

R430-90-6: ADMINISTRATION AND CHILDREN'S RECORDS

This section explains the rules dealing with the provider's responsibilities in operating and managing a child care facility. It also sets out the rules regarding children's records.

Administration

- (1) **The provider shall:**
- (a) **be at least 18 years of age;**
 - (b) **pass a CCL background check;**
 - (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.**

Rationale / Explanation

The provider is responsible for the successful operation of their child care business. Both administrative and child development skills are essential in managing a child care facility. A well-trained provider has been shown to have a measurable, positive effect on quality child care.

CFOC 3rd ed. Standard 1.3.1.1. pp. 10-11.

Compliance Guidelines

The provider must be in compliance with the requirements of this rule before a license is issued.

Background Checks

The provider must pass a CCL background check.

- Background checks that are processed by other organizations do not meet the requirements of this rule.
- Instructions for requesting a CCL background check are found at:
<https://childcarelicensing.utah.gov/BgsHowTo.html> or in "Section 8: Background Checks."

Training

To complete the new provider training, go to:

- <https://childcarelicensing.utah.gov/LicensesCertificates.html> or
- <https://childcarelicensing.utah.gov/Trainings.html>.

For information about the required annual child care training, review "Section 7: Personnel and Training Requirements."

Moderate Risk Rule Violation

Corrective Action for 1st Instance

Citation Warning when:

- The provider did not complete the annual child care training hours by the license expiration 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.**

Rationale / Explanation

The work of child care professionals has a far-reaching impact on a child's health, safety, and development. Child care providers are important figures in the lives of children in their care and in the well-being of families and communities. The provider should understand the importance of serving as a healthy role model for children and staff. *CFOC 3rd ed. Standard 1.4.2.1. p.22; CFOC 3rd ed. Standard 1.6.0.1. p.34.*

Compliance Guidelines

This rule will be considered out of compliance if:

- A child's well-being has been jeopardized or the provider's conduct is contrary to the health, morals, welfare, and safety of the public; and
- There is no other licensing rule that specifically addresses the situation.

Examples of noncompliance include:

- The caregiver leaves the room while an infant is on an elevated surface, such as a couch or bed.
- Evidence of committing, aiding, abetting, or permitting the commission of any illegal act.

Risk and Corrective Action for 1st Instance

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.

- (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.**

Rationale / Explanation

There are many laws and regulations that apply to the out-of-home care and education of children. For example, local laws may regulate the number of children that a provider can care for, and state laws may regulate food sanitation, child immunizations, and fire safety in child care facilities. Providers in states that accept federal Child Care and Development Funds must comply with federal child care laws related to background checks, training, and other basic health and safety requirements. For the successful operation of a child care program, the provider must make every effort to comply with these laws and regulations. *CFOC 3rd ed. Introduction. p. xviii.*

Compliance Guidelines

- The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities. For information about ADA requirements, refer to: www.ada.gov.
- If a law or rule from one agency conflicts with the law or rule of another, the provider must follow the stricter of the two regulations.

This rule will be considered out of compliance if:

- There is a violation of federal, state, or local law or another agency's regulation regarding child care; and
- There is no other licensing rule that specifically addresses the violation.

Risk and Corrective Action for 1st Instance

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.

- (4) The provider shall comply with licensing rules at all times when a child in care is present.**

Rationale / Explanation

It is a legal requirement that any time a child in care is present, the provider must be in compliance with licensing rules. This includes care provided at the facility by anyone at any time, and care provided at any other location.

A qualifying child (both related and unrelated) is considered a child in care when the provider receives direct or indirect compensation in return for providing child care. Compensation includes food program reimbursements and child care subsidy payments.

Compliance Guidelines

The provider is ultimately responsible for compliance with licensing rules whenever a child is in care at the facility or offsite. This means the provider is responsible for every decision made and every action taken by every person involved with the child care program. This is the case:

- Whether or not the provider is present,
- Even when the provider has delegated specific responsibilities to another individual, and
- Even if someone else disregards or violates a licensing rule while children are in care.

Risk and Corrective Action for 1st Instance

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.

- (5) The provider shall post the original child care license on the facility premises in a place readily visible and accessible to the public.**

Rationale / Explanation

Posting the current child care license assures the public that the provider meets state standards in keeping children healthy and safe while in care. *CFOC 3rd ed. Standard 9.4.1.6. pp. 380-381.*

Compliance Guidelines

- The original child care license must be readily visible and accessible to parents, the Department staff, and other members of the public who may visit the facility.
- The license must be posted during business hours. It is not required to be posted outside of business hours.

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning

- (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.**

Rationale / Explanation

Child care licensing programs have a responsibility to support families who use child care services. It is important that licensing programs inform parents of licensing rules, give them essential contact information, and explain how to file a complaint about a rule violation. *CFOC 3rd ed. Standard 9.4.1.6. pp. 380-381; CFOC 3rd ed. Standard 10.4.3.1. p. 410.*

Compliance Guidelines

- The provider must use the current version of the Department's Parent Guide found on the CCL website at: <https://childcarelicensing.utah.gov/Forms.html>.
- If posted, the Guide must be located where parents can review it as they come and go.
- If not posted, the Guide must be given to each parent upon enrollment.
- Emailing the Guide to parents is acceptable as long as the electronic version can be shown to parents and licensing staff upon request.

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning

- (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.**

Rationale / Explanation

The facility, parents, and licensing staff must be able to communicate with each other to ensure the safety and health of each child, and for the efficient operation of the child care facility. *CFOC 3rd ed. Standard 9.2.1.4. p. 350.*

Compliance Guidelines

To be in compliance, the provider must inform parents and CCL of any changes to the following information:

- The facility's telephone number and email address.
- The provider's (or contact person's) name, email address, and telephone number.

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning

- (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.**

Rationale / Explanation

An organized, comprehensive approach to ensuring children's health and safety requires written plans, policies and procedures, and adequate record-keeping. This allows clear expectations to be communicated to staff and parents, and helps hold staff responsible for following the written health and safety plan especially in the provider's absence or in an emergency. *CFOC 3rd ed. Standard 9.2.4.1. pp. 364-365.*

The provider's yearly review of the facility's health and safety plan helps keep policies and procedures current. A review by the Department is used to determine, in part, the provider's compliance with licensing rules. *CFOC 3rd ed. Standard 9.2.1.2. p. 349; Standard 9.4.1.6. pp. 380-381.*

Compliance Guidelines

- The Department's health and safety plan form is found on the CCL website at: <https://childcarelicensing.utah.gov/Forms.html>.
- The provider must submit the initial health and safety plan for CCL approval when applying for a new child care license.
- The provider must review the health and safety plan at least once each licensing year, and then sign and date the plan when the review is complete.
- If the provider's policies, procedures, or services change, the health and safety plan needs to be updated and then resubmitted to CCL for approval.

Moderate Risk Rule Violation

Corrective Action for 1st Instance

Citation Warning when:

- The provider does not have a health and safety plan.
- The provider, employee, or volunteer does not follow the health and safety plan.

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning when the health and safety plan:

- Has not been approved by the Department.
- Is incomplete.
- Has not been reviewed, updated as needed, signed, and dated at least annually by the provider.
- Is unavailable for review by parents, employees, and the Department upon request during business hours.

(9) The provider shall:

(a) have liability insurance, or

(b) inform parents in writing that the provider does not have liability insurance.

Rationale / Explanation

Liability insurance is insurance that provides protection against claims resulting from injuries and damage to people and/or property. It is a safeguard against financial disaster in case of an adverse event occurring at the facility. Liability insurance carried by the facility provides recourse for parents of children enrolled in the event of negligence. Requiring insurance reduces risk because insurance companies require compliance with health and safety regulations before issuing or continuing a policy. Liability insurance is essential for reasons of economic security, peace of mind, and public relations. *CFOC 3rd ed. Standard 9.4.1.1. p. 377.*

All vehicles transporting children must have current insurance coverage. Insurance companies can provide better information about coverage and liabilities.

Compliance Guidelines

- The provider may use any written format to inform parents if the facility does not have liability insurance.

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning

- (10) 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.**

Rationale / Explanation

The health and safety of children requires that essential information regarding each child be kept at the facility and available to staff on a need-to-know basis. *CFOC 3rd ed. Standard 9.4.2.1. p. 386; CFOC 3rd ed. Standard 9.2.1.2. p. 390.*

Compliance Guidelines

- Before providing care for a child, the provider must have an admission and health assessment form completed by the child's parent.
- The provider must also have a completed admission and health form for the provider's and employees' own children younger than 4 years old and any drop-in children.
- Parents may list more than one child on an admission form, but must complete a separate health assessment for each child.

Moderate Risk Rule Violation

Corrective Action for 1st Instance

Citation Warning

- (11) 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.**

Rationale / Explanation

The information on the admission and health assessment form is necessary to protect the health and safety of children in care. Admission of children without this information can leave the staff unprepared to deal with children's daily and emergent health needs. For example:

- Names of individuals authorized to pick children up are needed to prevent children from being taken by unauthorized individuals.
- Emergency treatment consent is needed in order to obtain medical care for children in emergencies.
- Food sensitivities and allergies are common in infants and children, and staff should know in advance whether a child has a food sensitivity or allergy. Deaths from food allergies are being reported in increasing numbers. *CFOC 3rd ed. Standard 4.2.0.10. pp. 160-161; CFOC 3rd ed. Standard 9.4.2. pp. 386-391.*

Compliance Guidelines

- The provider may use the CCL-approved admission and health assessment form, or they may use their own program's form as long as there is a place to document all of the information required in rule.
- The CCL-approved admission and health assessment form is found on the CCL website in the "Forms and Documents" section.

Moderate Risk Rule Violation

Corrective Action for 1st Instance

Citation Warning when the form does not ask for the following information:

- Child's name
- Child's date of birth
- Parent's name, address, and phone number, including a daytime phone number
- Current emergency medical treatment and emergency transportation releases with the parent's signature
- Any known allergies of the child
- Any medical conditions that the child may have

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning when the form asks for the above information, but does not request the following:

- Names of people authorized by the parent to pick up the child
- 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
- Name, address, and phone number of an out-of-area emergency contact person for the child
- Any known food sensitivities of the child
- Instructions for special or nonroutine daily health care of the child
- Current ongoing medications that the child may be taking
- Any other special health instructions for the caregiver

(12) 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.

Rationale / Explanation

The family's information and the child's health status can change. It is vital for providers to be aware of current admission and health information in order to be prepared to deal with daily and emergent needs of the child. *CFOC 3rd ed. Standard 2.3.3.1. pp. 80-81.*

A review of children's records helps CCL determine compliance with licensing rules. *CFOC 3rd ed. Standard 9.4.1.5. p. 380.*

Compliance Guidelines

- If the admission information and health assessment is one form (either one sheet of paper or multiple attached papers), the parent's signature and date may be on one page of the form.
 - Attached papers means they are in the same file, in a sleeve, behind the same tab in a notebook, etc.
- If the admission information and health assessment are on separate, unattached papers, the parent's signature and date must be on each form.
- If the provider uses electronic admission and health assessment forms, there should be a

back-up plan for accessing the children's information in case of a power failure or there is no internet service.

Moderate Risk Rule Violation **Corrective Action for 1st Instance**

Citation Warning

- (13) **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.**

Rationale / Explanation

Routine immunizations at the appropriate age are the best means of protecting children against vaccine-preventable diseases. Immunizations are particularly important for children in child care facilities because young children may have more exposure and higher risk of complications from many diseases. *CFOC 3rd ed. Standards 7.2.0.1, 7.2.0.2. pp. 297-299.*

Utah law requires age-appropriate immunizations for children attending child care facilities. Additional information may be found at immunize-utah.org.

Compliance Guidelines

A provider may admit a child into the child care program, but may not begin caring for the child before the requirements of this rule are met.

Immunization Requirements

For information about required immunizations for children enrolled in a child care program, refer to the "School & Early Childhood Program Requirements" section at: www.immunize-utah.org.

Medical Schedule

According to Utah law (R396-100-7), a child care provider may conditionally enroll a child who is not appropriately immunized as long as the child has received at least one dose of each required vaccine and is on a catch-up schedule. If the immunization schedule falls more than one month behind, the provider must immediately exclude the child from the child care program.

Documentation

According to Immunization Rule R396-100, providers must document children's immunizations by:

- Using the official Utah School Immunization Record (USIR or pink form);
- Accepting any immunization record provided by a licensed physician, registered nurse, or public health official and transferring the information to the USIR (pink form); or
- Keeping immunization records in the Utah Statewide Immunization Information System (USIIS).

If a child is exempt from being immunized, the provider must keep a copy of the child's official immunization exemption form (attached to the Utah School Immunization Record) and other required exemption documents in the child's file.

Exemption from Vaccination

Parents must use an official immunization exemption form to exclude their child from being

immunized and present the form to the child care provider. An exemption form can be obtained by completing an online education module (free of charge) and then printing the vaccination exemption form. It can also be obtained through an in-person consultation at the local health department (a fee may apply) where it will be signed.

For a medical exemption from vaccination, the child's parent must give the child care provider the completed immunization exemption form as well as a note signed by a licensed healthcare professional. The note must state that due to the physical condition of the child, administration of the vaccine would endanger the child's life or health.

For an exemption from vaccination due to a child's immunity to a disease (the child previously had the disease), the parent must submit a document signed by a healthcare provider to the child care provider as proof of immunity.

90-Day Exemption

The McKinney-Vento Act allows 90 days from enrollment for families who are experiencing homelessness to provide the required immunization records. A written statement that the family is homeless is adequate documentation for this 90-day exemption. More information may be found at: careaboutchildcare.utah.gov/pub/OCC_Homeless_Child.pdf.

Moderate Risk Rule Violation Corrective Action for 1st Instance

Citation Warning

- (14) 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.**

Rationale / Explanation

According to Utah Immunization Rule R396-100-4(4), "a representative of the Department or the local health department may examine, audit, and verify immunization records maintained by any school or early childhood program."

Compliance Guidelines

Licensing staff will:

- Review the immunization records of children younger than 5 years old, including the provider's and employees' own children, if the provider does not submit the immunization report as required in 90-6(15) below.

Low Risk Rule Violation Corrective Action for 1st Instance

Warning

- (15) 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.**

Rationale / Explanation

Immunization Rule R396-100(6) requires that early childhood programs collect immunization information and report immunization data annually. Data is collected to determine which child care facilities are in compliance with state law and to determine how many Utah children are adequately immunized. *School & Early Childhood Program Immunization Reporting System (taken from www.immunize-utah.org).*

Compliance Guidelines

- The provider must submit the annual immunization report within a time frame specified by the Immunization Program (usually from October 1 through November 30 of each year).
- The Immunization Program tracks the immunization report status of each provider and sends this information to Child Care Licensing.

High Risk Rule Violation

Corrective Action for 1st Instance

Citation and CMP Warning

- (16) Each child's information shall be kept confidential and shall not be released without written parental permission.**

Rationale / Explanation

Child care programs routinely handle confidential information about enrolled children, families, and staff. Confidentiality must be maintained and is defined by federal and state law. When managing sensitive information, there is an ethical and legal responsibility to protect the privacy of individuals and families. *CFOC 3rd ed. Standard 9.4.1.3. pp. 378-379.*

The parent's informed, written consent is required before the release of any written or verbal records or information about their child or family. This prevents unauthorized individuals from accessing confidential information, and prevents discrimination against a child due to the release of this information. *CFOC 3rd ed. Standard 9.4.2.1. pp.386-387.*

Compliance Guidelines

Confidential information includes personal identifiable information such as birthdates, addresses, and phone numbers, in addition to health information.

To protect the confidentiality of child and family information, the provider should:

- Follow federal, state, and local laws, and train staff to follow these regulations.
- Only share information on a need-to-know basis with authorized individuals.
- Keep written information about the children in a safe place and out of the view of others.
- Refrain from discussing confidential information in the presence of others in the facility including children. *CFOC 3rd ed. Standard 9.4.1.3. pp. 378-379.*

Risk and Corrective Action for 1st Instance

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.