

R430-70-8: ADMINISTRATION.

- (1) The licensee is responsible for all aspects of the operation and management of the program.

Rationale / Explanation

The Licensee may delegate responsibilities under this rule to staff of the program. However, ultimate responsibility for compliance with all licensing rules rests with the Licensee. The Licensee must ensure that he or she has adequate oversight of staff to whom duties have been delegated to ensure the delegated duties are completed as assigned.

Enforcement

Any time there is a child in care (meaning the care in lieu of parental care of an unrelated child) the Licensee must be in compliance with licensing rules. This includes care provided at the facility by anyone at any time. This also includes care provided at another location when the children in care are the responsibility of the Licensee.

This rule will be considered out of compliance if a Licensee instructs an employee to disregard or be out of compliance with a licensing rule or rules.

Level 1 Noncompliance if the lack of adequate oversight resulted in noncompliance with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if the lack of adequate oversight resulted in noncompliance with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if the lack of adequate oversight resulted in noncompliance with one or more rules that have been identified as Level 3 Noncompliance rules.

- (2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

Rationale / Explanation

This rule is intended to address problems which are not already addressed in other child care licensing rules, but which involve the violation of a federal, state, or local law or administrative rule of another agency that applies to the operation of a child care program.

Enforcement

A finding for this rule is issued only when there is not another licensing rule that addresses the situation. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing rules.

- (3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

Rationale / Explanation

This rule is intended to address problems which are not already specifically mentioned in other child care licensing rules but which jeopardize children's well-being.

Enforcement

A finding for this rule is issued only when there is not another licensing rule that addresses the situation. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare

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the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing rules.

- (4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.**

Rationale / Explanation

This rule is intended to address problems which may arise that are not specifically mentioned in other child care licensing rules but which jeopardize children's safety.

Enforcement

Noncompliance to this rule includes jerking, pulling, lifting or swinging a child by the arm(s), which can cause a partial dislocation of the elbow, also referred to as Nursemaid's Elbow.

A finding for this rule is issued only when there is not another licensing rule that addresses the situation. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing rules, except for the situations below:

Level 2 Noncompliance if:

- there are open, unscreened second floor or higher windows*
- a child's elbow is dislocated after his/her arm is jerked or pulled or the child is lifted or swing by his/her arm (Nursemaid's Elbow)*

Level 3 Noncompliance for open, unscreened first floor windows.

- (5) Either the program director or a designee with written authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.**

Rationale / Explanation

The purpose of this rule is to ensure that there is always a qualified individual on-site who assumes responsibility for the management of the program and the protection of children's health and safety. Lines of responsibility need to be clearly delineated, including the presence at all times of an individual who is designated to have ultimate responsibility for the functioning of the program. CFOC, 3rd Ed. pg. 347 Standard 9.1.0.1

Enforcement

Level 1 Noncompliance if there is noncompliance (due to an absent director or designee) with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if there is noncompliance (due to an absent director or designee) with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if there is noncompliance (due to an absent director or designee with one or more rule that have been identified as Level 3 Noncompliance rules, or if no director or designee is present.

- (6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.**

Rationale / Explanation

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The director of a program plays a pivotal role in ensuring the day to day smooth functioning of the facility within the framework of appropriate child development principles. The well-being of the children in the facility depends largely upon the knowledge, skills, and dependable presence of a director who is able to respond to long-term and immediate needs, and who is able to engage staff in appropriate decision making that affects their day to day practices with children. CFOC, 3rd Ed. pgs. 10-11 Standard 1.3.1.1

Completion of orientation training prior to assuming director designee duties helps to ensure the smooth functioning of the program, and is essential in order to protect the health and safety of the children in care. CFOC, 3rd Ed. pgs. 21-22 Standard 1.4.2.1

Enforcement

Level 2 Noncompliance if the director designee has not completed his or her orientation training or is less than 18 years old.

Level 3 Noncompliance if the director designee is at least 18 years old, but not yet 21 years old.

- (7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.**

Rationale / Explanation

The director of a program plays a pivotal role in ensuring the day to day smooth functioning of the facility within the framework of appropriate child development principles. The well-being of the children in the facility depends largely upon the knowledge, skills, and dependable presence of a director who is able to respond to long-term and immediate needs, and who is able to engage staff in appropriate decision making that affects their day to day practices with children. CFOC, 3rd Ed. pgs. 10-11 Standard 1.3.1.1.

Enforcement

Level 1 Noncompliance if the director is not on-site at least 50% of the time the program is open to children and there is noncompliance (due to an absent director) with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if the director is not on-site at least 50% of the time the program is open to children and there is noncompliance (due to the absent director) with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if the director is not on-site at least 50% of the time the program is open to children and there is noncompliance (due to an absent director) with one or more rules that have been identified as Level 3 Noncompliance rules or if the director is not present at least 50% of the time the program is open to children.

- (8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.**

Rationale / Explanation

The purpose of this rule is to ensure that the program director is available and has sufficient freedom to perform the many duties that are required in order to supervise caregivers, ensure adequate communication with parents, monitor and correct health and safety hazards, and otherwise maintain compliance with the licensing rules. CFOC, 3rd Ed. pg. 12 Standard 1.3.1.2.

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Enforcement

Program directors may perform a variety of duties in the course of a day, such as substituting for absent staff members, observing or training caregivers in the classroom, conferencing with parents, performing routine maintenance, etc. "Sufficient freedom" means that the program director does not also have permanent duties as a caregiver.

Level 1 Noncompliance if there is noncompliance (due to a director with insufficient freedom from other responsibilities) with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if there is noncompliance (due to a director with insufficient freedom from other responsibilities) with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if there is noncompliance (due to a director with insufficient freedom from other responsibilities) with one or more rules that have been identified as Level 3 Noncompliance rules or if no director or designee is present.

- (9) There shall be a working telephone at the facility, and the program director shall inform each child's parent and the Department of any changes to the programs's telephone number within 48 hours of the change.**

Rationale / Explanation

The purpose of the rule is to ensure that staff can contact the parents of children in care, that the parents of children in care can contact staff, and that staff can always contact emergency personnel (fire, police, ambulance, etc.) if needed. CFOC, 3rd Ed. pg. 243 Standard 5.3.1.12

Enforcement

Level 1 Noncompliance if there is an emergency and there is not a working telephone at the facility.

Level 2 Noncompliance if there is no working telephone at the facility.

Level 3 Noncompliance if there is working phone at the facility but staff does not notify parents or the department staff of a change in phone number.

- (10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.**

Rationale / Explanation

The purpose of this rule is so that the Department staff can work with program staff to correct unsafe or unhealthy conditions and to prevent future or additional harm to children. CFOC, 3rd Ed. pg. 383 Standard 9.4.1.10

Enforcement

For the purposes of this rule, emergency medical response means a call to 911 (or the police, ambulance, or fire department, if any of these are called because of an injury to a child).

Attention from a health care provider means a visit to a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant, and visit to a hospital or doctor. Program staff must report

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injuries that require attention from a health care provider as soon as they become aware of the visit to the health care provider (for example, in situations where the parent took the child to a health care provider after leaving the program).

Level 1 Noncompliance for not reporting a fatality.

Level 3 Noncompliance otherwise.

- (11) The duties and responsibilities of the program director include the following:**
- (a) appoint, in writing, one or more caregivers to be a director designee, with authority to act on behalf of the program director in his or her absence;**

Rationale / Explanation

The director of a program plays a pivotal role in ensuring the day to day smooth functioning of the facility within the framework of appropriate child development principles. The well-being of the children in the facility depends largely upon the knowledge, skills, and dependable presence of a director who is able to respond to long-term and immediate needs, and who is able to engage staff in appropriate decision making that affects their day to day practices with children. CFOC, 3rd Ed. pgs. 10-11 Standard 1.3.1.1.

Enforcement

Always Level 3 Noncompliance.

- (11) The duties and responsibilities of the program director include the following:**
- (b) train and supervise staff to:**
 - (i) ensure their compliance with this rule;**
 - (ii) ensure they meet the needs of the children in care as specified in this rule; and**

Rationale / Explanation

The purpose of this rule is to ensure that all program staff have the training and ongoing supervision needed to ensure they protect children's health and safety as required in the licensing rules. CFOC, 3rd Ed. pgs. 21-22 Standard 1.4.2.1, pgs. 23-24 Standard 1.4.2.3, pgs. 43-44 Standards 1.8.2.2, 1.8.2.3, 1.8.2.4

Enforcement

Level 1 Noncompliance if a caregiver is not adequately trained or supervised to comply with any rule and a child is harmed as a result of this.

Level 3 Noncompliance otherwise, including if a caregiver is not adequately trained to report child abuse and neglect to the proper authorities.

- (11) The duties and responsibilities of the program director include the following:**
- (b) train and supervise staff to:**
 - (iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.**

Enforcement

Always Level 1 Noncompliance.

- (12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care.**

Rationale / Explanation

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The purpose of this rule is to ensure that there are written policies in place to protect children's health and safety. An organized, comprehensive approach to ensuring children's health and safety is necessary. Such an approach requires written plans, policies, and procedures, and adequate record-keeping so that there is consistency over time and across staff, as well as an understanding between parents and caregivers. This allows clear expectations to be communicated to staff, and helps program directors train and hold staff responsible for following the written policies. CFOC, 3rd Ed. pgs. 348-350 Standards 9.2.1.1, 9.2.1.2, 9.2.1.3, pg. 351 Standard 9.2.1.6

A yearly review of the program's written policies encourages administrators to keep this information current. Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. CFOC, 3rd Ed. pg. 349 Standard 9.2.1.2

Enforcement

A finding to this rule is issued if the provider does not have any written policies or has them but does not follow them.

Level 2 Noncompliance if the provider does not follow his/her written policies for (a)-(d) or (g)-(j).

Level 3 Noncompliance if the provider does not follow his/her written policies for (e), (f), or (k).

- (12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:**
- (a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and during off-site activities;**
 - (b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;**
 - (c) procedures to account for each child's attendance and whereabouts;**
 - (d) procedures to ensure that the program releases children to authorized individuals only;**
 - (e) confidentiality and release of information;**
 - (f) the use of movies and video or computer games, including what industry ratings the center allows;**
 - (g) recognizing early signs of illness and determining when there is a need for exclusion from the program;**
 - (h) discipline of children, including behavioral expectations of children and discipline methods used;**
 - (i) transportation to and from off-site activities, or to and from home, if the program offers these services; and**
 - (j) if the program offers transportation to or from school, policies addressing:
 - (i) how long children will be unattended before and after school;**
 - (ii) what steps will be taken if children fail to meet the vehicle;**
 - (iii) how and when parents will be notified of delays or problems with transportation to and from school; and**
 - (iv) the use of size-appropriate safety restraints.****
 - (k) if the program has a computer that is connected to the internet and that is accessible to any child in care:
 - (i) written policies for parents explaining how children's computer use is monitored; and**
 - (ii) a signed parent permission form for each child who is allowed to use the computer.****

Rationale / Explanation

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A yearly review of the program's written policies encourages administrators to keep this information current. Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. CFOC, 3rd Ed. pg. 349 Standard 9.2.1.2

Enforcement

A finding will be issued if there are written policies but they are missing one or more of the required topics.

Always Level 3 Noncompliance.

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

Rationale / Explanation

Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. CFOC, 3rd Ed. pg. 349 Standard 9.2.1.2.

Access to these written policies by parents and staff is important to ensure that all parties understand the program's policies and expectations, and to help staff remember and follow the policies. Review of the written policies by the Department is used to determine, in part, the Licensee's compliance with the licensing rules. CFOC, 3rd Ed. pg. 380 Standard 9.4.1.5

Enforcement

Always Level 3 Noncompliance.