

## **R430. Health, Family Health and Preparedness, Child Care Licensing.**

### **R430-90. Licensed Family Child Care.**

#### **R430-90-1. Legal Authority and Purpose.**

- (1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.
- (2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to obtain and maintain a license to provide child care.

#### **R430-90-2. Definitions.**

- (1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.
- (2) "ASTM" means American Society for Testing and Materials.
- (3) "Background Finding" means information in a background screening that may result in a denial from Child Care Licensing.
- (4) "Background Screening Denial" means that an individual has failed the background screening and is prohibited from being involved with a child care facility.
- (5) "Barrier" means an enclosing structure such as a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.
- (6) "Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.
- (7) "Capacity" means the maximum number of children for whom care can be provided at any given time.
- (8) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.
- (9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.
- (10) "Child Care" means continuous care and supervision of 5 or more qualifying children, that is:
  - (a) in place of care ordinarily provided by a parent in the parent's home,
  - (b) for less than 24 hours a day, and
  - (c) for direct or indirect compensation.
- (11) "Child Care Hours" means the days and times during which the provider is open for business.
- (12) "Child Care Program" means a person or business that offers child care.
- (13) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.
- (14) "Conditional Status" means that the provider is at risk of losing their license because compliance with licensing rules has not been maintained.
- (15) "Covered Individual" means any of the following individuals involved with a child care facility:
  - (a) an owner;
  - (b) an employee;
  - (c) a caregiver;
  - (d) a volunteer, except a parent of a child enrolled in the child care program;
  - (e) an individual age 12 years or older who resides in the facility; and
  - (f) anyone who has unsupervised contact with a child in care.
- (16) "CPSC" means the Consumer Product Safety Commission.
- (17) "Department" means the Utah Department of Health.
- (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.
- (19) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.

- (20) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
- (21) "Facility" means a child care program or the premises approved by the Department to be used for child care.
- (22) "Group" means the children who are supervised by one or more caregivers in an individual room or in an area within a room that is defined by furniture or other partition.
- (23) "Group Size" means the number of children in a group.
- (24) "Guest" means an individual who is not a covered individual and is on the premises with the provider's permission.
- (25) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.
- (26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)
- (27) "Inaccessible" means out of reach of children by being:
  - (a) locked, such as in a locked room, cupboard, or drawer;
  - (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;
  - (c) behind a properly secured child safety gate;
  - (d) located in a cupboard or on a shelf that is at least 36 inches above the floor; or
  - (e) in a bathroom, at least 36 inches above any surface from where a child could stand or climb.
- (28) "Infant" means a child who is younger than 12 months of age.
- (29) "Infectious Disease" means an illness that is capable of being spread from one person to another.
- (30) "Involved with Child Care" means to do any of the following at or for a child care facility licensed by the Department:
  - (a) provide child care;
  - (b) volunteer at a child care facility;
  - (c) own, operate, direct, or be employed at a child care facility;
  - (d) reside at a facility where child care is provided; or
  - (e) be present at a facility while care is being provided, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the child care facility.
- (31) "License" means a license issued by the Department to provide child care services.
- (32) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.
- (33) "LIS Supported Finding" means background screening information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.
- (34) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA).
- (35) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.
- (36) "Parent" means the parent or legal guardian of a child in care.
- (37) "Person" means an individual or a business entity.
- (38) "Physical Abuse" means causing nonaccidental physical harm to a child.
- (39) "Preschooler" means a child age 2 through 4 years old.
- (40) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

- (41) "Qualifying Child" means:
  - (a) a child who is younger than 13 years old and is the child of a person other than the child care provider or caregiver,
  - (b) a child with a disability who is younger than 18 years old and is the child of a person other than the provider or caregiver, or
  - (c) a child who is younger than 4 years old and is the child of the provider or a caregiver.
- (42) "Residential Child Care" means care that takes place in a child care provider's home.
- (43) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (44) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.
- (45) "School-Age Child" means a child age 5 through 12 years old.
- (46) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).
- (47) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).
- (48) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (49) "Stationary Play Equipment" means equipment such as a climber, slide, swing, merry-go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:
  - (a) a sandbox;
  - (b) a stationary circular tricycle;
  - (c) a sensory table; or
  - (d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.
- (50) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:
  - (a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;
  - (b) hardware that forms a hook or leaves a gap or space between components such as an open S-hook; or
  - (c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.
- (51) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.
- (52) "Toddler" means a child age 12 through 23 months.
- (53) "Unrelated Child" means a child who is not a "related child" as defined in R430-90-2(43).
- (54) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background screening.
- (55) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.
- (56) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.
- (57) "Working Days" means the days of the week the Department is open for business.

### **R430-90-3. License Required.**

- (1) A person or persons shall be licensed under this rule if they provide child care:
  - (a) in the home where they reside;
  - (b) in the absence of the child's parent;
  - (c) for 5 to 16 unrelated children;
  - (d) for 4 or more hours per day;
  - (e) on a regularly scheduled, ongoing basis; and
  - (f) for direct or indirect compensation.

- (2) The Department may not license, nor is a license required for:
  - (a) a person who cares for related children only; or
  - (b) a person who provides care on a sporadic basis only.
- (3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.

**R430-90-4. License Application, Renewal, Changes, and Variances.**

- (1) An applicant for a new child care license shall submit to the Department:
  - (a) an online application;
  - (b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;
  - (c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;
  - (d) a copy of a current local business license or a statement from the city that a business license is not required;
  - (e) a copy of a completed Department health and safety plan form;
  - (f) CCL background screenings for all covered individuals as required in R430-90-8;
  - (g) a current copy of the Department's new provider training certificate of attendance;
  - (h) all required fees, which are nonrefundable; and
  - (i) a signed Affidavit of Lawful Presence form provided by the Department.
- (2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.
- (3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:
  - (a) address numbers and/or letters shall be readable from the street;
  - (b) address numbers and/or letters shall be at least 4 inches in height and 1/2 inch thick;
  - (c) exit doors shall operate properly and shall be well maintained;
  - (d) obstructions in exits, aisles, corridors, and stairways shall be removed;
  - (e) items stored under exit stairs shall be removed;
  - (f) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;
  - (g) there shall be working smoke detectors that are properly installed on each level of the building; and
  - (h) boiler, mechanical, and electrical panel rooms shall not be used for storage.
- (4) If the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:
  - (a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;
  - (b) there shall be a working thermometer in the refrigerator;
  - (c) there shall be a working stem thermometer available to check cook and hot hold temperatures;
  - (d) cooks shall have a current food handler's permit available on-site for review by the Department;
  - (e) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;
  - (f) chemicals shall be stored away from food and food service items;
  - (g) food shall be properly stored, kept to the proper temperature, and in good condition; and
  - (h) there shall be a working handwashing sink in the kitchen.
- (5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.

- (6) The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or certificate that was:
  - (a) closed under an immediate closure;
  - (b) revoked;
  - (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;
  - (d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or
  - (e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.
- (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the Department, or voluntarily closed by the provider.
- (8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:
  - (a) an online renewal request,
  - (b) applicable renewal fees,
  - (c) any previous unpaid fees,
  - (d) a copy of a current business license,
  - (e) a copy of a current fire inspection report, and
  - (f) a copy of a current kitchen inspection report.
- (9) A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.
- (10) The Department may not renew a license for a provider who is no longer caring for children.
- (11) The provider shall submit a complete application for a new license at least 30 days before a change of the child care facility's location.
- (12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:
  - (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;
  - (b) a change in the name of the program;
  - (c) a change in the regulation category of the program;
  - (d) a change in the name of the provider; or
  - (e) a transfer of business ownership to a spouse or to any other household member.
- (13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.
- (14) A license is not assignable or transferable and shall only be amended by the Department.
- (15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.
- (16) The Department may:
  - (a) require additional information before acting on the variance request, and
  - (b) impose health and safety requirements as a condition of granting a variance.
- (17) The provider shall comply with the existing rule until a variance is approved.
- (18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.
- (19) The Department may grant variances for up to 12 months.
- (20) The Department may revoke a variance if:
  - (a) the provider is not meeting the intent of the rule as stated in their approved variance;
  - (b) the provider fails to comply with the conditions of the variance; or
  - (c) a change in statute, rule, or case law affects the basis for the variance.

#### **R430-90-5. Rule Violations and Penalties.**

- (1) The Department may place a program's child care license on a conditional status for the following causes:
  - (a) chronic, ongoing noncompliance with rules;
  - (b) unpaid fees; or
  - (c) a serious rule violation that places children's health or safety in immediate jeopardy.
- (2) The Department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.
- (3) The Department may increase monitoring of the program that is on conditional status to verify compliance with rules.
- (4) The Department may deny or revoke a license if the child care provider:
  - (a) fails to meet the conditions of a license on conditional status;
  - (b) violates the Child Care Licensing Act;
  - (c) provides false or misleading information to the Department;
  - (d) misrepresents information by intentionally altering a license or any other document issued by the Department;
  - (e) refuses to allow authorized representatives of the Department access to the facility to ensure compliance with rules;
  - (f) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;
  - (g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or
  - (h) has committed an illegal act that would exclude a person from having a license.
- (5) Within 10 working days of receipt of a revocation notice, the provider shall submit to the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the revocation.
- (6) The Department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect their health or safety.
- (7) Upon receipt of an immediate closure notice, the provider shall give the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the immediate closure.
- (8) If there is a severe injury or the death of a child in care, the Department may order the child care provider to suspend services and/or prohibit new enrollments, pending a review by the Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.
- (9) If a person is providing care for more than 4 unrelated children without the appropriate license, the Department may:
  - (a) issue a cease and desist order, or
  - (b) allow the person to continue operation if:
    - (i) the person was unaware of the need for a license,
    - (ii) conditions do not create a clear and present danger to the children in care, and
    - (iii) the person agrees to apply for the appropriate license within 30 calendar days of notification by the Department.
- (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and all required application documents within 30 days, the Department may issue a cease and desist order.
- (11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Section 26-39-601.
- (12) Assessment of any civil money penalty does not prevent the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.

- (13) Assessment of any administrative civil money penalty under this section does not prevent court-ordered or other equitable remedies.
- (14) The Department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background screenings, civil money penalties, and other fees assessed by the Department.
- (15) An applicant or provider may appeal any Department decision within 30 days of being informed of the decision.

**R430-90-6. Administration and Children's Records.**

- (1) The provider shall:
  - (a) be at least 18 years of age;
  - (b) pass a CCL background screening;
  - (c) demonstrate lawful presence in the United States;
  - (d) complete the new provider training offered by the Department; and
  - (e) complete at least 20 hours of child care training each year, based on the facility's license date.
- (2) The provider shall not engage in or allow conduct that endangers children in care; or is contrary to the health, morals, welfare, and safety of the public.
- (3) The provider shall have knowledge of and comply with all federal, state, and local laws, ordinances, and rules, and shall be responsible for the operation and management of a child care program.
- (4) The provider shall comply with licensing rules at all times when a child in care is present.
- (5) The provider shall post the original child care license on the facility premises in a place readily visible and accessible to the public.
- (6) The provider shall post a copy of the Department's Parent Guide at the facility for parent review during business hours, or give each parent a copy of the guide at enrollment.
- (7) The provider shall inform parents and the Department of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (8) The provider shall establish, follow, and ensure that all staff and volunteers follow a written health and safety plan that is:
  - (a) completed on the Department's required form;
  - (b) submitted to the Department for initial approval and any time changes are made to the plan;
  - (c) reviewed and updated as needed;
  - (d) signed and dated at least annually; and
  - (e) available for review by parents, staff, and the Department during business hours.
- (9) The provider shall ensure that each parent completes an admission and health assessment form for their child before the child is admitted into the child care program.
- (10) The admission and health assessment form shall include the following information:
  - (a) child's name;
  - (b) child's date of birth;
  - (c) parent's name, address, and phone number, including a daytime phone number;
  - (d) names of people authorized by the parent to pick up the child;
  - (e) name, address, and phone number of a person to be contacted in case of an emergency if the provider is unable to contact the parent;
  - (f) if available, the name, address, and phone number of an out-of-area emergency contact person for the child;
  - (g) current emergency medical treatment and emergency transportation releases with the parent's signature;
  - (h) any known allergies of the child;
  - (i) any known food sensitivities of the child;
  - (j) any chronic medical conditions that the child may have;
  - (k) instructions for special or nonroutine daily health care of the child;

- (l) current ongoing medications that the child may be taking; and
  - (m) any other special health instructions for the caregiver.
- (11) The admission and health assessment form shall:
    - (a) be reviewed, updated, and signed or initialed by the parent at least annually; and
    - (b) kept on-site for review by the Department.
  - (12) Before admitting any child younger than 5 years of age into the child care program, including the provider's and employees' own children, the provider shall obtain the following documentation from the child's parent:
    - (a) current immunizations, as required by Utah law;
    - (b) a medical schedule to receive required immunizations;
    - (c) a legal exemption; or
    - (d) a 90-day exemption for children who are homeless.
  - (13) For each child younger than 5 years of age, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the Department.
  - (14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the Department.
  - (15) Each child's information shall be kept confidential and shall not be released without written parental permission.

#### **R430-90-7. Personnel and Training Requirements.**

- (1) The provider shall train and supervise employees and volunteers to ensure that they are qualified to:
  - (a) meet the needs of the children as required by rule, and
  - (b) be in compliance with all licensing rules.
- (2) Each week, the provider shall be present at the home at least 50% of the time that any child is in care; and whenever a child is in care, the provider, a caregiver who is at least 18 years old, or a substitute with authority to act on behalf of the provider shall be present.
- (3) Caregivers shall:
  - (a) be at least 16 years old;
  - (b) pass a CCL background screening;
  - (c) receive at least 2.5 hours of preservice training before beginning job duties;
  - (d) have knowledge of and follow all applicable laws and rules; and
  - (e) complete at least 20 hours of child care training each year, based on the facility's license date.
- (4) Substitutes shall:
  - (a) be at least 18 years old;
  - (b) pass a CCL background screening;
  - (c) be capable of providing care, supervising children, and handling emergencies in the provider's absence;
  - (d) receive at least 2.5 hours of preservice training before beginning job duties; and
  - (e) complete at least 1.5 hours of child care training for each month they work 40 hours or more.
- (5) All other employees such as drivers, cooks, and clerks shall:
  - (a) pass a CCL background screening,
  - (b) receive at least 2.5 hours of preservice training before beginning job duties, and
  - (c) have knowledge of and follow all applicable laws and rules.
- (6) Volunteers shall:
  - (a) pass a CCL background screening, and
  - (b) not have unsupervised contact with any child in care if the volunteer is younger than 18 years of age.
- (7) Guests:
  - (a) shall not have unsupervised contact with any child in care, and
  - (b) are not required to pass a CCL background screening when they remain in the home for not more than 2 weeks.



- (8) Any individual who stays in the home for more than 2 weeks shall be considered a household member and shall be required to pass a CCL background screening.
- (9) Parents of children in care:
  - (a) shall not have unsupervised contact with any child in care except their own, and
  - (b) do not need a CCL background screening unless involved with child care in the facility.
- (10) Household members who are:
  - (a) 12 to 17 years old shall pass a CCL background screening;
  - (b) 18 years of age or older shall pass a CCL background screening that includes fingerprints; and
  - (c) younger than 18 years of age shall not have unsupervised contact with any child in care including during offsite activities and transportation.
- (11) Individuals who provide IEP or IFSP services such as physical, occupational, or speech therapists:
  - (a) are not required to have a CCL background screening as long as the child's parent has given permission for services to take place at the facility, and
  - (b) shall provide proper identification before having access to the facility or a child at the facility.
- (12) Members from law enforcement or from Child Protective Services:
  - (a) are not required to have a CCL background screening, and
  - (b) shall provide proper identification before having access to the facility or a child at the facility.
- (13) Preservice training shall include the following:
  - (a) job description and duties;
  - (b) current Department rule sections R430-90-7 through 24;
  - (c) the Department-approved health and safety plan that includes preparing for and responding to emergencies;
  - (d) prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
  - (e) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;
  - (f) prevention of sudden infant death syndrome (SIDS) and the use of safe sleeping practices;
  - (g) recognizing the signs of homelessness and available assistance;
  - (h) a review of the information in each child's health assessment; and
  - (i) an introduction and orientation to the children in care.
- (14) Documentation of each individual's preservice training shall be kept on-site for review by the Department and include the following:
  - (a) training topics,
  - (b) date of the training, and
  - (c) total hours or minutes of training.
- (15) Annual child care training shall include the following topics:
  - (a) current Department rule sections R430-90-7 through 24;
  - (b) the Department-approved health and safety plan that includes preparing for and responding to emergencies;
  - (c) the prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
  - (d) principles of child growth and development, including brain development;
  - (e) positive guidance and interactions with children;
  - (f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;
  - (g) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and
  - (h) recognizing the signs of homelessness and available assistance.
- (16) At least 10 of the 20 hours of annual child care training shall be face-to-face instruction.
- (17) Individuals who are required to receive annual child care training and who begin employment partway through the facility's license year shall complete a proportionate number of training hours including the face-to-face instruction.

- (18) Documentation of each individual's annual child care training shall be kept on-site for review by the Department and include the following:
  - (a) training topic,
  - (b) date of the training,
  - (c) whether the training was face-to-face or non-face-to-face instruction,
  - (d) name of the person or organization that presented the training, and
  - (e) total hours or minutes of training.
- (19) Whenever there are children present, there shall be at least one caregiver present who can demonstrate English literacy skills needed to care for children and respond to emergencies.
- (20) At least one staff member with a current Red Cross, American Heart Association, or equivalent first aid and infant/child CPR certification shall be present when children are in care:
  - (a) at the facility,
  - (b) in each vehicle transporting children, and
  - (c) at each offsite activity.
- (21) CPR certification shall include hands-on testing.
- (22) The following records for each covered individual shall be kept on-site for review by the Department:
  - (a) the date of initial employment or association with the program;
  - (b) a copy of the current background screening card issued by the Department;
  - (c) a current first aid and CPR certification, if required in rule; and
  - (d) a six-week record of the times worked each day.

#### **R430-90-8. Background Screenings.**

- (1) The provider shall ensure that an online CCL background screening form is submitted within 10 working days from when:
  - (a) a new covered individual becomes involved with the program,
  - (b) a new covered individual age 12 years or older begins living in the facility, and
  - (c) a child who resides in the facility turns 12 years old.
- (2) Unless an exception is granted in rule, the provider shall ensure that a CCL background screening for each individual age 18 years or older includes fingerprints and fingerprints fees.
- (3) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (4) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.
- (5) Fingerprints are not required if:
  - (a) the covered individual has resided in Utah continuously for the past 5 years, or since the individual's 18th birthday and will only be involved with child care in a program that was licensed or certified prior to 1 July 2013; or
  - (b) the covered individual has previously submitted fingerprints to the Department under this section for a national criminal history record check and has resided in Utah continuously since that time.
- (6) Background screenings are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background screening card.
- (7) At least 2 weeks before the end of the month that is written on a covered individual's background screening card, the provider shall:
  - (a) have the individual submit an online CCL background screening form,
  - (b) authorize the individual's background screening form, and
  - (c) pay all required fees.
- (8) Regardless of any exception in rule, if an in-state criminal background screening indicates that a covered individual age 18 years or older has a background finding, the Department may require that individual to submit fingerprints and fees in order for the Department to conduct a national criminal background screening for that individual.

- (9) The following background findings shall deny a covered individual from being involved with child care:
  - (a) LIS supported findings,
  - (b) the individual's name appears on the Utah or national sex offender registry,
  - (c) any felony convictions,
  - (d) any Misdemeanor A convictions, or
  - (e) Misdemeanor B and C convictions for the reasons listed in R430-90-8(10).
- (10) The following convictions, regardless of severity, may result in a background screening denial:
  - (a) unlawful sale or furnishing alcohol to minors;
  - (b) sexual enticing of a minor;
  - (c) cruelty to animals, including dogfighting;
  - (d) bestiality;
  - (e) lewdness, including lewdness involving a child;
  - (f) voyeurism;
  - (g) providing dangerous weapons to a minor;
  - (h) a parent providing a firearm to a violent minor;
  - (i) a parent knowing of a minor's possession of a dangerous weapon;
  - (j) sales of firearms to juveniles;
  - (k) pornographic material or performance;
  - (l) sexual solicitation;
  - (m) prostitution and related crimes;
  - (n) contributing to the delinquency of a minor;
  - (o) any crime against a person;
  - (p) a sexual exploitation act;
  - (q) leaving a child unattended in a vehicle; and
  - (r) driving under the influence (DUI) while a child is present in the vehicle.
- (11) A covered individual with a Class A misdemeanor background finding not listed in R430-90-8(10) may be involved with child care when:
  - (a) 10 or more years have passed since the Class A misdemeanor offense, and
  - (b) there is no other conviction for the individual in the past 10 years.
- (12) A covered individual with a Class A misdemeanor background finding not listed in R430-90-8(10) may be involved with child care for up to 6 months if:
  - (a) 5 to 9 years have passed since the offense,
  - (b) there is no other conviction since the Class A misdemeanor offense,
  - (c) the individual provides to the Department documentation of an active petition for expungement, and
  - (d) the provider ensures that the individual does not have unsupervised contact with any child in care.
- (13) If a petition for expungement is denied, the covered individual shall no longer be involved with child care.
- (14) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred 10 or more years before the CCL background screening was conducted.
- (15) The Department may rely on the criminal background screening findings as conclusive evidence of the arrest warrant, arrest, charge, or conviction; and the Department may revoke, suspend, or deny a license or employment based on that evidence.
- (16) If the provider has a background screening denial, the Department may suspend or deny their license until the reason for the denial is resolved.
- (17) If a covered individual has a background screening denial, the Department may prohibit that individual from being employed by the child care program or residing at the facility until the reason for the denial is resolved.

- (18) If a covered individual is denied a license or employment based upon the criminal background screening and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.
- (19) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):
  - (a) the individual cannot appeal the supported finding to the Department of Health, and
  - (b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.
- (20) Within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding, the provider and the covered individual shall notify the Department. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license.
- (21) The Executive Director of the Department of Health may overturn a background screening denial under the following conditions:
  - (a) the background finding is not a felony, and
  - (b) the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

**R430-90-9. Facility.**

- (1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.
- (2) 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.
- (3) The following areas are not included when measuring indoor space for children's use:
  - (a) bathrooms,
  - (b) closets,
  - (c) hallways, and
  - (d) entryways.
- (4) The maximum allowed capacity for a child care facility may be limited by local ordinances.
- (5) The number of children in care at any given time shall not exceed the capacity identified on the license.
- (6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.
- (7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.
- (8) All rooms and areas that are used for child care shall have adequate light intensity for the safety of the children and the type of activity being conducted.
- (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
- (10) There shall be a working telephone in the home, in each vehicle while transporting children, and during offsite activities.
- (11) There shall be a working toilet and a working handwashing sink accessible to each nondiapered child in care.
- (12) A bathroom that provides privacy shall be available for use by school-age children.
- (13) There shall be an outdoor area that is safely accessible to children.
- (14) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.

- (15) The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high when the facility is on a street or within half a mile of a street that:
  - (a) has a speed of 25 miles per hour or higher, or
  - (b) has more than 2 lanes of traffic.
- (16) The following hazards shall be separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least 4 feet high:
  - (a) barbed wire that is within 30 feet of the children's play area;
  - (b) livestock on or within 50 yards of the property line;
  - (c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;
  - (d) a drop-off of more than 5 feet on or within 50 yards of the property line; or
  - (e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.
- (17) There shall be no gap 5 by 5 inches or greater in or under the fence.
- (18) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.
- (19) If there is a swimming pool on the premises that is not emptied after each use:
  - (a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and
  - (b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or enclosed with a locked, properly working safety cover that meets ASTM Specification F1346-91.
- (20) A hot tub on the premises with water in it shall be inaccessible to children by being:
  - (a) kept locked with a properly working cover; or
  - (b) enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.
- (21) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:
  - (a) ceilings, walls, and floor coverings;
  - (b) lighting, bathroom, and other fixtures;
  - (c) draperies, blinds, and other window coverings;
  - (d) indoor and outdoor play equipment;
  - (e) furniture, toys, and materials accessible to the children;
  - (f) entrances, exits, steps, and walkways including keeping them free of ice, snow and other hazards.
- (22) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.
- (23) If the house is subdivided, any part of the house is rented out, or any other area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with rules, except when all of the following conditions are met:
  - (a) there is a signed rental/lease agreement between the provider and the individual responsible for or living in the other part of the house;
  - (b) there is a separate mailing address;
  - (c) there is a separate entrance for the child care program;
  - (d) there are no connecting interior doorways that can be used by unauthorized individuals; and
  - (e) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.

**R430-90-10. Ratios and Group Size.**

- (1) The provider shall maintain at least 1 caregiver for up to 8 children in care, and at least 2 caregivers for 9 to 16 children in care.
- (2) The provider's or an employee's child age 4 years or older is not counted in the caregiver-to-child ratio when the parent of the child is working at the facility, but the child shall be counted in the group size.
- (3) When caring for children younger than 2 years old:
  - (a) there shall be no more than 2 children younger than 2 years old with 1 caregiver;
  - (b) there shall be no more than 4 children younger than 2 years old with 2 caregivers; and
  - (c) if there are 6 or fewer children in care, there may be up to 3 children younger than 2 years old with 1 caregiver.
- (4) The provider shall not exceed the group sizes found in Table 1 and Table 2.

**TABLE 1  
MAXIMUM GROUP SIZE WITH 1 PROVIDER**

<b># of Provider's and Caregivers' Own Children Ages 4-12 Years Present During Child Care Hours</b>	<b>Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old</b>	<b>Total # of Children Through age 12 Years Present in the Home During Child Care Hours</b>
0-4 Children	8 children	12 Children
5 Children	7 children	12 Children
6 Children	6 children	12 Children
7 Children	5 children	12 Children
8 Children	4 children	12 Children
9 Children	3 children	12 Children
10 Children	2 children	12 Children
11 Children	1 child	12 Children

**TABLE 2  
MAXIMUM GROUP SIZE WITH 2 CAREGIVERS**

<b># of Provider's and Caregivers' Own Children Ages 4-12 Years Present During Child Care Hours</b>	<b>Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old</b>	<b>Total # of Children Through age 12 Years Present in the Home During Child Care Hours</b>
0-8 Children	16 children	24 Children
9 Children	15 children	24 Children
10 Children	14 children	24 Children
11 Children	13 children	24 Children
12 Children	12 children	24 Children
13 Children	11 children	24 Children
14 Children	10 children	24 Children
15 Children	9 children	24 Children
16 Children	8 children	24 Children
17 Children	7 children	24 Children
18 Children	6 children	24 Children
19 Children	5 children	24 Children
20 Children	4 children	24 Children
21 Children	3 children	24 Children
22 Children	2 children	24 Children
23 Children	1 child	24 Children

- (5) Caregivers who are 16 or 17 years old may be included in the caregiver-to-child ratio only when there is a caregiver who is at least 18 years on the premises.
- (6) Volunteers may be included in the caregiver-to-child ratio if they:
  - (a) are at least 16 years old,
  - (b) receive at least 2.5 hours of preservice training before counting in the caregiver-to-child ratio, and
  - (c) complete at least 1.5 hours of child care training for each month they volunteer 40 hours or more.
- (7) Guests shall not count in the caregiver-to-child ratio.

**R430-90-11. Child Supervision and Security.**

- (1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times:
  - (a) a caregiver shall be inside the home when any child in care is inside the home,
  - (b) a caregiver shall be in the outdoor area when any child younger than 5 years old is in the outdoor area,
  - (c) caregivers shall know the number of children in their care at all times, and
  - (d) caregivers' attention shall be focused on the children and not on the caregivers' own personal interests.
- (2) A caregiver may allow only school-age children to play outdoors while the caregiver is indoors when:
  - (a) the caregiver can hear the children playing outdoors; and
  - (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least a 4 feet high.
- (3) A caregiver shall monitor each sleeping infant by:
  - (a) placing each infant to sleep within the sight and hearing of the caregiver, or
  - (b) personally observing each sleeping infant at least once every 15 minutes.
- (4) A child may participate in supervised offsite activities without the provider if:
  - (a) the provider has prior written permission from the child's parent for the child's participation, and
  - (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.
- (5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.
- (6) To maintain security and supervision of children, the provider shall ensure that:
  - (a) each child is signed in and out;
  - (b) only parents or persons with written authorization from the parent may sign out a child;
  - (c) photo identification is required if the individual signing the child in or out is unknown to the provider;
  - (d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;
  - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
  - (f) there is written permission from their parents if school-age children sign themselves in and out.
- (7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:
  - (a) the person giving verbal authorization, and
  - (b) the person picking up the child.
- (8) A six-week record of each child's daily attendance, including sign-in and sign-out records, shall be kept on-site for review by the Department.

**R430-90-12. Child Guidance and Interaction.**

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.
- (3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.
- (5) Interactions with the children shall not include:
  - (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;
  - (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
  - (c) shouting at children;
  - (d) any form of emotional abuse;
  - (e) forcing or withholding food, rest, or toileting; or
  - (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.
- (6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.

**R430-90-13. Child Safety and Injury Prevention.**

- (1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.
- (2) Harmful objects and hazards, such as the following, shall be inaccessible to children:
  - (a) poisonous and harmful plants;
  - (b) sharp objects, edges, corners, or points that could cut or puncture skin;
  - (c) for children younger than 3 years of age, choking hazards;
  - (d) strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck;
  - (e) tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways;
  - (f) for children younger than 5 years of age, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and
  - (g) standing water that is 2 inches or deeper and 5 by 5 inches or greater in diameter.
- (3) Toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials shall be:
  - (a) inaccessible to children,
  - (b) used according to manufacturer instructions, and
  - (c) stored in containers labeled with their contents.
- (4) Items and substances that could burn a child or start a fire shall be inaccessible, such as:
  - (a) matches or cigarette lighters;
  - (b) open flames;
  - (c) hot wax or other substances; and
  - (d) when in use, portable space heaters, wood burning stoves, and fireplaces of all types.
- (5) Children shall be protected from items that cause electrical shock such as:
  - (a) live electrical wires; and
  - (b) for children younger than 5 years of age, electrical outlets and surge protectors without protective caps or safety devices when not in use.



- (6) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, firearms such as guns, muzzles loaders, rifles, shotguns, hand guns, pistols, and automatic guns shall:
  - (a) be locked in a cabinet or area with a key, combination lock, or fingerprint lock; and
  - (b) stored unloaded and separate from ammunition.
- (7) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.
- (8) Alcohol, illegal substances, and sexually explicit material shall be inaccessible, and shall not be used on the premises, during offsite activities, or in program vehicles any time a child is in care.
- (9) An outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain shall be available to each child whenever the outside temperature is 75 degrees or higher.
- (10) Areas accessible to children shall be free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.
- (11) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.
- (12) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.
- (13) Infant walkers with wheels shall be inaccessible to children.
- (14) In compliance with the Utah Indoor Clean Air Act, tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and not used:
  - (a) in the facility or any other building when a child is in care,
  - (b) in any vehicle that is being used to transport a child in care,
  - (c) within 25 feet of any entrance to the facility or other building occupied by a child in care, or
  - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

#### **R430-90-14. Emergency Preparedness and Response.**

- (1) The provider shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near a telephone in the home or in an area clearly visible to anyone needing the information.
- (2) The provider shall keep first-aid supplies in the home, including at least antiseptic, band-aids, and tweezers.
- (3) The provider shall conduct fire evacuation drills quarterly. Drills shall include a complete exit of all children, staff, and volunteers from the home.
- (4) The provider shall document each fire drill, including:
  - (a) the date and time of the drill,
  - (b) the number of children participating,
  - (c) the total time to complete the evacuation, and
  - (d) any problems encountered.
- (5) The provider shall conduct drills for disasters other than fires at least once every 12 months.
- (6) A provider shall document each disaster drill, including:
  - (a) the type of disaster, such as earthquake, flood, prolonged power outage, or tornado;
  - (b) the date and time of the drill;
  - (c) the number of children participating;
  - (d) the total time to complete the evacuation; and
  - (e) any problems encountered.
- (7) The provider shall vary the days and times on which fire and other disaster drills are held.
- (8) The provider shall keep documentation of the previous 12 months of quarterly fire drills and annual disaster drills on-site for review by the Department.
- (9) In case of an emergency or disaster, the provider and all employees shall follow procedures as outlined in the facility's health and safety plan.
- (10) If the provider must leave the premises due to an emergency, the provider may use an emergency substitute who was not named in the facility's health and safety plan.

- (11) The emergency substitute:
  - (a) shall be at least 18 years old;
  - (b) is not required to have a CCL background screening; and
  - (c) is not required to meet the training, first aid, and CPR requirements of this rule.
- (12) Before the provider may leave the children in the care of the emergency substitute, the provider shall first obtain a signed, written statement from the individual that they:
  - (a) have not been convicted of a felony or misdemeanor;
  - (b) do not have a substantiated background finding; and
  - (c) are not being investigated for abuse or neglect by any federal, state, or local government agency.
- (13) The emergency substitute's written background statement shall be submitted to the Department for review within 5 working days after the occurrence.
- (14) During the term of the emergency, the emergency substitute may be counted in the caregiver-to-child ratio.
- (15) The provider shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care, and the amount of time shall not be more than 24 hours per emergency incident.
- (16) The provider shall give parents a verbal report of every minor incident, accident, or injury involving their child on the day of the occurrence.
- (17) The provider shall give parents a written report of every serious incident, accident, or injury involving their child:
  - (a) The caregivers involved, the provider, and the person picking up the child shall sign the report on the day of occurrence.
  - (b) If school-age children sign themselves out of the facility, a copy of the report shall be sent to the parent on the day following the occurrence.
- (18) If a child is injured and the injury appears serious but not life-threatening, the child's parent shall be contacted immediately.
- (19) In the case of a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb:
  - (a) emergency personnel shall be called immediately;
  - (b) after emergency personnel are called, then the parent shall be contacted;
  - (c) if the parent cannot be reached, staff shall try to contact the child's emergency contact person.
- (20) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:
  - (a) submit a completed accident report form to the Department within the next business day of the incident; or
  - (b) contact the Department within the next business day and submit a completed accident report form within 5 business days of the incident.
- (21) The provider shall keep a six-week record of every serious incident, accident, and injury report on-site for review by the Department.

**R430-90-15. Health and Infection Control.**

- (1) The building, furnishings, equipment, and outdoor area shall be kept clean and sanitary including:
  - (a) ceilings, walls, and flooring shall be clean and free of spills, dirt, and grime;
  - (b) areas and equipment used for the storage, preparation, and service of food shall be clean and sanitary;
  - (c) surfaces used by children shall be free of rotting food or a build-up of food;
  - (d) the building and grounds shall be free of a build-up of litter, trash, and garbage; and
  - (e) the facility shall be free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.

- (3) All toys and materials including those used by infants and toddlers shall be cleaned:
  - (a) at least weekly or more often if needed,
  - (b) after being put in a child's mouth and before another child plays with the toy, and
  - (c) after being contaminated by a body fluid.
- (4) Fabric toys and items such as stuffed animals, cloth dolls, pillows, and dress-up clothes shall be machine washable and washed weekly, and as needed.
- (5) Highchair trays shall be cleaned and sanitized before each use.
- (6) Water play tables or tubs shall be cleaned and sanitized daily, if used by the children.
- (7) Bathroom surfaces including toilets, sinks, faucets, and counters shall be cleaned and sanitized each day.
- (8) Potty chairs shall be cleaned and sanitized after each use.
- (9) Toilet paper shall be accessible to children and kept in a dispenser.
- (10) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands.
- (11) If cloth towels are used:
  - (a) they shall not be shared by children, caregivers, or volunteers; and
  - (b) towels shall be washed daily.
- (12) Staff and volunteers shall wash their hands thoroughly with soap and running water at required times including:
  - (a) before handling or preparing food or bottles,
  - (b) before and after eating meals and snacks or feeding a child,
  - (c) after using the toilet or helping a child use the toilet,
  - (d) after contact with a body fluid,
  - (e) when coming in from outdoors, and
  - (f) after cleaning up or taking out garbage.
- (13) Caregivers shall teach children how to wash their hands thoroughly and shall oversee handwashing whenever possible.
- (14) The provider shall ensure that children wash their hands thoroughly with soap and running water at required times including:
  - (a) before and after eating meals and snacks,
  - (b) after using the toilet,
  - (c) after contact with a body fluid,
  - (d) before using a water play table or tub, and
  - (e) when coming in from outdoors.
- (15) Personal hygiene items, such as toothbrushes, combs, and hair accessories, shall not be shared and shall be stored so they do not touch each other, or they shall be sanitized between each use.
- (16) Pacifiers, bottles, and nondisposable drinking cups shall:
  - (a) be labeled with each child's name or individually identified; and
  - (b) not shared, or washed and sanitized before being used by another child.
- (17) A child's clothing shall be promptly changed if the child has a toileting accident.
- (18) If a child's clothing is wet or soiled from a body fluid, the provider shall ensure that:
  - (a) the clothing is washed and dried, or
  - (b) the clothing is placed in a leakproof container that is labeled with the child's name and returned to the parent.
- (19) Staff shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, and vomit. Except for diaper changes and toileting accidents, staff shall:
  - (a) wear waterproof gloves;
  - (b) clean the surface using a detergent solution;
  - (c) rinse the surface with clean water;
  - (d) sanitize the surface;
  - (e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;

- (f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
- (g) wash their hands after cleaning up the body fluid.
- (20) A child who becomes ill with an infectious disease while in care shall be made comfortable in a safe, supervised area that is separated from the other children.
- (21) If a child becomes ill while in care, the provider shall contact the child's parent as soon as the illness is observed or suspected.
- (22) The parents of every child in care shall be informed when any child, employee, or person in the home has an infectious disease or parasite. Parents shall be notified on the day the illness is discovered.
- (23) When any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.

**R430-90-16. Food and Nutrition.**

- (1) The provider shall ensure that each child age 2 years and older is offered a meal or snack at least once every 3 hours.
- (2) When food for children's meals and/or snacks is supplied by the provider:
  - (a) the meal service shall meet local health department food service regulations;
  - (b) the foods that are served shall meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;
  - (c) the provider shall use the CACFP menus, the standard Department-approved menus, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years;
  - (d) the current week's menu shall be posted for review by parents and the Department; and
  - (e) providers who are not participating or in good standing with the CACFP shall keep a six-week record of foods served at each meal and snack.
- (3) The person who serves food to children shall:
  - (a) be aware of the children in their assigned group who have food allergies or sensitivities, and
  - (b) ensure that the children are not served the food or drink they are allergic or sensitive to.
- (4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.
- (5) Food and drink brought in by parents for their child's use shall be:
  - (a) labeled with the child's name or individually identified,
  - (b) refrigerated if needed, and
  - (c) consumed only by that child.

**R430-90-17. Medications.**

- (1) All medications shall be inaccessible to children.
- (2) All liquid refrigerated medications shall be stored in a separate leakproof container.
- (3) All over-the-counter and prescription medications supplied by parents shall:
  - (a) be labeled with the child's full name,
  - (b) be kept in the original or pharmacy container,
  - (c) have the original label, and
  - (d) have child-safety caps.
- (4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.

- (5) The medication permission form shall include:
  - (a) the name of the child,
  - (b) the name of the medication,
  - (c) written instructions for administration, and
  - (d) the parent signature and the date signed.
- (6) The instructions for administering the medication shall include:
  - (a) the dosage,
  - (b) how the medication will be given,
  - (c) the times and dates to administer the medication, and
  - (d) the disease or condition being treated.
- (7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:
  - (a) prior written consent; or
  - (b) verbal consent if the date and time of the consent is documented, and is signed by the parent upon picking up their child.
- (8) The caregiver administering the medication shall:
  - (a) wash their hands,
  - (b) check the medication label to confirm the child's name if the parent supplied the medication,
  - (c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and
  - (d) administer the medication.
- (9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:
  - (a) the date, time, and dosage of the medication given;
  - (b) any errors in administration or adverse reactions; and
  - (c) their signature or initials.
- (10) The provider shall report a child's adverse reaction to a medication or error in administration to the parent immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication before the time the medication needs to be given.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the Department.

**R430-90-18. Activities.**

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) Daily activities shall include outdoor play as weather and air quality allow.
- (3) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.
- (4) For children 2 years old and older, the provider shall post a daily schedule that includes:
  - (a) activities that support children's healthy development; and
  - (b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.
- (5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.

- (6) Except for occasional special events, children's screen time on media such as television, cell phones, tablets, and computers shall:
  - (a) not be allowed for children 0 to 17 months old;
  - (b) be limited for children 18 months to 4 years old to 1 hour per day, or 5 hours per week with a maximum screen time of 2 hours per activity; and
  - (c) be part of a media plan that addresses the needs of children 5 to 12 years old.
- (7) If swimming activities are offered or if wading pools are used:
  - (a) the provider shall obtain parental permission before each child in care uses the pool;
  - (b) caregivers shall stay at the pool supervising whenever a child is in the pool or has access to the pool, and whenever a wading pool has water in it;
  - (c) diapered children shall wear swim diapers whenever they are in the pool;
  - (d) wading pools shall be emptied and sanitized after use by each group of children;
  - (e) if the pool is over 4 feet deep, there shall be a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and
  - (f) lifeguards and pool personnel shall not count toward the caregiver-to-child ratio.
- (8) If offsite activities are offered:
  - (a) the provider shall obtain written parental consent before each activity;
  - (b) the required caregiver-to-child ratio and supervision shall be maintained during the entire activity;
  - (c) a first aid kit shall be available;
  - (d) children's names shall not be used on nametags, t-shirts, or in other visible ways; and
  - (e) there shall be a way for caregivers and children to wash their hands with soap and water, or if there is no source of running water, caregivers and children shall clean their hands with wet wipes and hand sanitizer.
- (9) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group. The information shall include:
  - (a) the child's name,
  - (b) the parent's name and phone number,
  - (c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted,
  - (d) the names of people authorized by the parents to pick up the child, and
  - (e) current emergency medical treatment and emergency medical transportation releases.

**R430-90-19. Play Equipment.**

- (1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.
- (2) There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.
- (3) There shall be no strangulation hazards on or within the use zone of any piece of stationary play equipment.
- (4) There shall be no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.
- (5) There shall be no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.
- (6) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.
- (7) Cushioning for stationary play equipment shall cover the entire surface of each required use zone.
- (8) If ASTM cushioning is used, the provider shall keep on-site for review by the Department the documentation from the manufacturer that the material meets ASTM Specification F1292.
- (9) Stationary play equipment with a designated play surface that measures 6 inches or higher shall not be placed on a hard surface such as concrete, asphalt, dirt, or the bare floor, but may be placed on grass or other cushioning.

- (10) Except for trampolines, stationary play equipment that is 18 inches or higher shall:
  - (a) have a 3-foot use zone that is free of hard objects or surfaces and that extends from the outermost edge of the equipment; and
  - (b) be stable and securely anchored.
- (11) A trampoline shall be considered accessible to children in care unless the trampoline:
  - (a) is enclosed behind at least a 3-foot high, locked fence or barrier;
  - (b) has no jumping mat;
  - (c) is placed upside down, or
  - (d) is enclosed within at least a 6-foot-high safety net that is locked.
- (12) An accessible trampoline without a safety net enclosure shall be placed at least 6 feet away from any structure or object onto which a child could fall, including play equipment, trees, and fences.
- (13) An accessible trampoline with a safety net enclosure shall be placed at least 3 feet away from any structure or object onto which a child could fall, including play equipment, trees, and fences if the net:
  - (a) is properly installed and used as specified by the manufacturer,
  - (b) is in good repair, and
  - (c) is at least 6 feet tall.
- (14) An accessible trampoline shall be placed over grass, 6-inch-deep cushioning, or ASTM-approved cushioning. Cushioning shall extend at least 6 feet from the outermost edge of the trampoline frame, or at least 3 feet from the outermost edge of the trampoline frame if a net is used as specified in R430-90-19(13).
- (15) There shall be no ladders or other objects within the use zone of an accessible trampoline that a child could use to climb on the trampoline.
- (16) An accessible trampoline shall have shock-absorbing pads that completely cover its springs, hooks, and frame.
- (17) Before a child in care uses a trampoline, the child's parent shall sign a Department-approved permission form that the provider keeps on-site for review by the Department.
- (18) When a trampoline is being used by a child in care:
  - (a) a caregiver shall be at the trampoline supervising,
  - (b) only one person at a time shall use a trampoline,
  - (c) no child in care shall be allowed to do somersaults or flips on the trampoline, and
  - (d) no one shall be allowed to play under the trampoline when it is in use.

#### **R430-90-20. Transportation.**

If transportation services are offered:

- (1) For each child being transported, the provider shall have a transportation permission form:
  - (a) signed by the parent, and
  - (b) on-site for review by the Department.
- (2) Each vehicle used for transporting children shall:
  - (a) be enclosed with a roof or top,
  - (b) be equipped with safety restraints,
  - (c) have a current vehicle registration,
  - (d) be maintained in a safe and clean condition,
  - (e) contain a first aid kit, and
  - (f) contain a body fluid clean up kit.
- (3) The safety restraints in each vehicle that transports children shall:
  - (a) be appropriate for the age and size of each child who is transported, as required by Utah law;
  - (b) be properly installed; and
  - (c) be in safe condition and working order.

- (4) The driver of each vehicle who is transporting children shall:
  - (a) be at least 18 years old;
  - (b) have and carry with them a current, valid driver's license for the type of vehicle being driven;
  - (c) have with them the written emergency contact information for each child being transported;
  - (d) ensure that each child being transported is in an individual safety restraint that is used according to Utah law;
  - (e) ensure that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
  - (f) never leave a child in the vehicle unattended by an adult;
  - (g) ensure that children stay seated while the vehicle is moving;
  - (h) never leave the keys in the ignition when not in the driver's seat; and
  - (i) ensure that the vehicle is locked during transport.
- (5) When the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:
  - (a) each child being transported has a completed transportation permission form signed by their parent,
  - (b) a caregiver goes with the children and actively supervises them,
  - (c) the caregiver-to-child ratio is maintained, and
  - (d) caregivers take each child's written emergency contact information and releases with them.

#### **R430-90-21. Animals.**

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) There shall be no animal on the premises that:
  - (a) is naturally aggressive;
  - (b) has a history of dangerous, attacking, or aggressive behavior; or
  - (c) has a history of biting even one person.
- (3) Animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.
- (4) There shall be no animal or animal equipment in food preparation or eating areas during food preparation or eating times.
- (5) Children younger than 5 years of age shall not assist with the cleaning of animals or animal cages, pens, or equipment.
- (6) If school-age children help in the cleaning of animals or animal equipment, the children shall wash their hands immediately after cleaning the animal or equipment.
- (7) Children and staff shall wash their hands immediately after playing with or touching animals, including reptiles and amphibians.
- (8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by the Department.

#### **R430-90-22. Rest and Sleep.**

- (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.
- (2) Nap or rest times shall not be scheduled for more than 2 hours daily.
- (3) Each crib used by children shall:
  - (a) have a tight-fitting mattress;
  - (b) have slats spaced no more than 2-3/8 inches apart;
  - (c) have at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without help;
  - (d) not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and
  - (e) meet CPSC standards.
- (4) Sleeping equipment may not block exits.



- (5) Sleeping equipment and bedding items that are clearly assigned to and used by an individual child shall be cleaned and sanitized as needed and at least weekly.
- (6) Sleeping equipment and bedding items that are not clearly assigned to and used by an individual child shall be cleaned and sanitized before each use.

#### **R430-90-23. Diapering.**

If the provider accepts children who wear diapers:

- (1) Caregivers shall ensure that each child's diaper is:
  - (a) checked at least once every 2 hours,
  - (b) promptly changed when wet or soiled, and
  - (c) checked as soon as a sleeping child awakens.
- (2) The diapering area shall not be located in a food preparation or eating area.
- (3) Children shall not be diapered directly on the floor, or on any surface used for another purpose.
- (4) The diapering surface shall be smooth, waterproof, and in good repair.
- (5) Caregivers shall clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (6) Caregivers shall wash their hands after each diaper change.
- (7) Caregivers shall place wet and soiled disposable diapers:
  - (a) in a container that has a disposable plastic lining and a tight-fitting lid,
  - (b) directly in an outdoor garbage container that has a tight-fitting lid, or
  - (c) in a container that is inaccessible to children.
- (8) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.
- (9) If cloth diapers are used:
  - (a) they shall not be rinsed at the facility; and
  - (b) they shall be placed directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or placed in a leakproof diapering service container.

#### **R430-90-24. Infant and Toddler Care.**

If the provider cares for infants or toddlers:

- (1) Each awake infant and toddler shall receive positive physical and verbal interaction with a caregiver at least once every 20 minutes.
- (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on-the-ground interaction and closely supervised time spent in the prone position for infants younger than 6 months of age.
- (3) Caregivers shall respond promptly to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.
- (4) For their healthy development, safe toys shall be available for infants and toddlers. There shall be enough toys accessible to each infant and toddler in the group to engage in play.
- (5) Mobile infants and toddlers shall have freedom of movement in a safe area.
- (6) An awake infant or toddler shall not be confined for more than 30 minutes in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment.
- (7) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.
- (8) Infants and toddlers shall not have access to objects made of styrofoam.
- (9) Each infant and toddler shall be allowed to eat and sleep on their own schedule.
- (10) Baby food, formula, or breast milk that is brought from home for an individual child's use shall be:
  - (a) labeled with the child's name;
  - (b) kept refrigerated if needed; and
  - (c) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.
- (11) If an infant is unable to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.

- (12) The caregiver shall swirl and test warm bottles for temperature before feeding to children.
- (13) Formula and milk, including breast milk, shall be discarded after feeding or within 2 hours of starting a feeding.
- (14) Caregivers shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.
- (15) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. An infant shall not be placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment unless the provider has written permission from the infant's parent.
- (16) Infants shall be placed on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

**KEY: child care facilities, licensed family child care**

**Date of Enactment or Last Substantive Amendment: December 28, 2017**

**Notice of Continuation: May 29, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-39**