

R381-100-4: FACILITY

Purpose

This section provides rules and information about the physical aspects of the facility. Most of the information relates to the interior of the building however, the information also pertains to the exterior when applicable.

- (1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the remediation of the lead based paint.

Rationale / Explanation

Ingestion of lead based paint can lead to high levels of lead in the blood, which affects the central nervous system and can cause mental retardation. Even at low levels of exposure, lead can cause a reduction in a child's IQ and their attention span and result in reading and learning disabilities, hyperactivity, and behavioral difficulties. Other symptoms of low lead levels in a child's body are subtle behavioral changes, irritability, low appetite, weight loss, sleep disturbances, and shortened attention span. *CFOC, 3rd Ed. pg. 235-236 Standard 5.2.9.13*

Some imported vinyl mini-blinds contain lead and can deteriorate from exposure to sunlight and heat, and form lead dust on the surface of the blinds. While there is no child care licensing rule that requires this, the CPSC recommends that consumers with children 6 years of age and younger remove old vinyl mini-blinds and replace them with new mini-blinds made without added lead or with alternative window coverings. For more information, contact CPSC. *CFOC, 3rd Ed. pg. 235-236 Standard 5.2.9.13*

Enforcement

Level 1 Noncompliance if a building or playground structure constructed prior to 1978 has untested failing paint in an area accessible to children or tested paint in any area that is shown to contain lead and has not been appropriately remediated.

Level 2 Noncompliance if a building or playground structure constructed prior to 1978 has untested failing paint in an area inaccessible to children.

Assessment

This rule is applicable to both the indoors and outdoors of the facility.

The allowed amount of lead in paint was reduced in 1978. If a center constructed prior to 1978 has peeling, flaking, chalking or failing paint, the Licensee must provide documentation of testing for lead based paint. If lead based paint is found, the Licensee must follow the procedures required by the local health department for the remediation of lead based paint.

Paint is considered to be failing if there are pieces of it loose from the surface or if there is loose paint dust from the surface because both of these could be breathed or ingested by children.

Each area with peeling paint must be tested for lead. If the provider uses a test kit from a hardware store there must be test results from each area. If there are four areas with peeling paint then there must be four tests.

If there is flaking or peeling paint and the building was built before 1978, it is the provider's responsibility to provide documentation that there is no lead in the paint. **According to Health Department regulations, if there is an area with more than 6 square feet of flaking paint indoors, correction must be done by a certified Individual. If there is an area more than 20 square feet outdoors, with flaking paint, correction must also be completed by a certified individual.**

Prior to correction, the provider must contact their local Health Department to speak with an Environmental Scientist.

- (2) For preschoolers and toddlers who are toilet trained, there shall be one working toilet and one working sink for every fifteen children in the center, excluding diapered children. For school age children, there shall be one working toilet and one working sink for every 25 children in the center.

Rationale / Explanation

Young children need to use the bathroom frequently, and cannot wait long when they have to use the toilet. The American Academy of Pediatrics (AAP) and the American Public Health Association (APHA) recommend 1 sink and toilet for every 10 toddlers and preschool age children, and 1 sink and toilet for every 15 school age children.

A large toilet room with many toilets used by several groups is less desirable than several small toilet rooms assigned to specific groups, because of the opportunities large shared rooms provide for transmitting infectious diseases. *CFOC, 3^d Ed. pg. 246 Standard 5.4.1.6*

Enforcement

Level 1 Noncompliance if a child is not able to use a working toilet or handwashing sink when they need to because one or more toilets or sinks are not working.

Level 2 Noncompliance if there are enough toilets and sinks in the center and one or more of them are not working but this does not appear to result in a child not being able to use the toilet or wash his/her hands.

Assessment

If Licensees are unable to meet this requirement due to equipment failure or breakdown, but can show that they have scheduled a repair and are doing their best to make sure all children have access to a toilet and handwashing sink in the meantime, the Licensor will follow up to see if the repair is completed by the scheduled date before issuing a finding to this rule.

When counting toilets in a center, a urinal may be counted as a toilet for up to 50% of the required number of toilets. For large sinks that have two or more faucets in them, each separate faucet counts as one sink.

When calculating the number of toilets required, a Licensing Specialist will calculate using the license capacity for children age 2 and older.

Handwashing sinks that are adjacent to rooms will be considered a sink for the adjacent room.

If the boundaries of a room have been extended across the hall and the sinks are within those extended boundaries, they will be considered the same as being adjacent to the room.

A portable sink with no water in it will not be considered a working sink.

An indoor portable toilet, also known as a composting toilet, cannot be used to meet the requirement for a working toilet in a child care program. The local health department will only allow use of composting toilets in extreme situations, such as no available water source, and would not allow them in any child care program.

- (3) School age children shall have privacy when using the bathroom.

Rationale / Explanation

Children should be allowed the opportunity to practice modesty when independent toileting behavior is well established in the majority of the group. *CFOC, 3^d Ed. pg. 245 Standard 5.4.1.2*

Requiring a school age child to use bathroom fixtures designed for preschoolers may negatively impact the self-esteem of the school age child. *CFOC, 3rd Ed. pg. 246 Standard 5.4.1.6*

Enforcement

Level 2 Noncompliance if there is no privacy (no door, no curtain, etc.).

Level 3 Noncompliance if there is a measure for privacy which ensures privacy for younger children (such as a half door), but not for school age children.

Assessment

Privacy in bathrooms for school age children can be provided with a full length door or curtain.

- (4) For buildings constructed after 1 July 1997 there shall be a working hand washing sink in each classroom.

Rationale / Explanation

Transmission of many communicable diseases can be prevented through handwashing. To facilitate routine handwashing at the needed times, sinks must be close at hand and permit caregivers to provide continuous supervision while children wash their hands. *CFOC, 3rd Ed. pg. 246 Standard 5.4.1.6*

Enforcement

Level 2 Noncompliance if there are open, unscreened second floor or higher windows.

Level 3 Noncompliance Otherwise.

Assessment

Large rooms are sometimes divided into smaller separate rooms by half walls, or with furniture and a gate. In these rooms, a handwashing sink is only needed on one side if there is an opening or an open gate so children and caregivers can freely move between both sides.

- (5) Each area where infants or toddlers are cared for shall meet one of the following criteria:
- (a) There shall be two working sinks in the room. One sink shall be used exclusively for the preparation of food and bottles and hand washing prior to food preparation, and the other sink shall be used exclusively for hand washing after diapering and non-food activities.
 - (b) There shall be one working sink in the room which is used exclusively for hand washing, and all bottle and food preparation shall be done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.

Rationale / Explanation

Sinks must be close to where diapering takes place to avoid the transfer of contaminants to other surfaces on the way to the diapering handwashing sink. Having sinks close by will help prevent the spread of contaminants and communicable diseases. *CFOC, 3rd Ed. pg. 248 Standard 5.4.2.2*

Separation of sinks used for handwashing or other potentially contaminating activities from those used for food preparation prevents contamination of food. *CFOC, 3rd Ed. pg. 187 Standard 4.8.0.4*

Enforcement

Always Level 2 Noncompliance.

Assessment

For the purposes of this rule, two sinks means there are two different faucets, each going into a **separate basin**. To determine if a room has the required sink(s), a Licensing Specialist will use the following definitions of a "room":

- The area is considered two rooms and each room needs a sink when there is a full wall between two rooms and within the wall there is a closed door or a blocked opening between the rooms.
- A sink may be shared by two rooms if the sink is adjacent to the room(s) or in a room that is entered directly from the room(s). If two rooms share one sink, the Licensee is not required to have two sinks if the sink can be accessed by both rooms. The sink must be adjacent to both rooms or in a room that is entered directly from the infant/toddler room.

Filling a sippy cup or bottle with water from a source other than the handwashing sink only is not considered food preparation. Water from a handwashing sink may not be used to fill bottles or sippy cups.

If a bottle is prepared in the kitchen, and brought to the room by a non-diapering staff member, it can be heated up in the infant or toddler room.

Rooms that are used only for sleeping infants or toddlers are not required to have sinks in them.

The Licensee must be in compliance with this rule for any room with infants and toddlers in it, including when mixing age groups. The exception to this is when infants and toddlers are taken to a room without required sinks, such as a gym, if they are in the room for 30 minutes or less and they are taken to a room with required sinks for diapering and handwashing.

Children's hands must not be washed in the food preparation sink.

If caregivers go to another room to change infant and toddler diapers, the Licensee is not required to have two sinks in the room if the changing area is adjacent to or directly entered into from the room for infants and toddlers.

(6) Infant and toddler areas shall not be used as access to other areas or rooms.

Rationale / Explanation

Infants need quiet, calm environments, away from the stimulation of older children. In addition to this developmental need, separation of infants from older children and non-caregiving adults is important for reasons of disease prevention. Rates of hospitalization for all forms of acute infectious respiratory tract diseases are highest during the first year of life. *CFOC, 3rd Ed. pg. 59 Standard 2.1.2.4*

In addition to the increased risk of spreading disease, infants and toddlers could be stepped on, knocked over, or otherwise hurt by adults or children going through the room to get to another area of the center.

Enforcement

Always Level 2 Noncompliance.

Assessment

This rule is meant to address infant and toddler areas being used as access to other areas or rooms outside of the area/room used by the infants and toddlers. It is not meant to address one group of infants or toddlers accessing an area used by another group of infants or toddlers. For example, it does not prohibit a group of toddlers from walking through an adjacent toddler area to access a restroom or a door to the playground.

This rule does not apply to closets in an infant or toddler room that are used to store infant/toddler equipment and materials or to other storage closets that are not accessed by others outside the infant or toddler room when children are in care.

The Licensee must be in compliance with this rule for any room with infants and toddlers in it, including when mixing age groups. At inspections, any room with infants and toddlers present will be assessed as infant and toddler room.

Emergency exits located in infant and toddler rooms may be used to evacuate others during an emergency or drill.

This rule also applies to infant and toddler outdoor play areas when infants and toddlers are outside.

- (7) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

Rationale / Explanation

The health and well-being of both staff and children can be affected by the quality of air indoors. The air that people breathe inside a building is contaminated with organisms shared among occupants, and is sometimes more polluted than the outdoor air. Young children may be more affected than adults by air pollution. Children who spend long hours breathing contaminated or polluted indoor air are more likely to develop respiratory problems, allergies, and asthma. Air circulation is essential to clear infectious disease agents, odors, and toxic substances in the air. *CFOC, 3rd Ed. pg. 211 Standard 5.2.1.1*

Screens prevent the entry of insects, which may bite, sting, or carry disease. *CFOC, 3rd Ed. pg. 205 Standard 5.1.3.3*

Signs of inadequate ventilation can include mold growing in corners, a damp or musty smell, or a room with a temperature that varies greatly from the temperature of other rooms in the building.

Enforcement

Always Level 3 Noncompliance.

Assessment

If a room without mechanical ventilation has more than one window, at least one window must open for ventilation, and have a screen.

Mechanical ventilation is a way to move air in and out of a room.

- (8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

Rationale / Explanation

The American Academy of Pediatrics and the American Public Health Association recommend that a draft free indoor temperature between 68 degrees and 75 degrees Fahrenheit during the winter months, and between 74 degrees and 82 degrees Fahrenheit during the summer months. These requirements are based on the standards of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, which take into account both comfort and health considerations. *CFOC, 3rd Ed. pg. 212, Standard 5.2.1.2*

There may be some association between sleeping room temperatures and increased risk of SIDS, but this connection is not yet fully established. It is recommended that infants are lightly clothed for sleep and that the sleeping room temperature is kept comfortable for a lightly clothed adult, not to exceed 78 degrees. In addition, infants should not be over-bundled or should not feel hot to the touch when sleeping.

Enforcement

Level 2 Noncompliance if the temperature is out of range in a room for infants.

Level 3 Noncompliance if the temperature is out of range in any rooms besides infant rooms.

Assessment

If a Licensee is unable to meet the temperature requirements due to equipment failure or breakdown, but can show that they have scheduled a repair and are doing their best in the meantime to maintain a comfort level, the Licensing Specialist will follow up to see if the repair is completed by the scheduled date before issuing a finding to this rule.

In rooms for pre-school and school-age children, the air temperature will be measured at table height. In rooms for infants and toddlers, the air temperature will be measured at the height at which the infants and toddlers sleep.

- (9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

Rationale / Explanation

The American Academy of Pediatrics and the American Public Health Association recommend that natural lighting be provided in rooms where children work and play for more than two hours at a time and that all areas of the facility have glare-free natural and/or artificial lighting that provides adequate illumination and comfort for the children's safety and the activities being conducted. Inadequate artificial lighting has been linked to eyestrain, headache, and non-specific symptoms of illness. *CFOC, 3rd Ed. pg. 217, Standard 5.2.2.1*

It is important that there be adequate light for children to see safely and for caregivers to adequately supervise children and perform tasks such as diapering.

Enforcement

Level 2 Noncompliance if there is inadequate lighting in a diapering or food preparation area or if it is completely dark in a sleeping room.

Level 3 Noncompliance if there is inadequate lighting anywhere besides a diapering, food preparation area, or sleeping area.

Assessment

If needed, adequate lighting will be determined by using printed materials and seeing if there is enough light for a caregiver in the area to read it.

- (10) Windows and glass doors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.

Rationale / Explanation

Glass panels can be invisible to an active child. When a child collides with a glass panel, serious injury can result from the broken glass. *CFOC, 3rd Ed. pg. 205, Standard 5.1.3.4*

The purpose of this rule is to keep children from accidentally breaking and being cut by a glass window or door that is low enough for them to run into it.

Enforcement

Always Level 2 Noncompliance.

Assessment

Licensors will assess windows and glass surfaces in indoor areas used by children and in the outdoor play area.

Licensors will not assess windows and glass surfaces in staff offices or lounges unless the area is also used for child care. Licensors will not assess fish tanks for safety glass.

Since they will not shatter when broken, glass blocks that form walls are considered safety glass. "Tempered" glass is considered safety glass.

If a window has a double pane (such as a storm window) and both sides of the window are accessible to children, both panes must be made of safety glass or have a protective guard.

There are several ways Licensees can be in compliance with this rule. If glass is not marked by the manufacturer as safety glass and if no documentation verifying this is available from the manufacturer, the Licensee can take other measures to comply with this rule. Licensees can use child furniture, such as a book or toy shelf, as a protective guard in front of the window. When windows are set into the wall so that there is a window sill, the Licensee can put a child safety gate in the window sill to act as a protective guard. Licensees can put a sheet of acrylic over the glass. Licensees can also put a protective film on windows to prevent them from shattering into loose shards if they break. If protective film is used, the Licensee needs documentation from the manufacturer that the film meets CPSC or ASTM standards. Examples of this kind of film can be found at:

- <http://www.shatterguard.com>
- <http://www.llumar.com>
- <http://www.solarsecurity.com>

All glass surfaces will be inspected (except mirrors) within 36 inches of the floor or ground, except in lobbies where children are never without adult supervision. This includes windows that face the playground. When determining the 36 inches from the floor the width of the window ledge with the height from the floor will be combined. When measuring for the window height, the measurement will be taken from the ground all the way to the glass, including any ledge, sill, or frame of the window.

Safety film only needs to be on one side of single pane windows.

Bushes outside of buildings are acceptable barriers for safety glass when the combined height and depth of the bushes is at least 36 inches. The measurements will be of the branches, not the foliage.

Screens that don't cover entire windows but cover windows at least 36 inches from the floor or ground are acceptable protective guards.

Furniture of any height that is within four inches of the bottom and sides of the glass surface can be used as a protective barrier.

Solid window shutters can be used as protective barriers. Window blinds in any position are not considered protective barriers.

- (11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.
- (12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:
 - (a) by children;
 - (b) for the care of children; or
 - (c) to store classroom materials.
- (13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

[Rationale / Explanation](#)

The American Academy of Pediatrics and the American Public Health Association **recommend** 42 square feet of usable floor space per child. A usable floor space of 50 square feet per child is preferred. The rationale for this recommendation is that crowding has been shown to be associated with an increased risk of upper respiratory infections because children's behavior tends to be more constructive when they have sufficient space and because having sufficient space reduces the risk of injury from simultaneous activities. *CFOC, 3rd Ed. pg. 203, Standard 5.1.2.1*

An October 2005 legislative audit of the Bureau of Licensing examined this rule specifically, and found that Utah's requirement of 35 square feet per child is reasonable and justifiable, and is in line with 42 of the 50 states.

Enforcement

Always Level 2 Noncompliance.

Assessment

These measurements are taken, and capacity determined, at the time of initial licensure. Rooms are not re-measured on subsequent inspections unless a particular room or space appears overly crowded during the inspection or if a room or area has been remodeled.

If a city license limits the provider to a certain capacity, child care licensing must enforce it and issue a license with a number that is not higher than the city allows.

Children may temporarily be in spaces with less than 35 square feet of space per child for group activities that require less space, such as nap times, meals, story times, homework, computer time, art projects, puppet shows, etc. Such activities should not exceed 2 hours per day, excluding nap times, and the length of time should be appropriate to the activity. For example, an hour long art project in a smaller space for preschoolers would not be an appropriate activity length.