

OFFICE OF THE STATE SUPERINTENDANT OF EDUCATION

ADVANCED NOTICE OF PROPOSED RULEMAKING

This Advance Notice of Proposed rulemaking is being published to provide stakeholders an opportunity to send comments to the Office of the State Superintendent of Education prior to formal publication of the Notice of Proposed Rulemaking.

As noted below, the rules are intended to update the basic regulatory framework for licensing of child development facilities. The opportunity to comment on this advance notice of proposed rulemaking ends on February 8, 2016. A Notice of Proposed Rulemaking will be published in the District of Columbia Register during the spring, providing further opportunity for public comment prior to final adoption of the rules. All comments received will be taken into consideration as part of the proposed rulemaking process prior to final adoption of these rules.

The State Superintendent of Education (Superintendent), pursuant to authority set forth in sections 3(b)(6A), 3(b)(9), 3(b)(9A), 3(b)(11) and 6(a) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(6A), (b)(9), (b)(9A), (b)(11), and 38-2605(a)) (2001 Ed.); the Day Care Policy Act of 1979, as amended, effective September 19, 1979 (D.C. Law 3-16; D.C. Official Code §§ 4-401, et seq.) (2001 Ed.) (“Day Care Act”), Mayor’s Order 2009-3, dated January 15, 2009, the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code §§ 7-2031 et seq. (2001 Ed.) (“Facilities Act”), Mayor’s Order 2009-130, dated July 16, 2009, section 504 of the Early Intervention Program Establishment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 7-863 et seq.) (2001 Ed.), Mayor’s Order 2009-167, dated September 28, 2009, the Child Development Home License Regulation and Amendment Act of 2013, effective December 17, 2014 (D.C. Law 20-149; 62 DCR 1250), and the Healthy Tots Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 62 DCR 3601); and pursuant to Part A, Title IV, of the Social Security Act (42 U.S.C. 618 et seq.), Section 658 of the Social Security Act (42 U.S.C. 9858 et seq.) the Child Care and Development Block Grant (CCDBG) Act of 2014 (42 U.S.C. 9858), and Regulations there under at 45 CFR. Parts 98 and 99, hereby gives notice of the intent to repeal Chapter 3 (Child Development Facilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), to add a new Chapter 1 (Child Development Facilities Licensing) to Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR, to delete all Sections of Chapter 3 (Child Development Facilities) of Title 29 (Public Welfare) (DCMR) except Section 380 (District-Subsidized Child Care) of Title 29 (Public Welfare) (DCMR), and to reserve Chapters 2 through 5 in Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR. The Superintendent gives notice of the intent to take final rulemaking action in no less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

This rulemaking updates the basic regulatory framework for licensing of child development facilities, with modifications to update operational and professional standards, as well as

clarification that the Office of the State Superintendent (OSSE) is the lead agency regulating child development facilities, and revisions aligning licensing requirements with local and federal law including the reauthorization of the Child Care and Development Block Grant Act..

Directions for submitting comments may be found at the end of this notice.

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Chapter 1 (Child Development Facilities Licensing) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the District of Columbia Municipal Regulations is added to read as follows:

CHAPTER 1 CHILD DEVELOPMENT FACILITIES LICENSING

100 GENERAL PROVISIONS

100.1 This Chapter is promulgated pursuant to the authority set forth in sections 3(b)(6A), 3(b)(9), 3(b)(9A), 3(b)(11) and 6(a) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176;

D.C. Official Code §§ 38-2602(b)(6A), (b)(9), (b)(9A), (b)(11), and 38-2605(a) (2001 Ed.), the Day Care Policy Act of 1979, as amended, effective September 19, 1979 (D.C. Law 3-16; D.C. Official Code §§ 4-401, et seq.) (2001 Ed.) (“Day Care Act”), Mayor’s Order 2009-3, dated January 15, 2009, the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code §§ 7-2031 et seq. (2001 Ed.) (“Facilities Act”), Mayor’s Order 2009-130, dated July 16, 2009, section 504 of the Early Intervention Program Establishment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 7-863 et seq.) (2001 Ed.), Mayor’s Order 2009-167, dated September 28, 2009, the Child Development Home License Regulation and Amendment Act of 2013, effective December 17, 2014 (D.C. Law 20-149; 62 DCR 1250), and the Healthy Tots Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 62 DCR 3601); and pursuant to Part A, Title IV, of the Social Security Act (42 U.S.C. 618 et seq.), Section 658 of the Social Security Act (42 U.S.C. 9858 et seq.), the Child Care and Development Block Grant (CCDBG) Act of 2014 (42 U.S.C. 9858), and Regulations there under at 45 CFR Parts 98 and 99.

- 100.2 The purpose of this Chapter is to protect the health, safety and well-being of children by setting statewide licensing standards for Child Development Facilities and to ensure the provision of developmentally appropriate programs, by qualified professionals, to children attending these Facilities.
- 100.3 Each Child Development Facility shall be subject to compliance with the requirements of this Chapter, and with all applicable Federal and District of Columbia laws.
- 100.4 Unless specifically exempted, the provisions of this Chapter shall apply to every Child Development Facility, regardless of the name by which the Facility is designated.
- 100.5 A Child Development Facility that has entered into a Child Care Subsidy Provider Agreement with the District of Columbia, under the Day Care Act, shall maintain compliance with the terms of such Provider Agreement in addition to the provisions of this Chapter.
- 100.6 All Child Development Facilities that are issued a license pursuant to this Chapter shall participate in the Quality Rating Improvement System within three years from the effective date this Chapter.
- 100.7 A list of licensed Child Development Facilities shall be maintained by the Office of the State Superintendent of Education (OSSE) and shall be made available to the public.

101 EXEMPTIONS FROM LICENSURE

101.1 The provisions of this Chapter shall not apply to the following:

- (a) Occasional babysitting in a babysitter's home or the child's home for the children of one (1) family;
- (b) Care provided in a child's home by a caretaker paid for by the child's family;
- (c) Informal adult-supervised play groups;
- (d) Adult gyms or clubs that provide temporary babysitting as a benefit in order for members to utilize services;
- (e) Child-centered businesses which solely provide pay-per-session classes or activities including, but not limited to, tutoring, music, dance, sport or art.
- (f) Care provided in places of worship during religious services;
- (g) Care by a related person, as defined in this Chapter;
- (h) Facilities operated by the Federal Government on Federal Government property, except that a private entity utilizing space in or on Federal government property is not exempt unless Federal law specifically exempts the Facility from District of Columbia regulatory authority;
- (i) A Facility otherwise exempted by law, such as a duly authorized public or private elementary or secondary school; and
- (j) A Facility that provides only before school care, only after school care, or only summer camp to compulsory school age children.

102 GENERAL LICENSING REQUIREMENTS

102.1 Except as otherwise provided in this Chapter, no person shall either directly or indirectly operate a Child Development Facility without first obtaining a license issued by OSSE or its successor agency authorizing the operation of Child Development Facilities.

102.2 A separate license shall be required for each building functioning as a Child Development Facility on the same premises.

- 102.3 The Child Development Facility licensee shall not be permitted to operate any other kind of business on premises that are licensed by OSSE as a Child Development Facility.
- 102.4 Each license shall be issued only for the premises and person(s) or entity(ies) named as applicants in the application, and shall not be valid for use by any other person(s) or entity(ies), or at any place other than that designated in the license. Licenses are non-transferable and no license number can be re-used. Any change of ownership, relocation or change in persons named as a representative of the Facility requires issuance of a new license. For Child Development Homes, the licensee must live on the premises and work in the Facility located in the home.
- 102.5 Each license shall state:
- (1) The name of the Facility to be licensed;
 - (2) The name of the parent entity of the Facility or persons with ownership interests in the Facility;
 - (3) The type of Facility;
 - (4) The address of the Facility;
 - (5) The total child capacity for the Facility, including the maximum capacity for each age category of children served at the Facility;
 - (6) The limitations, if any, on services authorized; and
 - (7) The expiration date of the license.
- 102.6 Each Facility shall comply with the provisions stated on its license unless otherwise authorized under this Chapter.
- 102.7 No license shall be issued or renewed if the provisions of this Chapter are not met.
- 102.8 A Child Development Facility must at all times display the license issued pursuant to these regulations in a conspicuous place for public viewing within the premises named on the license.
- 102.9 A license will be issued for three (3) years. A license can also be issued for five (5) years based on criterion established by OSSE. Child Development Facilities will receive at minimum one (1) annual unannounced inspection, which will include an inspection of all documents with annual expiration dates.

103 CERTIFICATE OF OCCUPANCY AND HOME OCCUPANCY PERMIT

103.1 Before applying for a license, each Child Development Facility shall secure from the Department of Regulatory Affairs (DCRA) a Certificate of Occupancy or Home Occupation Permit or other appropriate equivalent proof that the premises comply with all applicable Federal and District of Columbia fire, safety, building, health inspection and zoning regulations and codes. The Certificate of Occupancy, Home Occupation Permit, or other proof shall include certification that the premises are fit and suitable for the operation of a Child Development Facility. OSSE will obtain a copy of the Certificate of Occupancy or Home Occupation Permit directly from DCRA.

103.2 A new or revised Certificate of Occupancy, Home Occupation permit, or equivalent proof as noted in this subsection shall be required:

- (1) Upon initial application for a license;
- (2) At the time of any major modification or alteration of any existing premises or structure used by the Facility, but prior to the continued use of the modified or altered portions of the premises or structure for child development purposes;
- (3) Prior to the use of any portion of the premises or structure that was not previously inspected and approved for use as a Child Development Facility;
- (4) Prior to application to submitting an application to change the ages of children to be enrolled; and
- (5) Prior to submitting an application for change in licensure capacity in the Child Development Facility.

103.3 In the case of a Facility providing out-of-school-time care only, located in a District of Columbia government building exempt from Certificate of Occupancy requirements, the requirements of this section may be met by providing, in lieu of the Certificate of Occupancy, a Building Use Agreement executed by the Facility and the District of Columbia government agency with responsibility for that building, including a certification from said government agency that it assumes responsibility for the maintenance and safety of the premises in which the Facility is located.

104 FIRE SAFETY

104.1 Each Child Development Facility shall undergo an annual fire safety inspection, paid for by OSSE, and shall obtain certification that the premises conform to all applicable fire safety and related codes, from the Department of Fire and Emergency Medical Services or from the Department of Consumer and Regulatory Affairs, Each Child Development Facility shall, at their own expense, undergo a fire safety inspection under the following circumstances:

- (1) Prior to submitting an application to change in the ages of children to be enrolled;
- (2) Prior to submitting an application for change in licensure capacity;
- (3) At the time of any major modifications or alterations of the existing premises or structures used by the Facility, and prior to the continued use of modified or altered portions of the premises or structure for child development purposes; and
- (4) Prior to the use of any portion of the premises or structure not previously inspected and certified as conforming to the applicable fire safety and related codes for use as a Child Development Facility.

104.2 Child Development Facilities shall install and maintain working carbon monoxide detectors if there is any gas service in the building. Carbon monoxide detectors shall be tested every six (6) months with a written log of testing records.

104.3 Child Development Facilities shall install and maintain an appropriate number of working smoke detectors located in locations consistent with District code requirements and shall ensure they are in working order at all times. Smoke detectors shall be tested monthly with a written log of testing records.

104.4 Child Development Facilities shall perform fire drills, at least quarterly, with a written log of the fire drills.

105 APPLICATION FOR AN INITIAL LICENSE

105.1 Each applicant, seeking licensure or person(s) designated by the applicant to represent the Facility, shall complete a three-hour Child Development Facility licensing orientation by the OSSE prior to submitting an application for a license.

105.2 Each application must be submitted, with the appropriate fee(s), on a form approved by OSSE.

105.3 Each application shall contain the following:

- (1) The name(s), address(es) and contact information of the primary person(s) representing the Facility with regard to the application;
- (2) When a corporation or other legal entity is the applicant, the tax identification number of the parent entity, a current Certificate of Good Standing form the District of Columbia, and the names and addresses of owners, officers, directors, and/or partners;
- (3) The name by which the Facility will be known;
- (4) The name(s) and home address(es) of the owner(s) of the structure(s) that will house the Facility;
- (5) A Certificate of Occupancy, Home Occupation Permit, or other appropriate building document required pursuant to this Chapter;
- (6) The address of the building to be used as the licensed Facility, including written documentation indicating whether the Facility has any prior or current usage involving hazardous materials that present a risk to the health of children including, but not limited to, housing a dry cleaner, nail salon, the storage of hazardous chemicals and materials, or any other substance that might be reasonably cause harm to children;
- (7) The Description of the building structure and any connected structures that are to be part of the same licensed Facility;
- (8) Documentation stating that the proposed Facility's internal and external premises, soil, and adjacent properties do not present any environmental risks to children;
- (9) Certification that the Facility is free of lead-based paint hazards;
- (10) A copy of the fire safety inspection conducted pursuant to this Chapter;
- (11) Proof of compliance with the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118, D.C. Official Code §§ 47-2861 et seq.);
- (12) Tax returns for the two years prior to application;
- (13) A general contingency plan including procedures for emergencies, and an Emergency Preparedness and Response Plan which includes, but is not limited to, descriptive disaster contingency plans for fire; natural or man-made disaster; loss of power, heat, or water service; unsafe indoor

temperatures; and any other dangerous environmental condition, recovery sheltering in place, site evacuation, and parent reunification.

- (14) The name and address of the individual designated by the applicant to be the Caregiver or Center Director of the Facility;
- (15) The qualifications of the Caregiver or Facility Director in compliance this Chapter;
- (16) Documentation verifying that the applicant, or in the case of a parent entity, all principal owners or operators of the Facility, the Caregiver or Facility Director, all employees and volunteers at the Facility have undergone the required background checks and obtained the required clearances in accordance to this Chapter;
- (17) The proposed maximum number of children to be served by the Facility capacity, hours of operation, ages of children served and services to be provided;
- (18) A description of the Facility's educational and developmental philosophy and practice;
- (19) A description of the curriculum to be implemented consistent with the District of Columbia Early Learning Standards;
- (20) A typical daily schedule of activities for each age group of children to be served;
- (21) A statement describing how meals and snacks are provided to the children at the Facility;

Written policies and procedures and other information to be included in the Parent Handbook in the following areas:

- i. Admissions and enrollments, including policies related to children with disabilities, illness or other special needs;
- ii. Ages of children accepted;
- iii. Days, hours and periods of operation; including procedures for when children are picked up or dropped off outside of designated periods of operation;
- iv. Type(s) of child care services provided;
- v. Fees and payment plans, including fees for different types of

- services and/or specific services, and refund policy;
- vi. Provision of meals and snacks;
 - vii. Food handling;
 - viii. Transportation and field trip arrangements;
 - ix. Provision for children with special needs including arrangements that must be made by parent(s) or guardian(s);
 - x. Emergency preparedness evacuation and sheltering in place;
 - xi. Emergency medical care and first aid;
 - xii. Treatment of injuries;
 - xiii. Reporting child abuse and neglect;
 - xiv. Administration of medication;
 - xv. Reporting unusual incidents;
 - xvi. Reporting and responding to reportable communicable diseases;
 - xvii. Staff qualifications;
 - xviii. Procedures regarding sanitation practices, including hand washing;
 - xix. Parent and guardian grievance procedures;
 - xx. Parent and guardian participation in and access to the Facility, including opportunities to communicate with teachers concerning their child's development, and information parents and guardians should share with the Facility regarding their child's health status;
 - xxi. Termination of enrollment and parent or guardian notification of termination;
 - xxii. Discipline;
 - 1) The Facility's written discipline policy must describe the Facility's philosophy of behavior management and

discipline and the specific methods of positive behavior support and discipline that the Facility uses;

- 2) Behavior management and discipline must be constructive and developmentally appropriate, and shall include positive reinforcement, child guidance, and techniques using redirection, separation from a problem situation, talking with the child about the situation, and praise for appropriate behavior;
 - 3) Methods of behavior management and discipline shall be utilized by all Facility staff including employees, volunteers, and parents when present on the premises; and
 - 4) How parents are to be informed after a child has been disciplined.
- xxiii. Exclusion of staff and children who are ill;
- xxiv. Cell phone usage in the Facility;
- xxv. Smoking, tobacco use, alcohol, prohibited substances and fire arms;
- xxvi. Periodic reporting of child's progress to the parent(s) or guardian(s);
- xxvii. Disclosure of child specific information; and
- xxviii. Any other policy or procedures that may be required by this Chapter.
- (22) Documentation of adequate liability insurance, including but not limited to, personal injury and vehicle insurance for the Child Development Facility, if the Facility provides transportation services to the enrolled children at the Facility;
 - (23) Signed assurances related to implementation of regulation in this Chapter; and
 - (24) Such other reasonable information that OSSE may require in order to determine whether the applicant is qualified to operate a Child Development Facility that conforms to the provisions of this Chapter.

106 APPLICATION FOR LICENSE RENEWAL

106.1 The renewal application for a Child Development Facility license, with required documentation and fee, shall be submitted not later than ninety (90) days before the expiration date of the existing license.

106.2 When a licensee submits a timely and complete renewal application, the existing license shall remain in effect until OSSE makes a final determination with regard to the application for license renewal.

106.3 The renewal application shall include:

- (1) The name(s), address(es) and contact information of the primary person(s) representing the Facility with regard to the application;
- (2) When a corporation or other legal entity is the applicant, the tax identification number of the parent entity, a current Certificate of Good Standing form the District of Columbia, and the names and addresses of owners, officers, directors, and/or partners;
- (3) The name by which the Facility is known;
- (4) The name(s) and home address(es) of the owner(s) of the structure(s) that houses the Facility;
- (5) A copy of the annual fire safety inspection;
- (6) Proof of compliance with the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118, D.C. Official Code §§ 47-2861 et seq.);
- (7) A general contingency plan including procedures for emergencies, and an Emergency Preparedness and Response Plan which includes descriptive disaster contingency plans for fire; natural or man-made disaster; loss of power, heat, or water service; unsafe indoor temperatures; and any other dangerous environmental condition, recovery sheltering in place, site evacuation, and parent reunification.
- (8) Credentials for employees hired since the previous licensing application;
- (9) Documentation verifying that all principal owners or operators of the Facility, the Caregiver or Facility Director, all employees and volunteers at the Facility have undergone the required background checks and obtained the required clearances;
- (10) Facility capacity, hours of operation, ages of children served and

services provided;

- (11) A description of the Facility's educational and developmental philosophy and practice;
- (12) A description of the curriculum to be implemented consistent with District of Columbia standards;
- (13) A typical daily schedule of activities for each age group of children to be served;
- (14) A statement describing how meals and snacks are provided to the children at the Facility;
- (15) An updated copy of the Parent Handbook which includes the policies, procedures and information required in this subsection.
- (16) Documentation of adequate liability insurance, including but not limited to, personal injury and vehicle insurance for the Child Development Facility, if the Facility provides transportation services to the enrolled children at the Facility;
- (17) Signed assurances related to implementation of regulation in this Chapter; and
- (18) Such other reasonable information that OSSE may require in order to determine whether the Facility continues to be qualified to operate a Child Development Facility that conforms to the provisions of this Chapter.

OSSE shall issue a license renewal for a period of three (3) years or a five (5) license for programs that demonstrate substantial compliance with this Chapter and have achieved the highest rating in the Quality Rating and Improvement System (QRIS). Programs that attain the highest quality rating will be eligible for the five year license within two years from the date these rules are promulgated.

107 FEES

- 107.1 License fees for Child Development Facilities shall vary in accordance with the Facility's license duration.
- 107.2 Each applicant for a license to operate a Child Development Facility shall pay an application fee, for a three (3) year or (5) year renewal license, as follows:

- (a) Child Development Homes \$225.00
- (b) Child Development Centers, 1 - 50 Children \$600.00
- (c) Child Development Centers, 51 - 100 Children \$900.00
- (d) Child Development Centers, 101 - 175 Children \$1200.00
- (e) Child Development Centers, Over 175 Children \$1500.00

107.3 In the event that a Child Development Facility submits an application for a change in licensure, the license re-issuing fee shall be pursuant to the applicable initial or renewal license fee.

107.4 The fee for a Conditional Temporary License shall be:

- (a) Child Development Homes \$75.00
- (b) Child Development Centers, 1 - 50 Children \$200.00
- (c) Child Development Centers, 51 - 100 Children \$300.00
- (d) Child Development Centers, 101 - 175 Children \$400.00
- (e) Child Development Centers, Over 175 Children \$500.00

107.5 The fee for the replacement of license for all Child Development Facilities is \$100.00.

107.6 Child Development Facilities operated by the District of Columbia Government or the Federal government shall not be required to pay a fee.

107.7 OSSE may make reasonable adjustment to license fees, as appropriate. A new fee schedule shall be published by OSSE at least thirty (30) days before any new fee is implemented.

107.8 The fees described in this section do not include the cost of any inspections to be conducted by an agency other than OSSE, including but not limited to, a fire or lead based paint hazard inspection.

107.9 Fee payment is non-transferrable and non-refundable.

107.10 A late fee, in the amount of \$50.00 for Child Development Homes and \$100.00

for Child Development Centers, shall be imposed if a complete license renewal application is not timely filed pursuant to this Chapter.

108 RIGHT OF ENTRY AND SUBPOENA POWERS

- 108.1 OSSE, and any other duly authorized official of OSSE or another agency of the District of Columbia having jurisdiction over or responsibilities pertaining to Child Development Facilities, after presenting official credentials or identification or authority issued by the District of Columbia, shall have the right, either with or without prior notice, to enter upon and into the premises of any Child Development Facility that is licensed or have applied for licensure, to determine compliance with the Act, the Daycare Act, or other laws and applicable regulations, including but not limited to this Chapter, and to facilitate verification of information submitted by a Facility.
- 108.2 An authorized entrant shall conduct an inspection in a manner that minimizes disruption to the Child Development Facility.
- 108.3 The right of entry and inspection shall also extend to any premises that OSSE has reason to believe is being operated or maintained as a Child Development Facility without a valid license; provided that entry or inspection shall be made with the permission of the individual in charge of the premises or with a warrant obtained from the D.C. Superior Court, pursuant to D.C. Official Code § 11-941, authorizing the entry or inspection for the purpose of determining compliance with this Chapter.
- 108.4 OSSE is authorized to utilize a subpoena to inspect and investigate Child Development Facilities in order to determine compliance with the provisions of this Chapter.
- 108.5 OSSE, and other authorized District of Columbia officials, shall have access to all records of the Facility, including but not limited to:
- (a) Child, staff and administrative records;
 - (b) Financial, tax and inspection records;
 - (c) Policies and procedures;
 - (d) Any other information or documentation necessary to determine the Facility's compliance with applicable Federal and District of Columbia laws and regulations.

109 INITIAL AND RENEWAL APPLICATION INSPECTIONS

- 109.1 Upon receipt of a complete application for an initial license or a license renewal, and prior to the issuance of the license, OSSE will conduct an on-site inspection to determine compliance with this Chapter.
- 109.2 A Child Development Facility with a three (3) or five (5) year license will receive an annual inspection, including an inspection of documents with annual expiration dates, regardless of the length of the license.
- 109.3 In order to be eligible for a five year license a facility must have the highest quality rating in the Quality Rating Improvement System (QRIS) and no violation of the District of Columbia's child care regulations within the last three (3) years.
- 109.4 If, in the course of the on-site inspection, OSSE determines that a Facility is out of compliance with any requirement of this Chapter
- 109.5 After receipt of notification from an applicant or a Facility that every deficiency has been corrected, OSSE shall conduct a follow-up inspection or inspections to determine whether the Facility is in compliance with applicable laws and the regulations of this Chapter.
- 109.6 In the event an applicant fails to achieve full compliance within required timeframes specified by OSSE, OSSE may, in its discretion, deny the initial application or deem the initial application to be withdrawn.
- 109.7 In the event an existing licensee fails to achieve full compliance within required timeframes specified by OSSE, as part of its license renewal inspection, action may be taken to refuse to renew the Facility's license.
- 109.8 Nothing in this section limits OSSE from conducting announced or unannounced on-site visits to ensure the Child Development Facility's compliance with this Chapter.

110 LICENSE CAPACITY

- 110.1 OSSE shall determine limitations on the license capacity based on the following criteria:
- (1) Occupancy capacity established by the Department of Consumer and Regulatory Affairs (DCRA) and/or by the Department of Fire and Emergency Medical Services;
 - (2) Program space requirements, as provided in this Chapter;
 - (3) Lavatory requirements, as provided in this Chapter; and

(4) Adult to child ratios and maximum group size requirements, as established in this Chapter.

110.2 Any Facility requesting a change in its license capacity under a current license shall submit a written request to OSSE, with the payment of the appropriate fee.

111 CONDITIONAL TEMPORARY LICENSE

111.1 As an alternative to denying a renewal application, when a Facility has one (1) or more deficiencies, OSSE may issue a Conditional Temporary License for no more than sixty (60) days, based upon the anticipated completion of corrective actions required pursuant to a Statement of Deficiencies. The Facility shall be required to pay an applicable fee for the Conditional Temporary License.

111.2 A Child Development Facility operating under a Conditional Temporary License may not enroll additional children.

111.3 A Conditional Temporary License will not be issued for deficiencies that jeopardize the health, safety or welfare of children, staff or the general public, including but not limited to, the failure to obtain criminal background and child protection register checks on staff, failure to meet adult/child ratio, health and sanitation deficiencies, or safety and maintenance issues.

111.4 At the discretion of OSSE, a Conditional Temporary License may be issued for failure of a Child Development Facility to timely request documentation necessary for licensure which results in a deficiency upon the expiration of the license.

111.5 If all of the noted deficiencies are successfully addressed during the Conditional Temporary License period, OSSE will issue a license to the Child Development Facility from the date of the Conditional Temporary License.

111.6 Failure to successfully complete the corrective action(s) required for the deficiency which was the basis for the Conditional Temporary License will result in automatic termination of a Conditional Temporary License and/or refusal to renew the Facility's license.

111.7 No more than one Conditional Temporary License may be issued to a Child Development Facility in a licensing cycle.

112 RESTRICTED LICENSE

112.1 As an alternative to suspending or revoking an existing license when a Facility has one (1) or more deficiencies, OSSE may issue a Restricted License for no

more than sixty (60) days, based upon the anticipated completion of corrective actions required pursuant to a Statement of Deficiencies.

112.2 A Child Development Facility operating under a Restricted License may not enroll additional children.

112.3 A Child Development Facility may only operate within the individualized parameters of the Restricted License based on the Facility specific deficiencies.

112.4 A Restricted License will not be issued for deficiencies that jeopardize the health, safety or welfare of children, staff or the general public.

112.5 If all of the noted deficiencies are successfully addressed during the Restricted License period, OSSE will reissue the current license to the Child Development Facility.

112.6 Failure to successfully complete the corrective action(s) required for the deficiency which was the basis for the Restricted License will result in suspension or revocation of the Facility's license.

113 [RESERVED]

114 [RESERVED]

115 [RESERVED]

116 [RESERVED]

117 [RESERVED]

118 [RESERVED]

119 [RESERVED]

120 NOTICE REQUIREMENTS FOR CHANGES IN OPERATION

120.1 Child Development Facilities shall notify OSSE, in writing, no less than 30 calendar days before the implementation of the change, of any of the following planned changes in operation:

- (1) Proposed change of ownership;
- (2) Change in telephone number of the Facility or a disruption of telephone service at the Facility;

- (3) Renovation or alteration of the premises that substantially changes the indoor or outdoor space of the Facility or requires a permit from the Department of Consumer and Regulatory Affairs;
- (4) A significant change in circumstances including but not limited to:
 - i. The operation of the program;
 - ii. Hours of operation,
 - iii. Services provided;
 - iv. Capacity load;
 - v. Program space usage; or
 - vi. Planned closure of the Facility.
- (5) In the case of a change in the Caregiver's name in a Child Development Home;
- (6) In the case of the inclusion of an additional member of the household, including the new member's criminal history, in a Child Development Home; or
- (7) In the case of a change in Center Director in a Child Development Center.

120.2 If a Facility undergoes any of the listed changes in operation without the change being planned in advance, the Facility shall notify OSSE immediately.

120.3 Upon notification of the proposed change(s), OSSE shall inspect the Facility to evaluate the impact of the change(s) on the provision of child development services.

120.4 Based upon the nature of the change in operation, OSSE may require an initial or renewal application be submitted.

120.5 OSSE may issue an amended license, consistent with the approved change(s), as required by and subject to the provisions of this Chapter.

121 ADMINISTRATIVE RECORDS ON OPERATIONS

121.1 Child Development Facilities shall maintain on the Facility premises at all times and shall provide upon request and make immediately available for

review by any person upon request, the report(s) of each inspection of the Facility by the Director occurring within the preceding three (3) year period, including the Statement(s) of Deficiencies, if any, subject to the confidentiality limitations contained in this Chapter.

- 121.2 Records of investigations, inspections, civil infraction citations, unusual incidents reported in accordance with this Chapter, inspection of playground equipment, maintenance of carbon monoxide detectors, and all fire prevention mechanisms and emergency evacuation drills shall be immediately accessible and available for inspection by government officials, shall be provided upon request and shall be made available for inspection by the public subject to the confidentiality limitations contained in this Chapter. The Facility shall maintain these records for at least three (3) years prior to the current year.
- 121.3 Child Development Facilities shall maintain, on the Facility premises, and provide to OSSE upon request, current liability insurance information and documentation for the Facility and, if the Facility provides transportation, information and documentation of full vehicle insurance including liability insurance.
- 121.4 Child Development Facilities shall maintain records documenting any adverse action the Facility takes against an employee, volunteer or household member related to any substantiated crimes against children. The adverse action shall be reported as an unusual incident in accordance this Chapter and be provided to OSSE upon request.
- 121.5 Child Development Facilities shall maintain a maintenance log and retain copies of service and repair records, in a single location on the licensed premises, for all motor vehicles that are owned or leased for purposes of transporting enrolled children. The Facility shall maintain each record for at least twelve (12) months after the date of the inspection or repair and provide to OSSE upon request.
- 121.6 Child Development Facilities shall provide reports and documents to OSSE upon request and maintain and display, in one central area within the Facility, (a)-(c) and have available (d)-(1). These reports and documentation include:
- (1) Copy of the Facility's license;
 - (2) Certificate of Occupancy or Home Occupancy Permit;
 - (3) Evacuation plan;
 - (4) Fire inspection reports;
 - (5) Plumbing, gas, and electrical inspection reports;

- (6) Evacuation and shelter-in-place drill records;
- (7) Any accreditation certificates and/or quality rating score, if applicable;
- (8) Reports of any documentation that all required corrections have been completed;
- (9) Results of lead tests;
- (10) Certificate of air quality, in the case where the Facility has been determined to have mold;
- (11) Playground inspection report, equipment inspection/maintenance records and reports; and
- (12) Report of the inspection and maintenance of fire extinguishers, smoke detectors, carbon monoxide detectors, or other fire prevention mechanisms.

122 ADMINISTRATIVE RECORDS ON CHILDREN

122.1 Child Development Facilities shall maintain a record for each enrolled child in one central location within the Facility, and shall retain the record for three (3) years following the termination of that child's enrollment. The record must be kept in a confidential manner but should be immediately available to the child's caregivers and/or teachers, the child's parents or guardians, and OSSE upon request.

122.2 Child Development Facilities shall maintain and provide to OSSE annually, on the first Monday in October via the Enrollment Data Form, and upon request, the following information for each child currently enrolled:

- (1) Full name;
- (2) Gender;
- (3) Date of birth;
- (4) Date of admission;
- (5) Home address and telephone number;
- (6) Social security number;
- (7) Full names of parent(s) or guardian(s);

- (8) Business address(es) and contact information, such as email address(es) and telephone number(s) of parent(s) or guardian(s);
- (9) Designation of individuals authorized to receive the child at the end of each session;
- (10) Name and telephone number of individual to be contacted in emergencies when the parents or guardians are not available;
- (11) Emergency Medical Treatment Authorization form, as approved by OSSE, for emergency medical care, to be used only when the parent(s) or guardian(s) cannot be reached;
- (12) Language(s) spoken in the home;
- (13) Race and ethnicity;
- (14) Health information and records, as required by this Chapter;
- (15) Written authorization(s) for the administration of medication as required by of this Chapter, if applicable;
- (16) For children in out-of-school-time care:
 - A. The name of the school the child attends;
 - B. The name and number of a contact person from that school; and
 - C. If the child arrives at and leaves the Facility alone, the days and times at which the child should arrive and leave the Facility and the mode(s) of transportation that the child uses to travel to and from the Facility.
- (17) A record of educational and developmental progress;
- (18) Admission agreement signed by the parent/guardian at enrollment; and
- (19) Date and reasons for withdrawal.

122.3

Child Development Facilities shall maintain on file a written, signed and dated statement from each child's parent(s) or guardian(s) authorizing the Facility to take the child on regularly scheduled outings, such as walks or trips to a neighborhood playground, outside the Facility. The authorization shall include the child's name, and shall specify the mode of transportation, the frequency, and the destination of each specific trip. This authorization shall not include field trips or outings which do not occur on a regular schedule. Written permission shall be considered valid for all regularly scheduled outings, as

noted on the statement, until withdrawn by the child's parent(s) or guardian(s).

122.4 If the child is to be taken on a field trip that is not recorded as a routine trip, the Facility shall obtain a written authorization that includes the information required in this Chapter, in addition to the estimated time of departure and arrival.

122.5 Child Development Facilities shall maintain and provide to OSSE upon request current records and information related to enrolled children including:

- (1) A roster of enrolled children by age group;
- (2) Daily sign-in and sign out attendance records by names of children, including first name, last name and middle initial of each child; and
- (3) Daily menu plan for feeding the children indicating the foods actually served on a daily basis.
- (4) Daily schedule of activities;

122.6 Child Development Facilities shall conform to applicable Federal and local laws protecting a child's confidential information, and shall keep all records in a locked file cabinet and shall not disclose information concerning an individual child or the child's parent(s) or guardian(s) to persons other than the Facility staff or government officials acting in the course of their duties, unless the parent(s) or guardian(s) grant written permission for the disclosure, or unless disclosure is necessary in an emergency situation.

122.7 Child Development Facilities shall inform in writing the parent(s) or guardian(s) of all enrolled children of the Facility's policy regarding disclosure of information.

123 CHILDREN'S HEALTH RECORDS

123.1 Child Development Facilities shall ensure that each child attending a Child Development Facility shall, upon enrollment and prior to admission, submit to the Facility and to OSSE upon request, appropriate, complete documentation of a comprehensive physical health examination, including age-appropriate screenings and up-to-date immunizations, and, for each child three (3) years of age or older, complete documentation of an oral health examination, each examination having been performed by a licensed health care professional within one (1) year prior to the date of admission.

123.2 In the case that immunizations have not been administered because of a medical condition, documentation from the child's primary care provider regarding the medical exemption must be provided by the child's parent(s) or

guardian(s). In the case that immunizations have not been administered because of the child's parents' or guardians' religious beliefs, a parent or guardian must provide documentation for the religious exemption to the Child Development Facility.

123.3 The Child Development Facility shall enroll a homeless child or a ward of the District in foster care even if the child lacks the documentation required in subsection 123.1 so long as the parent or guardian of the homeless child or a ward of the District in foster care provides the required documentation within 60 days of the date of enrollment.

123.4 In the case that unimmunized children are exposed to a vaccine-preventable disease in the Child Development Facility, the Facility must contact the Department of Health to determine the appropriate procedures related to the unimmunized children.

123.5 Child Development Facilities shall ensure that each child attending a Child Development Facility shall, at least annually, submit to the Facility and to OSSE upon request, on appropriate forms, complete documentation of a comprehensive physical health examination, including age-appropriate screenings and up-to-date immunizations, and, for each child three (3) years of age or older, complete documentation of an oral health examination, each examination having been performed by a licensed health care professional within the preceding one (1) year period.

123.6 Child Development Facilities shall maintain and provide to OSSE upon request, for each enrolled child, the initial and annual health record documentation required including:

- (1) Full name, gender, date of birth, and home address of the child;
- (2) Parent(s) or guardian(s) name(s), an emergency phone number for the parent(s) or guardian(s), the name and number of an emergency contact if the parent(s) or guardian(s) are unavailable;
- (3) Health insurance coverage, primary care provider;
- (4) Dates of physical and oral health examinations;
- (5) Child's height and weight at the time of the physical health examination;
- (6) Each licensed health care practitioner's clinical findings, health concerns, referrals, treatments and recommendations;
- (7) Child's significant health history, including allergies, health conditions, communicable illnesses, and restrictions;

- (8) Specific immunizations received by month, day and year;
- (9) Results of tuberculosis exposure risk assessment, and Tuberculin Skin Test (TST) if indicated, in accordance with American Association of Pediatrics Guidelines for all children over six (6) months of age;
- (10) Results of lead exposure risk assessment, and of testing if applicable;
- (11) Identification of long-term medications and special health care requirements or accommodations;
- (12) Name, address, phone number and signature of the examining licensed health care practitioner;
- (13) Description of developmental delays, impairment(s), behavioral problems or other disabilities to be considered in the child care setting;
- (14) Specific diet restrictions, if applicable; and
- (15) Special family considerations.

123.7 In addition to the information otherwise required under this section, each parent of a child under six (6) years of age attending a Child Development Facility shall submit, and the Facility maintain and provide to OSSE upon request, documentation with respect to blood tests for lead poisoning as follows:

- (1) Documentation that the child was tested between the ages of six (6) months and nine (9) months, and again between the ages of twenty-two (22) months and twenty-six (26) months; or
- (2) If the child was not tested before the age of twenty-six months (26), the child was or will be screened two (2) times before the age of six (6) years. Pending lead test results will be valid for two (2) months from date of testing and will not exclude a child from school-related activities or program.

123.8 Blood tests for lead poisoning shall be conducted, and results shall be disseminated and maintained, in accordance with the Childhood Lead Poisoning Screening and Reporting Act of 2002, effective October 1, 2002, (D.C. Law 14-190, D.C. Official Code §§ 7-1031 *et seq.*) (2001, Ed.).

123.9 Child Development Facilities shall have documented proof of one hundred percent (100%) compliance with all required immunizations for all children enrolled in the facility not otherwise exempted.

123.10 Child Development Facilities shall not prohibit provide children experiencing homelessness with care

124 ADMINISTRATIVE RECORDS ON STAFF OF ALL FACILITIES AND ON PERSONS RESIDING IN HOME FACILITIES

124.1 Child Development Facilities shall maintain, on the Facility premises, and provide to OSSE upon request, the following information for each employee:

- (1) The full name, gender, social security number, date of birth, home address, home phone number, cell phone number, car make, model and license plate number, and current photograph;
- (2) Position title and job description;
- (3) Documentation and results of criminal and background history checks in accordance with this Chapter and with all other applicable Federal and District of Columbia laws and rules;
- (4) A copy of the employee's resume, copies of required degrees, credentials, official transcripts, and letters of reference;
- (5) Verification of the employee's orientation to his/her duties and responsibilities and to the Facility's policies and procedures;
- (6) An ongoing record of professional development and earned continuing education units;
- (7) First Aid and CPR Certification for children, as required; and
- (8) Date of appointment to, or withdrawal from, any position in the Facility.

124.2 Child Development Facilities shall maintain, on the Facility premises, and provide to OSSE upon request, the following information for each volunteer:

- (1) The full name, gender, social security number, date of birth, home address, home phone number, cell phone number, car make, model and license plate number, and current photograph;
- (2) Position title and job description; and
- (3) Documentation and results of criminal and background history checks in accordance with this Chapter, and with all other applicable Federal and District of Columbia laws and rules.

124.3 Child Development Facilities shall maintain and provide to OSSE upon request, a health record for each staff member, including paid employees and volunteers who work directly with children on an on-going basis, which shall include the following:

- (1) Results of a pre-employment physical examination by a licensed health care practitioner, not more than twelve (12) months prior to the start of employment or volunteer work;
- (2) Results of an annual physical examination by a licensed health care practitioner;
- (3) Written and signed documentation from the examining licensed health care practitioner, at the time of his or her examination, the staff member or volunteer was free from tuberculosis and apparent communicable diseases as defined in 22 DCMR § 201 and that 5-E § 1023 DCMR is complied with on an ongoing basis;
- (4) Written and signed documentation from the examining licensed health care practitioner that the staff member or volunteer, if noted to have an identified medical problem, is capable of caring for children in a licensed Child Development Facility;
- (5) Health insurance information; and
- (6) The names and phone numbers of the staff member's primary licensed health care practitioner and of an emergency contact person.

124.4 Each Child Development Home shall obtain, maintain and provide to OSSE upon request, documentation establishing that each person living in the home that houses the Facility has been, within the preceding one (1) year period, examined by a licensed health care professional and certified by that professional to be free of communicable disease.

125 CRIMINAL BACKGROUND CHECKS, CHILD PROTECTION HISTORY CHECKS AND DRUG AND ALCOHOL TESTING

125.1 Child Development Facilities shall conform to the following requirements related to criminal background checks and child protection register checks for applicants for employment and volunteers:

- (1) The applicant must satisfactorily complete a criminal background check, consistent with Title II of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353, D.C. Official Code §§ 4-1501.01 *et seq.*),(2001 Ed); Merit Personnel Act §1501.01 *et seq.*; and DC Official Code §1-620.36 and a child protection register check through the Federal Bureau of Investigations (FBI), District of Columbia Metropolitan Police Department (MPD), and the District of Columbia Child and Family Services Agency; a traffic records check through the District of

Columbia Department of Motor Vehicles; and conform to all applicable rules and any other applicable District of Columbia or Federal laws before he or she may be employed or may volunteer;

- (2) Unless otherwise provided by law, the criminal background and child protection register checks must be completed within three (3) months prior to the date of employment or at the commencement of volunteering, if volunteering directly with children on an on-going basis;
- (3) Unless otherwise provided by law, the applicant must provide the Facility with the certified results of the criminal background and child protection register checks, or, at the Facility's discretion, with all information that will enable the Facility to promptly obtain the results of the criminal background and child protection register checks of the applicant;
- (4) Child Development Facilities and OSSE shall ensure that background check reports provided by an applicant conform to generally accepted practices, such as background checks based upon finger print checks performed by the Federal Bureau of Investigation National Criminal Center;
- (5) Each applicant, employee, or volunteer who will be required to drive a motor vehicle to transport children in the course of performing his or her duties, must provide a traffic record check, or, at the Facility's discretion, with all of the information that will enable the Facility to promptly obtain the results of the traffic record check;
- (6) The applicant has the right to obtain copies of the criminal background and child protection register check reports and to challenge the accuracy and completeness of the reports;
- (7) Child Development Facilities and OSSE shall review the results of the criminal background check and child protection register check to determine the suitability of the individual. The information obtained from the criminal background check shall not create a disqualification or presumption against employment or volunteer status of an applicant unless the facility determines that the applicant poses a present danger to children or youth. In making this determination, the following factors must be considered:
 - A. The specific duties and responsibilities necessary for the employment or volunteer duties;
 - B. The bearing, if any, the criminal offense for which the person

was previously convicted will have on his or her fitness or ability to perform one or more of such duties or responsibilities;

- C. The length of time that has elapsed since the occurrence of the criminal offense;
- D. The age of the person at the time of the criminal offense;
- E. The frequency and seriousness of the criminal offense;
- F. Any information produced by the person, or produced on his or her behalf, regarding his or her rehabilitation and good conduct since the occurrence of the criminal offense; and
- G. An applicable public policy with regard to consideration for ex-offenders for employment provided that:
 - 1) The Facility shall not employ or permit to serve as a volunteer, an applicant who has been convicted of, has pleaded nolo contendere to, is on probation before judgment, or placed on a case on the stet docket because of, or has been found not guilty by reason of insanity for any sexual offenses including but not limited to those involving a minor, child abuse or child neglect; and
 - 2) If an application is denied because the applicant presents a present danger to children or youth, the Facility shall inform the applicant in writing and the applicant may appeal the denial to the Commission on Human Rights within 30 days of the date of the Facility's written statement.

- (8) Child Development Facilities shall not employ an applicant or accept a volunteer for services at the Facility until satisfactory completion of the criminal background and child protection register checks, provided that an applicant may be employed conditionally consistent with this Chapter; and
- (9) If an applicant fails to pass the criminal background check, the Child Development Facilities shall provide the applicant with written acknowledgment denying applicant employment or a volunteer position, or to terminate an employee or volunteer, based on the outcome of the criminal background check

125.2

All records of criminal background checks and child protection register checks shall be confidential. This information shall be maintained by the Facility in a

secured location with limited access, separate from other records, and the information shall not be released or otherwise disclosed to any person except when:

- (1) Required as one component of an application for employment with any covered child or youth services providers under the Chapter;
- (2) Requested during an official inspection or investigation;
- (3) Ordered by the court;
- (4) Authorized by the written consent of the person being investigated; or
- (5) Utilized for a corrective, adverse, or administrative action in a personnel proceeding.

125.3 An individual who discloses confidential information in violation of this Chapter is guilty of a criminal offense and, upon conviction, shall be fined not more than \$ 1,000 or imprisoned for not more than 180 days, or both.

125.4 Child Development Facilities shall require the applicant to provide the names of and contact information for at least three (3) references, who shall be unrelated to the applicant. Prior to the employment of the applicant, the Facility shall check at least three (3) references for each applicant, to ascertain the applicants suitability for employment in a position of close interaction with children.

125.5 Child Development Facilities shall maintain a record of the reference checks performed for each applicant. The record shall include either a signed and dated letter of reference received by the Facility or documentation of a reference check conducted by telephone, including the name of the Facility licensee, Caregiver, Center Director, or designee conducting the check, the name and telephone number of the reference, the date of the check, and written comments regarding the check.

125.6 Child Development Facilities shall require employees and volunteers to submit to criminal background checks and child protection register checks every three (3) years while employed by, or volunteering at a Child Development Facility subject to this Chapter. All applicants shall submit a criminal background check from the Bureau of Federal Investigations, the District of Columbia Metropolitan Police Department, the District of Columbia Child and Family Services Agency, and, if applicable, the District of Columbia Department of Motor Vehicle, no older than three (3) months.

125.7 An applicant must provide the Facility and OSSE with all the information

necessary to enable the Facility and OSSE to promptly obtain the results of the criminal background and child protection register checks of the applicant, the applicant must provide the following:

- (1) A complete set of qualified, legible fingerprints in a format approved by the FBI;
- (2) Any additional identification that is required, including the name, social security number, birth date, and gender of the applicant, employee, or volunteer;
- (3) A signed affirmation stating whether or not the applicant, employee, or volunteer has been convicted of a crime, has pleaded nolo contendere, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District of Columbia or their equivalent in any other state or territory, or for any of the following felony offenses or their equivalent in another state or territory:
 - A. Murder, attempted murder, manslaughter, or arson;
 - B. Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;
 - C. Burglary;
 - D. Robbery;
 - E. Kidnapping;
 - F. Illegal use or possession of a firearm;
 - G. Sexual offenses at the felony level or misdemeanor level, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;
 - H. Pandering;
 - I. Human Trafficking;

- J. Child abuse or cruelty to children;
- K. Animal abuse or cruelty to animals; or
- L. Unlawful distribution or possession of, or possession with intent to distribute a controlled substance.

125.8 Child Development Facilities shall establish mandatory drug and alcohol testing policies and procedures that are consistent with the requirements of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 1-620.31 *et seq.*).(2001 Ed), which include that:

- (1) All employees in safety sensitive positions shall be subject to random testing, unless the facility has additional requirements for drug and alcohol testing of its employees, in which case the stricter testing requirements shall apply;
- (2) All random testing will be performed no less than quarterly;
- (3) Any employee testing positive shall be considered ineligible to work with children until they have successfully completed a drug and/or alcohol treatment program and the facility has provided evidence that the employee has completed all requirements related to the program and return to duty testing;
- (4) All testing programs shall test for the following drugs:
 - A. Marijuana;
 - B. Cocaine;
 - C. Opiates – opium and codeine derivatives;
 - D. Amphetamines and methamphetamines;
 - E. Phencyclidine – PCP; and
 - F. Alcohol.
- (5) Although alcohol is a legal substance, the use of alcohol is prohibited in the performance of safety-sensitive functions under the following circumstances:
 - A. Concentration: Performing safety-sensitive functions while having an alcohol concentration of 0.04 or greater as indicated

by an alcohol breath test;

B. On-duty Use: The consumption of any beverage, mixture, or preparation (including any medication) containing alcohol. This includes the possession of medicines containing alcohol, prescription drugs, or over-the counter drugs, unless the packaging seal is unbroken; and

C. Pre-Duty Use: Using alcohol within four (4) hours prior to performing safety-sensitive functions.

(6) Any unauthorized use of controlled-substances by safety-sensitive employees is prohibited;

(7) All safety-sensitive employees are required to report any medical use of controlled substances. A controlled substance includes any prescribed drug that will impair or present a risk; and

(8) No safety-sensitive employee shall refuse to submit to a required alcohol or controlled substance test. The employee who refuses to submit to a required test shall not be allowed to perform any safety-sensitive functions and shall be subject to immediate termination.

125.9 Each Child Development Facility shall contract with a professional testing vendor or vendors to conduct testing pursuant to this chapter and the local law. The vendor or vendors shall ensure quality control, chain-of-custody for samples, reliable collection and testing procedures, and any other safeguards needed to guarantee accurate and fair testing.

125.10 The vendor or vendors selected to conduct the testing shall be certified by the United States Department of Health and Human Services (HHS) to perform job-related drug and alcohol forensic testing.

125.11 Home providers shall be tested quarterly and immediately submit their drug test to OSSE. Any home provider testing positive shall be immediately required to terminate the operation of their Facility and forfeit their license.

125.12 An applicant for employment or a volunteer position with any covered child or youth services provider who intentionally provides false information that is material to the application in the course of applying for the position shall be subject to prosecution pursuant to the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009 (D.C. Official Code §22-2405).

126 [RESERVED]

127 [RESERVED]

128 **GENERAL REQUIREMENTS FOR CHILD DEVELOPMENT CENTERS**

128.1 Child Development Facilities shall be managed by a Center Director. The Center Director shall be assisted by Teachers, Assistant Teachers, Aides, Group Leaders or Assistant Group Leaders, as further specified in this Chapter. In all Centers, the Center Director and staff may be assisted by volunteers.

128.2 Each employee or volunteer in the Child Development Center shall be mentally, physically, and emotionally capable of complying with the requirements of the Chapter and performing the duties and activities related to child care and early childhood education. OSSE reserves the right to request an independent medical or psychological review of any employee that is suspected of being unable to adequately care for children.

128.3 Child Development Centers shall not permit a person with a reportable communicable disease to be on duty in program space, or in common indoor or outdoor spaces utilized by the children, or to have contact with a child at the Center, without prior written approval from a licensed health care practitioner.

129 **GENERAL REQUIREMENTS FOR CHILD DEVELOPMENT HOMES**

129.1 A Child Development Home may be licensed to provide care for up to six (6) children or as consistent with the maximum number allowed under the Day Care Policy Amendment Act of 1998 (D.C. Official Code §4-401). The total number of children in the care of a Child Development Home shall not include those of the caregiver who are six (6) years or older except that the total number of children of the caregiver between the ages of six (6) and fifteen (15) shall not exceed three (3) children and of those three (3) children no more than two (2) children shall be age ten (10) or younger.

129.2 A Caregiver who stores, prepares, handles and serves food shall be responsible for following the requirements consistent with the District of Columbia Municipal Regulations, including obtaining all requisite certifications or licenses as required under the applicable laws of the District of Columbia.

129.3 No caregiver in a Child Development Home is permitted to provide foster care, for either children or adults, on the same premises, without the prior written approval of OSSE.

129.4 Caregivers shall be responsible for compliance with all District of Columbia laws and regulations applicable to a Child Development Facility, including all sections in this Chapter, unless specified to be applicable only to Child

Development Centers.

130 GENERAL REQUIREMENTS FOR EXPANDED CHILD DEVELOPMENT HOMES

130.1 Expanded Child Development Homes may be licensed to provide care for more than six (6) children, consistent with the rules and regulations of the District of Columbia. Expanded Child Development Homes must comply with the Day Care Policy Amendment Act of 1998 (D.C. Official Code § 4-401).

130.2 Expanded Child Development Homes shall comply with all of the requirements of this Chapter pertaining to Child Development Facilities and Child Development Homes, with the following additional requirements:

- (1) Each Expanded Child Development Home shall have at least two (2) Caregivers, in compliance with adult /child care ratios; and
- (2) Each Expanded Child Development Home shall provide a minimum of thirty-five square feet (35 ft²) of program space per child.

130.3 No Caregiver in an Expanded Child Development Home is permitted to provide foster care, for either children or adults, on the same premises, without the prior written approval of OSSE.

131 PHYSICAL DEMANDS AND WORK ENVIRONMENT REQUIREMENTS

131.1 Staff and Caregivers shall be able to lift forty pounds (40lbs).

131.2 Staff and Caregivers shall be able to perform all activities with children for extended periods of time.

131.3 Staff and Caregivers shall be able to be outdoors for regular, prolonged activities.

131.4 If a staff member or Caregiver is unable to conform to the requirements in this section, the Child Development Facility must ensure that a sufficient number of staff members, who are able to conform to the requirements in subsections 131.1-131.3, are present on the Facility premises in order to adequately care for enrolled children.

132 CHILD DEVELOPMENT CENTER DIRECTOR QUALIFICATIONS AND RESPONSIBILITIES

132.1 The Director of a Child Development Center shall meet one (1) of the following qualification requirements:

- (1) Have obtained bachelor's or master's degree from an accredited college or university with at least twenty-four (24) credit hours in early childhood development, early childhood education, elementary education or early special education within six (6) years of promulgation;
- (2) An associate degree from an accredited college or university in early childhood education or early childhood development, and at least five (5) years supervised or supervisory experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction, and must obtain a bachelor's or master's degree prescribed in section (a) within six (6) years of promulgation;
- (3) A Montessori School Director must have a Montessori certificate issued by a program accredited by the Montessori Accreditation Commission for Teacher Education, National Center for Montessori Education, American Montessori Society or the Association Montessori International; and at least three (3) years supervised experience working with children in a licensed District of Columbia child development Center or its equivalent in another jurisdiction.

132.2 Any person who is employed as a qualified Center Director in a licensed Child Development Center in the District of Columbia on the effective date of these rules, and who has been employed as a Center Director continuously for the past ten (10) years, may apply to OSSE for a waiver of one (1) or more of the qualification requirements contained within this section. OSSE reserves the right to deny a waiver when a Facility for which the Center Director was responsible received one or more summary suspensions or failed to abate and/or resolve deficiencies.

132.3 For the purposes of this section, early childhood development or early childhood education includes the following subject areas:

- (1) Growth and development of infants, toddlers, and/or preschoolers;
- (2) Care and education of children with special needs;
- (3) Health and physical education of infants, toddlers, and/or preschoolers;
- (4) Therapy through play;

- (5) Language development and/or early childhood literacy;
- (6) Children's literature;
- (7) Arts education;
- (8) Child, adolescent, educational and/or abnormal psychology;
- (9) Nutrition for children;
- (10) Family development;
- (11) Methods of teaching
- (12) Classroom management;
- (13) Child behavior management;
- (14) Curriculum programs and activities for infants, toddlers, and/or preschoolers;
- (15) Educational evaluation and measurement;
- (16) Early Childhood Development or Youth Development administration;
- (17) Culturally responsive care and education; and
- (18) Any other area as determined by OSSE.

132.4 Each Center Director shall successfully complete, prior to or within one (1) year of employment as a Center Director, a total of no less than twelve (12) hours of professional learning units (PLUs) per year, from a source approved by OSSE, in the following core knowledge areas with regard to program management, operations and evaluation:

- (1) Approaches and techniques to plan, organize and use available resources;
- (2) Effective strategies for working productively with staff and community resource individuals and agencies;
- (3) Techniques to conduct program evaluation and to implement program improvements;
- (4) Interpersonal development and communication skills including team building, collaboration, and conflict management principals and skills; and

(5) Fiscal planning and business management skills.

132.5 Interim or acting Center Directors must meet the requirements in this section.

132.6 Center Directors shall attend, upon the request of OSSE, periodic regulatory compliance review sessions presented by or under the auspices of OSSE.

132.7 Center Directors shall be responsible for the supervision, program planning, and administration of the Child Development Center and its staff, consistent with the written, operational policies and philosophy, and shall assume the following responsibilities:

- (1) Ensure compliance with the requirements of this Chapter, and with all applicable Federal and District of Columbia laws;
- (2) Select and supervise qualified staff and volunteers in accordance with the District of Columbia Career Guide for Early Childhood and Out of School Time Professionals;
- (3) Implement pre-service orientation and annual training to each staff member and volunteer, as required;
- (4) Ensure adult/child ratios are maintained in compliance with this Chapter at all times;
- (5) Ensure parent involvement in the program and in the activities of the Center;
- (6) Report unusual incidents as defined by and in accordance with this Chapter;
- (7) Ensure that at least two (2) staff members with current CPR and First Aid certification for children are present on the Facility premises at all times;
- (8) Attend in-service training programs and completing continuing education requirements as specified;
- (9) Report evidence of child abuse and neglect that comes to the Facility staff's attention, in accordance with this Chapter;
- (10) Supervise curriculum implementation at the Center; and
- (11) Ensure staff members have access to ongoing professional development through registration in the District of Columbia's Early Learning Professional Development Information System.

132.8 Center Directors shall be physically present in the Facility at all times during the Centers' peak hours of operation when the majority of children are present, and maintain on the premises a record of days and actual hours of work in the Facility. In situations where the Center Director is not physically present in the Facility due to professional development or other job related responsibilities, the Center Director must designate a Teacher or Group Leader to assume full responsibility for the Facility's operations in the absence of the Center Director.

132.9 Child Development Center Directors shall ensure that the written contingency plan is applicable for all hours of the day, days of the week and weeks of the year. If the written contingency plan utilizes a school, or any other facility that is not available for all days for which the Child Development Center is operating, as an emergency location, the written contingency plan must identify a secondary emergency location.

133 CHILD DEVELOPMENT CENTER TEACHER QUALIFICATIONS AND RESPONSIBILITIES

133.1 A Teacher in a Child Development Center shall be at least eighteen (18) years of age and meet one of the following requirements:

- (1) An associate's degree or higher from an accredited college or university in early childhood education, early childhood development, child and family studies or related field;
- (2) An associate's degree or higher from an accredited college or university in an area other than early childhood education, early childhood development or child and family studies with at least twenty-four (24) credit hours from an accredited college or university in early childhood education, early childhood development, child and family studies or related field, and at least one (1) year of supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction;
- (3) At least 48 credit hours from an accredited college or university, of which 15 must be in early childhood education, early childhood development, or child and family studies and at least two (2) years supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction; and must obtain an associate's degree prescribed in section (a) or (b) within four (4) years of promulgation;
- (4) Possess a high school diploma or equivalent and a valid Child Development Associate (CDA) credential, specifying that the

individual is qualified for the assigned age classification; and must obtain an associate's degree prescribed in section (1) or (2) within four (4) years of promulgation

- (5) For a Montessori school teacher, a Montessori certificate issued by a program accredited by the Montessori Accreditation Commission for Teacher Education, National Center for Montessori Education, American Montessori Society or the Association Montessori Internationale; and at least two (2) years supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction;

133.2 For the purposes of this section, early childhood development and early childhood education shall include the courses listed in this Chapter.

133.3 The duties of Teachers in a Child Development Center shall include the following:

- (1) Assist the Center Director in ensuring compliance with this Chapter,
- (2) Provide, and/or overseeing the provision of, adequate supervision and appropriate care for all of the children in his or her class or group at all times;
- (3) Plan and initiate daily activities aligned with District of Columbia Early Learning Standards and based on the assessed strengths, interests and needs of all of the children in his or her class or group;
- (4) Assist the Center Director in implementing the Facility's policies and procedures;
- (5) Supervise subordinate staff;
- (6) Attend in-service training programs and completing continuing education requirements, as required;
- (7) Communicate regularly with the parent(s) or guardian(s) of each child in his or her class or group about the development of their children;
- (8) Assume responsibility for the program of the Facility in the absence of the Center Director, if and when so designated; and
- (9) Perform other appropriate duties as requested by the Center Director.

134 CHILD DEVELOPMENT CENTER ASSISTANT TEACHER QUALIFICATIONS AND RESPONSIBILITIES

134.1 An assistant teacher in a Child Development Center shall be at least eighteen (18) years of age and shall meet one of the following qualification requirements:

- (1) a high school diploma or General Education Development certificate, plus certification of training and competence in the field of early childhood education or early childhood development from an accredited vocational high school; and must obtain a Child Development Associate Credential within two (2) years of promulgation.
- (2) a high school diploma or General Education Development certificate, plus one (1) year of supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction; and must obtain a Child Development Associate Credential within two (2) years of promulgation..
- (3) Possess a high school diploma or equivalent with a valid Child Development Associate (CDA) credential, specifying that the individual is qualified for the assigned age classification.

134.2 The duties of each Assistant Teacher in a Child Development Center shall include the following:

- (1) Provide supervision and appropriate care to the children in his or her class or group, under the direct supervision of a Teacher or the Center Director;
- (2) Assist the Teacher in planning the daily program of activities, including those aligned with District of Columbia's Early Learning Standards and based on the assessed strengths, interests and needs of all of the children in his or her class or group;
- (3) Assist the Teacher in regular communication with the parent(s) or guardian(s) of each child in his or her class or group about their children's development; and
- (4) Attend in-service training programs and completing continuing education requirements, as required.

135 CHILD DEVELOPMENT HOME CAREGIVER QUALIFICATIONS AND RESPONSIBILITIES

135.1 Each Child Development Home Caregiver shall meet the following

requirements:

- (1) Be at least eighteen (18) years of age;
- (2) Possess a high school diploma or equivalent and obtain a current valid Child Development Associate (CDA) credential within two (2) years of promulgation;
- (3) Attend at least four (4) child development-related training courses, approved by the District of Columbia government, per year, for a total of no less than 12 professional learning units (PLUs) per year;
- (4) Successfully complete training, as approved by OSSE, on precautions against Sudden Infant Death Syndrome;
- (5) Undergo a physical examination by a licensed health care practitioner at least annually, and obtain written and signed documentation, from the examining practitioner, that the Caregiver, at the time of the examination, is free of tuberculosis and other diseases in communicable form, and is physically capable of caring for children; and
- (6) Undergo training and obtain certification in First Aid and CPR for children, and maintain documentation of current certification in both.

135.2

The duties of a Child Development Home Caregiver shall include, but shall not be limited to, the following:

- (1) Orient each member of the Caregiver household to the standards and rules governing Child Development Homes;
- (2) Operate the Home in compliance with all applicable laws and rules, including compliance with background checks for caregivers and any adult living in the household;
- (3) Supervise each enrolled child;
- (4) Ensure that any other duties or activities performed on behalf of the household do not interfere with the supervision and care given to the enrolled children;
- (5) Ensure that each person residing in the home has a physical examination by a licensed health care practitioner at least annually and that each is certified by the examining practitioner to be free of communicable disease;
- (6) Supervise and accompanying all visitors who are present in the Home or on the grounds during the Child Development Home's hours of

operation;

- (7) Report to OSSE and to the parent(s) or guardian(s) of each affected child, any unusual incident or accident that occurs in the Home, in accordance with this Chapter;
- (8) Ensure that an adequate number of qualified registered back-up personnel, in accordance with the requirements set forth in this Chapter, are engaged by the Child Development Home and are available to be present at the Child Development Home when needed, at all times during the Child Development Home's hours of operation, in accordance with this Chapter; and that all qualifications, training, and records be documented, current, and on file for all substitutes and back-up personnel and consistent with the standards set forth in this subsection, as required for all Home Caregivers;
- (9) Develop and implement written contingency plans, including written instructions for all Child Development Home personnel and for all responsible household members, for use in case of emergencies, both medical and non-medical; and
- (10) Be responsible for the overall supervision and administration of the program of care provided to the enrolled children.
- (11) Ensure staff members have access to ongoing professional development through registration in the District of Columbia's Early Learning Professional Development Information System.

135.3 Child Development Home Caregivers shall be physically present in the Facility during the Facility's hours of operation and maintain, on the premises, a record of days and actual hours at work in the Facility. In situations where the Child Development Home Caregiver is not physically present in the Facility due to professional development or other job related responsibilities, the Child Development Home Caregiver must designate a back-up Caregiver to assume full responsibility for the Facility's operations in the absence of the Child Development Home Caregiver.

135.4 Child Development Home Caregivers shall ensure that back-up personnel are available during all hours of the Home's hours of operation and that engagement of back-up personnel does not create a violation of this Chapter. If a Child Development Home Caregiver utilizes another Child Development Home Caregiver as a back-up, if the back-up is engaged, the back-up shall not be responsible for more children than indicated on his or her license capacity.

135.5 Child Development Home Caregivers shall ensure that the written contingency plan is applicable for all hours of the day, days of the week and weeks of the

year. If the written contingency plan utilizes a school, or any other facility that is not available for all days for which the Child Development Home is operating, as an emergency location, the written contingency plan must identify a secondary emergency location.

136 EXPANDED CHILD DEVELOPMENT HOME CAREGIVER QUALIFICATIONS AND RESPONSIBILITIES

136.1 Expanded Child Development Home Caregivers shall comply with the qualification requirements for Caregivers in Child Development Homes contained in this Chapter, except as specifically provided herein.

136.2 Expanded Child Development Home Caregivers shall:

- (1) Be at least eighteen (18) years of age;
- (2) Have obtained one of the following:
 - A. An associate's degree or higher from an accredited college or university in early childhood education, early childhood development, child and family studies or related field; or
 - B. Possess a high school diploma or equivalent and current valid Child Development Associate (CDA) credential; and obtain an associate's degree as prescribed in (i) above within three (3) years of promulgation.
- (3) Have successfully completed one of the following:
 - A. At least one (1) year of operation as the Caregiver in a licensed Child Development Home, or its equivalent in another jurisdiction; or
 - B. At least one (1) year of employment in a licensed Child Development Center, or its equivalent in another jurisdiction, as a Center Director or Teacher.

136.3 Expanded Home Caregivers shall be responsible for the supervision, program planning and administration of the Expanded Child Development Home and its staff, consistent with the written operational policies and philosophy, and shall assume the following responsibilities:

- (1) Operate the Home in compliance with all applicable laws and rules; including compliance with background checks for Caregivers and any adult living in the household;

- (2) Ensure that adult/child ratios are maintained in compliance with this Chapter at all times;
- (3) Ensure that enrolled children are supervised at all times;
- (4) Ensure that at least two (2) staff members with current CPR and First Aid certification for children are present on the Facility premises during peak hours;
- (5) Orient each staff member and member of the Caregiver household to the standards and rules governing Expanded Child Development Homes;
- (6) Ensure that any other duties or activities performed on behalf of the household do not interfere with the supervision and care given to the enrolled children;
- (7) Ensure that each person residing in the home has a physical examination by a licensed health care practitioner at least annually and that each is certified by the examining practitioner to be free of communicable disease;
- (8) Supervise and accompanying all visitors who are present in the home or on the grounds during the Expanded Child Development Home's hours of operation;
- (9) Report to OSSE, and to the parent(s) or guardian(s) of each affected child, any unusual incident or accident that occurs in the home, in accordance with this Chapter;
- (10) Develop and implement written contingency plans, including written instructions for all Expanded Child Development Home personnel and for all responsible household members, for use in case of emergencies, both medical and non-medical; and
- (11) Ensure that at least one (1) staff member is present at all times when meals are being prepared or served who is certified as a Food Protection Manager in accordance with the District of Columbia Food Code, Title 25 of the District of Columbia Municipal Regulations. In order to qualify under this section, the staff member must have a valid and current certification, including photographic identification.

136.4

Expanded Child Development Home Caregivers shall be physically present in the Facility at all times during the Facility's hours of operation and maintain, on the premises, a record of days and actual hours at work in the Facility. In situations where the Expanded Child Development Home Caregiver is not physically present in the Facility due to professional development or other job

related responsibilities, the Expanded Child Development Home Caregiver must designate a back-up Caregiver to assume full responsibility for the Facility's operations in the absence of the Expanded Child Development Home Caregiver.

136.5 Expanded Child Development Home Caregivers shall ensure that back-up personnel are available during all hours of the Facility's hours of operation and that engagement of back-up personnel does not create a violation of this Chapter. If an Expanded Child Development Home Caregiver utilizes another Expanded Child Development Home Caregiver or a Child Development Home Caregiver as a back-up, if the back-up is engaged, the back-up shall not be responsible for more children than indicated on his or her license capacity.

136.6 Expanded Child Development Home Caregivers shall ensure that the written contingency plan is applicable for all hours of the day, days of the week and weeks of the year. If the written contingency plan utilizes a school, or any other facility that is not available for all days for which the Child Development Home is operating, as an emergency location, the written contingency plan must identify a secondary emergency location.

137 EXPANDED CHILD DEVELOPMENT HOME ASSOCIATE CAREGIVER QUALIFICATIONS AND RESPONSIBILITIES

137.1 Each Associate Caregiver in an Expanded Child Development Home shall:

- (1) Be at least eighteen (18) years of age;
- (2) Possess a high school diploma or a General Education Development certificate and current valid Child Development Associate (CDA) credential, with the exception that all Caregivers licensed on the effective date of these rules shall have four (4) years from that date within which to obtain the diploma or certificate and Child Development Associate (CDA) credential; and
- (3) Have successfully completed one of the following:
 - A. At least one (1) year of operation as the Caregiver in a licensed Child Development Home, or its equivalent in another jurisdiction; or
 - B. At least one year of employment in a licensed Child Development Center, or its equivalent in another jurisdiction as a Center Director, Teacher, or Assistant Teacher.

138 OUT-OF-SCHOOL TIME CENTER DIRECTOR QUALIFICATIONS

AND RESPONSIBILITIES

- 138.1 Child Development Centers that provide out-of-school-time care, either alone or in conjunction with infant, toddler, and/or preschool care, shall have a Center Director.
- 138.2 The Center Director for a Center that provides both out-of-school-time care and care for infants, toddlers, and/or preschoolers shall meet the qualification requirements for a Center Director in accordance with this Chapter.
- 138.3 The Center Director in a Child Development Center that provides out-of-school-time care only shall be at least eighteen (18) years of age and shall meet one of the following qualification requirements:
- (1) A bachelor's degree or higher from an accredited college or university in education, child and positive youth development, education or early special education;
 - (2) A bachelor's degree or higher from an accredited college or university, plus at least one (1) year supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent; or
 - (3) An associate's degree from an accredited college or university in education or child and positive youth development, plus at least one (1) year supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent.
- 138.4 For the purposes of this section, a period of supervised work experience must include an average of no less than twenty (20) hours per week. One (1) year experience is equal to one thousand (1,000) hours. Multiple qualifying periods may be aggregated in order to achieve the required total.
- 138.5 Center Directors of out-of-school-time programs shall be responsible for the supervision, program planning and administration of the Child Development Center and its staff, consistent with the written operational policies and philosophy, and shall assume the following responsibilities:
- (1) Ensure compliance with the requirements of this Chapter, and with all applicable Federal and District of Columbia laws;
 - (2) Select and supervise qualified staff and volunteers in accordance with

the District of Columbia Career Guide for Early Childhood and Out of School Time Professionals;

- (3) Implement an initial orientation and annual training for staff member and volunteer as required;
- (4) Ensure that adult/child ratios are maintained in compliance with this Chapter;
- (5) Ensure parent involvement in the program and in the activities of the Center;
- (6) Report unusual incidents as defined by and in accordance with this Chapter;
- (7) Ensure that at least two (2) staff members with current CPR and First Aid certification for children are present on the Facility premises at all times;
- (8) Attend in-service training programs and completing continuing education requirements as specified;
- (9) Report evidence of child abuse and neglect that comes to the Facility staff's attention, in accordance with this Chapter;
- (10) Supervise curriculum implementation at the Center; and
- (11) Ensure staff members have access to ongoing professional development through registration in the District of Columbia's Early Learning Professional Development Information System.

139 OUT-OF-SCHOOL TIME PROGRAM GROUP LEADER QUALIFICATIONS AND RESPONSIBILITIES

139.1 In a Child Development Center that provides both out-of-school-time care and care for infants, toddlers, and/or preschoolers, a qualified Teacher shall be deemed to meet the qualification requirements for a Group Leader.

139.2 A Group Leader, whose sole responsibility is to supervise an out of school time program group, shall be at least eighteen (18) years of age and shall meet one of the following qualification requirements:

- (1) An associate's degree or higher from an accredited college or university in education or child and youth development;
- (2) At least forty-eight (48) credit hours from a regionally accredited

college or university, at least nine (9) credit hours from a regionally accredited college or university in education or child and youth development, or a child and positive youth development certificate plus at least six (6) months supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent; or

- (3) A high school diploma or its equivalent, plus at least one (1) year supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent.

139.3 In order to qualify for the purpose of this section, a period of supervised work experience must include an average of no less than twenty (20) hours per week. One (1) year experience is equal to one thousand (1,000) hours. Multiple qualifying periods may be aggregated in order to achieve the required total.

139.4 The duties and responsibilities of each Group Leader shall include the following:

- (1) Supervise, assist, and guide the children in his or her assigned group;
- (2) Assist the Center Director in planning the program of care and education;
- (3) Supervise subordinate staff; and
- (4) Communicate regularly with the parent(s) or guardian(s) of each child in his or her group concerning their children.

140 OUT OF SCHOOL TIME ASSISTANT GROUP LEADER QUALIFICATIONS AND RESPONSIBILITIES

140.1 In a Child Development Center that provides both out-of-school-time services and services for infants, toddlers, and/or preschoolers, a qualified Assistant Teacher shall be deemed to meet the qualification requirements for an Assistant Group Leader.

140.2 An Assistant Group Leader in a Child Development Center that provides out-of-school- time care and education only shall be at least eighteen (18) years of age, shall have at least a high school diploma or its equivalent, and shall have at least six (6) months supervised experience working with children of compulsory school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the

equivalent.

140.3 For the purposes of this section, a period of supervised work experience must include an average of no less than twenty (20) hours per week. Six (6) months experience is equal to five hundred (500) hours. Multiple qualifying periods may be aggregated in order to achieve the required total.

140.4 Each Assistant Group Leader shall work under the direct supervision of a Group Leader.

140.5 The duties and responsibilities of an Assistant Group Leader shall be to aid the Group Leader in guiding the activities of the children.

141 CHILD DEVELOPMENT FACILITY NON-PROFESSIONAL STAFF REQUIREMENTS (AIDES AND VOLUNTEERS)

141.1 Each aide or volunteer in a Child Development Facility shall work under the direct supervision of a Caregiver, Teacher, Assistant Teacher, Associate Caregiver, Group Leader, Assistant Group Leader, or Center Director at all times.

141.2 The duties of each aide or volunteer in a Facility shall include the following:

(1) Assist the Caregiver, Teacher, Assistant Teacher, Associate Caregiver, Group Leader, Assistant Group Leader, and/or Center Director as directed;

(2) Provide supervision and appropriate care to the children in his or her assigned class or group, under the direct supervision of a Teacher, Assistant Teacher, Associate Caregiver, Group Leader, Assistant Group Leader, or Center Director; and

(3) Attend in-service training programs and completing continuing education requirements, as required.

141.3 Child Development Facilities shall ensure that no aide or volunteer has sole responsibility for a group or classroom, or for the Center, at any time.

141.4 Aides and volunteers who work directly with children on an on-going basis are subject to the criminal background and child protection register checks as required in this Chapter. Child Development Facilities shall maintain, and provide to OSSE upon request, documentation of criminal background and child protection register checks of aides and volunteers.

141.5 Aides and volunteers under the age of eighteen (18) who have been charged

with, convicted or adjudicated of a criminal offense, which would prohibit the employment of a person over the age of eighteen (18), shall not serve in a Child Development Facility.

141.6 Child Development Facilities shall ensure that aides and volunteers under the age of eighteen (18) provide a statement from juvenile court that the aide or volunteer does not have a juvenile record. If the aide or volunteer has a juvenile record, the aide or volunteer may choose to reveal the nature of the offense in order to document that the offense was not an offense which would prohibit the employment of a person over the age of eighteen (18).

141.7 Unless otherwise required by a child's IFSP or IEP, no more than two (2) volunteers may serve in a classroom or with a group at one time.

141.8 Child Development Facilities shall have all volunteers who are not directly working with children on an on-going basis and chaperones sign an attestation that the volunteer or chaperone is not on the Child Protection Register, that the volunteer or chaperone will submit to a criminal background check if requested and that children in the charge of the chaperone will remain in the sight and hearing of a Facility staff member at all times.

141.9 Aides, volunteers and chaperones are prohibited from administering any form of discipline.

142 [RESERVED]

143 [RESERVED]

144 PROFESSIONAL DEVELOPMENT REQUIREMENTS FOR STAFF IN CHILD DEVELOPMENT CENTERS, HOMES, AND EXPANDED HOMES

144.1 Each paid employee of Child Development Facilities serving infants, toddlers, and/or preschoolers whose duties and/or responsibilities include the care of enrolled children shall participate in annual professional development in the fields of child and youth development, early childhood education or child and family studies as follows:

- (1) Child Development Center staff shall participate in at least 21 hours of professional development annually;
- (2) Child Development Home Caregivers and staff shall participate in at least 12 hours of professional development annually; and
- (3) Child Development Expanded Home Caregivers and staff shall participate in at least 15 hours of professional development annually.

144.2

Each paid employee of a Child Development Facility serving infants, toddlers, and/or preschoolers whose duties and/or responsibilities include the care of enrolled children shall have pre-service training in the following areas:

- (1) Prevention and control of infectious diseases (including immunization)
- (2) Prevention of sudden infant death syndrome and use of safe sleeping practices
- (3) Administration of medication, consistent with standards for parental consent
- (4) Prevention of and response to emergencies due to food and allergic reactions
- (5) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic
- (6) Prevention of shaken baby syndrome and abusive head trauma
- (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a) (1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(1))
- (8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants
- (9) Precautions in transporting children (if applicable)
- (10) First aid and cardiopulmonary resuscitation (CPR) certification

144.3

The required annual professional development shall include the following subject areas:

- (1) Child health, including universal precautions, and reportable communicable diseases and appropriate responsive action thereto;
- (2) Child abuse and neglect prevention, detection and reporting, including mandatory reporting requirements;
- (3) Developmentally appropriate programming for infants, toddlers, preschool and/or school-age children, as applicable;
- (4) Developmentally appropriate methods of positive behavior invention and support;
- (5) Inclusion of children with special needs, including the Americans with Disabilities Act and the Individuals with Disabilities Education Act; and
- (6) Precautions and interventions for Sudden Infant Death Syndrome; and

(7) Any other area as determined by OSSE.

144.4 Optional subject areas for continuing education and professional development, as required by this section, include the following:

- (1) Any area listed in this Chapter;
- (2) First aid and CPR for children (Note online courses do not fulfill this requirement);
- (3) Prevention, recognition, and management of communicable diseases;
- (4) Medication administration;
- (5) Use of physical space and play equipment;
- (6) Communication and collaboration with parents and families;
- (7) Community health and social services resources for children and families;
- (8) Planning developmentally appropriate programs and activities for children and families;
- (9) Enhancing self-regulation and self-esteem in children;
- (10) Developmentally appropriate positive behavior intervention and support;
- (11) Basic or advanced business practices; and
- (12) Any other area as determined by OSSE.

144.5 In-service training that meets the requirements of this Chapter may occur in a variety of settings, be conducted by an Early Childhood Education certified trainer or training organization or a regionally accredited or OSSE-approved college or university, including but not limited to:

- (1) Seminars, workshops, conferences, and association meetings; or
- (2) Course held by accredited colleges, universities, or technical schools, including Internet courses offered by these educational institutions.

144.6 Child Development Facilities shall obtain and maintain adequate documentation of each staff member's participation in professional development and earned continuing education units. Acceptable documentation shall include one (1) or more of the following:

- (1) Transcript from a regionally accredited or OSSE approved college, university or technical school;
- (2) Certification of participation from a training source approved by OSSE;
- (3) Written documentation verifying completion of training in First Aid for children, CPR for children, or common childhood illnesses, from acceptable sponsoring entities, including the American Red Cross, the American Heart Association, the National Safety Council, and other similarly recognized and accredited organizations; or
- (4) A signed and dated statement from the trainer, on a form approved by OSSE, verifying the staff member's participation in a training program conducted by a trainer licensed, certified, or otherwise approved by OSSE.

144.7 Each volunteer serving a Child Development Facility shall participate, at least annually, in a training seminar, which shall include a review of the subject areas listed in this Chapter.

145 PROFESSIONAL DEVELOPMENT REQUIREMENTS FOR STAFF IN OUT-OF-SCHOOL-TIME PROGRAMS

145.1 Each paid employee of a Child Development Facility providing out-of-school-time care whose duties and/or responsibilities include solely the care of school-aged children shall participate in at least ten (10) hours of professional development annually in the fields of child and youth development and/or education.

145.2 Each paid employee of a Child Development Facility serving infants, toddlers, and/or preschoolers whose duties and/or responsibilities include the care of enrolled children shall have pre-service training in the following areas:

- (1) Prevention and control of infectious diseases (including immunization)
- (2) Prevention of sudden infant death syndrome and use of safe sleeping practices
- (3) Administration of medication, consistent with standards for parental consent
- (4) Prevention of and response to emergencies due to food and allergic reactions

- (5) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic
- (6) Prevention of shaken baby syndrome and abusive head trauma
- (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a) (1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(1))
- (8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants
- (9) Precautions in transporting children (if applicable)
- (10) First aid and cardiopulmonary resuscitation (CPR) certification

145.3

145.4 The required annual professional development shall include the subject areas specified in this Chapter, as applicable to school-age children.

145.5 Acceptable subject areas for continuing education and professional development include the subject areas specified in this subsection, as applicable to school-age-children, plus the following additional areas as applicable to the age range of the children served by the Facility:

- (1) Recreation;
- (2) Science and technology;
- (3) Music, visual, and performing arts;
- (4) Youth development; and
- (5) Guidance

146 CHILD CARE DEVELOPMENT CENTER AND OUT-OF-SCHOOL TIME INDOOR AND OUTDOOR PROGRAM SPACE

146.1 For the purposes of this section, "Program Space" is defined as space within the Child Development Center, exclusive of:

- (1) food preparation areas;
- (2) kitchens;
- (3) bathrooms;

- (4) toilets;
- (5) offices;
- (6) staff rooms;
- (7) corridors;
- (8) hallways;
- (9) stairways;
- (10) closets;
- (11) lockers;
- (12) laundry rooms;
- (13) furnace rooms;
- (14) file cabinets;
- (15) storage spaces; and
- (16) non-movable furniture that is not designed for the use of enrolled children.

146.2 Child Development Centers shall provide adequate indoor program space for the daily program of the Center. OSSE shall determine the licensed capacity of each Center serving infants, toddlers, and/or preschoolers so that there is a minimum of thirty-five square feet (35 ft²) of program space per child. Child Development Centers shall maintain a minimum of thirty-five square feet (35 ft²) of program space per child at all times.

146.3 The indoor program space for infant and toddler activities shall contain a minimum of thirty-five square feet (35 ft²) per child of unencumbered instructional and/or play space, or a minimum of forty-five square feet (45 ft²) per child of encumbered instructional or play space measured on the inside wall-to-wall dimensions.

146.4 For purposes of this section, “Unencumbered Instructional and/or Play Space” means program space that is free of permanent fixtures, architectural structures, equipment, bedding, and furniture that are unrelated to the program, and “Encumbered Instructional and/or Play Space” means program space that is restricted by permanent fixtures, architectural structures, equipment, bedding, or furniture that are unrelated to the program.

- 146.5 Children either under the age of two (2) years six (6) months, or non-ambulatory children, may only occupy space on the street level that has two (2) means of egress, and has ramps to enable staff to put the children in a crib to roll them out in the case of an emergency.
- 146.6 All program space that children use shall be heated, cooled, and ventilated to maintain the required temperatures, and air exchange to avoid accumulation of odors and fumes. The temperature within each room of program space shall be maintained at between sixty-eight degrees Fahrenheit (68°F) and seventy-five degrees Fahrenheit (75°F) from October through March, and between sixty-eight degrees Fahrenheit (68°F) and eighty-two degrees Fahrenheit (82°F) from April through September.
- 146.7 Child Development Centers shall provide a separate room, or a separate designated area within a room, for the temporary or ongoing care of a child who needs to be separated from the group due to injury or illness. This room or area shall be located so that any child in the room is within sight and hearing of the Center staff at all times, and so that toilet and lavatory facilities are readily accessible. This room or area may be used for other purposes when not needed for such separation of a child.
- 146.8 Child Development Centers shall ensure that adequate room is provided for all program activities, and shall:
- (1) Arrange the space to permit the easy accommodation of the entire range of activities offered by the program;
 - (2) Arrange the space so that various activities can occur simultaneously without disruption of one by another; and
 - (3) Ensure that there is adequate and convenient storage space for equipment, materials, and the personal possessions of enrolled children and Facility staff.
- 146.9 If a Child Development Center is located in a building that also houses other entities or persons, the portion of the building to which the children from the Center have access shall be for the exclusive use of children and staff of the Center during the Center's normal hours of operation, with the exception of entryways, hallways, and other common areas in the building normally available for use by the public. If unrelated business is conducted in child care areas, when the Child Development Center is not in operation, activities associated with such business should not leave any residue in the air or on the surfaces or leave behind materials or equipment that can be harmful to children.
- 146.10 Child Development Centers serving infants, toddlers, and preschoolers shall

provide suitable age-appropriate outdoor play space. This play space shall be:

- (1) In an enclosed yard on the Facility premises;
- (2) A nearby park or playground; or
- (3) A rooftop play space that meets the requirements of this Chapter.

146.11 Child Development Centers shall provide a minimum of sixty square feet (60 ft²) of outdoor play space per child, based on the maximum number of children scheduled to play outdoors at any one time.

147 CHILD DEVELOPMENT HOME AND EXPANDED HOME INDOOR AND OUTDOOR SPACE REQUIREMENTS

147.1 Child Development Homes and Expanded Homes shall obtain approval from OSSE for the use of all program space, and may only offer child care in approved space.

147.2 The Caregiver or Child Development Home or Expanded Home staff shall arrange the play space and the furniture in the approved program space within the Child Development Home or Expanded Home so as to allow adequate room for active and quiet play and for individual and group activities.

147.3 Program space does not include:

- (1) Food preparation areas within the kitchen;
- (2) Bathrooms
- (3) Hallways;
- (4) Stairways;
- (5) Closets;
- (6) Laundry rooms or areas;
- (7) Furnace rooms; and
- (8) Storage spaces.

147.4 Child Development Homes or Expanded Homes shall provide a sufficient amount, as determined by OSSE, of developmentally appropriate toys, games, equipment, materials, and books to meet the needs of the children enrolled at the Facility.

147.5 Child Development Homes or Expanded Homes serving infants, toddlers, and preschoolers shall provide suitable space for outdoor play. This play space shall be in an enclosed yard on the Facility premises, in a nearby park or playground, or in a rooftop play space that meets the requirements of this Chapter.

147.6 Child Development Homes and Expanded Homes shall provide a minimum of sixty square feet (60 ft²) of outdoor play space per child, based on the maximum number of children scheduled to play outdoors at any one time.

148 CHILD DEVELOPMENT FACILITY OUTDOOR EQUIPMENT AND SAFETY

148.1 Child Development Facilities shall maintain the outdoor play space free of standing water, litter, broken glass, wooden splinters, weeds, brush, high grass, and conditions that are, or might be, hazardous to the health, safety, or welfare of children.

148.2 Each outdoor play area in use by one or more enrolled children shall be visible to Facility staff at all times.

148.3 Child Development Facilities shall ensure that outdoor play space is supervised by adult staff in sufficient quantity and appropriate placement to ensure that all children are within sight and hearing of at least one staff member at all times.

148.4 Child Development Facilities shall ensure that staff, while supervising a group of children in the outdoor play space, are able to summon another adult staff member if the need arises, without leaving the children unsupervised at any time.

148.5 Child Development Facilities shall ensure that all outdoor play areas and equipment conform to the standards established by the U.S. Consumer Product Safety Commission and by the American Society for Testing and Materials.

148.6 Child Development Facilities utilizing an outdoor play space on the Facility premises shall enclose the outdoor play space with a fence or natural barrier, which shall be at least four (4) feet high, with a space no larger than 3-1/2 inches between its bottom edge and the ground, and designed to discourage climbing.

148.7 Child Development Facilities shall provide at least two exits from each outdoor play space. At least one of these exits shall be remote from the Facility building(s).

- 148.8 Child Development Facilities shall ensure that all outdoor gates have positive self-latching closure mechanisms that are at least four (4) feet off the ground or constructed in a manner so that they cannot be opened by a preschool-age child.
- 148.9 Child Development Facilities shall ensure that the design, construction and installation of all outdoor play equipment are consistent with the guidelines published by the U.S. Consumer Product Safety Commission's Public Playground Safety Handbook.
- 148.10 The Center Director, Caregiver, or designated Facility staff shall conduct a daily inspection of each outdoor play space. The daily inspection shall be documented and maintained in a Facility log. All problems must be corrected as soon as possible and children prohibited from using equipment that does not meet safety standards. The inspection shall include, at a minimum, an inspection of the space itself, removal of all trash, debris, broken glass and other foreign or hazardous materials, and an inspection of each piece of equipment for:
- (a) Visible cracking, bending, warping, rusting, or breaking;
 - (b) Deformation of open hooks, shackles, rings, links, and the like;
 - (c) Worn swing hangers and chains;
 - (d) Missing, damaged, or loose swing seats;
 - (e) Broken supports or anchors;
 - (f) Exposed, cracked, or loose cement support footings;
 - (g) Exposed tubing ends that require plugs or cap covers;
 - (h) Accessible sharp edges or points;
 - (i) Protruding bolt ends that require caps or covers;
 - (j) Loose bolts, nuts, or screws that require tightening;
 - (k) Splintered, cracked, or otherwise deteriorating wood;
 - (l) Moving parts in need of lubrication;
 - (m) Worn bearings or other worn mechanical parts;
 - (n) Broken or missing rails, steps, rungs, or seats;

- (o) Worn or scattered surfacing materials;
- (p) Exposed hard surfaces, especially under swings and slides;
- (q) Chipped or peeling paint;
- (r) Pinch or crush points; and
- (s) Exposed mechanisms, junctures, and moving components.

- 148.11 If any hazard listed in this section is noted or observed, the Child Development Facility shall immediately correct the hazardous condition or shall remove the piece of equipment from use until it is corrected.
- 148.12 Child Development Facilities serving both preschool and school-age children shall separate the outdoor play spaces used by infants, toddlers, and preschool children from the play spaces used by school-age children. The separation shall be accomplished so as not to limit the activities of either age group.
- 148.13 Child Development Facilities shall ensure that all surface areas beneath and in the fall zones of climbing equipment, slides, swings, and similar equipment are covered in resilient material that meets applicable regulatory specifications related to diminishing the impact of falls.
- 148.14 Child Development Facilities shall ensure that all outdoor equipment is securely anchored and installed so as to prevent tipping or collapsing.
- 148.15 Child Development Facilities shall ensure that all outdoor play equipment is free of pinch, crush or shear points on all surfaces that are or may be accessible to children.
- 148.16 Child Development Facilities shall provide only swing seats constructed of durable, lightweight, relatively pliable material.
- 148.17 Child Development Facilities shall not provide trampolines.
- 148.18 Child Development Facilities shall maintain all outdoor sandboxes and play areas containing sand in a safe and sanitary condition, including being completely covered when not in use and free of debris.
- 148.19 Child Development Facilities shall ensure that no lawn mowers, hedge clippers, shears and/ or other similar items are used or stored unlocked in any outdoor play space when children are present.

- 148.20 If a Child Development Facility chooses to utilize a rooftop play space, the Facility shall enclose the rooftop play space with a sturdy fence at least six (6) feet high and designed to prevent climbing.
- 148.21 Child Development Facilities shall provide a fire escape, which leads from the rooftop play space to an open space at the ground level of the Facility premises, and for which the Facility has received written approval from the Department of Consumer and Regulatory Affairs or the Department of Fire and Emergency Medical Services.
- 148.22 Before a Child Development Facility may utilize a rooftop play space, the Facility shall obtain written approval from the Department of Consumer and Regulatory Affairs or the Department of Fire and Emergency Medical Services that the additional load presented by the children, staff, and play equipment on the roof is within the load capacity of the building structure.
- 148.23 Before a Child Development Facility may utilize a rooftop play space, the Facility shall obtain written approval from the Department of Consumer and Regulatory Affairs or the Department of Fire and Emergency Medical Services of the safety of the fence, and shall submit this approval to OSSE.
- 148.24 Child Development Facilities utilizing a rooftop play space shall undergo and pass an annual safety inspection of the fence around the play space by Department of Consumer and Regulatory Affairs or the Department of Fire and Emergency Medical Services.
- 148.25 Child Development Facilities utilizing a rooftop play space shall undergo and pass an annual safety inspection of the space by the Department of Fire and Emergency Medical Services.
- 148.26 Child Development Facilities utilizing a rooftop play space shall post a copy of each current certification and/or safety report next to the Facility's license, in a conspicuous location on the Facility premises.

149 GENERAL REQUIREMENTS FOR MATERIALS, EQUIPMENT AND SUPPLIES

- 149.1 Child Development Facilities shall provide a variety and sufficient quantities of materials, equipment and supplies for indoor and outdoor activities, consistent with the numbers, ages and needs of the infants, toddlers, preschool and school-age children enrolled.
- 149.2 Materials, equipment and supplies accessible to children shall be age appropriate, safe, in good repair, clean, and non-toxic, and shall be accessible to and appropriate for children with special needs if the Facility provides care

to such children.

- 149.3 Child Development Facilities shall ensure that there are sufficient quantities of materials and equipment to keep all children attending the facility engaged, even if in different activities, at all times, and
- (1) Avoid excessive competition among the children and long waits for use of the materials and equipment; and
 - (2) Provide for a variety of experiences and appeal to the individual interests of the children.
- 149.4 Child Development Facilities shall ensure that materials provided are culturally sensitive, culturally relevant and designed to promote:
- (1) Social development;
 - (2) Language development and communication skills;
 - (3) Self-help skills;
 - (4) Large and small muscle development;
 - (5) Creative expression; and
 - (6) Cognitive Development.
- 149.5 Child Development Facilities shall have available a sufficient number of strollers, or carriages with appropriate restraints, for the infants and non-ambulatory children enrolled.
- 149.6 Child Development Facilities shall ensure that highchairs, if used, have a wide base, securely locking base, a crotch bar/guard, and a safety strap. The safety strap must be fastened with every use.
- 149.7 Child Development Facilities shall ensure that changing tables meet the following requirements:
- (1) Have impervious, nonabsorbent, smooth surfaces that do not trap soil and are easily disinfected;
 - (2) Be sturdy and stable to prevent tipping over;
 - (3) Be at a convenient height for use by Facility staff; and
 - (4) Be equipped with railings or barriers.

150 TOILETING

- 150.1 Child Development Facilities serving preschoolers shall provide at least one (1) flush toilet and one (1) sink for every ten (10) children based on the licensing capacity of the Facility.
- 150.2 Child Development Facilities providing out-of-school-time care to compulsory school-age children shall provide at least one (1) flush toilet and one (1) sink for every twenty (20) children based on the licensing capacity of the Facility.
- 150.3 Urinals may be substituted for flush toilets in Facilities in a ratio of two (2) urinals to (1) flush toilet, provided that at least two-thirds (2/3) of the required number of flush toilets are maintained.
- 150.4 Child Development Facilities shall provide bathroom facilities for use by adults separately from those for use by children.
- 150.5 At any toilet or sink in a Child Development Facility that is too high to be used by one or more enrolled children without assistance, the Facility shall provide a block or step for the child or children's use.
- 150.6 Child Development Facilities shall provide toilet training chairs and/or seats, at the discretion of the Facility, for use by any child or children who require them. Training chairs shall be emptied promptly and sanitized after each use. Training chairs shall be made of non-porous, synthetic products.
- 150.7 Child Development Facilities shall provide toilet paper, antibacterial liquid pump soap and single-use paper towels in each bathroom within children's reach.

151 GENERAL SAFETY AND MAINTENANCE REQUIREMENTS

- 151.1 All playthings, equipment, materials, and furnishings provided by a Child Development Facility for use by children shall meet the standards of the Consumer Product Safety Commission and the American Society for Testing and Materials, and shall:
- (1) Be sturdy enough that they will not splinter;
 - (2) Not have sharp points or rough edges;
 - (3) Have lead-free, non-toxic paint or finishes;
 - (4) Be washable, regularly washed, and maintained in good repair; and
 - (5) Comply with Federal standards regarding small toys and objects for use

by children.

- 151.2 In addition to the requirements contained within this Chapter, all play equipment, materials and furnishing provided by a Facility for use by children under the age of three (3) years shall:
- (1) Be large enough that they cannot be swallowed;
 - (2) Not have small parts that may loosen and fall off, such as buttons on stuffed animals;
 - (3) Comply with Federal standards regarding small toys and objects for use by young children; and
 - (4) Be maintained and kept clean.
- 151.3 All play equipment shall be constructed and installed to ensure its safe use by all enrolled children (height shall not be excessive for infants and toddler and the equipment shall not be a potential source of entrapment). There shall be no pinch, crush, or shear points on or underneath such equipment that may be accessible to children.
- 151.4 Child Development Facilities shall remove, repair, or discard all furniture, equipment, and materials that are not usable due to breakage or to hazardous conditions.
- 151.5 Projectile toys shall be prohibited.
- 151.6 Highchairs shall be used only during meal times and shall not be used to restrain children at any other time.
- 151.7 Tricycles and other riding toys provided by a Facility shall be steerable, appropriate to the ages and sizes of the children enrolled, and shall not contained spokes.
- 151.8 Child Development Facilities shall maintain tricycles and other riding toys in a good condition, free of sharp edges or protrusions that may injure children. When not in use, such toys shall be stored in a place where they will not present physical obstacles to the children and staff. The Facility staff shall inspect riding toys and wheeled equipment prior to a child's use for loose or missing hardware/parts, protrusions, or other hazards that may lead to injury.
- 151.9 Child Development Facilities shall ensure that all children one (1) year of age and over wear helmets that are properly fitted and approved by the U.S. Consumer Product Safety Commission (CPSC) while riding wheeled equipment such as tricycles, bicycles, scooters, roller skates, rollerblades, or

skateboards.

- 151.10 Protrusions such as pipes, wood ends, or long bolts that may catch a child's clothing are prohibited.
- 151.11 Child Development Facilities shall maintain carpeting that is clean, in good repair, nonflammable, and nontoxic.
- 151.12 Child Development Facilities shall maintain floors that are free from cracks, bare concrete, dampness, splinters, and sliding rugs.
- 151.13 Child Development Facilities shall ensure that the telephone number for the Poison Control Center is posted in a location where it is readily available in emergency situations.
- 151.14 Child Development Facilities shall use only non-toxic arts and crafts materials.
- 151.15 Child Development Facilities shall install finger-pinch protection devices on doors, cupboards/cabinets, and gates which are accessible to children.
- 151.16 Child Development Facilities shall ensure that electrical outlets which are not in use and are within the reach of children are fitted with appropriate child-proof protective outlet covers that meet the Underwriters Laboratories, Inc. standard for Safety of Receptacle Closures (UL 2255).
- 151.17 Child Development Facilities shall install Ground Fault Circuit Interrupters (GFCIs) in areas accessible to children where electrical products may come into contact with water.
- 151.18 A Child Development Facility shall not use space heaters unless it has received explicit approval, in writing, from an official of the Department of Consumer and Regulatory Affairs and/or the Department of Fire and Emergency Medical Services. If given approval, space heaters shall:
- (1) Be attended while in use and be off when unattended;
 - (2) Be inaccessible to children;
 - (3) Have protective covering to keep hands and objects away from the electric heating element;
 - (4) Be placed on the floor only and at least three feet from curtains, papers, furniture, and any flammable object;
 - (5) Be properly vented, as required for proper functioning;

- (6) Be used in accordance with the manufacturer's instructions; and
 - (7) Not be used with an extension cord.
- 151.19 Child Development Facilities shall ensure that fireplaces and fireplace inserts are inaccessible to children.
- 151.20 Child Development Facilities shall ensure that no illegal substances or drugs are on the Facility's premises.
- 151.21 Child Development Facilities shall ensure that no firearms or other weapons are on the Facility's premises, with the exception of those licensed and appropriately in the possession and control of armed security guards authorized to protect the Facility premises.
- 151.22 Child Development Facilities shall maintain adequate storage space for play and teaching equipment, supplies, records, and children's possessions and clothing.
- 151.23 Child Development Facilities shall ensure that all toys and other objects or surfaces that are likely to be mouthed by children are sanitized daily with a bacterial disinfectant solution.
- 151.24 Child Development Facilities shall ensure that shoes are removed or covered prior to entering play areas used by infants.
- 151.25 Child Development Facilities shall ensure that all cleaning and sanitizing supplies, toxic substances, paint, poisons, aerosol containers, and other items bearing warning labels are safely stored and are kept inaccessible to the children at all times.
- 151.26 Child Development Facilities shall ensure that all appliances, sharp utensils, and other dangerous devices are kept inaccessible to the children at all times.
- 151.27 Child Development Facilities shall keep protective coverings on all electrical fans, shall ensure that fans are placed so that they will not easily topple or tip over, and shall ensure that fans are kept out of the reach of children at all times.
- 151.28 Child Development Facilities shall ensure that strings and cords long enough to encircle a child's neck are not accessible to children.
- 151.29 The use of infant walkers, crib gyms, collapsible cribs and playpens is prohibited.
- 151.30 Child Development Facilities shall ensure that exits are clearly identified and visible at all times. The exits for egress must be arranged or marked so the path

to exit the building is clear.

151.31 Child Development Facilities shall ensure that no obstructions are placed in corridors or passageways leading to exits.

151.32 Child Development Facilities shall ensure that the safety, health, and well-being of all children within their care are ensured at all times.

152 SUPERVISION, GROUP SIZE AND ADULT/CHILD RATIOS

152.1 Child Development Centers shall have at least two (2) staff persons caring for each group at all times. In Centers serving infants, toddlers, and/or preschoolers, there shall be a Teacher, who may also be the Center Director, and an Assistant Teacher or aide for each group at all times, except as further specified herein.

152.2 Adult/child ratio shall be met at all times, including non-peak hours and during nap/rest periods.

152.3 During non-peak hours or during nap or rest periods, another adult staff member or adult volunteer may substitute for one (1) of the staff members specified, provided that at least one (1) Teacher or Assistant Teacher supervises the group.

152.4 In part-day programs, operating no more than four (4) hours per day, the Child Development Facility may substitute an adult volunteer for an Assistant Teacher or aide.

152.5 Except as otherwise provided in this subsection, volunteers may not be used to meet adult/child ratio requirements.

152.6 Caregivers/Teachers shall directly supervise infants, toddlers, and preschoolers by sight and hearing at all times, even when the children are going to sleep; napping or sleeping; are beginning to wake up; or are indoors or outdoors.

152.7 In the event that the required adult/child ratio is met but the situation or circumstance requires additional staff in order to ensure that all children are within the sight and hearing of staff members, then the Facility must provide additional staff to ensure adequate supervision of all children.

152.8 Caregivers/Teachers shall regularly count children, including but not limited to, on a scheduled basis, at every transition, and going indoors or outdoors. Caregivers/Teacher must be able to state how many children are in their care at all times.

- 152.9 In Child Development Facilities providing out-of-school-time care, the specific requirements in this Chapter shall be deemed sufficient for the out-of-school-time program, to the extent that they may differ from the requirements contained in this section.
- 152.10 A licensed Montessori Child Development Facility that is duly accredited by American Montessori Society (AMS) and the Association Montessori Internationale (AMI) or other OSSE approved non-traditional program, may exceed the adult/child ratio or group size requirement by no more than fifty percent (50%) of the ratios established in this Chapter.
- 152.11 When children of varying ages anywhere from ages two (2) years or older are grouped together in conformance with the implementation of a Montessori curriculum, the average age of all of the children in the age group of two (2) through five (5) years shall be used to determine the group maximum size and appropriate adult/child ratio.
- 152.12 While children with varying ages anywhere from ages thirty (30) months and older are grouped together for napping, one (1) staff person shall be present within sight and sound of the children at all times. The group and a second staff person or volunteer on duty, shall be present in the Child care Development Facility portion of facility premises if not providing childcare.
- 152.13 Child Development Facilities shall maintain the adult/child ratios and group sizes as specified herein:

- (1) For Centers serving infants, toddlers, and preschoolers:

AGE OF CHILDREN	ADULT/CHILD RATIO	MAXIMUM SIZE OF
0 – 12 months	1:4	8
12 – 24 months	1:4	8
24 – 30 months	1:4	12
30 months through 3 years	1:8	16
4 – 5 years	1:10	20

- (2) For Centers providing out-of-school-time care to children of compulsory school age:

AGE OF CHILDREN	ADULT/CHILD RATIO	MAXIMUM SIZE OF
Under 6 years	1:10	20
6 years and older	1:12	24

- (3) For Homes and Expanded Homes serving infants, toddlers, and preschoolers, and providing out-of-school-time care to children of compulsory school age:

<u>AGE OF CHILDREN¹</u>	<u>ADULT TO CHILD RATIO</u>	<u>MAXIMUM GROUP SIZE</u>
1 child under age 2 years of age and between 1 and 11 children over 2 years of age	1:6	12
2 children under 2 years of age and between 1 and 4 children over 2 years of age	1:6	6
3 children under 2 years of age and between 1 and 6 children over 2 years of age	1:3 (but at least 2 caregivers)	9
4 children under 2 years of age and between 1 and 8 children over 2 years of age	1:3 (but at least 2 caregivers)	12
5 children 2 years of age and between 1 and 4 children over 2 years of age	3 caregivers	9
6 children under 2 years of age and between 1 and 3 children over 2 years of age	3 caregivers	9

¹ A child who is non-ambulatory will be treated the same as a child under 2 years of age for purposes of the adult/child ratio,

152.14 In determining adult/child ratios and maximum group sizes for children up to twenty-four (24) months old, the maximum group size may increase by one child when the adult/child ratio decreases by one child per adult, as shown in the table above.

152.15 When children of different ages are combined in one group, the adult/child ratio for the youngest child shall apply, except as provided in 151.10.

152.16 A program may be granted an exemption to the adult/child ratio if the program submits a written request to OSSE. This request shall include the following information:

- (1) A detailed description of the program model including evidence and history that demonstrate the effectiveness of the model;
- (2) An explanation as to why an exception to the adult/child ratio is integral to the delivery of the program model; and
- (3) An explanation and supporting evidence that the proposed adult/child

ratio shall not jeopardize the basic health and safety of participating children.

152.17 When children are swimming or playing in water, including “baby” pools, “wading” pools, and full-depth pools, the Facility shall maintain the following adult/child ratios in addition to complying with the water safety requirements contained within this Chapter.

AGE OF CHILDREN	ADULT/CHILD RATIO
0 – 24 months	1:1
24 months and above	Ratios in subsection 155 apply

152.18 In out-of-school time programs, each group containing one or more children eleven (11) years of age or younger shall be supervised by, at a minimum, a Group Leader and an Assistant Group Leader. A group containing children all of whom are twelve (12) years of age and older may be occasionally supervised by a volunteer in addition to the Group Leader, provided that the volunteer is at least two (2) years older than the oldest child in the group.

152.19 OSSE may approve reasonable variations to the prescribed group size limitations for a Facility, including flexible groupings and sub-groupings, taking into consideration the following areas:

- (1) Qualifications and numbers of staff and volunteers;
- (2) Program structure and focus;
- (3) Ages and developmental levels of children served;
- (4) Usable space; and
- (5) The Facility’s past history of compliance.

152.20 Child Development Facilities shall have a written staffing plan to ensure the supervision of all enrolled children at all times.

152.21 Child Development Facilities shall ensure that staff members keep each enrolled child within continuous visual and hearing range at all times when the child is in the care of the Facility, both on the Facility premises and elsewhere. When a child uses the toilet, the staff shall supervise with appropriate respect for the child’s privacy.

152.22 An Expanded Child Development Home may provide care for more than two (2) children who are non-ambulatory or under two (2) years of age, provided that the number of such children does not exceed the following:

- (1) Four (4) children if there are two (2) Caregivers present; or
- (2) Six (6) children if there are three (3) or more Caregivers present.

**153 EMERGENCY PREPAREDNESS, FIRST AID AND
CARDIOPULMONARY RESUSCITATION**

153.1 Child Development Facilities shall have, at all times, on the premises and readily available to administer aid, at least two (2) staff members who possess current certification in First Aid and CPR for children.

153.2 Child Development Facilities shall obtain and shall maintain, on the Facility premises, a sufficient quantity of first aid supplies to meet the Facility's reasonably expected needs, based on the size of the Facility, the ages and developmental abilities of the enrolled children, and the Facility's program of activities. The Facility shall maintain these supplies in a designated location that is readily available to staff and inaccessible to the children.

153.3 For each increment of twenty-five (25) children, Child Development Facilities shall maintain the following items among its first-aid supplies:

- (a) One (1) roll of one-half inch ($\frac{1}{2}$ in.) non-allergenic adhesive tape;
- (b) One (1) roll of two-inch (2 in.) gauze roller bandage;
- (c) Ten (10) individually wrapped sterile gauze squares in assorted sizes;
- (d) Twenty-five (25) adhesive (e.g. band-aid) compresses in assorted sizes;
- (e) Three (3) clean cotton towels or sheeting pieces, approximately twenty-four by thirty-six inches (24 in. x 36 in.) each;
- (f) One (1) pair of scissors;
- (g) Safety pins in assorted sizes;
- (h) One (1) working flashlight;
- (i) One (1) non-mercury, non-glass thermometer;
- (j) One (1) measuring tablespoon or dosing spoon;
- (k) One (1) pair of tweezers;
- (l) One-third cup ($\frac{1}{3}$ c.) of powdered milk for dental first aid (for mixing to make a liquid solution);

- (m) A current First Aid text published by the American Academy of Pediatrics or the American Red Cross, or an equivalent community first aid guide;
- (n) The telephone number(s) of the local Poison Control Center;
- (o) Rubbing alcohol and alcohol swabs;
- (p) Cotton balls;
- (q) One (1) ice pack or gel pack;
- (r) Liquid sanitizer;
- (s) Sanitary soap;
- (t) Disposable, nonabsorbent latex free or non-powdered latex free gloves;
- (u) All items needed for disposal of blood-borne pathogens;
- (v) Eye patch or dressing;
- (w) Pen or pencil and notepad;
- (x) Wipes;
- (y) Whistle; and
- (z) One-way valves for infants (if served), young children, and adults.

153.4 Child Development Facilities shall inspect, take inventory, and replenish its first-aid supplies at least weekly, and shall:

- (1) Remove and replace sterile supplies if the package has been opened or damaged, or if the expiration date on the package has been reached; and
- (2) Replace all supplies as they are used or if they become damaged.

153.5 Child Development Facilities shall maintain one portable first-aid kit in addition to the complete first-aid kit, and shall ensure a kit is taken along by Facility staff on each outing, and when children under the care and supervision of the Facility are being transported.

153.6 Child Development Facilities shall ensure that at least one person currently certified in First Aid and CPR for children is present whenever one or more children are taken on an outing or otherwise transported away from the Facility.

- 153.7 Child Development Facilities shall conduct practice evacuation drills, in accordance with guidelines and/or regulations adopted by the Department of Fire and Emergency Medical Services. The drills shall include all groups of children and all Facility staff, and shall be conducted at least every quarter, at varying times during the program day. The Facility shall document the date, time and duration of each such evacuation drill, the number of children and staff participating, and the weather conditions.
- 153.8 Child Development Facilities shall develop and implement specific procedures for the safe and prompt evacuation of infants, toddlers and non-ambulatory children.
- 153.9 Child Development Facilities shall develop and maintain an emergency and disaster plan with the following requirements:
- (1) Develop and maintain an Emergency and Disaster plan with established procedures for:
 - A. Evacuations and clearly marked evacuation routes;
 - B. Relocation of staff and children to a safe site;
 - C. Sheltering in place in the event evacuation is not possible;
 - D. Method for notifying parents about the emergency;
 - E. Method for notifying parents after the emergency has ended and the process for re-unifying parents with their children;
 - F. Addressing the needs of children during the emergency;
 - G. Procedures for contacting local emergency authorities;
 - H. Listing of essential local emergency contacts; and
 - I. Copies of emergency and disaster plan posted and visible throughout the facility.
 - (2) Provide training annually on emergency and disaster plan;
 - (3) Complete emergency and disaster drills at least twice a year and maintain a record of dates and time;
 - (4) Review and update emergency and disaster plan annually; and

- (5) Inform and update parents of enrolled children about the emergency procedures.

153.10 Child Development Facilities shall provide, in each Facility building, at least one working, non-pay, stationary telephone accessible to staff.

153.11 Child Development Facilities shall register with Alertdc.gov for immediate notification of impending emergencies/disasters.

153.12 Child Development Facilities shall maintain a three (3) day supply of water, staple food, and supplies for each child and staff member.

154 REQUIREMENTS FOR INFANT SLEEP AND PLAY POSITIONS (PRECAUTIONS AGAINST SIDS)

154.1 Child Development Facilities shall comply with the latest recommendations of the American Academy of Pediatrics with regard to reducing the risk of Sudden Infant Death Syndrome (SIDS).

154.2 Child Development Facilities that provide care for one (1) or more infants shall comply with the following requirements with regard to infant sleep and play position:

- (1) Unless otherwise ordered by a physician or other qualified health care practitioner, each infant shall be placed on his or her back for sleeping;
- (2) Each infant shall be placed on his or her stomach for some part of the day that he or she is awake and under staff supervision;
- (3) No positioning device shall be used to restrict the movement of an infant unless such device is ordered by a physician or other qualified health care practitioner;
- (4) No soft materials or objects, such as pillows, quilts, comforters, sheepskins, blankets, and stuffed toys, shall be permitted in an infant's sleep environment;
- (5) No bumper pads shall be used in an infant's crib; and
- (6) No infant shall be put to sleep on a sofa, soft mattress, waterbed, chair, cushion or other soft surface.

154.3 Child Development Facilities shall comply with the latest recommendations of the American Academy of Pediatrics with regard to reducing the risk of SIDS to the extent, if any that such recommendations, made after the effective date

of these rules differ in significant part from the requirements contained within this subsection.

155 COTS, CRIBS, AND INFANT SAFETY

- 155.1 Each child enrolled in a full-day program at a Child Development Facility shall be provided, by the Facility, with an individual bed, crib or cot.
- 155.2 Child Development Facilities shall place cribs and cots at least two (2) feet apart from each other, and at least two (2) feet from all windows and radiators, when in use. This space shall be measured on all sides of each crib or cot.
- 155.3 Child Development Facilities shall label each crib or cot with the name of the child to whom it is assigned.
- 155.4 Child Development Facilities shall only use cribs and cots that meet the standards established by the U.S. Consumer Product Safety Commission.
- 155.5 Cots shall be used only with children over twelve (12) months of age.
- 155.6 Child Development Facilities shall ensure that children do not share bedding.
- 155.7 Child Development Facilities shall provide each crib with a firm, fitted mattress of proper size for crib, covered with a fitted sheet.
- 155.8 All cots shall have coverings that are easy to clean and nonabsorbent.
- 155.9 Child Development Facilities shall ensure that no child sleeps on a bare, uncovered surface.
- 155.10 Child Development Facilities shall ensure that seasonally appropriate coverings, such as sheets or blankets that are sufficient to maintain adequate warmth, are available and provided to children as needed.
- 155.11 Child Development Facilities shall ensure that beds, cribs, cots and appropriate coverings are kept clean and sanitary at all times.
- 155.12 Child Development Facilities shall ensure that pillows are not provided to or used by infants.
- 155.13 Child Development Facilities shall not place infant monitors in cribs.
- 155.14 Child Development Facilities shall ensure that each infant is removed from his or her crib for all feedings, and that no infant is fed by means of a propped bottle.

- 155.15 Child Development Facilities shall ensure that each child is allowed to safely and comfortably sit, crawl, toddle, or walk, and to play according to his or her stage of development, in a designated play space apart from the infant's sleeping quarters, during each day.
- 155.16 Child Development Facilities shall sufficiently separate cot and crib areas from play space so as to prevent access to sleeping areas by children at play.
- 155.17 Child Development Facilities shall ensure that crib gyms, crib toys, mobiles, mirrors, and other toys are not placed in, attached to, or hung over an infant's crib.
- 155.18 Child Development Facilities shall ensure that cribs are only used for sleep purposes. Cribs shall not be used for time-out or disciplinary purposes.
- 155.19 When non-ambulatory children are enrolled, the Facility shall be equipped with a ratio of one (1) evacuation crib for every four (4) non-ambulatory children to be used during emergency evacuations. Additionally, there shall be an adult/child ratio of two (2) to one (1) when FEMS approval allows for above or below street level occupation.

156 SWIMMING AND WATER SAFETY

- 156.1 Before an enrolled child may be permitted to swim or otherwise participate in any activity taking place in water one (1) or more feet in depth, the Child Development Facility shall obtain written permission from the child's parent(s) or guardian(s). The written permission shall be signed and dated, and shall include the following:
- (1) The child's name;
 - (2) A statement indicating whether the child is a swimmer or a non-swimmer; and
 - (3) A statement indicating that the parent(s) or guardian(s) grants permission for the child to participate in water activities.
- 156.2 Child Development Facilities shall ensure the inaccessibility of pools, including swimming pools, fixed-in-place wading pools, hot tubs, spas, fish ponds, or similar bodies of water by means of a pool cover or by means of surrounding the pool with a fence. If a Facility premises contains a swimming pool, or other body of water without a cover, the Facility shall enclose the pool or body of water behind a secure fence at least four feet (4 ft.) in height. The

Facility shall ensure that the pool, or body of water, is inaccessible to children at all times, unless qualified adults are present and supervising the children.

- 156.3 Exit and entrance points to pools or bodies of water shall have self-closing, positive latching gates with locking devices a minimum of fifty-five (55) inches from the ground.
- 156.4 If a Facility chooses to utilize one (1) or more wading pools, the Facility shall ensure that such pools are filtered, emptied, drained daily, and stored in a location that is inaccessible to the enrolled children unless qualified adults are present and supervising the children.
- 156.5 Child Development Facilities shall ensure that any swimming site utilized by the Facility that is at a location other than within the Facility premises is approved and supervised by the appropriate local authorities.
- 156.6 Child Development Facilities shall ensure that at least one (1) adult for every six (6) children shall be certified in Emergency Water Safety and First Aid and CPR for children and shall be in attendance at all times when children are swimming.
- 156.7 Child Development Facilities shall ensure that all activities of children taking place in water are supervised are supervised by at least one (1) adult, for every six (6) children, currently certified as a Lifeguard or Water Safety Instructor by the American Red Cross or by an equivalent water safety instruction and testing program.
- 156.8 Child Development Facilities shall ensure when children are swimming or playing in water, including “baby” pools, “wading” pools, and full-depth pools, the facility shall maintain the following adult to child ratios in addition to complying with the water safety requirements as provided in this chapter:

AGE OF CHILDREN	ADULT TO CHILD RATIO
0 – 36 months	1:1
3 – 4 years	1:4
5 – 6 years	1:6
6 –10 years	1:6
10 years and older	1:6

- 156.9 Child Development Facilities shall ensure that when communal water tables are used:
- (1) Children are supervised in accordance with supervision provisions of this Chapter;

- (2) Water tables are filled with fresh water immediately before a designated group of children begin a water play activity at the table;
- (3) The basin and toys are washed and sanitized daily;
- (4) Only children without cuts, scratches, and sores on their hands are permitted to use the communal water play table;
- (5) Children wash their hands before and after use of the communal water play table;
- (6) No child is permitted to drink water from the water table;
- (7) Floor/surface areas under and around the water table are dried during and after play; and
- (8) Bottles, cups, and glasses are not used in water play.

157 [RESERVED]

158 [RESERVED]

159 [RESERVED]

160 ADMINISTRATION OF MEDICATION

160.1 Child Development Facilities may not provide medicine or treatment, with the exception of emergency first aid, to any child, unless the Facility has obtained a written medical order or prescription from the child's licensed health care practitioner and the written consent of the child's parent(s) or guardian(s).

160.2 Child Development Facilities shall ensure that all medication ordered by a physician or prescribed is maintained by the Facility in its original container and clearly labeled, with the name of the child whom it is ordered or prescribed, the name of the medicine, the dosage, the method of the administration, and the name and telephone number of the child's licensed health care practitioner.

160.3 Child Development Facilities shall administer medicine or treatment in the method prescribed or ordered, according to the dosage prescribed or ordered, and only to the child for whom the medicine or treatment was prescribed or ordered.

160.4 Child Development Facilities may not administer any medication for any period beyond the date indicated on the written medical order or prescription. Unused medication must be returned to the child's parent or guardian for

disposal.

- 160.5 Child Development Facilities shall maintain a medication log, on a form approved by OSSE, on which the Facility shall record the date, time of day, medication, medication dosage, method of administration, and the name of the person administering the medication, each time medication is administered to a child.
- 160.6 Child Development Facilities shall maintain all records pertaining to the administration of each medication to each child on file for a period of at least five (5) years after the administration of said medication. The record shall include the written medical order or prescription from the licensed health care practitioner, with written instructions and authorization of the parent(s) or guardian(s), and completed medication log. The Facility shall make these records available for review by OSSE upon request.
- 160.7 Child Development Facilities shall ensure that each medication requiring refrigeration is maintained at a temperature between thirty-six degrees Fahrenheit (36 °F) and forty-six degrees (46°F) Fahrenheit. All refrigerated medications are to be kept in a separate storage container within the Facility's refrigerator so as to prevent potential cross-contamination with foods.
- 160.8 For each child for whom medication is administered at the Facility, the Facility shall obtain a daily written statement from the parent or guardian, indicating when the last dose was administered prior to the child's arrival to the Facility. Child Development Facilities shall add the written statement to the medication log.
- 160.9 In case of an emergency involving actual or potential poisoning, the Facility may administer emergency treatment without previous written instruction, as directed by an authorized Poison Control Center.
- 160.10 Child Development Facilities may administer nonprescription topical ointments, including sun block, petroleum jelly, and diaper ointment, to a child, upon obtaining written consent from the child's parent(s) or guardian(s).
- 160.11 Child Development Facilities shall maintain each nonprescription topical ointment in its original container, and administer each ointment in accordance with the manufacturer's instructions.
- 160.12 Child Development Facilities that provide out-of-school-time care to school-age children may permit a child seven (7) years or older to administer his or her own medication, under the direct supervision of a staff member, upon receipt of written authorization for the child's self-administration from the child's parent(s) or guardian(s).

160.13 Child Development Facilities that provide out-of-school-time care to school-age children may permit a school-age child with asthma to carry his or her own inhaler and to self-administer medication from it as needed, and may permit a child with a chronic illness or disability to self-test for the appropriate medical indicator(s) and to self-administer medication as needed, upon receipt of written authorization from the child's licensed health care practitioner and written consent from the child's parent(s) or guardian(s). In each such case, the Facility shall ensure that all staff members are informed of the fact that the particular child is permitted to self-test and/or to self-administer his or her medication.

161 GENERAL HEALTH AND SANITATION REQUIREMENTS

161.1 Child Development Facilities shall conform, to the extent practicable, to the National Health and Safety Performance Standards to ensure the well-being and safety of children and the cleanliness and sanitary conditions of the Facility.

161.2 Child Development Facilities shall ensure that the Facility premises remain clear of insects, rodents and other pests and excrement of insects, rodents and other pests.

161.3 Child Development Facilities shall maintain preventative measures to control insects, rodents, and other pests to comport with best practices and to prevent and eliminate harborage, breeding, and infestation on the premises. If a harboring, breeding or infestation of insects, rodents or other pest occurs on the premises of the Facility, the Facility shall report the infestation to OSSE as an unusual incident and take immediate steps to have the insects, rodents or other pests exterminated.

161.4 Child Development Facilities shall maintain on file a record documenting the use of extermination services, which shall be provided only by a licensed pest control professional. Children shall not be present while pesticides are being applied or within twenty-four (24) hours of application.

161.5 Child Development Facilities shall ventilate program space by mechanical ventilation, such as fans, air conditioning, or at least one (1) operable window. The following criteria shall apply to the mechanical ventilation units and windows:

- (a) A freestanding fan shall be placed in a stable location, have a stable base, and be equipped with a protective guard;
- (b) Windows, including windows in doors, when utilized for ventilation purposes shall be securely screened to prevent the entry of insects;

- (c) Windows accessible to children under five (5) years of age that are above ground level of the building shall be adjusted to limit the opening to less than six (6) inches or be protected with guards that do not block natural lighting; and
 - (d) Facilities with glass sliding doors shall place decals at the eye level of the children in its care.
- 161.6 Child Development Facilities shall ensure that there is sufficient natural and artificial light to allow for the supervision of the children and provide illumination of at least thirty (30) standard foot candles at floor level in child-occupied program areas.
- 161.7 Light bulbs shall be shatter proof or appropriately shielded to prevent product contamination and injuries due to breakage.
- 161.8 Child Development Facilities shall comply with all applicable Federal and District requirements, including but not limited to, the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et. seq.*) and the District of Columbia Water Quality Management Plan (DC Official Code § 8-103.11 (2001 Ed.)).
- 161.9 Child Development Facilities shall maintain hot and cold running water under pressure. Hot running water shall be maintained at one hundred degrees Fahrenheit (100 °F).
- 161.10 Child Development Facilities shall be free of moisture, mold and mildew, including but not limited to moisture resulting from water leakage or seepage.
- 161.11 Child Development Facilities shall ensure that all floors, walls, and ceilings are in good repair and easy to clean when soiled. Only smooth, nonporous surfaces shall be permitted in areas that are likely to be contaminated by body fluids or in areas used for activities including, without limitation, food preparation or consumption, diaper changing, and toilet.
- 161.12 Child Development Facilities shall ensure that any stairs have gates, any doors or windows are covered, any blinds have child protective coverings ensuring cords are not accessible to children, and that there are no foul odors.
- 161.13 Child Development Facilities that store, prepare, handle, and serve food shall be responsible for following the requirements consistent with the District of Columbia Food Code, Title 25, Subtitle A of the District of Columbia Municipal Regulations, including obtaining all requisite certifications or licenses as required under the applicable laws of the District of Columbia.
- 161.14 Child Development Facilities shall ensure that any toy that is mouthed is promptly removed from the play area, sanitized with an appropriate germicide,

and air dried before it is returned to the play area.

- 161.15 Child Development Facilities shall remove any toy that becomes soiled with blood, stool, urine, or vomit immediately and sanitize it with an appropriate germicide.
- 161.16 Child Development Facilities shall ensure that waste receptacles are kept clean, in good repair, emptied daily, lined with plastic bags, and contain a foot pedal operated lid.
- 161.17 Child Development Facilities shall ensure that no person, including staff, residents, and visitors to the Facility, smokes or uses tobacco products within the program space.
- 161.18 Child Development Facilities shall ensure that all tobacco products that may be present in the Facility remain out of the reach of enrolled children at all times.
- 161.19 When children are in the care of the Facility, either on the premises or off-site, no staff member shall be under the influence of, or consume, alcoholic beverages or illegal drugs.

162 EXCLUDING AND READMITTING CHILDREN AND STAFF WHO ARE ILL

- 162.1 Child Development Facilities shall take the following actions under the following circumstances:
- (1) Upon arrival, a child who exhibits one or more symptoms of illness identified in this subsection shall not attend the Facility;
 - (2) If, during the time the child is at the Facility, the Facility staff observes one (1) or more symptoms of illness identified in this subsection, the Facility shall notify the child's parent(s) or guardian(s) immediately. The Facility shall require that the parent(s) or guardian(s) remove the child from the Facility within two (2) hours;
 - (3) The Facility shall isolate a child who becomes ill or is suspected of being ill. The child shall remain within sight and of a staff member; and
 - (4) The Facility shall ensure that a child who is ill or suspected of being ill does not share any personal hygiene or grooming items.
- 162.2 A child shall be excluded from a Facility while exhibiting symptoms of illness including, but not limited to, the following:

- (1) Diarrhea (runny, watery or bloody stools);
- (2) Vomiting two (2) or more times in a twenty-four (24) hour period;
- (3) Body rash with fever;
- (4) Sore throat with any fever or swollen glands;
- (5) Eye drainage with thick mucus or pus draining from the eye; pink eye (colored drainage, eye pain or redness or yellowness of the eye);
- (6) Abnormal discoloration of the skin;
- (7) Any fever accompanied by a rash, vomiting, diarrhea, earache, irritability or confusion;
- (8) Continuous irritable crying that requires more attention than the Facility can provide without compromising the health and safety of other children; or
- (9) Any other symptom indicative of a reportable communicable disease, as such is defined in Chapter 2 of Subtitle B of Title 22 of the District of Columbia Municipal Regulations or in any superseding document.

162.3

Child Development Facilities shall observe each child for the presence of symptoms that may indicate a medical problem, which problem may require exclusion from the Facility, isolation from other children, and consultation with the child's parent(s), guardian(s) or licensed health care practitioner(s) such as:

- (1) Fever;
- (2) Lethargy or inability to walk;
- (3) Respiratory problems, including: increased respiratory rate; retractions in the chest; excessive nasal flaring; audible persistent wheezing; persistent coughing, either productive or nonproductive; severe coughing causing redness or blueness in the face; or difficulty in breathing;
- (4) Abdominal and urinary system problems including: intestinal parasites, dark urine, white spots in the stool, increased urgency or frequency of urination, or no urination for an entire day;
- (5) Cardiac problems, including: choking, change in color of the skin, chest

pain, or persistent sweating;

- (6) Ear problems, including discharge from the ear and/or ear pain;
- (7) Throat and mouth problems, including: sores on the lips or in the mouth, white patches in the mouth, throat pain, or a dental problem that needs immediate attention; and
- (8) Injuries, including: persistent bleeding, oozing wounds, apparent fracture, complaint of persistent bone pain or stiffness, or difficulty with the movement of any extremity.

162.4 A child who exhibits one or more symptoms of illness identified in this subsection, and who has been treated for said symptom(s) by a licensed health care practitioner, may be readmitted to the Facility only with written permission, and written instructions for continuing care if needed, from that licensed health care practitioner.

162.5 If a child exhibits mild symptoms of illness and/or discomfort, the Center Director or his/her designee, or the Caregiver, in consultation with the child's parent(s) or guardian(s), shall decide whether the child should be immediately discharged or discharged at the end of the day.

162.6 Staff and volunteers must have a licensed health care provider's release to return to work in the following situations:

- (a) Upon exhibiting symptoms which require the exclusion of a child;
- (b) After having experienced conditions that affect the ability to perform required duties; and
- (c) After a serious or prolonged illness.

163 HAND WASHING PRACTICES

163.1 Child Development Facilities shall establish and implement a written policy regarding hand washing, that addresses the following areas:

- (1) When hand washing and hand sanitizing are required for staff and for children;
- (2) Specific hand washing and hand sanitizing procedures; and
- (3) Ongoing monitoring by the Center Director or Caregiver to ensure that proper hand washing procedures are followed.

163.2 Child Development Facilities shall ensure that all staff wash their hands at the following times:

- (1) Before eating, drinking, or handling food;
- (2) Before handling clean utensils or equipment;
- (3) Before and after assisting or training a child in feeding or in toileting;
- (4) After personal toileting;
- (5) After contact with body secretions, (for example, blood, urine, stool, mucus, saliva, or drainage from wounds);
- (6) After removing disposable gloves;
- (7) After caring for a sick child;
- (8) After handling animals or cleaning up animal waste;
- (9) After giving medication or applying a medical ointment or cream; and
- (10) After cleaning or handling the garbage.

163.3 Child Development Facilities shall ensure that designated hand washing areas are equipped with sinks, antibacterial liquid pump soap, single-use paper towels or an air hand dryer, and be restricted from use for washing utensils and bottles.

163.4 Child Development Facilities shall ensure that each child washes his or her hands:

- (1) Before the child participates in food-related activities;
- (2) After the child's toileting;
- (3) After outdoor activities; and
- (4) After playing with animals.

164 HANDLING DIAPERS AND TRAINING PANTS

164.1 Child Development Facilities shall locate diaper-changing areas so that they are in arm's reach to a source of running water and antibacterial soap, and so that it is not in or near the Facility's kitchen or eating areas. A properly maintained source of potable hot and cold running water is required.

- 164.2 Child Development Facilities shall store soiled diapers and training pants in designated and labeled containers, separate from all other waste, including soiled clothes and linens. The Facility shall provide a washable, plastic lined, tightly covered receptacle, which can be operated by a hands-free opening mechanism, within arm's reach of each diaper changing table, for the disposal of soiled diapers.
- 164.3 Child Development Facilities shall provide an area for the storage of clean diapers and training pants which is clean and designated exclusively for that use, with the exception that the clean diaper and training pants storage area and the storage area for enrolled children's clean clothes may be combined.
- 164.4 Child Development Facilities shall not use cloth diapers for any child unless a written statement is provided by the child's parent(s) or guardian(s), with supporting documentation that cloth diapers are required by the special medical circumstances of that child.
- 164.5 Child Development Facilities shall check each child's diaper for wetness and feces at least hourly and whenever the child indicates discomfort or exhibits behavior which suggests a soiled or wet diaper. Diapers must be changed when they are wet or soiled.
- 164.6 Child Development Facilities shall provide one (1) or more diaper-changing areas that have surfaces made of non-porous material.
- 164.7 Child Development Facilities shall ensure that infants and toddlers are diapered only in designated diaper changing areas.
- 164.8 Child Development Facilities shall ensure that children are never left unattended in a diaper changing area.
- 164.9 Child Development Facilities shall ensure that, for each diaper-changing area, the diaper-changing surface is cleaned and sanitized with a bleach solution or other appropriate germicide after each diaper change.
- 164.10 Child Development Facilities shall ensure that the bleach solution or germicide used for cleaning and sanitizing the diaper-changing surface is kept inaccessible to the enrolled children at all times.
- 164.11 Child Development Facilities shall store and/or dispose of soiled diapers, diapering materials and training pants as follows:
- (1) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be sent home with a child shall be rinsed at the Facility at a location where food preparation does not occur, or shall be placed

directly into a plastic container that is sealed tightly, and shall be stored away from the rest of the child's belongings and out of reach of all children, until sent home with the child at the end of the day;

- (2) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be laundered by the Facility shall be placed in a non-porous covered container, containing an appropriate germicidal solution, until laundered;
- (3) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be either laundered by the Facility or sent home with a child for laundering may be held for laundering no longer than one (1) day;
- (4) Soiled disposable diapers and training pants shall be placed in a plastic-lined, covered container that shall be emptied, cleaned, and sanitized with an appropriate germicidal agent at least daily;
- (5) Child Development Facilities shall use only disposable diapering materials, including wipes and changing pads, except as provided further herein, and each such disposable item is discarded, after one (1) use, in the container used for the discard of soiled disposable diapers described in this subsection; and
- (6) All staff must wear disposable gloves when changing diapers and training pants or when assisting children to remove soiled clothing. A new pair of gloves shall be used and discarded each successive child.

165 PETS AND ANIMALS

165.1 In the event that a Child Development Facility permits animals on the premises, it shall comply with the following requirements:

- (1) The Facility shall adhere to all local ordinances governing the keeping and maintenance of animals;
- (2) The Facility shall advise the parent(s) or guardian(s) of the enrolled children in writing of the presence of animals;
- (3) The Facility shall ensure that all pets or animals permitted on the premises are in good health, show no evidence of carrying disease, are friendly toward children, and do not present a threat to the health, safety and well-being of children;
- (4) The Facility shall maintain all animals or pets in a visibly clean manner;

- (5) The Facility shall isolate any pet or animal showing evidence of disease (for example, diarrhea, skin infection, severe loss of appetite, weight loss, lethargy or any unusual behavior or symptoms). The Facility shall ensure that any animal suspected of being ill is promptly removed from the presence of children and examined by a licensed veterinarian;
- (6) The Facility shall maintain, on the Facility premises, proof of current compliance with all applicable vaccination requirements;
- (7) The Facility shall prohibit the presence of any animal or pet whose species is a common carrier of rabies, without specific proof that the animal has been vaccinated against that disease;
- (8) All pet reptiles shall be kept inaccessible to children;
- (9) The Facility shall ensure that no animal, except service animals, animal litter box, animal pen or cage is permitted in any area where food is stored, prepared or served; and
- (10) In the event that an animal bites a child and the child's skin is broken, the Facility shall immediately notify the child's parent(s) or guardian(s) and OSSE, and shall report it as an unusual incident pursuant to this Chapter.

165.2 Child Development Facilities shall ensure that all contact between animals and children is supervised by a staff member who is in close enough proximity to remove the child immediately if necessary.

165.3 Child Development Facilities shall ensure that animal food supplies are kept out of the reach of children.

165.4 Child Development Facilities shall ensure that animal litter boxes are not located in areas accessible to children.

166 [RESERVED]

167 GENERAL DAILY PROGRAM ACTIVITIES IN CHILD DEVELOPMENT FACILITIES

167.1 Child Development Facilities shall establish a written planned program of activities which includes time each day for both indoor and outdoor play, suitable to the ages and stage of developments of the children enrolled at the Facility. The daily program shall:

- (1) Motivate and stimulate each child's cognitive, physical, social, emotional, creative, and language development in alignment with the District of Columbia Early Learning Standards;
- (2) Contain sufficient continuity and flexibility to meet the needs of each individual child as well as the needs of the group;
- (3) Provide a balance of active and quiet learning through play;
- (4) Provide both structured and unstructured times, and both Caregiver/Teacher directed and child-initiated experiences; and
- (5) Provide periods of rest, appropriate to the age and developmental needs of children, including specific designated times for rest each day.

167.2 Child Development Facilities serving children in a full-day program shall ensure that each child, including infants, toddlers, and preschoolers, has a minimum of two (2) hours of active playtime each day, including a minimum of forty-five (45) minutes of outdoor activity, weather permitting. During outdoor play children shall be dressed appropriately for weather and temperature.

167.3 One (1) hour of active play shall be structured and guided physical activity under staff direction, and one (1) hour of child-initiated unstructured physical activity. Children attending less than a full-day program shall be scheduled to participate in a proportionate amount of such physical activities. In inclement weather, active play shall be encouraged and supported in safe indoor play area.

167.4 Children shall not be engaged in sedentary activities or activities requiring them to sit passively for more than sixty (60) minutes continuously, except during scheduled rest or nap time.

167.5 Restrictive infant equipment such as swings, stationary activity centers, infant seats (e.g., bouncers), molded seats, etc., if used, shall only be used for a maximum of thirty (30) minutes twice a day. Facilities shall ensure that safety straps are used and that infants are supervised when placed in equipment.

167.6 Television, videos, or other visual recordings shall not be shown to children less than two (2) years of age. For children ages two (2) and older viewing of television, videos, or other visual recordings shall be limited to no more than sixty (60) minutes per day in total. Any such viewing shall consist solely of educational programming or programs that actively engage child movement. Children attending less than a full-day program shall be limited to a proportionate amount of any such viewing.

167.7 When a Child Development Facility provides out-of-school-time care to school-age children, the Facility shall develop a program of supervised activities that is designed for school-age children, and that includes, for each child:

- (1) Free choice of play; with appropriate toys;
- (2) Opportunities to further develop and strengthen motor proficiencies including running, jumping, and climbing;
- (3) Opportunities for concentration, alone or in a group;
- (4) Time to read or to do homework;
- (5) Opportunities for creative activities; and
- (6) Opportunities for developing supportive relationships with staff members and with peers.

167.8 Child Development Facilities shall develop a written activity plan for each group of children that implements the scheduled program of activities.

167.9 A copy of the written activity plan for each age group shall be furnished by the Facility to OSSE upon request.

167.10 Child Development Facilities shall ensure that its program of activities provides periods of rest, not to exceed three (3) hours. The duration and scheduling of activities shall be appropriate in order to prevent fatigue and to meet the physical needs of the children enrolled at the Facility, taking into account the ages and developmental levels of the children. Each child in a full-day program shall have specific times designated for rest each day.

167.11 Child Development Facilities shall ensure that each child has a supply of clean, dry clothing, if needed following outdoor play and that staff promptly remove all wet or soiled clothing from a child and replace it with clean and dry clothing.

167.12 Child Development Facilities shall monitor each enrolled child's development, share observations with parents or guardians, and provide resource information as needed for screenings, evaluations, and early intervention and treatment.

168 PROHIBITED METHODS OF DISCIPLINE

167.1 The following methods of behavior management or discipline shall not be employed:

- (1) Physical harm, including but not limited to, punching, pinching, shaking, shoving, pushing, spanking, striking, kicking, biting, yanking, strangling, kneeling, poking and “plucking”;
- (2) Fear, intimidation, or humiliation;
- (3) Derogatory remarks and/or profane language;
- (4) Confinement in a locked room or in an enclosed area not visible at all times to Facility staff;
- (5) Forced feeding, or withholding of food, water, rest, toilet use, outdoor activities or outdoor play; and
- (6) Physical or chemical restraints.

168.2 Separation, from other children or the planned program of activities, when used as behavior management or discipline, shall be brief in duration and shall be appropriate to the child’s age and developmental level and to the circumstances necessitating the discipline. Any child separated shall remain in the same room as the supervising adult.

168.3 Authority to manage behavior or discipline shall never be delegated to another child.

169 CHILDREN WITH SPECIAL NEEDS

169.1 Upon the admission of a child with a special need, or upon the identification of a special need in an enrolled child, the Facility shall promptly obtain informed written consent, from the parent(s) or guardian(s) of the child, for the implementation of any treatment or protocol ordered by the child’s licensed health care practitioner.

169.2 Child Development Facilities shall ensure that the care of each child, including infants and toddlers, with a disability as defined by the Individuals with Disabilities Education Act 20 U.S.C. § 1400, *et. seq.* (IDEA) who is less than thirty-six (36) months of age is consistent with that child’s Individual Family Services Plan (IFSP), and that the care of each child who is thirty-six (36) months of age or over is consistent with that child’s Individual Education Program (IEP). The Facility shall maintain a copy of the child’s current IFSP or IEP on file at all times.

169.3 Child Development Facilities shall maintain a written individualized care plan, in accordance with the child’s IFSP or IEP, for each enrolled child who is eligible to receive services under the IDEA. This plan shall address the

following areas, as needed and appropriate for the child:

- (1) Child development services to be provided by the Facility;
- (2) Other services to be provided by or at the Facility;
- (3) Special training or qualifications required of one (1) or more staff members to properly care for the child in light of his or her special needs;
- (4) Nutrition and feeding, including feeding schedule and special training or qualifications required of staff members who may feed the child;
- (5) Administration of medication;
- (6) Use and maintenance of medical equipment and/or adaptive devices;
- (7) Toileting and personal hygiene;
- (8) Procedures and instructions for medical emergencies; and
- (9) Procedures for other emergencies, including participation in emergency evacuation drills.

169.4 Before disclosing any information concerning the child to any person, including a licensed health care practitioner, who is not employed by the Facility, the Facility shall obtain written permission from the child's parent(s) or guardian(s).

169.5 Child Development Facilities shall provide each child with any disability protected by law or who needs an accommodation required by law with:

- (1) Developmentally appropriate toys and materials;
- (2) Developmentally appropriate play equipment which meets the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et. seq.*;
- (3) Appropriate assistance and attention from staff members; and
- (4) Reasonable accommodations to enable the child to participate in all services and activities provided by the Facility to nondisabled children, including field trips.

169.6 If health services or therapeutic services are provided at the Facility, even by an

outside provider, the Facility shall ensure that these services are provided in accordance with the child's IFSP or IEP and by practitioners who are licensed or otherwise authorized by law to provide the applicable services in the District of Columbia.

170 REQUIREMENTS FOR CHILD DEVELOPMENT FACILITIES OPERATING WITH NON-TRADITIONAL HOURS

170.1 Child Development Facilities that offer non-traditional hours or twenty-four (24) hour care shall comply with all applicable requirements contained in this Chapter, in addition to the specific requirements listed in this section.

170.2 The Facility shall ensure that each activity is appropriate both for the time of the day/night and for the age of each enrolled child.

170.3 The Facility shall obtain written consent from a child's parent(s) or guardian(s) before Facility staff bathe and/or shower that child, with the exception that, in emergency situations such as regurgitation or bedwetting, Facility staff may take appropriate measures to clean an affected child.

170.4 Each Facility shall meet the following requirements for rest and sleep:

- (1) If a child is in the care of the Facility after 6:00 p.m., on the first day of the child's enrollment, the Facility shall establish a bedtime routine, in consultation with that child's parent(s) or guardian(s) and taking into account the age and developmental needs of the child and the time of the child's scheduled pick-up from the Facility. The Facility shall document the routine in that child's record;
- (2) The Facility shall provide each enrolled child with an individual bed, cot, or crib that is appropriate for the child's age and size. If the child will be in the bed for more than four (4) hours, it must be a bed, not a cot;
- (3) The Facility shall ensure that bed linens are changed routinely and before the bed, cot, or crib is used by a different child;
- (4) The Facility shall provide, or shall ensure that each enrolled child's parent(s) or guardian(s) provide, appropriate clothing for the child to wear while sleeping;
- (5) The Facility shall ensure that all cribs, cots, and beds are maintained in a clean and sanitary condition;
- (6) If a Facility provides one or more bunk beds for the use of enrolled

children, the Facility shall ensure that no child under seven (7) years of age is placed on a top bunk;

- (7) The Facility shall ensure that all beds, cots, cribs and mattresses have firm surfaces and meet the U.S. Consumer Product Safety Commission's standards;
- (8) The Facility shall ensure that all beds, cots, and cribs, when in use, are placed at least two (2) feet apart, and that each is at least two (2) feet away from any radiator and/or window;
- (9) The Facility shall ensure that no bed, cot or crib blocks or impedes access to any exit;
- (10) The Facility shall ensure that no other person shares a bed, cot or crib with an enrolled child;
- (11) The Facility shall ensure that no enrolled child five (5) years of age or older shares a sleeping room with an adult;
- (12) The Facility shall ensure that staff monitor sleeping children at least once every three (3) hours, and maintain a written record of this monitoring; and
- (13) The Facility shall provide night-lights near the exit of each sleeping room, along each hallway adjacent to a sleeping room, and near each bathroom to be used by enrolled children during the overnight hours.

170.5 Child Development Facilities that provide non-traditional hours or twenty-four (24) hour care to school-age children shall comply with the following additional requirements:

- (1) The Facility shall establish a homework routine for each school-age child, in consultation with the parent(s) or guardian(s) of that child, on the first day of enrollment, and shall document the routine in that child's record;
- (2)
- (3) The Facility shall ensure that each school-age child is afforded quiet time and is provided with a quiet area for doing homework, as needed;
- (4) The Facility staff shall provide assistance with homework, when needed; and
- (5) If an enrolled child is to go to school directly from the Facility, the

Facility shall, on or before the first day of enrollment, enter into a written agreement with that child's parent(s) or guardian(s) that specifies the means by which the child shall get to school and the person(s) responsible for accompanying the child to school. The Facility shall maintain a copy of this agreement in the child's record.

170.6 Child Development Facilities shall comply with all applicable requirements concerning nutrition that are contained within this Chapter, in addition to the following special requirements:

- (1) The Facility shall provide or serve dinner and a snack to each child scheduled to remain in care overnight, unless the Facility and the child's parent(s) or guardian(s) enter into a written agreement specifying that the child will eat dinner before arriving at the Facility; and
- (2) The Facility shall provide breakfast to each child who has been in care overnight at the Facility and is going directly from the Facility to school.

170.7 Child Development Facilities providing non-traditional hours or twenty-four (24) hour care shall comply, at all times, with the adult/child ratio and staff qualifications requirements contained in this Chapter.

170.8 Child Development Facilities shall ensure that staff members are available at all times to attend to the needs of the children, and that at least one (1) adult staff member per every ten (10) children is awake and within sight and sound of the children at all times.

170.9 Child Development Facilities shall establish and implement emergency contingency plans, to address both medical and non-medical emergencies at all hours of the day/night during which care may be provided, including during natural and man-made emergencies that necessitate evacuation from the Facility, temporary displacement from the Facility, or confinement to the Facility.

171 [RESERVED]

172 FOOD AND NUTRITION REQUIREMENTS

172.1 Child Development Facilities shall ensure that planned daily menus, and the foods that are actually served by the Facility, are: varied, suitable to the ages and developmental levels of the children, and consistent with the meal pattern requirements and nutrition standards specified by the Child and Adult Care Food Program (CACFP).

- 172.2 Child Development Facilities shall plan and post menus for all foods served, including snacks, and shall modify the menus as necessary to reflect foods actually served. The Facility shall maintain the menus on file at the Facility premises for three (3) years, including the current year.
- 172.3 Child Development Facilities shall have at least one staff member present at all times when meals are being prepared or served who is certified as a Food Protection Manager in accordance with the District of Columbia Food Code, Title 25 of the District of Columbia Municipal Regulations. In order to qualify under this section, the staff member must have a valid and current certification, including photographic identification.
- 172.4 Child Development Facilities shall request and obtain, if applicable, all relevant information regarding dietary restrictions and food allergies for each enrolled child, upon the child's admission to the Facility, and the Facility shall record this information in the child's file.
- 172.5 On an annual basis, Child Development Facilities shall request and obtain, if applicable, updated information regarding each enrolled child's dietary restrictions and food allergies.
- 172.6 Child Development Facilities shall ensure that all staff responsible for food preparation and distribution is immediately informed, verbally and in writing, of any dietary restrictions, food allergies, or other special dietary requirements of children enrolled at the Facility.
- 172.7 Each child with a food allergy should have a care plan prepared for the facility by the child's primary care provider, to include:
- (a) Written instructions regarding the food(s) to which the child is allergic and steps that need to be taken to avoid that food;
 - (b) A detailed treatment plan to be implemented in the event of an allergic reaction, including the names, doses, and methods of administration of any medications that the child should receive in the event of a reaction. The plan should include specific symptoms that would indicate the need to administer one or more medications;
- 172.8 Based on the child's care plan, the caregivers/teachers shall have training, demonstrate competence in, and implement measures for:
- (1) Preventing exposure to the specific food(s) to which the child is allergic;

- (2) Recognizing the symptoms of an allergic reaction; and
- (3) Treating allergic reactions;

- 172.9 Child Development Facilities shall notify parents and/or guardian immediately of any suspected allergic reactions.
- 172.10 Child Development Facilities shall prominently post food allergy notifications near the facility's entrance and in each classroom if an enrolled child has food allergies.
- 172.11 Child Development Facilities shall serve a special therapeutic diet to a child only upon the written instruction of the child's licensed health care practitioner and written parent approval.
- 172.12 Child Development Facilities shall provide and ensure that each child uses, at each meal or snack, clean and sanitary individual eating and drinking utensils. Reusable utensils shall be washed and sanitized after each use.
- 172.13 Child Development Facilities that serve food provided by the parent(s) or guardian(s) shall:
- (a) Establish and implement written policies and procedures to be followed if the food provided does not meet the requirements in this section; and
 - (b) Ensure that food provided by the parent(s) or guardian(s) shall be stored in a separate refrigerator and not co-mingled with food prepared at the Facility.
- 172.14 Child Development Facilities shall ensure that powdered milk or reconstituted evaporated milk is not served as a substitute for fluid milk for drinking. Powdered milk or reconstituted evaporated milk may be used for cooking.
- 172.15 Child Development Facilities shall ensure that staff responsibilities concerning food preparation and service do not reduce the adult/child ratios for staff actively supervising children below the levels specified in this Chapter or interfere with the implementation of the Facility's program of activities.
- 172.16 Child Development Facilities shall ensure that no person is involved in food preparation or service, or otherwise works in the food preparation and/or service area, if that person shows signs or symptoms of illness, including vomiting, diarrhea, or uncovered infectious skin sores, or if that person is actually or likely infected with any bacterium or virus that can be carried in food.

172.17 Child Development Facilities shall make drinking water continuously available to all children and serve drinking water on demand.

172.18 Child Development Facilities shall ensure that appropriately timed meals and snacks that meet the nutritional requirements of the child are served according to the following schedule, based on the number of hours a child is present at the Facility:

- (a) Two (2) to four (4) hours, child receives one (1) snack;
- (b) Four (4) to six (6) hours, child receives one (1) meal and one (1) snack;
- (c) Seven (7) to eleven (11) hours, child receives two (2) meals and one (1) snack or two (2) snacks and one (1) meals, depending on the time of arrival of the child; and
- (d) Twelve (12) hours or more, child receives three (3) meals and two (2) snacks.

173 REQUIREMENTS FOR INFANT FEEDING

173.1 Child Development Facilities shall comply with the following requirements concerning infant formula and feeding:

- (1) Each feeding bottle for an infant or toddler shall be labeled with the name of the child to whom it belongs;
- (2) Each bottle of milk or formula shall be labeled with the date of preparation, and refrigerated at thirty-five to forty degrees Fahrenheit (35° F - 40° F);
- (3) Each open container of ready-to-feed or concentrated formula shall be used for only one (1) child, and shall be labeled with that child's first and last name and the date on which the container is opened;
- (4) All infant formula given to a child shall be prepared according to written instructions obtained from the parent(s) or guardian(s) of that child or from the child's licensed health care practitioner;
- (5) All bottles and formula preparation equipment shall be washed with hot water and detergent in sinks which are not designated for hand washing only;
- (6) Bottles, bottle caps, nipples and other equipment used for bottle feeding shall not be reused without first being cleaned and sanitized by washing in a dishwasher or by washing, rinsing, and boiling them for one (1)

minute.

- (7) Each bottle of reconstituted concentrated or powdered formula shall be refrigerated immediately after its preparation, or immediately upon its arrival at the Facility if it is prepared and brought to the Facility by the child's parent or guardian, and may be held for feeding for no longer than twenty-four (24) hours;
- (8) Each bottle of commercially prepared ready-to-feed formula shall be refrigerated promptly after it is opened;
- (9) After each feeding, discard all unused formula and breast milk;
- (10) Each bottle or container of breast milk provided for a child by the parent or guardian of that child shall be labeled with the child's first and last name and the date of receipt, and refrigerated immediately upon its arrival at the Facility;
- (11) Fluid breast milk may be held for a feeding for no more than twenty-four (24) hours and frozen breast milk may be held in a frozen state for no more than two (2) months;
- (12) Bottles must be warmed under running, warm tap water or by placing them in a container of water that is no warmer than 120°F. Bottles shall not be left in a pot of water to warm for more than five minutes;
- (13) Due to nutritional concerns, the microwaving of breast milk is prohibited. If the Facility plans to use this method of heating for formula for other liquids and foods, the Facility must notify parents in writing;
- (14) All warmed bottles shall be shaken and temperature tested before feeding to a child. Warmed solid foods must be stirred and temperature tested before feeding to a child, liquid and food shall be room temperature;
- (15) The Facility shall provide, or require the parent(s) or guardian(s) of each infant to provide, a sufficient supply of commercially prepared formula so that the child will be adequately fed in case of emergency;
- (16) Each child who is too young or otherwise developmentally unable to use a feeding chair or other appropriate seating apparatus shall be held while being fed;
- (17) Each child who is too young, too small, or otherwise developmentally

unable to hold his or her bottle while feeding shall be held while being fed; and

- (18) No child may be placed in a crib with a bottle for feeding, nor may a bottle be propped up to feed a child.

173.2 Child Development Facilities shall comply with the following requirements concerning infant solid food:

- (1) All solid food provided to an infant shall be served according to written instructions, which specify the amount(s) and type(s) of food and feeding times, that are requested and obtained by the Facility from the parent(s) or guardian(s) of that child or from the child's licensed health care practitioner;
- (2) Each container of infant food that is provided to the Facility by the parent(s) or guardian(s) of a child for feeding to that child shall be labeled with the child's first and last name and the date of receipt;
- (3) Each container of infant food shall be refrigerated immediately upon its arrival at the Facility, with the exception of unopened containers of commercially prepared bottled or canned food that may be stored at room temperature until opened; and
- (4) The uneaten portion of any container of infant food shall be immediately and appropriately refrigerated, shall not be comingled with any other food prepared at the Facility, and shall not be held for further consumption for longer than twenty-four (24) hours; and
- (5) Unless the Facility has received written notice from a medical authority or written notice of preference from a parent or guardian, a Facility shall follow the CACFP infant meal patterns.

174 TRANSPORTATION REQUIREMENTS

174.1 Child Development Facilities that rent, own, operate or maintain one or more motor vehicles used for transporting children shall comply with all applicable Federal and District of Columbia laws and regulations governing the maintenance and operation of motor vehicles and the transportation of children.

174.2 Child Development Facilities that enter into contracts with other entities for the provision of transportation services shall obtain a signed attestation from the entity that the transportation service complies with the requirements of this section and with all other applicable laws and regulations pertaining to the provision of transportation services.

- 174.3 Child Development Facilities shall establish and implement policies and procedures intended to ensure the safe transportation of children, including background checks, and policies and procedures for the training and monitoring of any person responsible for the transportation of enrolled children.
- 174.4 The Child Development Facility's transportation policies and procedures shall address alternative transportation means to be employed if the Facility's primary vehicle breaks down or is otherwise unavailable for use.
- 174.5 Before any child may be transported while under the care of a Child Development Facility, the Facility shall obtain written and signed permission from the child's parent(s) or guardian(s).
- 174.6 Child Development Facilities that rent, own, operate or maintain one or more motor vehicles used for transporting children shall label each such vehicle with the Facility's name and phone number.
- 174.7 Child Development Facilities that rent, own, operate or maintain one or more motor vehicles used for transporting children shall maintain proof of current motor vehicle insurance coverage for each such vehicle, both on the Facility premises and inside the vehicle.
- 174.8 Child Development Facilities that rent, own, operate or maintain one or more motor vehicles used for transporting children shall ensure that only licensed drivers who are covered by the Facility's insurance policy operate any such vehicle when transporting enrolled children.
- 174.9 Child Development Facilities shall immediately notify OSSE of any traffic accident involving children being transported while under the care of the Facility. The Facility shall also submit a written report to OSSE, on a form approved by OSSE, within twenty-four (24) hours of the accident, and shall include a copy of the police report regarding the accident, if available.
- 174.10 Child Development Facilities that rent, own, operate or maintain one or more motor vehicles used for transporting children shall ensure that each such vehicle is maintained in a clean and mechanically safe condition, as verified by a current inspection sticker from the District of Columbia Department of Motor Vehicles or the equivalent agency in another state and by the Facility's own maintenance records.
- 174.11 Child Development Facilities that own, operate or maintain one or more motor vehicles used for transporting children shall maintain an inspection log and service or repair records for each such vehicle on file for at least twelve (12) months from the date of each inspection or repair. A person or parent entity

that operates multiple Child Development Facilities may maintain all such records in a single administrative office.

- 174.12 Child Development Facilities shall ensure that no staff member who has been convicted in any jurisdiction of Driving While Intoxicated (DWI), Driving under the Influence of Alcohol or Drugs (DUI), or the equivalent, within the previous three (3) years, transports by motor vehicle any children enrolled at the Facility. The Facility shall also adopt and implement a policy prohibiting any other person, including a parent, guardian, and/or volunteer, who has been convicted of a DWI, a DUI, or the equivalent, within the previous three (3) years, from transporting by motor vehicle children enrolled at the Facility, and shall advise all parents, guardians, and volunteers of this policy in writing.
- 174.13 If the primary driver identified by a Facility becomes unavailable, the Facility shall identify and utilize a substitute driver who meets the requirements of this section.
- 174.14 Child Development Facilities shall ensure that no driver engages in distractive activities including, but not limited to, smoking, drinking, eating, listening to music, texting, talking on the phone, and use of any other portable devices, while transporting enrolled children.
- 174.15 Child Development Facilities shall ensure that each child transported in a motor vehicle while under the care of the Facility is properly restrained in an approved child safety restraint system or a seat belt, as required by applicable District of Columbia laws and regulations.
- 174.16 Child Development Facilities shall ensure that no child or staff member stands or sits on the floor of a vehicle while the vehicle is in motion, and that no child is held on another person's lap while the vehicle is in motion.
- 174.17 Child Development Facilities shall ensure that all vehicle doors remain locked at all times except when staff or children are boarding or departing the vehicle.
- 174.18 Child Development Facilities shall ensure that no child is left unattended in a vehicle at any time.
- 174.19 Child Development Facilities shall maintain a safe vehicle loading and unloading area for children on or adjacent to the Facility premises.
- 174.20 Child Development Facilities shall ensure that identification is securely attached to the person of each child participating on a field trip, and that the identification contains the Facility name, address, telephone number, and emergency contact telephone number if applicable.

174.21 Child Development Facilities shall ensure that the following items are present in each vehicle when transporting children on field trips or other routine trips:

- (1) A first-aid kit that meets requirements specified in Chapter;
- (2) A working fire extinguisher;
- (3) A supply of drinking water sufficient for all of the children in the vehicle;
- (4) A minimum of two (2) large clean towels or blankets;
- (5) Emergency contact information, and telephone numbers of the parent(s) or guardian(s), for each child in the vehicle;
- (6) A copy of the signed Emergency Medical Treatment Authorization form, as required by this Chapter, for each child in the vehicle;
- (7) A cellular phone or a two-way radio;
- (8) A working flashlight; and
- (9) In the case of buses, vans, or other large vehicles, a footstool or equivalent aid sufficient to enable small children to safely board and disembark from the vehicle.

174.22 Child Development Facilities shall ensure that at least one staff member trained and currently certified in First Aid and CPR for children is present in each vehicle when children are being transported.

174.23 When a child with special needs is being transported in a wheelchair while under the care of a Child Development Facility, the Facility shall comply with the following additional safety requirements:

- (1) The vehicle shall be equipped with a working wheelchair lift;
- (2) The child's wheelchair shall be secured in the motor vehicle, using a minimum of four (4) anchorages attached to the floor of the vehicle, and four (4) securing devices, such as straps or webbing that have buckles and fasteners, which attach the wheelchair to the anchorages;
- (3) The child shall be secured in the wheelchair by means of a wheelchair restraint that contains a combination of pelvic and upper body belts; and

- (4) The child's wheelchair shall be placed in a position in the vehicle that neither prevents access to the child nor passage to the front and rear of the motor vehicle.

174.24 Child Development Facilities providing transportation services, must ensure that children who receive such services are taught:

- (1) Safe riding practices;
- (2) Safety procedures in crossing the street; and
- (3) Recognition of the danger zones around the vehicle.

174.25 Any driver who transports children for a Child Development Facility shall keep, in the vehicle, instructions for the quickest route to the nearest emergency medical facility from all points on the route.

175 [RESERVED]

176 [RESERVED]

177 REPORTING UNUSUAL INCIDENTS

177.1 Child Development Facilities shall immediately notify OSSE by submitting, in writing, the OSSE Unusual Incident Report form, via email to the OSSE Child care Complaint email address and the parent(s)/guardian(s) of each affected child, any unusual incident that may adversely affect the health, safety or well-being of any child or children in the Facility.

177.2 Unusual incidents include, but are not limited to, the following:

- (1) Death of a person occurring within the Facility;
- (2) Injury to, or illness of, any child that occurs during the hours the child is enrolled in care and that requires hospitalization or emergency medical treatment;
- (3) Damage to the Facility, or to any Facility vehicle or equipment, that interferes with the capability of the Facility to protect the health, safety and well-being of the children and adults in the Facility;
- (4) An outbreak of or a single occurrence of a communicable disease that must be reported to the District of Columbia Department of Health in accordance with Title 22 of the District of Columbia Municipal

Regulations, within the Facility;

- (5) The elopement of an enrolled child or any circumstances under which a child is deemed missing or unaccounted for;
- (6) A traffic accident involving a vehicle rented, owned, maintained, or contracted for by the Facility and in which children are being transported at the time of the accident;
- (7) Any bankruptcy of the Facility or the parent entity of the Facility; and
- (8) Any other occurrence at the Facility that involves a response by police, fire, ambulance, or any other emergency service.

177.3 In the case of a traffic accident or an incident involving actual or suspected criminal activity, the Facility shall also file a report with the appropriate law enforcement authorities.

177.4 Any Facility staff member who knows or has reasonable cause to suspect that an enrolled child is, has been, or is in immediate danger of being an abused or neglected child shall, as required by the District of Columbia Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22, D.C. Official Code §§ 4-1321.01 *et seq.*), make or cause to be made an immediate oral report to:

- (1) The Child Protective Services Division of the Child and Family Services Agency, via the CFSA twenty-four (24) hour Child Abuse and Neglect Hotline (202-671-SAFE); and
- (2) The Metropolitan Police Department.

177.5 A Child Development Facility staff member making an oral report pursuant to this subsection shall also make a written report if:

- (1) A written report is requested by the Child and Family Services Agency or the Metropolitan Police Department;
- (2) The case is one of abuse involving drug-related activity; or
- (3) As otherwise required by law.

177.6 In the reports required by this subsection, the staff member shall include:

- (1) The name, age, sex and address of the child who is the subject of the report;

- (2) That the child who is the subject of the report is enrolled at the Facility;
- (3) The name, address and telephone number of the Facility;
- (4) To the extent known, the name, age, and sex of each sibling or other child living in the same household;
- (5) To the extent known, the name, age, and sex of each parent, guardian, or other caretaker of the child;
- (6) The nature and extent of the abuse or neglect, and of any previous abuse or neglect, as known to the reporting staff member;
- (7) Any other information which may be helpful in establishing the cause of the abuse or neglect and/or in establishing the identity of the person(s) responsible for it;
- (8) The name, title or occupation, and contact information of the staff member making the report;
- (9) Any actions taken by the staff member or the Facility concerning the child in response to the situation; and
- (10) Any other information required by law.

177.7 Each Child Development Facility shall:

- (a) Provide training to all staff regarding the Facility's policies and procedures relating to child abuse, neglect, and risk to a child's health or safety, including how to report suspected abuse, neglect, or risk to a child's health or safety;
- (b) Require staff to immediately report, and to cooperate with officials investigating, alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety;
- (c) If any Facility staff member is identified as allegedly responsible for the alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety, place that staff member on administrative leave or reassignment to duties involving no contact with children until the investigation conducted by authorized government officials is complete; and
- (d) Ensure that staff may report incidents involving alleged or actual child

abuse or neglect, or alleged or actual risk to an enrolled child's health or safety, without threat of discharge or other retaliation.

178 COMPLAINT INVESTIGATIONS

178.1 Upon its own initiative, or upon receipt of information alleging violation(s) of the law or regulations, OSSE may conduct on-site investigations, announced or unannounced, to investigate an alleged violation or validity of any such information.

179 SERVICE OF NOTICE FOR ENFORCEMENT ACTIONS

179.1 OSSE shall provide written notification to the Director/Caregiver of a Facility or to an applicant prior to taking one of the following actions:

- (a) Denial of a license;
- (b) Denial of renewal of a license;
- (c) Issuance of a Conditional Temporary license;
- (d) Suspension of a license; or
- (e) Revocation of a license and/or imposition of civil fines.

179.2 A Notice required by this section may be served personally, or by certified mail, return receipt requested, upon the applicant or the Director/Caregiver of Facility at the current or last known current address of the Facility.

179.3 A Notice is deemed served personally when it is delivered to the applicant or licensee, or to an adult employee or family member of the applicant or licensee, at the address specified in the application, or last known current address of the Facility and is deemed served on the date written.

179.4 A Notice served by certified mail is deemed served on the date stamped upon the return receipt, indicating delivery of the Notice to the applicant or licensee or refusal of the applicant or licensee to accept delivery of the Notice.

179.5 In the event that the applicant or licensee is not found at the address of the Facility nor at the last known address as shown in the records of OSSE, and no forwarding address is available, the Notice shall be deemed served on the date of delivery or as indicated on the return receipt bearing such notification.

179.6 A Notice of a proposed enforcement action shall include the following:

- (a) The nature of the proposed enforcement action;

- (b) The effective date of the proposed action;
- (c) A description of, and citation for, each violation alleged;
- (d) In the case of a license suspension, the time period of the proposed suspension;
- (e) A statement informing the applicant or Facility that it may make a request for a hearing by submitting a written request to the Office of Administrative Hearings within ten (10) days after receipt of the Notice, or, in a matter in which a different time period is prescribed by law, within the applicable time period;
- (f) A statement informing the applicant or Facility that the proposed action may become final without a hearing if the applicant or Facility fails to request a hearing within the time and in the manner specified; and
- (g) In the case of a license suspension, revocation, or conversion, a statement informing the Facility that it will be required to surrender its license upon final action to suspend, revoke, or convert the license to conditional status.

179.7 Advance written notice is not required prior to summary suspension or issuance of a cease and desist order.

180 CIVIL FINES, CRIMINAL PROSECUTION AND INJUNCTIONS

180.1 Civil fines and penalties may be imposed for any violation of the Act or of this Chapter, pursuant to the District of Columbia Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code §§ 2-1801.01 *et seq.*) (2001 Ed.) (“Civil Infractions Act”). Adjudication of all charged infractions shall be conducted pursuant to Titles I through III of the Civil Infractions Act. Hearings shall be conducted in accordance with this Chapter.

180.2 Any violation of the Act may result in criminal prosecution, whereupon the violator shall, upon conviction, be subject to imprisonment not to exceed six (6) months, or a fine not to exceed three hundred dollars (\$300.00), or both. Each unlawful act shall constitute a separate violation of this Chapter. Prosecutions shall be brought by the Attorney General for the District of Columbia in the Superior Court of the District of Columbia.

180.3 Any person who has been previously convicted of an offense in violation of the Act shall, upon a subsequent conviction for the same offense, be subject to imprisonment not to exceed one (1) year, a fine not to exceed five thousand dollars (\$5,000.00), or both.

- 180.4 In any prosecution conducted for violation of the Act, a Child Development Facility claiming an exemption from a licensing requirement shall have the burden of proving entitlement to the exemption.
- 180.5 The Attorney General may bring a civil action in the Superior Court of the District of Columbia to enjoin any violation of the Act.
- 180.6 A Facility may be subject to any of the following enforcement actions for violations of Federal or District laws or regulations:
- (a) Revocation;
 - (b) Denial;
 - (c) Suspension;
 - (d) Cease and desist;
 - (e) Summary suspension;
 - (f) Civil fines;
 - (g) Criminal prosecution; or
 - (h) Injunction.

181 REVOCATION, DENIAL AND SUSPENSION

- 181.1 OSSE, in accordance with procedures consistent with the provisions of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code §§ 1-1501 et seq.), may deny, suspend, refuse to renew, revoke, reduce to a conditional status, or may refuse to issue a license if a person or Facility subject to licensure engages in any of the following activities:
- (a) Failure to comply with this Chapter;
 - (b) Failure to comply with any local or federal laws or regulations
 - (c) Providing false or misleading information in an application for an initial license or for a license renewal;
 - (d) Failure to allow entry to authorized officials to conduct an inspection or investigation, or to otherwise determine whether the applicant or licensee is in substantial compliance with the Day Care Act, the Facilities Act, other relevant law, or with this Chapter;

- (e) Employ any method of discipline prohibited by this Chapter, including but not limited to, forms of restraints or seclusion;
- (f) A determination that an applicant or licensee has been convicted of, or has admitted to committing, either in the District of Columbia or in another jurisdiction, any criminal offense which constitutes a bar to employment in an agency, Facility, Home, or any entity that provides direct services to children and youth, or as a result of which a duly authorized District of Columbia government official has determined that the applicant or licensee poses a danger to children or youth, as provided in the Child and Youth Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code §§4-1501.01 *et seq.*) (2001 Ed.) or in subsequent amendments thereto, or in rules promulgated pursuant to that law, or as provided in any superseding District of Columbia or Federal law, which offenses may include the following at the felony level unless otherwise indicated:
 - (1) Murder, attempted murder, manslaughter, or arson;
 - (2) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;
 - (3) Burglary;
 - (4) Robbery;
 - (5) Kidnapping;
 - (6) Illegal use or possession of a firearm;
 - (7) Sexual offenses at the felony or misdemeanor level, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;
 - (8) Pandering
 - (9) Human Trafficking
 - (10) Child abuse or cruelty to children;
 - (11) Animal abuse or cruelty to animals; or
 - (12) Unlawful distribution or possession of, or possession with intent to distribute, a controlled substance;

- (g) A determination that any employee or volunteer who is reasonably expected to come into contact with one (1) or more children has been convicted of, or has admitted to committing, any criminal offense which constitutes a bar to employment or as a result of which the person has been determined to pose a danger, as more fully described above;
- (h) In the case of a Child Development Home, a determination that any person living in the home that houses the Facility has been convicted of, or has admitted to committing, any criminal offense which constitutes a bar to employment or as a result of which the person has been determined to pose a danger, as more fully described above;
- (i) A determination that an applicant or licensee, or any employee or volunteer who is reasonably expected to come into contact with one (1) or more children, has admitted to or has been found to have abused or neglected a child in the District of Columbia or in any other jurisdiction; or
- (j) Voluntarily close a facility before OSSE has reinstated a suspended or revoked license.

181.2 A Facility shall not employ or allow on its premises a person convicted of:

- (a) Murder, attempted murder, manslaughter, or arson;
- (b) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;
- (c) ;Burglary;
- (d) Robbery;
- (e) Kidnapping;
- (f) Illegal use or possession of a firearm;
- (g) Sexual offenses at the felony or misdemeanor level, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;
- (h) Pandering;
- (i) Human Trafficking;

- (j) Child abuse or cruelty to children;
- (k) Animal abuse or cruelty to animals; or
- (l) Unlawful distribution or possession of, or possession with intent to distribute, a controlled substance;.

181.3 Any other conviction, which is not specified in 181.2, that is older than seven (7) years shall not be considered a bar to employment.

181.4 An employee or applicant may apply to the Superintendent for a waiver of the above conditions for good cause shown.

181.5 In the case that the license of a Child Development Facility is revoked, the owner and/or the Center Director may not reapply for a license for a period of three (3) years. In the case that the license of a Child Development Facility is revoked for a building structural issue or construction, the owner and/or Center Director may reapply for a license at such point that all building structural issues are repaired or construction is completed.

182 SUMMARY SUSPENSION

182.1 OSSE may summarily and immediately suspend a license, for a period of not more than forty-five (45) calendar days, upon finding that there is threat of harm of health, safety, or welfare of children, adults, or of the general public. This includes, but is not limited to: staff child ratios, environmental issues (mold, pests, rodents, air quality, lead, etc.), temperature, and abuse/neglect.

182.2 A summary suspension of a license shall be effective upon the delivery to the Facility of a written Notice of Summary Suspension or as otherwise specified. The Notice shall be hand-delivered to the licensee, or to an adult employee or family member of the licensee, at the licensed premises.

182.3 The Notice of Summary Suspension shall state that the Facility may request an expedited hearing within five (5) business days after receipt of the Notice.

182.4 When a Facility's license is summarily suspended, OSSE shall immediately repossess the license, and the Facility shall immediately cease providing child care.

182.5 When a Facility's license is summarily suspended, the Facility shall be responsible for providing parents with written notification of the suspension, including the reason for the suspension, and for informing them of the need to make alternative child care arrangements. The Facility shall also provide OSSE with a copy of the written notification to parents.

- 182.6 Upon a timely request for an expedited hearing pursuant to this section, the Office of Administrative Hearings shall conduct the hearing within five (5) business days of the request, and the Office of Administrative Hearings shall issue a decision within five (5) business days after the hearing record is closed.
- 182.7 Upon completion of a hearing conducted pursuant to this section and closure of the hearing record, the Office of Administrative Hearings shall determine either that the summary suspension was warranted, in which case the suspension shall continue for a period not to exceed forty-five (45) days from the date of the decision, or that the summary suspension was unwarranted, in which case the suspension shall immediately cease and the license shall be immediately reinstated.
- 182.8 At or before the end of the suspension period, OSSE shall either reinstate the license or initiate procedures for the revocation of the license.
- 182.9 A license that has been summarily suspended may be reinstated before the end of the suspension period if OSSE determines that the Facility is in substantial compliance with the Act and with this Chapter.
- 182.10 In the event a hearing officer upholds the basis for an immediate suspension, and the deficiency has not been found to be corrected OSSE may continue the summary suspension for up to an additional forty-five (45) days.

183 CEASE AND DESIST

- 183.1 If OSSE has reason to believe that a Facility, parent entity, or person associated with the Facility has violated, or is continuing to violate, any applicable laws or regulations, and that the violation presents danger to children, adults, or to the general public, OSSE may issue a written Order directing the Facility, parent entity, or person to cease and desist from the violating actions or further association with children.
- 183.2 A Cease and Desist Order shall be effective upon the delivery of the Order. The Order shall be hand-delivered to the licensee, or to an adult employee or family member of the licensee, at the licensed premises.
- 183.3 The Cease and Desist Order shall state that the Facility may request an expedited hearing within five (5) business days after receipt of the Order. If no request for a hearing is made, the Order shall be final.
- 183.4 When a Cease and Desist Order has been issued, OSSE shall immediately repossess the Facility's license, and the Facility shall immediately cease providing child care.

183.5 When a Facility has received a cease and desist order, the Facility shall be responsible for providing parents with written notification of the Order, including the reason for the Order, and for informing them of the need to make alternative child care arrangements. The Facility shall also provide OSSE with a copy of the written notification to parents.

183.6 Upon a timely request for an expedited hearing pursuant to this section, the Office of Administrative Hearings shall conduct the hearing within five (5) business days after the request, and the Office of Administrative Hearings shall issue a decision within five (5) business days after the hearing record is closed.

184 HEARINGS

184.1 Hearings shall be conducted by the Office of Administrative Hearings in accordance with this Chapter and pursuant to rules and procedures established by Chapters 28 and 29 of Title of the District of Columbia Municipal Regulations.

184.2 In each matter in which a hearing is requested, the Office of Administrative Hearings shall maintain an official record, and shall render its final decision in writing to all parties, accompanied by findings of fact and conclusions of law.

184.3 Each hearing shall be conducted in accordance with the requirements of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Official Code § 2-509)(2001 Ed.), unless otherwise provided in this Chapter or in rules established by the Office of Administrative Hearings.

185 JUDICIAL REVIEW

185.1 Any person aggrieved by a final decision of the OSSE or of the Office of Administrative Hearings may appeal the decision to the District of Columbia Court of Appeals pursuant to section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510)(2001 Ed).

186 [RESERVED]

187 [RESERVED]

188 [RESERVED]

189 [RESERVED]

190 [RESERVED]

DEFINITIONS

- 191.1 **"Act"** -- The Child Development Facilities Regulation Act of 1998, effective April 13, 1999, D.C. Law 12-215, D.C. Official Code §§ 7-2031 et seq.
- "Abuse"** -- The physical or mental injury of a child by a parent, guardian or custodian, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed. Abuse includes sexual abuse of a child, whether or not physical injuries are sustained.
- "Adult"** -- A person who is eighteen (18) years of age or older.
- "Americans with Disabilities Act" or "ADA"** -- The law that requires that persons with disabilities not be denied public accommodations that are designed to afford them the opportunity to participate in programs or activities that are not separate or different. (P.L. 101-336; 104 Stat. 327; 42 U.S.C. 12101 et seq.).
- "Associate Caregiver"** -- An individual who provides care in an Expanded Child Development Home and who is subordinate to the Primary Caregiver; this person need not reside in the dwelling where the Facility is located.
- "CDA"** -- Child Development Associate credential, a credential obtained under the award system of the Council for Professional Recognition.
- "CPR"** -- Cardiopulmonary resuscitation.
- "Care by a Related Person"** -- Care of a child by that child's parent, step-parent, grandparent, brother, sister, step-brother, step-sister, uncle, or aunt, said relationship having been established by blood, marriage, or adoption, or by that child's legal guardian.
- "Caregiver"** -- An individual who is in charge of, and responsible for the direct care, supervision, and guidance of, children in a Child Development Home or Expanded Child Development Home.
- "Center Director"** -- A Child Development Center staff member who is in charge of the day-to-day operations of the Center.
- "Change in Ownership"** -- A transfer of controlling legal or equitable interest and authority resulting from a sale or merger.

“Child” or “Children” -- An individual or individuals from birth to fifteen (15) years of age, except when “infant/s” and/or “toddler/s” are specified within the same provision, in which case “child” or “children” means an individual or individuals from six weeks old to 15 years of age.

“Child Development Center” or “Center” -- A Child Development Facility located in premises other than a dwelling occupied by the operator of the Facility.

“Child Development Facility” or “Facility” -- A center, home, expanded home, or other structure that provides care and other services, supervision and guidance for children, infants, and toddlers on a regular basis, regardless of its designated name. "Child Development Facility" includes “Child Development Home,” “Expanded Child Development Home,” and “Child Development Center.” “Child Development Facility” does not include a public or private elementary or secondary school engaged in legally required educational and related function

“Child Development Home” -- a private residence which provides a child development program for up to a total of six (6) children with a ratio of one adult caregiver to two (2) children if there are more than two (2) children younger than two (2) years of age in the group; provided, that each adult caregiver possesses a post-secondary degree in early childhood education or a related field as determined by the Office of the State Superintendent of Education, hold a current Child Development Associate (“CDA”) credential, is enrolled in a CDA training program, or can provide evidence of enrollment in a CDA training program that will begin within six (6) months of the first day of the adult caregiver’s work with children at the child development home. The total of six (6) children shall not include those of the caregiver who are six (6) years or older; provided, that the total number of children of the caregiver between the ages of 6 and 15 years shall not exceed three (3), and of those three (3) children, no more than two (2) shall be age ten (10) years or younger. A child development home shall also include care given to a child by a caregiver related to the child. For the purpose of this paragraph, the term "related" means any of the following relationships by marriage, blood, or adoption: Grandparent, parent, brother, sister, step-sister, step-brother, uncle, or aunt. “Child Development Home” also includes those Facilities classified as “Expanded Child Development Home”.

"Department" -- Unless otherwise specified, means the Office of the State Superintendent of Education or its successor agency, acting by and through its Director or his or her designee.

“Director” -- The Superintendent of the Office of the State Superintendent of Education or the Director of its successor agency.

“District of Columbia Director Credential” means a credential awarded by or under the auspices of the District of Columbia Department of Human Services Early Care and Education Administration, or its successor agency, upon satisfactory completion of a program of classroom study and practicum experience in fields of study directly related to the operation and administration of Child Development Facilities.

“Emergency Location” – A physical location that possesses a certificate of occupancy and has been inspected by the fire department in the last twelve (12) months. The emergency location can be used for child care no more than thirty (30) calendar days.

“Expanded Child Development Home” -- A Child Development Home in which child care is provided by two (2) or more Caregivers for up to twelve (12) children.

“Facility” -- A Child Development Facility.

“Fever” -- A temperature of one hundred degrees Fahrenheit (100° F) or higher if taken under the arm, one hundred and one degrees Fahrenheit (101 °F) if taken orally, or one hundred and two degrees Fahrenheit (102 °F) if taken rectally. For children under the age of four (4) months, a fever is a temperature of one hundred and one degrees Fahrenheit (101°F) or higher taken by any method.

“Guardian” -- A person, other than the child’s parent, who has been granted legal authority over and responsibility for a child.

“Hour” -- When used in the context of training and/or continuing education, “clock hour” as that term is defined and used in the academic and educational fields.

“Infant” -- A child zero (0) to twelve (12) months of age.

“Licensed Health Care Practitioner” – A Physician, a Nurse-Practitioner (also known as an Advanced Practice Registered Nurse), or a Physician’s Assistant licensed to practice health care by the D.C. Board of Medicine or Board of Nursing, or by a comparable body in another state.

“Licensee” -- A Child Development Facility licensed pursuant to this Chapter, or the operator of such a Facility.

“Neglect” -- The failure to provide care, services and supervision necessary to avoid physical harm or mental anguish.

“Non-Ambulatory Child” -- A child who is: (1) unable to leave a building under emergency conditions without assistance; (2) unable to walk forward or backward without assistance; (3) unable to go up or down steps without assistance; or (4) dependent upon mechanical aids such as crutches, walkers or wheelchairs.

“Non-peak hours” -- For programs operating during traditional daytime hours, before 9:00 a.m. and after 4:00 p.m.; and for programs operating outside of traditional daytime hours, time periods as specified in writing to, and accepted by, the Director.

“Out-of-school-time Care” -- Care and other services, supervision and guidance provided to one or more children of legal school age and under the age of fifteen (15) years, who are enrolled in public, private, or charter schools, before and after normal school hours.

“Parent” -- The mother or father of a child, by blood, adoption, foster care placement, or appointment as legal guardian or custodian of that child by a court of competent jurisdiction.

“Peak Hours” -- Peak Hours for programs operating during traditional daytime hours, included the hours between 9:00am until 4:00pm; and for programs operating outside of traditional daytime hours, time periods as specified in writing to, and accepted by, the Director.

“Professional Learning Units” or “PLUs” – A unit of credit based on one (1) contact hour indicates a measure of formal instruction; as in either college or university credit hours, Continuing Education Units (CEUs), or Professional Learning Units (PLUs). The term Professional Learning Units is used interchangeably with the term “clock hours” to provide greater alignment with the continuing education requirements for DC Public School, charter school educators, community-based organizations, and child care facilities.

“Preschool” or “Preschooler” -- To a child thirty-six (36) to sixty (60) months of age but younger than compulsory school attendance age.

“Pre-service training – required training for paid employees of a child development facility that must take place prior to or within 90 calendar days of providing service.

“Primary Caregiver” -- An individual who operates an Expanded Child Development Home and who is in charge of the day-to-day operations of the Home; this person must reside in the dwelling where the Facility is located.

"Safety-sensitive position"- employment in which the employee has direct contact with children and youth, is entrusted with the direct care or custody of children and youth and whose performance of his or her duties may affect the health, welfare, or safety of children and youth.

"Special Needs" -- Conditions or characteristics of a person that reflect a need for particular care, services or treatment, most commonly physical and/or mental disabilities and/or delays.

“Staff” or “Staff Member” -- An adult who renders child care or related services directly to a Child Development Facility, whether compensated or uncompensated. “Staff” includes paid employees and volunteers.

“Toddler” -- A child twelve (12) months to thirty-six (36) months of age.

“Unusual Incident” -- Any accident, injury, or other extraordinary event that involves a child in care, a staff member, or the operation of a Child Development Facility, including suspected child maltreatment or abuse.

“Volunteer” -- A person rendering services to a Child Development Facility without compensation by the Facility, including a person so rendering services as part of an internship or otherwise under the auspices of an educational or training program. Volunteer does not include a chaperone providing service for a field trip, party or special event.

All written comments must be received by 4:00 p.m. on Monday, February 8, 2016. Persons desiring to comment on this advance notice should file comments in writing by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: “ANPR - Child Development Facilities Licensing,” 810 First Street, NE 9th Floor, Washington, DC 20002 or via email addressed to: ossecomments.proposedregulations@dc.gov with subject ““ANPR - Child Development Facilities Licensing.””