (one year after the effective date of this amendment)]* ***after March 6, 2018***, shall not be located in a building that was formerly a dry cleaner or funeral home.

3A:52-2.4 Denying, suspending, revoking, or refusing to renew a license or a Certificate of Life/Safety Approval

(a) The Office of Licensing may deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval for good cause, including the following, as applicable:

1. Failure or refusal to comply with all applicable provisions of the laws specified in this chapter;

i. Failure to comply with the provisions of this chapter shall also prevent a sponsor from obtaining a license for an additional child care center;

2.-3. (No change.)

4. Refusal to furnish the Department with files, reports, or records, as required by this chapter;

5. Refusal to permit an authorized representative of the Department to gain admission to the center or to conduct an inspection or investigation during the center’s operating hours;

6. Any activity, policy, or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being, or development of a child attending a center, or that otherwise demonstrates unfitness by a sponsor, sponsor representative, or staff member(s) to operate a center;

7. (No change.)

8. Failure by the sponsor or sponsor representative to secure and maintain on file conviction disclosures, as specified in N.J.A.C. 3A:52-4.1(b)3, Child Abuse Record Information (CARI) background checks, as specified in N.J.A.C. 3A:52-4.10, or Criminal History Record Information (CHRI) fingerprint background checks, as specified in N.J.A.C. 3A:52-4.11;

9. (No change.)

10. Refusal by the sponsor or sponsor representative to consent to a Child Abuse Record Information background check for himself or herself, or to terminate the employment of a staff member who refuses to consent to a Child Abuse Record Information background check;

11. Refusal by the sponsor or sponsor representative to terminate the employment of a staff member when a Child Abuse Record Information background check reveals that an incident of child abuse or neglect has been substantiated against the staff member;

12. A Child Abuse Record Information background check that reveals that an incident of child abuse or neglect has been substantiated against the sponsor or sponsor representative; or

13. Failure to comply with the provisions of P.L. 1998, c. 35, which prohibit smoking in child care centers, as specified in N.J.A.C. 3A:52-7.7(d).

(b) The Office of Licensing shall provide written notice to the sponsor or sponsor representative if it intends to deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval. The notice shall specify the Office of Licensing's reasons for such action.

(c) If the Office of Licensing suspends a center's license or Certificate of Life/Safety Approval to prevent the imminent risk of harm to children served by the center, the Office of Licensing may reinstate the suspended license or Certificate of Life/Safety Approval upon the center's compliance with all applicable provisions of this chapter.

(d) If the Office of Licensing denies an application or revokes or refuses to renew a center's license or Certificate of Life/Safety Approval, as specified in (a) above, the sponsor or sponsor representative of the center shall be prohibited from reapplying for a license or a Certificate of Life/Safety Approval for one year from the date of the denial, revocation, or refusal to renew. After the one-year period has elapsed, the sponsor or sponsor representative may submit to the Office of Licensing a new application for a license or a Certificate of Life/Safety Approval.

(e) (No change.)

(f) If the Office of Licensing determines to suspend, revoke, or refuse to renew the center's license or Certificate of Life/Safety Approval, the Office of Licensing shall notify the parent of each enrolled child of the action.

1. (No change.)

2. Within 20 days after notifying the center of the action, the Office of Licensing shall:

i. ii. (No change.)

iii. Inform parents of the name, address, and telephone number of the resource and referral services offered by the appropriate State-contracted Child Care Resource and Referral agency for assistance in finding alternative child care arrangements, if necessary; and

iv. Notify the appropriate State-contracted Child Care Resource and Referral agency of the action.

(g) The Office may require the center to submit in writing a corrective action plan indicating the time frame and the actions the center shall take to comply with all applicable provisions of this chapter.

3A:52-2.6 Complaints

(a) Whenever the Office of Licensing receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this chapter, the Office of Licensing shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Office of Licensing shall notify the sponsor or sponsor representative in writing of the results of the investigation, pursuant to the State Open Public Records Law, N.J.S.A. 47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to N.J.S.A. 9:6-8.10a.

(c) Whenever the Department, through its Office of Licensing, Institutional Abuse Investigation Unit, or local offices, conducts complaint investigations, the center shall cooperate with all Department investigators.

3A:52-2.8 Procedures for securing a Certificate of Life/Safety Approval

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 3A:52-1.1(c), may apply for and secure such a Certificate from the Office of Licensing by complying with all provisions of N.J.A.C. 3A:52-2.1 through 2.8, except for 3A:52-2.1(c) and (d); and with all provisions of N.J.A.C. 3A:52-4.3, 4.10, 4.11, 5.2 through 5.6, 6.6, 7.5, 7.7, 7.8, 7.10, and 9.1 through 9.8.

(b) (No change.)

(c) When an applicant is the sponsor or sponsor representative of a licensed child care center and seeks to operate a seasonal or short-term program, as specified in N.J.A.C. 3A:52-1.1(c)1, at the same site, the applicant shall submit an application for a Certificate of Life/Safety Approval with no additional fee required. The sponsor or sponsor representative shall receive a Certificate of Life/Safety Approval in addition to a license.

(d) The Office of Licensing shall review the application and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all applicable provisions of this chapter as specified in (a) above.

1.-2. (No change.)

3. When a center applies for its first Certificate of Life/Safety Approval, a Temporary Certificate of Life/Safety Approval shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 3A:52-5.2 through 5.6.

SUBCHAPTER 3. CENTER ADMINISTRATION

3A:52-3.1 Administrative responsibility

(a) The sponsor or sponsor representative shall be legally responsible and held accountable by the Office of Licensing for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this chapter.

(b) (No change.)

3A:52-3.2 Reporting requirements

(a) The center shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1.-4. (No change.)

5. Proposed use of emergency space, including relocation or use of rooms not approved by local municipal officials or by the Office of Licensing, as specified in N.J.A.C. 3A:52-5.3(q); and

6. Any conviction(s) or guilty plea(s) of the sponsor or sponsor representative, director, or any staff member, as specified in N.J.A.C. 3A:52-4.1(b)3, (c)2, and (d)2.

(b) The center shall notify the Office of Licensing verbally at least three working days in advance of any proposed change to the licensing information previously submitted to the Office of Licensing on the completed application, including, but not limited to, changes in location and in keeping with the requirements specified in N.J.A.C. 3A:52-5.3(i). The center shall notify the Office of Licensing in writing within 30 calendar days of any such change(s).

3A:52-3.3 Center records

(a) Requirements for access to center records are as follows:

1. (No change.)

2. The center's records shall be open for inspection by authorized representatives of the Department's Institutional Abuse Investigation Unit (IAIU), provided that they may only secure information about children under the Department's supervision.

(b) Requirements for maintenance of center records are as follows:

1. Children's records shall be maintained on file for one year after the child is no longer enrolled at the center.

i. Records for children currently enrolled at the center shall be maintained on file at the center, unless otherwise specified in this chapter.

ii. (No change.)

2. Staff records shall be maintained on file for one year after the staff member is no longer working at the center.

i. Records for staff members currently working at the center shall be maintained on file at the center.

ii. (No change.)

3. All other records shall be maintained on file at the center for one year after the record is made or received, unless otherwise specified in this chapter.

3A:52-3.4 Comprehensive general liability insurance

The sponsor or sponsor representative shall secure comprehensive general liability insurance coverage for the center and shall maintain on file a copy of the insurance policy or documentation of current insurance coverage.

3A:52-3.5 Communication requirements

(a) The center shall have:

1. Its own telephone; and

2. An e-mail account and address checked regularly by the Director.

E-mail access need not be available on-site.

(b) The center shall provide parents of all enrolled children with its telephone number, either in writing or by e-mail. This telephone number shall provide parents direct on-site contact during operating hours.

(c) The center shall promptly inform the Office of Licensing of changes to its e-mail address or telephone number.

3A:52-3.6 Information to Parents document

(a) The center shall give to the parent(s) of every enrolled child and to every staff member, a written Information to Parents document designated by the Office of Licensing and indicating that the center is required to:

1. (No change.)

2. Comply with all applicable provisions of this chapter;

3. (No change.)

4. Retain a current copy of this chapter and make it available for parents' review;

5. Indicate how parents can secure a copy of this chapter and obtain information about the licensing process from the Office of Licensing;

6. (No change.)

7. Post a listing or diagram of those rooms and areas that have been approved by the Office of Licensing for children's use;

8. Comply with the inspection and investigation functions of the Department, including the interviewing of staff members and children;

9. Afford parents the opportunity and time to review and discuss with the center director, sponsor, or sponsor representative any questions or concerns about the policies and procedures of the center or whether the center is in compliance with all applicable provisions of this chapter;

10. Advise parents that if they believe or suspect that the center is violating any requirement of this chapter, they may report such alleged violations to the center sponsor, sponsor representative, or director or to the Office of Licensing;

11.-14. (No change.)

15. Indicate, through this document, that any person who has reasonable cause to believe that a child has been or is being subjected to child abuse or neglect is required by N.J.S.A. 9:6-8.10 to report such allegations to the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately, and indicate that such reports may be made anonymously;

16. Indicate through this document how parents and staff members may secure information about child abuse and neglect from the Department;

17.-20. (No change.)

21. Inform parents that the center is required to provide reasonable accommodations for children and parents with disabilities and to comply with the New Jersey Law Against Discrimination (LAD), P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.), and the Americans with Disabilities Act (ADA), P.L. 101-336 (42 U.S.C. §§ 12101 et seq.), and indicate that

anyone who believes the center is not in compliance with these laws may contact the Division on Civil Rights in the New Jersey Department of Law and Public Safety for information about filing an LAD claim at (609) 292-4605 (TTY users may dial 711 to reach the New Jersey Relay Operator and ask for (609) 292-7701), or may contact the United States Department of Justice for information about filing an ADA claim at (800) 514-0301 or (800) 514-0383 (TTY); and

22. Inform parents that the center is required to maintain and update, at least annually, a list from the Consumer Product Safety Commission (CPSC) regarding unsafe products and make the list available to staff and parents or provide parents with the CPSC website at *<http://www.cpsc.gov/cpscpub/prerel/prerel.html>]* *www.cpsc.gov/Recalls*.

(b) The center shall distribute a copy of the Information to Parents document to each child's parent(s) upon enrollment and to every person upon becoming a staff member and secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the document.

1. (No change in text.)

SUBCHAPTER 4. STAFF REQUIREMENTS

3A:52-4.1 General requirements for sponsor, sponsor representative, director, and all staff members

(a) The sponsor, sponsor representative, director, and every staff member shall:

1.-3. (No change.)

(b) Prior to hiring or utilizing a director or a staff member who will be working at the center on a regularly scheduled basis, the sponsor, sponsor representative, or director shall complete and maintain on file for each individual a Staff Records Checklist, signed by the sponsor, sponsor representative, or director and designated by the Office of Licensing, indicating that the center has obtained documentation of the following:

1.-3. (No change.)

4. Completion of a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:52-4.10, and a Criminal History Record Information fingerprint background check, as specified in N.J.A.C. 3A:52-4.11;

5.-7. (No change.)

8. Two written or verbal references on each individual.

i. The references shall be secured from former employers or other persons who have knowledge of the individual's work experience or education and who can attest to the individual's suitability to work with children.

ii. The verbal references shall be documented in writing by the sponsor, sponsor representative, or director.

(c) The sponsor or sponsor representative shall:

1. (No change.)

2. Disclose to the Office of Licensing, in writing, the following:

i. The sponsor or sponsor representative's name, address, and telephone number;

ii. The sponsor or sponsor representative's signed statement of the presence or absence of conviction(s) for crimes or disorderly persons offenses; and

iii. (No change.)

(d) (No change.)

(e) Failure by a sponsor, sponsor representative, director, or other staff member to comply with the requirements specified in (a) through (c) above or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner shall constitute grounds for one or more of the following actions:

1. Removal of the sponsor, sponsor representative, director, or other staff member from his or her position;

2. (No change.)

3. Termination from the center; or

4. (No change.)

(f) Evidence of a previous denial, suspension, revocation, or non-renewal of a license, as specified in (c)2iii above, shall not in and of itself result in an automatic disqualification of the sponsor, sponsor

representative, prospective sponsor, or prospective sponsor representative to secure a license for another or the same center, but shall constitute grounds for the Office of Licensing to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

3A:52-4.2 Staffing requirements

(a) Each center shall have the following staff members:

1. A sponsor or sponsor representative, who may also serve as the director and as one of the staff members specified in (a)3 below;

2.-3. (No change.)

4. Additional staff members, as necessary, to meet staff/child ratio requirements, as specified in N.J.A.C. 3A:52-4.3.

i. (No change.)

ii. If the center offers an early childhood program and a school-age child care program, and has fewer than six children in each program, the center shall meet the staffing requirements in either (b) or (c) below.

(b) For early childhood programs, the following shall apply:

1. Based on the center's licensed capacity, the center shall have one or more head teachers, group teachers, and/or consulting head teachers, as specified in the chart below:

TYPES OF STAFF REQUIRED
AT EARLY CHILDHOOD PROGRAMS

<u>Licensed Capacity</u>	<u>Head Teacher(s)</u>	<u>†Group Teacher(s)</u>	<u>Consulting Head Teacher</u>
...			

† A staff member who meets the head teacher qualifications, as specified in N.J.A.C. 3A:52-4.6(c), may be utilized as a required group teacher.

i. (No change.)

(c) For school-age child care programs, the following shall apply:

1. Based on center size, the center shall have one or more program supervisors at each site as specified in the chart below:

TYPES OF STAFF MEMBERS REQUIRED
AT SCHOOL-AGE CHILD CARE PROGRAMS

<u>Licensed Capacity</u>	<u>Program Supervisor(s)</u>
...	

(d) (No change.)

3A:52-4.3 Staff/child ratios and supervision

(a) The children shall be supervised directly by a staff member at all times, including during outdoor activities, rest and sleep, and walking through hallways. Toileting procedures shall be supervised by a staff member as appropriate for the ages and developmental needs of the children.

1. The center shall develop and implement an Office of Licensing-approved method to keep track of the location and ensure the safety of all children at all times when under the center's supervision, including the transfer of supervision from and to parents during arrival and departure and the utilization of off-site locations, including playgrounds and field trips.

2. The center shall ensure that all staff members are trained in the method of keeping track of children and know how many children are in their care at all times.

(b)-(c) (No change.)

(d) The following staff/child ratios shall apply during rest or sleep, when the criteria listed in (d)1, 2, and 3 below are met:

<u>Age</u>	<u>Staff/Child Ratio</u>
Under 18 months	1:10
18 months to *under* 2½ years	1:12
2½ years and above	1:20

1. (No change.)

2. A sufficient number of staff members shall be in the facility and readily accessible to ensure compliance with the awake staff/child ratios specified in (c) above.

3. Naptime preparations shall have been completed and all children 18 months or above are resting or sleeping, while all children *under* 18 months of age *[or below]* are sleeping.

(e)-(j) (No change.)

(k) For early childhood programs, the following shall apply:

1. A minimum of two staff members, one of whom shall be at least 18 years of age, shall be present and involved in the care of children when:

i. (No change.)

ii. Fewer than six children are present but applicable staff/child ratios, governing children below 18 months of age or children with special needs, require two staff members.

2. (No change.)

(l) (No change.)

3A:52-4.4 Grouping of children

(a) For early childhood programs, the following shall apply for infants (under 18 months of age) and toddlers (18 months to 2½ years of age):

1.-2. (No change.)

3. The primary caregiver shall ensure that the needs of each child in the group are met, including:

i.-iii. (No change.)

iv. Recording any unusual incidents involving the child and ensuring that the child's parents are informed of them, as specified in N.J.A.C. 3A:52-4.9(b).

4. If more than 12 infants or 20 toddlers occupy an individual room or a specific area within a large room, areas for up to 12 infants or 20 toddlers shall be defined by visible barriers, partitions, or any other room dividers or separations having a height above the eye level of the children who use those areas.

(b) For early childhood programs, the following shall apply for children 2 ½ years of age and older:

1. A group shall consist of the number of children:

i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition, or any other room divider or separation having a height above the eye level of the children who use that area; or

ii. (No change.)

2. (No change.)

(c) For school-age child care programs, the following shall apply:

1. A group shall consist of the number of children:

i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition, or any other room divider or separation having a height above the eye level of the children who use that area; or

ii. (No change.)

2. Each group shall be limited to a maximum of 30 children, except during meals, outdoor activities, and specially scheduled events.

3A:52-4.5 Staff responsibilities

(a) The sponsor or sponsor representative shall:

1. (No change.)

2. Ensure that the center complies with all applicable provisions of this chapter; and

3. Designate individuals with the authority and responsibility to:

i.-ii. (No change.)

iii. Ensure that all staff members complete staff orientation and development, as specified in N.J.A.C. 3A:52-4.7 and 4.8;

iv.-v. (No change.)

(b) The director shall have the authority and responsibility for:

1. The observation of all groups of children, including:

i. (No change.)

ii. For centers with an audio or visual monitoring system, as specified in N.J.A.C. 3A:52-5.6(c)1i, observation of such a system, on a random daily time schedule, by the director;

2.-3. (No change.)

(c) When the director is absent from the center for any length of time, he or she shall designate a responsible person to assume and carry out all responsibilities of the director, as specified in (b) above.

1. The director shall be scheduled to work at the center at least 50 percent of the center's daily operating hours.

2. The director or his or her designee(s) shall be on the premises at all times when the center is operating and the following shall apply:

i. The designee shall not have full-time classroom responsibilities during the times when the director is not present at the center.

ii. The designee shall complete staff development in understanding licensing rules as provided by the Office.

iii. The designee shall complete 20 hours of continuing staff development each year.

(d) When the director or any head teacher or required group teacher or required program supervisor is away from the center for six or more weeks, the sponsor, sponsor representative, or director shall hire or designate a staff member(s) who possesses the applicable staff qualifications for the position, as specified in N.J.A.C. 3A:52-4.6, to assume the applicable responsibilities of the position, as specified in this section.

(e) For early childhood programs, the following shall apply:

1. (No change.)

2. The head teacher shall be scheduled to:

i. Work at the center for at least 75 percent of the center's daily operating hours or at least six hours a day, whichever is less; and

ii. (No change.)

3. (No change.)

4. The group teacher(s) shall be scheduled and have the authority and responsibility to:

i. Work at the center for at least 75 percent of the center's daily operating hours or at least six hours a day, whichever is less;

ii.-iii. (No change.)

5.-6. (No change.)

7. For centers using a consulting head teacher, the following shall apply:

i. (No change.)

ii. The consulting head teacher shall have the authority and responsibility to observe and evaluate the group teacher, conditional head teacher, or other staff member in charge of the center's program during each on-site visit.

iii. (No change.)

8. All staff that work with children under 2 1/2 years of age shall have training specific to this age group *[including]*, *which may include,* but *is* not limited to, the New Jersey Infant/Toddler Credential administered through Professional Impact NJ, the Infant-Toddler Child Development Associate (CDA) Credential, or other trainings specifically related to the care of infants and toddlers. Each employee shall initiate this training within 90 days and complete it within one year.

(f) (No change.)

3A:52-4.6 Staff qualifications

(a) (No change.)

(b) The director shall meet the following qualification requirements:

1. For early childhood programs licensed to serve more than 30 children, the director shall meet the qualification requirements specified in one of the options set forth in the chart below for education and experience:

OPTIONS FOR MEETING THE DIRECTOR QUALIFICATIONS

Option Educational Credentials and Experience Requirements

...

2.-3. (No change.)

(c) For early childhood programs, the following shall apply:

1. For all centers, the head teacher or consulting head teacher shall meet the qualification requirements specified in one of the seven options set forth in the chart below for education and experience:

OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATIONS

Option Educational Credentials and College Credits and Experience

...

i. The credits specified in the chart above shall be college credits in early childhood education or child development. These credits may be part of the bachelor's or master's degree or constitute additional credits beyond the degree(s).

ii. The years of experience specified in the chart above shall be full-time experience in a group program for children under six years of age. This experience may include supervised practice teaching or student teaching.

iii. (No change.)

2. For recreation-type centers sponsored by a county or municipal government recreation department, park department, or agency, the head teacher or consulting head teacher shall have:

i.-iii. (No change.)

3. (No change.)

4. For recreation-type centers sponsored by a county or municipal government recreation department, park department, or agency, the group teacher may substitute:

i. One year of recreation experience for the experience specified in (c)3i above; and

ii. Certification as a Recreation Technician from the NRPA for the educational credentials specified in (c)3ii above.

5. For conditional approval, the group teacher shall meet the qualification requirements specified in one of the options set forth in the chart below. The center shall obtain and maintain on file documentation that the staff member has acquired the remaining college credits in the areas specified in Option B in (c)3ii above within the time period specified below:

(No change in table)

(d) For school-age child care programs, the following shall apply:

1. The program supervisor shall meet the qualification requirements specified in one of the applicable options set forth in the chart below for education, training, and experience, based on the center's licensed capacity:

REQUIREMENTS FOR PROGRAM SUPERVISOR QUALIFICATIONS

Require- Licensed Educational and Training and Experience ment Capacity Credentials

...

2.-5. (No change.)

3A:52-4.7 Staff orientation and development

(a) The center shall meet the following requirements for orientation training:

1. The center shall ensure that all newly-hired staff receive orientation training within two weeks of hire and that no individual is left alone to supervise a child or group of children until orientation training is completed.

2. The center shall ensure that all current staff members are retrained in the training topics listed in N.J.A.C. 3A:52-4.8(a) each year.

3. The center shall secure and maintain on file each staff member's signature attesting to the review of the orientation training upon hire and annually.

3A:52-4.8 Orientation training

(a) Topics of orientation training shall include all of the following:

1.-3. (No change.)

4. Recognizing and reporting child abuse or neglect, as specified in N.J.A.C. 3A:52-4.9;

5. Evacuating the center and using the fire alarms, as specified in N.J.A.C. 3A:52-5.3(1);

6. (No change.)

7. Implementing the center's statement of policy on the disciplining of children, as specified in N.J.A.C. 3A:52-6.6;

8. Implementing health practices, including medication administration and responding to symptoms of illness, as specified in N.J.A.C. 3A:52-7.1 through 7.11;

9. Implementing safe sleep practices to prevent Sudden Infant Death Syndrome;

10. Preventing Shaken Baby Syndrome and Abusive Head Trauma;

11. Recognizing and responding to injuries and emergencies, including the prevention of and response to emergencies due to food-related allergies and other allergic reactions; and

12. Including children with special needs in the center's program.

(b) Orientation training as specified in (a) above may be included for six of the required hours of staff development specified in (c) and (d) below.

(c) The center shall ensure that all staff members who work at the center complete 12 hours of continuing staff development each year.

(d) In lieu of the child care staff development specified in (b) above, the director, head teacher(s), group teacher(s), and program supervisor(s) shall each complete 20 hours of staff development each year. Recommended topics of training for these staff include:

1. Educational and physical activity;
2. Special needs programming and program development;
3. Social-emotional and behavioral development for young children;
4. Legal issues, including ADA guidelines; and
5. (No change in text.)

(e)-(g) (No change.)

3A:52-4.9 Special requirements to prevent child abuse and neglect

(a) The sponsor, sponsor representative, director, or any staff member shall verbally notify the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been subjected to abuse or neglect by a staff member, or any other adult, pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14.

(b) In addition to the reporting requirements specified in (a) above, the sponsor, sponsor representative, director, or any staff member shall advise the parent(s) of the occurrence of any unusual incident(s) that occurred at the center and that might indicate possible abuse or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to, unusual sexual activity; violent or destructive behavior; withdrawal or passivity; or significant change(s) in the child's personality, behavior or habits. The center shall maintain on file a record of such incidents and documentation that parents have been informed of them.

(c) The Department, during the course of investigating an allegation of child abuse or neglect, may determine that corrective action is necessary to protect the children whenever:

1. The sponsor, sponsor representative, director, or staff member has been found by the Department's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children;

2. The sponsor, sponsor representative, director, or staff member has committed an act of child abuse or neglect, as substantiated by the IAIU; or

3. The sponsor, sponsor representative, director, or staff member has been convicted of such acts.

(d) Whenever the Department makes a determination that corrective action is necessary to protect the children, the sponsor or sponsor representative shall carry out the Department's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected sponsor, sponsor representative, director, or staff member(s) from the center or reassignment to other duties that do not involve contact with the children; or

2. When the sponsor, sponsor representative, director, or staff member resides at the facility where the center is located, removal of the affected employee from the premises for a period of time extending from

one hour prior to the arrival of the children until one hour after the children have left.

(e) Such suspension, removal, or reassignment, as specified in (d)1 and 2 above, shall remain in effect until the results of the Department's investigation have been determined and a final decision in the matter has been rendered by the Office of Licensing.

(f) If an allegation of child abuse or neglect is substantiated against a staff member, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center. If an allegation of child abuse or neglect is substantiated against the sponsor or sponsor representative, the Department shall revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

3A:52-4.10 Child Abuse Record Information background check procedures

(a) As a condition of securing a new or renewal license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall provide for himself or herself, and shall obtain from all staff members who are or will be working at the center on a regularly scheduled basis, written consent for the Department to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse or neglect has been substantiated against any such person.

1. The sponsor, sponsor representative, and each staff member shall complete a signed consent form provided by the Department that indicates the identifying information necessary to conduct a CARI background check, including the person's name, address, date of birth, sex, race, and Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the Department shall advise each such person that the disclosure of his or her Social Security number is voluntary, and that the Social Security number will only be used for the purpose of conducting a CARI background check.

2. If a staff member refuses to consent to a CARI background check, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

3. If the sponsor or sponsor representative refuses to consent to a CARI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the *[License]* *license* or Certificate of Life/Safety Approval, as applicable. The sponsor or sponsor representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 3A:52-2.5.

4. When a person who is not required to complete a CARI background check is working with children at the center, the center shall ensure oversight of that person by another staff member and ensure that person is not left alone to supervise a child or group of children.

(b) When the center applies for a new or renewal license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall submit to the Department the completed CARI consent forms for all staff members who are or will be working at the center on a regularly scheduled basis.

1. Within two weeks after a new staff member begins working at the center, the sponsor or sponsor representative shall submit to the Department a completed CARI consent form for the new staff member.

2. Until the results of the CARI background check for a new staff member have been received from the Department, the center shall ensure oversight of the new staff member by another staff member, and ensure that person is not left alone to supervise a child or group of children.

(c) When the sponsor or sponsor representative submits the CARI consent forms to the Department, the sponsor or sponsor representative shall enclose payment of \$10.00 for each CARI background check, in the form of a check or money order from the center made payable to "Treasurer, State of New Jersey." The center may use its own discretion in offering to pay or reimburse the staff member for the cost of the CARI background check.

(d) Upon receipt of the completed CARI consent forms and payment from the center, the Department shall conduct a search of its records for substantiated incidents of child abuse or neglect. The Department will consider incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect; except that the Department may consider substantiated incidents prior to that date if

the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a child care center.

(e) Within 45 working days of receipt of the completed CARI consent forms and payment from the center, the Department shall inform the sponsor or sponsor representative in writing as to whether a substantiated incident of child abuse or neglect by the sponsor, sponsor representative, or a staff member has been found. If such an incident has been found, the Department shall inform the sponsor or sponsor representative in writing of the name of the perpetrator.

(f) If the CARI background check does not reveal any substantiated incident of child abuse or neglect by the sponsor, sponsor representative, or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this chapter have been met.

(g) If the CARI background check reveals that an incident of child abuse or neglect has been substantiated against a staff member, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

1. The sponsor or sponsor representative shall notify the staff member in writing that the termination of employment is based on a substantiated incident of child abuse or neglect.

2. If the incident was substantiated prior to June 29, 1995, the sponsor or sponsor representative shall notify the staff member in writing that the staff member may appeal the termination of employment to the Department.

(h) In keeping with the confidentiality provisions of N.J.S.A. 9:6-8.10a, the sponsor, sponsor representative, and all staff members shall keep all completed CARI consent forms and related correspondence confidential.

1. The center shall maintain the results of the CARI background checks and related correspondence on file in a confidential manner *[at the center]*.

2. When a substantiated incident of child abuse or neglect by the sponsor, sponsor representative, or a staff member has been found by the Department, the sponsor, sponsor representative, and the staff member shall not disclose to any other person the identity of the perpetrator or any other information concerning the incident.

3A:52-4.11 Criminal History Record Information background check procedures

(a) As a condition of securing a license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall ensure that a Criminal History Record Information (CHRI) fingerprint background check is completed for himself or herself, and for all staff members at least 18 years of age who are or will be working at the center on a regularly-scheduled basis, to determine whether any such person has been convicted of a crime, as specified in P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.10 to 6.17).

1. The sponsor or sponsor representative and each staff member shall complete the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

2. The sponsor or sponsor representative and each staff member shall provide the identifying information and documentation to the State-authorized vendor as necessary to conduct a CHRI background check, including the individual's name, address, date of birth, place of birth, citizenship, sex, race, height, weight, hair color, eye color, Social Security number, and the center's license number.

3. If a staff member refuses to consent to a CHRI background check, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

4. If the sponsor or sponsor representative refuses to consent to a CHRI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor or sponsor representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 3A:52-2.5.

5. When a person who is not required to complete a CHRI background check is working with children at the center, the center shall

ensure oversight of that person by another staff member and ensure that the person is not left alone to supervise a child or group of children.

(b) When the center applies for a new license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall ensure that each staff member at least 18 years of age who is or will be working at the center on a regularly scheduled basis completes the CHRI fingerprinting process specified in (a) above.

1. Within two weeks after a new staff member begins working at the center, the sponsor or sponsor representative shall ensure that the new staff member completes the CHRI fingerprinting process specified in (a) above.

2. Until the center receives the results of the CHRI background check for a new staff member from the Department of Human Services, the center shall ensure oversight of that person by another staff member and ensure that the person is not alone to supervise a child or group of children.

(c) (No change.)

(d) Upon receipt of the results of the CHRI background check from the Division of State Police and the Federal Bureau of Investigation, the Department shall inform the sponsor or sponsor representative and the staff member in writing as to whether any record of conviction by the sponsor, sponsor representative, or staff member has been found.

(e) If the CHRI background check does not reveal any record of conviction by the sponsor, sponsor representative, or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this chapter have been met.

(f) If the CHRI background check reveals a record of conviction by the sponsor, sponsor representative, or a staff member, the Department shall inform the convicted individual of the opportunity to challenge the accuracy of the CHRI.

(g) If the CHRI background check reveals a record of conviction by a staff member for a crime or offense specified in (c) above, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

(h) If the CHRI background check reveals a record of conviction by the sponsor or sponsor representative for a crime or offense specified in (c) above, the Department shall deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

(i) If the CHRI background check reveals a record of conviction by the sponsor, sponsor representative, or a staff member for a crime or offense other than those specified in (c) above, the sponsor, sponsor representative, or staff member may be eligible for employment at, or ownership, or sponsorship of, a child care center if the Department determines that the person has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether a person has affirmatively demonstrated rehabilitation, the Department shall consider the following factors:

i.-vi. (No change.)

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those individuals who have had the person under their supervision.

2. The Department shall make the final determination regarding the employment of a sponsor, sponsor representative, or staff member with a criminal conviction.

(j) If the sponsor or sponsor representative has knowledge that criminal charges are pending against a staff member, the sponsor or sponsor representative shall promptly notify the Office of Licensing to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

(k)-(l) (No change.)

SUBCHAPTER 5. PHYSICAL FACILITY REQUIREMENTS

3A:52-5.1 Applicability of requirements to programs operating in public school buildings

A child care center operating in a public school building concurrently used as a public school shall not be required to meet the requirements of this subchapter, other than N.J.A.C. 3A:52-5.3(i)5, unless otherwise required by law.

3A:52-5.2 State, county and municipal government physical facility requirements

(a) A person seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 (hereinafter referred to as the "NJUCC").

1. For newly constructed buildings, for existing buildings whose construction code group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the center shall obtain a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the center's compliance with the provisions of the NJUCC, and submit a copy of the CO to the Office of Licensing, for one of the following group classifications:

i. E (Educational) for buildings accommodating children 2 ½ years of age and older and having a total occupancy of six or more children;

ii.-iii. (No change.)

2. Plan reviews for centers to be located in *[newly constructed]* ***newly-constructed*** buildings shall be submitted as follows:

i. In addition to submitting preliminary and final architectural drawings to the local construction official, a sponsor or sponsor representative that plans to construct a new or renovate an existing building for use as a center shall submit preliminary or final architectural drawings to the Office of Licensing for review and approval prior to beginning construction.

ii. The sponsor or sponsor representative shall submit to the Office of Licensing revised final architectural drawings containing all Office of Licensing-required items listed in the plan review, if any, and secure final approval from the Office of Licensing prior to beginning construction.

3.-6. (No change.)

7. Whenever a municipality grants to a center a written variation(s) from any of the requirements of the NJUCC, the Office of Licensing may accept such variation(s) as meeting the applicable requirement(s) of this chapter.

i. If the Office of Licensing does not accept the variation, the non-acceptance shall be based on the best interests of the children in the center, and shall include consideration for their health and safety. The non-acceptance shall be based on the requirements of this chapter only, and shall not preclude the municipality from continuing to grant the variation.

ii. (No change.)

8. The center shall obtain a Life Hazard Use Registration certificate applicable to the center's licensed capacity and ages served pursuant to the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq. The center shall post this document in a prominent location within the center.

(b)-(c) (No change.)

3A:52-5.3 Physical plant requirements for all centers

(a) Indoor maintenance and sanitation requirements are as follows:

1.-4. (No change.)

5. Garbage receptacles shall be:

i. Made of durable, *[leak proof]* ***leak-proof*** and nonabsorbent materials;

ii.-iv. (No change.)

6.-7. (No change.)

8. Pesticides for indoor and outdoor use shall be used in accordance with the manufacturer's directions and in keeping with the applicable provisions specified in N.J.A.C. 7:30-10, Pesticide Control Code.

i. (No change.)

ii. Before applying pesticides, all toys and non-permanent play equipment shall be removed from outdoor and indoor play areas.

9.-12. (No change.)

13. The center shall ensure that window blind cords and other cords and ropes that present risk of harm are inaccessible to children.

14. All balconies, rooftops, verandas, and all floor levels used by children that are above the first floor and subject the children to an open drop or atrium shall be protected by barriers consisting of safety glass, Plexiglas, or any other materials approved by the Office of Licensing. Such barriers shall extend at least five feet above the floor level.

15.-19. (No change.)

20. The center shall comply with the provisions specified in P.L. 1999, c. 362 (N.J.S.A. 30:5B-5.5) requiring reports of drinking water tests to be posted in all buildings at the center when received from a water supply company or prepared by the center, for private wells and other non-public water sources.

21. The center shall ensure all guardrails accessible to children are no more than four inches apart or are otherwise protected to prevent head entrapment.

(b) Outdoor maintenance and sanitation requirements are as follows:

1.-5. (No change.)

6. Centers that provide outdoor space shall maintain all fencing in proper condition.

7. The center shall comply with the Playground Safety Subcode of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23-11.

i. Centers that take children to a community playground shall ensure that the playground surfacing and all other elements comply with the Playground Safety Subcode before being used by the children.

(c) (No change.)

(d) Heating requirements are as follows:

1. A minimum temperature of 68 degrees Fahrenheit shall be maintained in all areas used by the children including, but not limited to, classrooms and bathrooms.

2.-3. (No change.)

(e) (No change.)

(f) Toilet facility requirements are as follows:

1.-2. (No change.)

3. Platforms shall be available as appropriate for use by the children when adult size toilets, sinks, or urinals are used by the children.

(g) A center utilizing a kitchen facility or food preparation area shall ensure that the cooking equipment and kitchen facility are kept in clean and sanitary condition and are operated in compliance with applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24.

(h) (No change.)

(i) Environmental condition precautions are as follows:

1. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant or facility operator shall submit a written certification to the Office of Licensing indicating whether the building has ever housed a use that was classified under the Uniform Construction Code, N.J.A.C. 5:23, as any of the following:

i.-vi. (No change.)

2. (No change.)

3. In the event that the building housed a use that was or would have been classified as any of those uses listed in (i)1 above, the facility operator shall certify in writing to the Office of Licensing that:

i. The site of the center complies with the Madden legislation (P.L. 2007 c. 1), the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the Department of Environmental Protection's Guidance Document for Environmental Guidance for All Child Care Facilities and Education Institutions, incorporated by reference, as amended and supplemented, which can be found at <http://nj.gov/dep/srp/guidance>;

ii. The facility operator has contacted the Department of Environmental Protection (DEP) to determine what further steps, if any, are necessary to address the risks posed by the prior historical use, and the facility operator has complied with all recommended corrective actions;

iii. He or she has conducted an Indoor Environmental Health Assessment (IEHA) that has been performed by a Licensed Indoor

Environmental Consultant in accordance with the Department of Health rules (N.J.A.C. 8:50); and

iv. He or she has submitted the IEHA to the Department of Health for review and evaluation of the indoor environmental conditions in the building where the center is located.

4. Paragraphs (i)1 through 3 above shall not apply to any centers covered by N.J.A.C. 3A:52-2.3(e).

5. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant or facility operator shall certify in writing that the center provides a potable water supply provided by a public community water system.

i. If the facility is supplied by a public community water system, the applicant or facility operator shall provide documentation of water testing conducted by *[an authorized source]* ***a laboratory certified by the Department of Environmental Protection*** for water testing for lead and copper from all ***faucets and other sources used for*** drinking water ***[fountains]* ***or food preparation***** and at least 50 percent of all indoor water faucets utilized by the center.

ii. If the results reveal elevated levels of lead or copper as defined by the New Jersey Department of Environmental Protection, Bureau of Safe Drinking Water, which pose risk of harm to children, the center shall:

(1) Immediately discontinue use of all drinking water sources in the building;

(2) Provide bottled water for drinking;

(3) Provide bottled water for food preparation with approval from the local health official; and

(4) Notify parents of the children in attendance at the center.

iii. If the facility or site is not provided a potable water supply by a public community water system, the applicant shall provide potable water sampling results demonstrating compliance with maximum contaminant levels for all contaminants required to be tested pursuant to N.J.A.C. 7:10-5 for public non-transient, non-community (NTNC) water systems, including radiological contaminants, regardless of whether they meet the definition of NTNC systems as defined at N.J.A.C. 7:10-1.3. This sampling shall have been conducted within three years of the date of application submission, except nitrates and coliform, for which the sampling shall have been conducted within 90 days of submitting the application.

6. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant or facility operator shall certify in writing that the center complies with all existing Department of Children and Families regulatory requirements for child care centers with respect to radon, asbestos, and lead listed in (a)19 and (h) above and (j) below.

Recodify existing 6.-8. as 7.-9. (No change in text.)

(j) Asbestos precautions are as follows:

1. (No change.)

2. An inspection for asbestos containing materials shall be conducted as part of the Indoor Environmental Health Assessment. If the New Jersey Department of Health determines that corrective action must be taken to minimize exposure potential, the sponsor or sponsor representative shall follow the recommendation of that department for enclosure, removal, or other appropriate action to remove the threat or risk of asbestos contamination, as specified in N.J.A.C. 5:23-8.

(k) Swimming pool requirements are as follows:

1.-4. (No change.)

5. Wading pools that are 24 inches or less, are filled as needed, are portable, and do not have a filtration system are prohibited.

(l) Emergency procedure requirements are as follows:

1. The center shall prepare written emergency procedures delineating:

i.-ii. (No change.)

iii. An alternate indoor location that operates during the same operating hours as the center. The center shall:

(1) Select an alternate indoor location within safe walking distance; or

(2) Develop a written procedure for obtaining emergency transportation to the alternate location;

iv. The hospital or clinic to which injured or ill children will be taken;

v.-vi. (No change.)

vii. A diagram showing how the center is to be evacuated in case of emergency from each classroom and the outdoor play area;

viii.-ix. (No change.)

2. The emergency procedures shall be readily accessible in a designated location within the center.

3. (No change.)

4. The center shall conduct two lockdown drills per year and maintain on file a record of each lockdown drill. The center shall ensure that lockdown drills are conducted during each session provided at the center.

5. Ensure all locking devices, including those used for lockdown procedures:

i. Are acceptable for use by the local fire official; and

ii. Do not pose a risk of harm to the children; and

6. All staff shall be trained on the use of these devices.

(m) Supplemental evacuation requirements are as follows:

1.-2. (No change.)

3. All centers providing care for non-ambulatory infants and toddlers shall have one evacuation crib for every four non-ambulatory children by *[(12 months after the effective date of this amendment)]* ***March 6, 2018***.

4. (No change in text.)

(n) Fire prevention requirements are as follows:

1. The center shall conduct fire drills at least once a month, as specified in the NJUFC. The center shall ensure that fire drills are conducted during each session provided at the center and that one fire drill per year is conducted during nap time, if applicable.

2.-4. (No change.)

(o) First aid requirements are as follows:

1. (No change.)

2. The first aid and CPR training shall include a hands-on training component in addition to any online training coursework.

3. (No change in text.)

(p) Play equipment, materials, and furniture for indoor and outdoor use shall be of sturdy and safe construction, non-toxic, free of hazards, and used in accordance with the manufacturer's instructions. The center may not use play equipment intended for outdoor use indoors.

(q) Space and room requirements are as follows:

1. (No change.)

2. At no time shall a center:

i. Allow more children in attendance than the licensed capacity as specified on the license or the Certificate of Life/Safety Approval;

ii. Allow more children in attendance than the licensed room capacity; or

iii. Operate in violation of the written conditions on its license or Certificate of Life/Safety Approval including, but not limited to, capacity or age restrictions for specific classrooms.

3. Indoor space requirements for play rooms and sleep rooms are as follows:

i.-v. (No change.)

4. (No change.)

(r) (No change.)

3A:52-5.4 Additional physical plant requirements for early childhood programs

(a) For early childhood programs, the following shall apply:

1.-4. (No change.)

5. Toilet and sink facility requirements are as follows:

i. (No change.)

ii. At least one toilet facility and sink shall be located on each floor level used by children in centers that began operating after March 21, 2005.

iii. For each classroom used by children under 2 1/2 years of age, a minimum of one sink shall be located in the classroom for newly-constructed centers and expansions.

6. Kitchen facility requirements are as follows:

i. The kitchen facility or food preparation area shall be separated from other areas of the center by a door, gate, screen, or other barrier to prevent accidental access by children.

ii. (No change.)

7. (No change.)

3A:52-5.5 (No change in text.)

3A:52-5.6 Special physical facility and monitoring requirements to prevent child abuse or neglect

(a)-(b) (No change.)

(c) For rooms and areas used by children, except as specified in (e) below, the following monitoring requirements shall apply:

1. The center shall equip every room or area designated for use by children, except for kitchen and toilet facilities, with one of the following options in order to promote maximum visibility and audibility:

i. (No change.)

ii. Uncovered and unobstructed glass panels or two-way mirrors that comprise at least 10 percent of the square footage of one interior wall, provided that such panels or mirrors are not in conflict with applicable provisions of the NJUCC or the NJUFC;

iii. (No change.)

iv. At least one interior door leading to every room designated for use by children, which shall meet one of the following conditions, provided that such conditions are not in conflict with applicable provisions of the NJUCC and the NJUFC:

(1)-(4) (No change.)

v. (No change.)

(d) Toilet facility requirements are as follows:

1. For existing centers that have only one toilet facility, or for existing centers that have more than one toilet facility, but where all toilets have been counted in determining the maximum number of children who can be served per session, the center shall ensure that staff members and other adults who use the toilet facility for their own toileting needs do so only:

i. (No change.)

ii. After the staff member or other adult has secured the door with a lock or latch that is located on the inside of the door at a height beyond the reach of the children.

(1) If a center documents to the satisfaction of the Office of Licensing that it lacks the authority to meet the lock or latch provisions noted in this subparagraph, the Office of Licensing may approve an alternative means by which the center may comply with the privacy intent of this provision.

2. For existing centers that have an additional toilet facility that has not been counted in determining the maximum number of children who can be served per session and for centers to be located in newly constructed buildings, the center shall ensure that:

i. One toilet facility is reserved and designated for the exclusive use of staff members and other adults; and

ii. This designated toilet facility is identified by a sign located on the exterior of its door, indicating that this toilet facility is for the exclusive use of staff members and other adults.

(e) (No change.)

SUBCHAPTER 6. PROGRAM REQUIREMENTS

3A:52-6.1 Activities

(a) (No change.)

(b) The staff member(s) specified in N.J.A.C. 3A:52-4.5 who are responsible for developing and overseeing the implementation of the center's daily activities shall ensure that:

1. (No change.)

2. Children have opportunities to choose materials freely and materials are accessible at all times except during lunch and nap time;

3.-6. (No change.)

7. The use of a television, computers, and other video equipment shall be limited to educational and instructional use, shall be age and developmentally appropriate, and shall not be used as a substitute for planned activities or for passive viewing.

i. Centers shall prohibit the use of television, computers, and other video equipment for children under the age of two.

ii.-iii. (No change.)

(c)-(d) (No change.)

(e) The center shall ensure that pacifiers are removed when the children are crawling or walking.

(f) (No change in text.)

(g) For early childhood programs, the following shall apply:

1. (No change.)

2. Centers serving children less than 18 months of age shall provide at least four types of children's daily activities including, but not limited to, sensory; language and dramatic play; manipulative; building; large muscle; music; or other comparable activities; and at least four types of supplies and equipment for each activity area chosen by the center.

i. Staff members shall provide periodic activity or learning opportunities to stimulate the five senses of non-ambulatory children.

ii. Staff members shall ensure infants have age-appropriate, supervised tummy time at least twice per day.

iii. (No change in text.)

iv. The use of infant equipment including swings, exersaucers, and bouncers shall be limited to periods of 30 minutes at a time.

3. Centers serving children 18 months of age and older shall provide at least five types of children's daily activities including, but not limited to, language; science and mathematics; manipulative; large muscle; building; art; music; drama; or other comparable activities; and at least five types of supplies and equipment for each daily activity chosen by the center.

4. (No change.)

(h) For school-age child care programs, the following shall apply:

1. Centers shall plan and implement programs that include:

i.-iii. (No change.)

iv. Recreational opportunities, including a mixture of indoor, outdoor, and large muscle activities; and

v. (No change.)

3A:52-6.3 Food and nutrition

(a) All centers shall comply with the following requirements:

1.-10. (No change.)

11. Unless contraindicated by the parent or health care provider, the center shall:

i.-v. (No change.)

vi. Ensure that food *[is]* ***and beverages are*** in accordance with minimum Child and Adult Care Food Program's (CACFP) standards, contained in the Child and Adult Care Food Program, 7 CFR 226.20, which is incorporated herein by reference, and can be obtained at <http://www.fns.usda.gov/cnd/care/childcare.htm>, including portion size and nutritional value;

vii.-viii. (No change.)

12. The center shall ensure that these safety and sanitation practices are followed:

i. (No change.)

ii. Sippy cups shall be labeled with the child's name; Recodify existing ii.-iii. as iii.-iv. (No change in text.)

v. Unused portions of food shall be labeled with the child's name, date, and type of food. The food shall be stored in the refrigerator, returned to the parent, or discarded with the parent's consent. All unused food shall be discarded if not consumed by the end of the day.

(b) For early childhood programs, the following shall apply:

1.-2. (No change.)

3. Feeding requirements for centers serving children less than 18 months of age are as follows:

i. The center shall develop mutually with each child's parent(s) and follow a feeding plan regarding the feeding schedule, specific formula, breastfeeding arrangements and accommodations, and/or expressed breast milk, nutritional needs, and introduction of new food for each child.

ii.-iii. (No change.)

iv. The requirements for bottles are as follows:

(1) Each child's bottle(s) shall be labeled with the child's name and dated;

(2) The center shall sanitize each child's bottles, including the nipples, when the center provides the bottles;

Recodify existing (1)-(3) as (3)-(5) (No change in text.)

(6) No milk, formula, or breast milk shall be warmed in a microwave oven;

v.-vii. (No change.)

viii. When a child is bottle-feeding while resting, the bottle shall be removed when the child falls asleep.

4. Mealtime and snack requirements for centers serving children 18 months of age or older and those children younger than 18 months of age who are developmentally ready to eat regular meals and snacks are as follows:

i.-iv. (No change.)

v. Centers that provide snacks shall ensure that the snack includes one juice, milk, or fruit and one food supplement selected from the lunch and dinner choices specified in (b)4iv above, except on special occasions, such as holidays and birthdays; and

vi. (No change.)

(c) (No change.)

3A:52-6.4 Rest and sleep requirements for early childhood programs

(a) For early childhood programs, the center shall provide opportunities for daily rest and sleep as follows:

1. For children 12 months of age and younger, the center shall ensure that each child is initially placed in a face-up sleeping position unless a different position is indicated in writing by the child's health care provider.

2. For children from 13 to 18 months of age, the center shall provide daily rest and sleep according to the child's physical needs and ensure that blankets or pillows do not cover the child's face.

3. Swaddling of children during rest and sleep is prohibited.

4. For children over the age of 18 months and under the age of four years, the center shall provide:

i. Daily rest or sleep for each child who attends the center for four or more consecutive hours;

ii. Daily rest or sleep for each child who attends the center for fewer than four consecutive hours, but whose individual physical needs call for a rest period while the child is at the center; and

iii. (No change.)

(b) The center shall provide sleeping equipment for each child as follows:

1. For children 12 months of age and younger, the center shall provide for each child a crib, that complies with the Consumer Product Safety Commission's (CPSC) Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220, which is incorporated herein by reference, and can be obtained through the CPSC's website at <http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf>, playpen, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i. Each crib or playpen shall be equipped with:

(1) (No change.)

(2) A clean, snugly fitting sheet;

(3)-(4) (No change.)

ii. Sleeping equipment shall be free of pillows and soft bedding, including, but not limited to, bumper pads, when occupied by a sleeping child.

iii. Stackable cribs shall be prohibited.

2. For children over the age of 12 months and under the age of five years, the center shall provide for each child a crib that complies with the Consumer Product Safety Commission's (CPSC), Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220, which is incorporated herein by reference, and can be obtained through the CPSC's website at <http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf>, playpen, cot, mat, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i.-iii. (No change.)

iv. Stackable cribs shall be prohibited.

(c) Centers that operate after 7:00 P.M. shall comply with the following requirements for rest and sleep:

1. For children who attend the center for more than three hours after 7:00 P.M., the center shall:

i.-iii. (No change.)

(d)-(h) (No change.)

(i) Children shall not use pacifiers with straps or other types of attachment devices.

3A:52-6.5 Policy on the release of children

(a) The center shall maintain on file and follow a written policy on the release of children, which shall include:

1.-3. (No change.)

4. Written procedures to be followed by a staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, appear to be physically or emotionally impaired to the extent that, in the judgment of the director or staff member, the child would be placed at risk of harm if released to such an individual. The procedures shall require that:

i.-iii. (No change.)

(b) The center shall distribute a copy of the release policy to the parent of each enrolled child and each staff member and secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the policy.

(c) (No change in text.)

3A:52-6.6 Discipline

(a) The methods of guidance and discipline used shall:

1.-2. (No change.)

3. Lead to the child's ability to develop and maintain self-control.

(b)-(g) (No change.)

3A:52-6.7 Special requirements to prevent child abuse or neglect and inappropriate staff behaviors toward children

(a)-(b) (No change.)

(c) Staff members shall not engage in or inflict any form of child abuse or neglect.

(d)-(e) (No change.)

(f) Centers shall not prohibit staff members from or discipline staff members for:

1. Making good faith reports of suspected child abuse or neglect to the Division of Child Protection and Permanency or law enforcement; or

2. Taking photographs of children for the purpose of documenting injuries in support of a good-faith report of suspected child abuse or neglect to the Division of Child Protection and Permanency or law enforcement.

3A:52-6.8 Parent and community participation

(a) The center shall complete and maintain on file for each enrolled child a Children's Records Checklist, signed by the director, sponsor, or sponsor representative and designated by the Office of Licensing, indicating that the center has obtained documentation of:

1.-7. (No change.)

(b)-(c) (No change.)

(d) Staff member(s) shall inform the parent(s) of enrolled children in advance of any field trip(s), outing(s), or special event(s) involving the transportation of children away from the center. The center shall inform parents whether a school bus, other approved school vehicle, or private passenger vehicle will be used, and whether the driver will be a staff member, a parent, or another person. The center shall provide each parent with the name and telephone number of any bus company providing service. Before taking a child on such a field trip, outing, or special event, the center shall either:

1.-3. (No change.)

(e)-(g) (No change.)

(h) For early childhood programs, the following shall apply:

1. (No change.)

2. Centers choosing the options specified in either (h)1i or ii above shall maintain on file a listing of current members of the board or committee and documentation indicating that the board or committee is functioning. The board or committee shall:

i. (No change.)

ii. Include representatives from the civic, business, educational, or child care communities; and

iii. (No change.)

3. The center shall provide for the direct involvement of parents of enrolled children in the center's operation and activities by:

i. (No change.)

ii. Holding individual parent/staff conferences semi-annually and upon request of the parent or staff member(s) to discuss the child's needs and progress.

4. (No change.)

(i) (No change.)

(j) The center shall develop and follow a written policy on the expulsion of children from enrollment at the center.

1. (No change.)

2. The center shall not expel a child based solely on the child's parent making a complaint to the Office of Licensing regarding a center's alleged violations of the licensing rules or questioning a center directly regarding policies and procedures.

3. The center shall distribute a copy of the expulsion policy to the parent of each enrolled child and secure and maintain on file a record of each parent's signature attesting to receipt of the policy.

4. If the center determines to expel a child, the center shall maintain on file a record of the circumstances, parental notification, and corrective action taken.

(k) The center shall develop and follow a written policy on the use of social media including, but not limited to:

1. The use of social networking sites and other websites;

2. The use of e-mail, text messages, and other electronic means of communication with staff and parents;

3. The types of social media that the center uses;

4. The methods and devices the staff use to communicate with the parent;

5. The guidelines for appropriate conduct by staff members; and

6. The guidelines for parents including, but not limited to, prohibiting the posting of photographs or videos of any child other than their own.

(l) The center shall distribute a copy of the social media policy to the parent of each enrolled child and *to* each staff member and secure and maintain on file a record of each parent's signature and each staff member's signature attesting to the receipt of the policy.

(m) (No change in text.)

SUBCHAPTER 7. HEALTH REQUIREMENTS

3A:52-7.1 Illnesses and communicable diseases

(a) A center that seeks to serve any children who have any of the illnesses, symptoms of illness, or diseases specified in (c) and (d) below shall meet all applicable provisions of this subchapter and all provisions of N.J.A.C. 3A:52-8.

(b) (No change.)

(c) The following provisions relate to illness or symptoms of illness:

1.-2. (No change.)

3. If a child who has already been admitted to the center manifests any of the illnesses or symptoms of illness specified in (c)1 above, the center shall remove the child from the group of well children to a separate room or area, as specified in N.J.A.C. 3A:52-5.3(q)4, until:

i.-ii. (No change.)

4. The center may exclude a child whose illness prevents the child from participating comfortably in activities or results in a greater need for care than the staff can provide without compromising the health and safety of other children at the center.

(d) (No change.)

3A:52-7.2 Attendance by children or staff members known to be infected with Human Immunodeficiency Virus (HIV)

(a) The center should admit a child known to be infected with HIV, the virus that causes Acquired Immunodeficiency Syndrome (AIDS), to the center.

(b)-(e) (No change.)

3A:52-7.3 Health and immunization requirements for children

(a) For early childhood programs, the following shall apply:

1. (No change.)

2. For each child not enrolled in a public or private school, upon admission, the center shall maintain on file at the center a Universal Child Health Record (Department of Health Form CH-14) or its equivalent, updated annually, along with an immunization record, and a

special care plan, if applicable. A 30-day grace period is permitted in N.J.A.C. 8:57-4.5(e):

i. For children coming from other states or countries in accordance with N.J.A.C. 8:57-4.6 and 4.7; and

ii. For children who are in foster care or experiencing homelessness as defined by the McKinney-Vento Act, 42 U.S.C. § 11434a(2).

3.-4. (No change.)

5. A child shall be exempted from a physical examination, immunization, or medical treatment if the parent objects thereto in a written statement submitted to the center, signed by the parent, explaining how the examination, immunization, or medical treatment conflicts with the child's exercise of bona fide religious tenets or practices.

i. Religiously-affiliated centers shall have the authority to withhold or grant a religious exemption from the required immunization for children entering or attending their centers without challenge by any secular health authority, as specified in N.J.A.C. 8:57-4.4.

ii. (No change.)

6. (No change.)

(b) (No change.)

3A:52-7.4 Health requirements for staff members

(a) Prior to or upon beginning work at the center, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the center written documentation of the results of the test and x-ray.

1.-2. (No change.)

(b) (No change.)

(c) The center shall maintain on file either at the center or at a central administrative office the results of each staff member's:

1. Mantoux tuberculin test and chest x-ray when indicated; and

2. (No change.)

(d) The sponsor or sponsor representative or director shall exclude a staff member who:

1.-2. (No change.)

(e) When the affected staff member specified in (d) above serves as the director, then the sponsor or sponsor representative shall take the necessary action specified in (d) above.

(f) When the affected staff member specified in (d) above is the sponsor or sponsor representative, then the Office of Licensing shall take the necessary action specified in (d) above.

3A:52-7.5 Administration and control of prescription and non-prescription medicines and health care procedures

(a) (No change.)

(b) The center shall develop and follow a policy on the administration of medication and health care procedures to children, which shall include the following provisions:

1. (No change.)

2. The center shall:

i. Designate those staff members who are trained as specified in N.J.A.C. 3A:52-4.8(a)8 and authorized to administer medication or health care procedures to, or to supervise self-administration of medication or health care procedures by, those children whose parents authorize it; and

ii. (No change.)

3.-4. (No change.)

5. The center shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage for the age and weight of the child, as indicated on the label:

i.-iii. (No change.)

iv. Non-aspirin fever reducers and pain relievers; and

v. (No change.)

6.-9. (No change.)

10. The center shall store prescribed epinephrine pens in their original boxes with the child's name and prescription. A special care plan or

other documentation from a health care provider shall accompany the epinephrine pen. If two epinephrine pens are required, both shall be available. *The] *Each* center *under the jurisdiction of N.J.S.A. 18A:40-12.5* shall store *back-up* epinephrine pens on site consistent with the requirements stated at N.J.S.A. 18A:40-12.5.e(1).

11. (No change in text.)
(c)-(d) (No change.)

3A:52-7.6 Injury to a child while in the center's care

(a) The center shall take immediate necessary action to protect the child from further harm and shall immediately notify the child's parent(s) when one of the following occurs while the child is in the center's care:

1. (No change.)
2. A child sustains a head or facial injury, including when a child bumps his or her head;
- 3.-4. (No change.)
- (b) The center shall maintain on file a written record of each incident resulting in an injury as specified in (a) above. These records shall include the following:

- 1.-6. (No comment.)
- (c)-(d) (No change.)

(e) The center shall develop and follow a written policy for parental notification if a method other than a telephone call is used at the center for parental notification.

1. The center shall distribute a copy of this policy to the parent of each enrolled child and secure and maintain on file a record of each parent's signature attesting to receipt of this policy.

3A:52-7.7 Environmental sanitation requirements

(a)-(b) (No change.)
(c) Pets shall be permitted in a center only under the following circumstances:

1. Pets kept by or located in the center, regardless of ownership, shall be:
 - i.-v. (No change.)
 - vi. Prohibited from the following areas:
 - (1) Areas and surfaces used for food preparation, storage, or service;
 - (2)-(3) (No change.)
2. (No change.)
- (d) Smoking shall be prohibited in all rooms and outside play areas while such rooms and areas are occupied by children. The center shall comply with each provision of P.L. 1998, c. 35 (N.J.S.A. 30:5B-5.3).
- (e) (No change.)

3A:52-7.8 Personal hygiene requirements

- (a) Handwashing requirements are as follows:
1. The center shall ensure that children three months of age and older wash their hands with soap and running water:
 - i.-ii. (No change.)
 - iii. Immediately after coming into contact with blood, fecal matter, urine, vomit, nasal secretions, or other body fluids or secretions;
 - iv. Immediately after coming in contact with an animal's body secretions; and
 - v. Immediately after outdoor play.
 2. For children under three months of age or for those children three months of age and older wherein hand washing with soap and running water may not be developmentally appropriate, the center may use an alternate means for hand washing, including, but not limited to, disposable baby wipes.
 3. (No change in text.)
 4. Staff members shall wash their hands with soap and running water immediately:
 - i.-v. (No change.)
 - vi. After coming into contact with blood, fecal matter, urine, vomit, nasal secretions, or other body fluids or secretions.
 - (b) (No change.)
 - (c) Centers that encourage children to brush their teeth while at the center shall individually store toothbrushes in a manner that prevents the toothbrushes from touching each other during storage.
 - (d) (No change.)

3A:52-7.9 Illness log for early childhood programs

- (a) For early childhood programs, the following shall apply:
1. The center shall maintain on file a log of the initial illnesses, symptoms of illness, or diseases that are exhibited by each child while in the center's care, as specified in N.J.A.C. 3A:52-7.1(c) and (d). This illness log shall include:
 - i.-iii. (No change.)
 - iv. The action taken by the center to assist:
 - (1) The child who is demonstrating symptoms of illness; and
 - (2) (No change.)
 - v.-vi. (No change.)

3A:52-7.10 Reporting of illnesses, injuries, and reportable diseases

(a) The director, sponsor, or sponsor representative, upon learning that an enrolled child or staff member at the center has been diagnosed as having contracted or is suspected of having a reportable disease, as specified in N.J.A.C. 3A:52-7.1(d), shall report this knowledge by the next working day to the local health department.

(b) The director, sponsor, or sponsor representative shall report the following occurrences to the Office of Licensing by the next working day after the center learns of the occurrence and shall submit documentation to the Office of Licensing within one week of the occurrence of the incident:

1. The occurrence of an injury or illness while under the center's supervision that results in a child visiting the emergency room;
 2. The occurrence of an injury or illness while under the center's supervision that results in a child's admittance to the hospital;
 3. The death of a child while under the center's supervision; or
 4. The occurrence of an injury or illness that results in a call to 911, on-site medical or transported emergency care, or urgent care.
- (c) The director, sponsor, or sponsor representative, having knowledge that a child has been injured by a dog, cat, or other animal that is kept by or located at the center, and when no physician attends such child, shall, within 12 hours of the injury, report the name, age, sex, and address of the child to the local health department.

3A:52-7.11 Information to parents regarding the management of communicable diseases

- (a) Each center shall develop a written policy on the management of communicable diseases. This policy shall include the following:
1. The list of illnesses and symptoms of illness for which a child will be separated from the group and possibly sent home, as specified in N.J.A.C. 3A:52-7.1(c);
 - 2.-3. (No change.)
- (b) The center shall distribute a copy of the policy on the management of communicable diseases to the parent of each child enrolled and secure and maintain on file a record of each parent's signature attesting to receipt of the policy.
- (c) (No change.)

SUBCHAPTER 8. REQUIREMENTS FOR CENTERS SERVING SICK CHILDREN

3A:52-8.1 Requirements for all centers serving sick children

- (a)-(b) (No change.)
- (c) The center shall maintain on file written policies and procedures governing its operation, including:
- 1.-3. (No change.)
 4. The center's admission criteria, which shall include provisions for conducting either:
 - i. (No change.)
 - ii. A physical assessment, known as a triage, of arriving children by a registered nurse;
 - (1) The triage shall include, as appropriate to the demonstrated symptoms, an assessment of the child's temperature, pulse, respiration, skin, eyes, nose, throat, mouth, chest, abdomen, and extremities;
 - 5.-8. (No change.)
 9. The preparation, frequency, and serving of meals that are appropriate for the child's illnesses, symptoms of illness, or diseases; and

10. The center's policy on communicating with parents concerning the child's illnesses, symptoms of illness, or diseases.

(d) (No change.)

(e) The center shall have a governing board or an advisory board, which shall oversee the development of and approve in writing its policies and procedures, as specified in (c) above. The governing or advisory board shall include at least two of the following licensed health professionals:

1. A physician licensed by the New Jersey Board of Medical Examiners;

2. A registered nurse licensed by the New Jersey State Board of Nursing; or

3. (No change.)

(f) (No change.)

3A:52-8.3 Requirements for additional staff for centers serving sick children

(a) The staff requirements for centers serving sick children are as follows:

1.-2. (No change.)

3. In centers that primarily serve well children and provide sick care only as a component of the overall program, the physician or registered nurse, as specified in (a)1 above, shall be required to be at the center for at least 50 percent of the sick care component's daily operating hours, and shall be on call and available to come to the center immediately at all other times, provided that the following conditions are met:

i.-iv. (No change.)

Recodify existing vi.-vii. as v.-vi. (No change in text.)

4. (No change.)

(b)-(e) (No change.)

3A:52-8.4 Requirements for additional physical facilities for centers serving sick children

(a) (No change.)

(b) An individual room or a specific area within a large room, which is separated from other areas of the room by a partition or room divider, shall be available to separate and prevent contact between children who have different illnesses, symptoms of illness, or diseases.

(c)-(d) (No change.)

(e) Centers that serve only sick children shall not be required to have the following:

1. An outdoor space for the children's physical activities or its equivalent, as specified in N.J.A.C. 3A:52-5.4(a)7; and

2. A room or area in a separate section of the center for children who become ill, as specified in N.J.A.C. 3A:52-5.3(q)4.

(f) Centers that have a sick child care component, as specified in N.J.A.C. 3A:52-8.1(a)2, shall use separate play rooms and areas and separate toilet facilities for sick and well children.

3A:52-8.5 Program requirements for centers serving sick children

(a) (No change.)

(b) The center shall make available to parents of prospective enrollees information in writing on the center's program, including:

1. Illnesses, symptoms of illness, or diseases for which the center will provide care;

2.-3. (No change.)

SUBCHAPTER 9. TRANSPORTATION REQUIREMENTS

3A:52-9.1 Scope

(a) The provisions of this subchapter shall apply to:

1. Each center that provides or arranges for the provision of transportation for children:

i. To or from their homes or other prearranged sites and the center; or

ii. (No change.)

2. (No change.)

(b) (No change.)

3A:52-9.3 Vehicle requirements

(a)-(e) (No change.)

(f) Any center may authorize staff members or parents of enrolled children to utilize their own private passenger vehicles to transport

children from the center to and from scheduled center field trips, outings, or special events (such as visits to the zoo, library, or museum) or to transport children from the center to a hospital, clinic, or office for medical treatment, pursuant to N.J.S.A. 18A:39-20.1. However, staff members and parents may be authorized to do so only if:

1. (No change.)

2. The driver possesses a valid Basic automobile driver's license issued by the MVC or a valid automobile driver's license issued by an approved out-of-State motor vehicle agency for the state in which the driver is a legal resident;

3.-5. (No change.)

6. The center ensures that the driver and additional adults apply the safety practices, as specified in N.J.A.C. 3A:52-9.5(a) through (d) and (g) through (m).

(g) For school-age child care programs, the center may use an autobus under the jurisdiction of the Department of Transportation when chartered for scheduled center field trips, outings, or special events, provided that the driver and each additional adult apply the safety practices, as specified in N.J.A.C. 3A:52-9.5(a) through (e), (h), and (j) through (m).

(h) (No change.)

3A:52-9.4 Driver licensing requirements

(a) If a center uses a Type I School Bus, Type II School Bus, or Type S School Vehicle, the center shall:

1. Meet all applicable rules of the Motor Vehicle Commission (MVC), Department of Education, and Department of Children and Families;

2.-3. (No change.)

3A:52-9.5 Vehicle-related safety practices

(a)-(c) (No change.)

(d) All vehicles that are utilized to transport children shall be equipped with car seats (child passenger restraint systems) and booster seats that meet Federal motor vehicle safety standards, as appropriate for the age and weight of the children transported, in accordance with applicable provisions of Motor Vehicle Commission (MVC) law, pursuant to N.J.S.A. 39:3-76.2a and f or 39:3B-10 and 11, as applicable.

(e) The driver shall not transport more persons, including children and adults, than:

1. (No change.)

2. The occupancy of the Type II School Bus, Type S School Vehicle, or other approved vehicle, as determined by the number of operable seat belts.

(f) The driver and each additional adult on the Type I School Bus shall ensure that:

1.-2. (No change.)

(g) The driver and each additional adult(s) on the Type II School Bus, Type S School Vehicle, and private passenger vehicle shall ensure that:

1. (No change.)

2. Each child is secured in an operable seat belt or proper restraint system or booster seat, if applicable as specified in (e) above, when the vehicle is in motion.

(h)-(j) (No change.)

(k) The driver shall conduct a check of the vehicle, after each run is completed, to ensure that no child has been left in the vehicle.

(l)-(m) (No change.)

(n) Children shall not remain in any vehicle for more than one hour at any given time on a daily basis.

3A:52-9.8 Vehicle staff requirements

(a) When one or more children are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

(b) (No change in text.)

(c) The center shall have a written policy and procedures to ensure the safe transportation of children, including, but not limited to, ensuring that children are secured in appropriate restraints. The center shall train each regularly-scheduled driver and additional adult as referred to in (a) and (b) above on this policy prior to starting his or her position.