

# School-Age Child Care Licensing Handbook

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**Insert Effective Date**

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*This handbook is intended to be used in conjunction with Sections 402.26-402.319, Florida Statutes, and is incorporated by reference in rule 65C-22.008, Florida Administrative Code.*

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# 1 General Information

To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child. To that end, the Child Care Regulation Program is responsible for regulating programs that provide services that meet the statutory definition of “child care.” This is accomplished through the inspection of licensed child care programs to ensure the consistent statewide application of child care standards established in statute and rule, and the registration of child care providers not subject to inspection.

The Department regulates licensed child care facilities, licensed family day care homes, licensed large family child care homes, and licensed mildly ill facilities in 62 of the 67 counties in Florida. Five counties have decided - either by statute or by the adoption of a local ordinance or resolution - to designate a local licensing authority to regulate child care providers in their areas. The following counties have elected to exercise this option: Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

Local licensing agencies may use the same or different procedures to implement local licensing standards, which must have been determined by the state to meet or exceed the state’s minimum licensing standards. Three of the five local licensing agencies have designated the local County Health Department as the licensing authority. Broward and Hillsborough counties have designated other agencies as the local licensing authority.

## 2 Child Care Programs Subject to Regulation

“Child care” is defined as “the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.” If a child care program meets this statutory definition of “child care,” it is subject to regulation by the Department/local licensing agencies, unless specifically excluded or exempted from regulation by statute.

Every program determined to be subject to licensing must meet the applicable licensing standards established by subsection 402.301-.319, Florida Statutes, and rules.

## 3 Definitions

**“Active”** is the status of a candidate’s awarded credential or certification signifying requirements have been successfully met.

**“Age appropriate”** means of the right size, child sized or adapted so that a child can use safely. Suitable to the chronological age range and developmental characteristics of a specific age group of children or child. This means the materials/equipment should interest and challenge children in terms of their age and abilities. Any material/equipment with a specified age range by manufacturer must be followed when being used by children.

**“Before-School and After-School site”** refers to a program, regardless of location, that provides child care for children who are at least 5 years old and are enrolled in and attend a

kindergarten program or grades one and above during a school district's academic calendar year. This is limited to programs that provide care only before and after the recognized hours of a district's school day and on teacher planning days, holidays, and intercessions that occur during the school district's official academic calendar year.

**“Begin training for child care personnel”** refers to a candidate's commencement of at least one of the child care training courses listed in section 402.305(2)(d), F.S., and found in section 23 of this handbook. This may be accomplished by classroom attendance in a Department-approved training course, acquiring an educational exemption from a Department-approved training course, beginning a Department-approved online child care training course, or by receiving results from a Department-approved competency examination within the first 90 days of employment in the child care industry in any licensed Florida school-age child care program. The child care facility is responsible for obtaining training documentation from child care personnel.

**“Continuing Education Unit (CEU)”** is a standard unit of measure of coursework used for training and credentialing purposes. The Department will accept CEUs from educational institutions accredited and recognized by the U.S. Department of Education, or professional organizations with a national affiliation.

**“Director”** means “operator” as defined in section 402.302(13), F.S., who is the on-site administrator or individual who has the primary responsibility for the day-to-day operation, supervision and administration of a child care facility.

**“Director Credential”** is a Department-approved comprehensive credential that consists of educational and experiential requirements as referenced in section 23 of this handbook.

**“Foster Grandparents”** are directly supervised volunteers who participate in the federal program pursuant to 45 Code of Federal Regulations part 2552. Foster grandparents work with one or more children with special or exceptional needs in child care programs. Foster grandparents are not counted in the staff-to-child ratio. Foster grandparents are required to have 100% completion of the Department's following training courses: Child Care Facility Rules and Regulations; Health, Safety, and Nutrition; Identifying and Reporting Child Abuse and Neglect; and Special Needs Appropriate Practices. This requirement can be met by either instructor-led or online training. Foster grandparents must begin training within 30 days of working in the child care industry in any licensed Florida child care facility. Training must be completed within one (1) year from the date of working in the child care industry in any licensed Florida child care facility. Foster grandparents are not classified as child care personnel, and they may not be assigned the roles of teacher's aides, group leaders or other similar positions.

**“Good Standing”** means a member who has complied with standards and obligations set forth by their national affiliation.

**“High School Diploma, GED and/or College Degree”** means a diploma or degree obtained from an institution accredited and recognized by the U.S. Department of Education. High school diplomas issued by private schools that are registered with the Florida Department of Education will be accepted. If a high school diploma is earned outside the U.S., it must be translated and evaluated by someone who is a member of the American Translators Association, a credential evaluation agency approved by the Bureau of Educators Certification, or an accredited college/university. If a college degree is earned outside the U.S., it must be evaluated by a credential evaluation agency approved by the Bureau of Educators Certification or an accredited college/university to be equivalent to a U.S. degree.

**“Inactive”** refers to the status of a candidate’s awarded credential or certification that is no longer active; however, the credential remains eligible for renewal.

**“National Membership Organization”** means an organization that certifies membership organizations meeting the terms of section 402.301, F.S., in at least ten states, prescribes health and safety standards relevant to the operation of programs for minors and requires compliance of these standards.

**“Professional contribution,”** for the purpose of Director Credential renewal, demonstrates a dedication to early childhood or school-age education outside of the child care program responsibilities by engaging in activities that improve the field of early childhood or school-age education. Examples of such a contribution are: active participation in an appropriate membership organization, publishing an article related to early childhood or school-age education, or active participation in rule development workshops.

**“Sedentary Activities,”** are those activities where the children are seated and working in one space.

**“Serious Injury,”** is any injury/incident resulting in death or serious harm to a child that requires medical attention, including medication errors.

**“School-Age Child”** means a child who is at least 5 years of age by September 1st of the beginning of the school year and who attends kindergarten through grade five.

**“School-Age Child Care Program”** means any licensed child care facility serving school-aged children as defined above or any before- and after-school or out-of-school time programs that are licensed as a child care facility defined in section 402.302, F.S., and serve only school-aged children as defined above.

**“Training Transcript”** is the electronic documentation of statutorily mandated training and staff credential qualifications for child care personnel. Training Transcripts may be obtained from the Department’s website at [www.myflfamilies.com](http://www.myflfamilies.com).

**“Weighted score”** means a scaled score, rather than a percentage score, based on the difficulty of the exam and determined by competency exam professionals in consultation with subject matter experts.

**“Year of experience”** as it relates to the Director Credential is equivalent to a minimum of 1,040 hours of paid and/or nonpaid documented work experience as a child care facility director, co-director, or lead teacher in a Head Start Program.

## 4 License Application or Renewal

1. Applicants for a license or for renewal of a license to operate a school-age child care program must complete a CF-FSP Form \_\_\_\_\_, **insert date**, Application for a License to Operate a School-Age Child Care Facility. CF-FSP Form \_\_\_\_\_ may be obtained from the Department’s website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare) or from the following link <http://www.flrules.org/Gateway/reference.asp?No=Ref-03028>.
2. Each completed application must be submitted with the licensure fee as determined by s. 402.315, Florida Statutes. Refer to page 76 in the Appendix.
3. The completed application must be signed by the individual owner, prospective owner, director or the designated representative of a partnership, association, company, or corporation, and must include submission of background screening documents for the



owner/operator, and an approved fire inspection.

4. For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes.
5. A completed application for renewal of an annual license must be submitted to the licensing authority at least 45 days prior to the expiration date of the current license to ensure that a lapse of licensure does not occur. Failure to submit a completed application at least 45 days prior to the expiration date of the current license constitutes a licensing violation and may result in a lapse in the license.
6. All fines imposed through the administrative process or an administrative hearing against an applicant must be paid before a license can be issued. If, at the time of a license renewal application, there is a pending administrative hearing resulting from a proposed fine, it shall not affect the renewal of the license.
7. The provider will not be issued a new license until the final order is entered. During the application determination, the provider will be able to continue to operate as long as provisions are in place to ensure the continued health and safety of the children in care. This option may be reversed if the provider continues to violate standards and there is a court-ordered injunction to cease operation until the final order is issued.

## 5 Licensure

1. A school-age child care license is issued in the name of the owner and for the single physical location identified on the application. The license is non-transferable between owners and locations.
2. The child care facility must not be used for any business or purpose unrelated to providing child care that can interfere with compliance with child care standards or permit the presence of individuals who do not meet screening and training requirements when children are present. A child care facility that utilizes any area that is subject to use by persons outside of the program must have exclusive control of such area when used by the program and provide effective measures to exclude individuals who do not meet screening and training requirements from that area.
3. Every child care facility must hold a valid license prior to operation.
4. The facility must maintain and display the license in one central area within the facility where parents can view.
5. Three tiers of licensure are established by rule 65C-22.008, F.A.C.

## 6 Licensed Capacity

1. The capacity, as calculated by the licensing authority for each room, must be posted in a conspicuous location within the room.
2. The licensed capacity of a child care provider is determined by the following factors:
  - a) Indoor floor space



- b) Outdoor square footage
  - c) Sewer/septic capacity (as determined by Environmental Health)
  - d) Number of toilets/wash basins
3. Licensed capacity is determined by the most restrictive of these factors.

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## 6.1 Indoor Floor Space

1. Usable indoor floor space refers to space that is at all times under the exclusive control of the program and available for indoor play, classroom, work area, or nap area.
2. To determine overall facility capacity, usable indoor floor space is calculated by measuring at floor level from interior walls and by deleting space for stairways, toilets and bath facilities, permanent fixtures and non-movable furniture. Kitchens and designated food preparation areas, offices, laundry rooms, storage areas, hallways, and other areas not used in normal day-to-day operations are not included when calculating usable indoor floor space to determine total facility capacity.
3. Each room routinely used as a classroom must provide the minimum square footage per child.
4. Shelves or storage for toys and other materials must be considered as usable indoor floor space if accessible to children.
5. A school-age child care program may request permission from the licensing authority to operate under an exception to usable indoor floor space. The written request must include an explanation of why the exception is necessary (for example, the program has a large outdoor play area with pavillions and a court yard. This space is being used interchangeably with the limited classroom space indoors for homework and art center. Addiitonally, this space can be used during inclement weather).
6. Rooms that are set up and used for sedentary activities must have a minimum of 20 square feet of usable floor space per child.
7. The program environment must provide dedicated, usable safe space for all activities during hours of operation.
8. The space must be arranged to be conducive for simultaneous social, recreational and educational activities.
9. There is adequate and convenient storage space for equipment, materials and the personal possessions of children.

## 6.2 Outdoor Space

Outdoor space refers to space that is at all times under the exclusive control of the program. The play area must be sufficient and safe to allow freedom of movement without collisions among active children. Children benefit from being outside as much as possible, and it is important to provide sufficient outdoor space to accommodate them.<sup>1</sup>

1. There must be a minimum of 45 square feet of usable, safe and sanitary outdoor play area per each school-age child. At a minimum, the outside play area must be able to accommodate one-half of the licensed capacity of the program.
2. Based on the outdoor square footage, the total number of children using the play area may not exceed the outdoor capacity.
3. A school-age child care program may request in writing permission from the

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<sup>1</sup> Caring for Our Children: National Health and Safety Performance Standards, cfoc.nrckids.org

licensing authority to operate under an exception to outdoor square footage. The written request must include an explanation of why the exception is necessary, as well as an alternate plan for inclusion of fine and gross motor skills opportunities and an alternate plan to accommodate instances of bad weather. (for example a program is located in an industrial park where there is limited green space. However, indoors there is a gymnasium available for use by the children for gross motor activities. )

### **6.3 Multipurpose Rooms**

1. Space that is at all times under the exclusive control of the program and used as a common dining area or for large group assemblies/activities for the program is included in the usable floor space for purposes of determining overall facility capacity.
2. Such common area (i.e., multiple purpose rooms or dining rooms) square footage may not be counted in such a manner as to expand the capacity of other individual rooms in the facility. Square footage per child and room capacity are determined on a room-by-room basis. While a common area is being used for dining or specific large group assemblies/activities (special events), the applicable 20- or 35-square-foot requirement of usable floor space would not apply, although supervision and ratios must still be maintained. This means that for special events, the overall room capacity may be greater than it would be under normal use. Common area square footage may not be counted toward the facility's overall capacity unless the space is used regularly and other classroom capacity requirements are not exceeded.
3. Each room routinely used as a classroom must provide the minimum square footage per child.

## **7 Minimum Age Requirements**

A staff person at least 21 years of age must be in charge of the program and must be on the premises at all times during operating hours.

## **8 Ratios**

When caring for children 5 years of age and older, the staff-to-child ratio must be at least one (1) child care personnel for every twenty-five (25) school-age children in care (1:25).

## **9 Supervision**

1. When caring for school-age children, child care personnel will be responsible for the supervision of the children in care and capable of responding to emergencies, and are accountable for the children at all times, including when children are separated from their groups.
2. At all times, lighting within the facility must allow child care personnel to see and supervise all children while in care.

3. Supervision standards apply at all times away from the child care facility, including during field trips, outdoor play, and when picking up or dropping off children at designated locations, such as bus stops, schools or a child's home. Personnel must know where children are and what they are doing at all times.
4. Child care personnel respond appropriately to the individual needs and special interests, abilities and cultures of children.
5. The facility must have and communicate to staff and parents/guardians a plan for safe, supervised drop-off and pick-up points and pedestrian crosswalks in the vicinity of the facility. The plan must require the drop-off and pick-up are in a location protected from traffic.
6. Child care personnel are required to supervise drop-off and loading to assure that children are clear of the perimeter of all vehicles before the vehicle moves. The child care personnel supervising the children are required to stay with each child and remain responsible until the custody of the child has been accepted by the individual designated in advance to care for that child.
7. Child care personnel are responsible for picking up a child from a designated location agreed upon by the provider and the parent. The provider is responsible for the supervision of the child upon the child's arrival at the designated point. If a child is not present at the time of pick-up, prior to leaving the designated location, child care personnel must verify the whereabouts of the child.
8. No person shall be an operator, owner or employee in a program while using or under the influence of narcotics, alcohol or other drugs that impair an individual's ability to provide supervision and safe child care.
9. In addition to the number of staff required to meet the staff-to-child ratio, for the purpose of safety, one additional adult must be present on all field trips away from the school-age child care program to assist in providing direct supervision. The individual could be a parent volunteer as long as that person is under direct and constant supervision of a screened and trained staff member of the school-age child care program.
10. A telephone or other means of instant communication must be available to staff responsible for children during all field trips. Cellular phones, two-way radio devices, citizen band radios, and other means of instant communication are acceptable.
11. If a school-age child care program uses a swimming pool that exceeds 3 feet in depth or uses beach or lake areas for water activities, the following requirement must be met:
  - a) There must be one person with a certified lifeguard certificate or equivalent present. This person can also serve as the additional adult to meet the requirement in No. 9 above, or
  - b) A certified lifeguard must be on duty and present when any children are in the swimming area.
12. During meal/snack times, children must be individually fed and provided their own dishware (plate, bowl, cups, utensils, etc...) and supervised appropriately for their ages.
13. A program must not release a child to any unauthorized individual. All individuals authorized to pick up a child must be identified in writing by the custodial parent or legal guardian to the program, and the program must verify using picture identification. Identification is required on an continuous basis or until staff become familiar with the people picking up the children.

## 10 Attendance

1. Daily attendance of children must be taken and recorded by the school-age child care program personnel, documenting the time when each child enters and departs the program. Attendance devices used for the purposes of tracking attendance may be used, but personnel must ensure accuracy of the documented attendance.
2. The custodial parent or guardian may document the time when his/her child enters and departs the child care facility or program. However, child care facility personnel are responsible for ensuring that attendance records are complete and accurate.
3. Such records must be maintained for a minimum of 12 months.
4. Attendance forms used for School Readiness may be used, if applicable.
5. School-age child care programs are responsible for the children in care at the time and place agreed upon between the provider and the parent. If a child does not arrive to the program or the agreed upon designate pick-up location, child care personnel must communicate as early as possible (within one hour of the child's scheduled arrival) with the custodial parent/legal guardian; if there was no prior communication from the custodial parent/legal guardian of the child's absence. If child care personnel are unable to reach the child's parent/guardian, emergency contacts must be notified.
6. Children are released only to authorized persons designated by the parent(s) or guardians in writing.

## 11 Transportation

It is necessary for the safety of children to require that the caregiver comply with minimum requirements for governing the transportation of children in care in the absence of the parent/guardian.<sup>2</sup>

### 11.1 Vehicles

For the purpose of this section, vehicles refer to those owned, operated or regularly used by the school-age child care program, and vehicles that provide transportation through a contract or agreement with an outside entity. Parents' personal vehicles used for transporting during field trips are excluded from meeting the requirements in this section.

1. All vehicles regularly used to transport children must be inspected annually by a mechanic to ensure that they are in proper working order. Documentation by the mechanic must be maintained in the vehicle.
2. The maximum number of individuals transported in a vehicle may not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.
3. Each child, when transported, must be in an individual factory installed seat belt or federally approved child safety restraint. The child safety restraint should be installed and used in accordance with the manufacturer's instructions and must be located and secured in back seats.

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<sup>2</sup> Caring for Our Children: National Health and Safety Performance Standards, cfoc.nrckids.org

- a) All children under age 8 must be in a car seat or booster seat with the appropriate seatbelt use as directed by the manufacturer.
- b) All children age 8 and older must be in seat belts.
- 4. Contact information for all children being transported must be in the vehicle during transport. When transporting children with chronic medical conditions (such as asthma, diabetes or seizures), their emergency care plans and supplies or medication must be available. The responsible adult must be trained to recognize and respond appropriately to an emergency.
- 5. When transporting children, staff-to-child ratios must be maintained at all times. The driver may be included in the staff-to-child ratio.
- 6. All child care facilities must comply with the insurance requirements found in Section 316.615(4), F.S.

## 11.2 Driver Requirements

When any vehicle is regularly used by a school-age child care program to provide transportation, the driver must have the following:

- 1. A valid Florida driver's license;
- 2. An annual physical examination which grants medical approval to drive, and valid certificate(s) of course completion for first aid training and infant and child cardiopulmonary resuscitation (CPR) procedures; and
- 3. Driver's Log. A log must be maintained for all children being transported in the vehicle. The log must be retained for a minimum of 12 months. The log must include each child's name, date, time of departure, time of arrival, the signature of the driver, and the signature of a second staff member or person(s) authorized by the parent to verify the driver's log and that all children have left the vehicle.
  - a) Prior to transporting children, the driver's log must be recorded, signed, and dated immediately, verifying that all children were accounted for and that the log is complete.
  - b) Upon arrival at the destination, the driver of the vehicle must:
    - ✓ Mark each child off the log as the child departs the vehicle;
    - ✓ Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and
    - ✓ Record, sign, and date the driver's log immediately, verifying that all children were accounted for, and that the visual sweep was conducted.
  - c) Upon arrival at the destination, a second and different staff member must:
    - ✓ Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and
    - ✓ Sign, date and record the driver's log immediately, verifying that all children were accounted for, and that the log is complete.

## 12 Planned Activities

Facilities should have a written, comprehensive and coordinated planned program of daily activities based on a statement of principles of the facility and each child's individual development, as well as appropriate activities for groups of children at each stage of development. A written description of the planned program of daily activities allows staff and parents/guardians to have a common understanding and gives them the ability to compare the program's actual performance to the stated intent.<sup>3</sup>

Each group or class must have a written and followed plan of scheduled activities posted in an easily seen location accessible to parents. The written plan must meet the needs of the children being served and must include alternate activities in case of bad weather. The written plan also must include scheduled activities that:

1. Promote emotional, social, intellectual and physical growth;
2. Promote daily recreation, sports or fitness activities;
3. Limit electronic media time (television, videos, movies, or computer games) to no more than 2 hours per day. Computer use should be limited to no more than 15-minute increments, unless used for scholastic tutoring purposes;
4. Include both indoor and outdoor play, if applicable; and
5. Include meals, snacks, and the times the children are in care.

An appropriate daily schedule provides flexibility and contains transition periods that help children move smoothly from one activity to another.

The program may allow children to choose their own activities from the daily schedule that offer both indoor and outdoor activities and a variety of social, recreational and educational opportunities.

The program must offer scheduled time in an appropriate environment for academic support or homework assistance.

## 13 Field Trip Activity

1. Parents must be advised in advance of each field trip activity.
2. The date, time, and location of the field trip must be posted in an easily seen location at least two working days prior to each field trip.
3. Written parental permission must be obtained in the form of a general or event-specific permission slip.
4. If special circumstances arise where notification of an event cannot be posted for two working days, individual permission slips must be obtained from the custodial parent or legal guardian for each child participating on the field trip.
5. Documentation of parental permission for field trips must be maintained for a minimum of 12 months.

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<sup>3</sup> Caring for Our Children: National Health and Safety Performance Standards, Page 49, [cfoc.nrckids.org](http://cfoc.nrckids.org)



## 14 Child Discipline

1. Each school-age child care program must have a written discipline policy in accordance with s. 402.305(12), F.S. A copy of the current policies must be available to the licensing authority to review.
2. Verification that the school-age child care program has provided the parent or guardian a written copy of the disciplinary policy used by the program must be documented on the enrollment form with the signature of the custodial parent or legal guardian.
3. All child care personnel must comply with the school-age child care program's written disciplinary policy. Such policies must include standards that prohibit children from being subjected to discipline that is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment must not be administered by any child care personnel.
4. Active play must not be withheld from children who misbehave.
5. Rough or harsh handling of children is prohibited, including but not limited to: shaking; lifting or jerking by one or both arms; pushing; pulling; forcing or restricting movement; lifting or moving by grasping clothing; or covering a child's head, whether associated with discipline or not.
6. Positive techniques are used to guide the behavior of children by setting appropriate limits and encouraging children to choose positive behaviors.

## 15 Physical Environment

Children are much more vulnerable to exposures of contaminated environmental media materials than adults because their bodies are developing. They eat more, drink more, and breathe more in proportion to their body size; and their behavior. Both the design structure and a lack of maintenance can lead to exposure of children to physical injury, mold, dust, pests, and toxic materials.<sup>4</sup>

1. All school-age program facilities must be clean, in good repair, and free from health and safety hazards and vermin. During the hours that the program is in operation, no portion of the building can be used for any activity that endangers the health and safety of the children.
2. It is the responsibility of the director/owner to ensure that all areas and equipment of the facility are free from fire hazards, such as lint and dust build-up in heating and air vents, filters, exhaust fans, ceiling fans and dryer vents. This includes grease build-up in ovens, stoves and food equipment.
3. All areas and surfaces accessible to children must be free from toxic substances, biocontaminants, and hazardous materials/equipment/tools, including power tools.
4. All potentially harmful items, including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials, must be labeled. These items, including knives, sharp tools, and other potentially dangerous hazards, must be stored in a locked area or must be inaccessible and out of a child's reach at all times.

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<sup>4</sup> Caring for Our Children: National Health and Safety Performance Standards, Pages 200-201, cfoc.nrckids.org

5. Firearms and weapons, as defined in section 790.001, F.S., are prohibited within any building or upon any person located on the premises, excluding federal, state or local law enforcement officers.
6. Narcotics, alcohol or other impairing drugs must not be present on the premises.
7. Animals must be properly vaccinated, free from disease, and clean. Parents must be informed in writing of all animals on the premises. Notice may be provided by a conspicuously posted notice or bulletin, policy handbook, parent flier, or a statement included on the enrollment form. Current vaccinations records must be available for review by the licensing authority. No animal may freely roam the indoor/outdoor premises. Animals are prohibited in areas where food is prepared. If animals or birds are kept in classrooms, cages must be kept away from the food storage area and preparation or service area, and kept clean.
8. Pursuant to Chapter 386, F.S., smoking is prohibited within the school-age child care facility, all outdoor areas, during field trips, and in vehicles when being used to transport children. Owners/operators are to notify custodial parents and legal guardians, in writing, that smoking is prohibited on the premises of the child care facility.
9. Design and construction of a new child care facility or modifications to an existing facility must meet the requirements of the applicable local governing body. The facility must provide current written approval from the local governing body to verify compliance with building requirements.

### **15.1 Lighting**

1. All areas of the facility must have lighting that provides adequate illumination and comfort for facility activities, 20 foot-candles of lighting.
2. For reading, homework, painting and other close work areas, 50 foot-candles at the work surface is required.

### **15.2 Windows and Screens**

When the windows or doors are open, for more than entering/exiting purposes, all buildings must have and maintain screens to prevent entrance of any insects or rodents. Screens are not required for open-air classrooms and picnic areas.

### **15.3 Temperature and Ventilation**

1. An inside temperature of 65 to 82 degrees Fahrenheit must be maintained at all times.
2. Adequate ventilation must be maintained in all areas of the facility, in particular in those areas where arts and crafts are conducted, and during any cleaning, sanitizing or disinfecting procedure, to prevent children and child care personnel from inhaling potentially toxic fumes.

### **15.4 Rest Area**

1. For the purposes of this standard, sleeping refers to the normal night-time sleep cycle, while napping refers to a brief period of rest during daylight or early evening hours.
2. Nap bedding is not required for school-age children; however, each school-age child care program must include a designated area where each child can sit

quietly or lie down to rest or nap for those children choosing to rest.

3. Sleep bedding is required if the school-age child care program provides evening overnight care for children. Sleep bedding must be a cot or mattress (excluding an air mattress or a foam mattress).

### **15.5 Exit Area**

1. Exits should be clearly identified and visible at all times during operation of the child care facility.
2. The exits should be clearly marked, identifying the path to safety in case of an emergency. The exits should not be blocked at any time.

### **15.6 Bathrooms and Sinks**

1. Each school-age child care program must provide and maintain bathroom facilities that are easily accessible and at a height usable by the children. Platforms are acceptable when safely constructed, with impervious surfaces that can be easily cleaned and sanitized or disinfected.
2. Facilities must have a sufficient number of toilets and sinks for the number of children being served. For facilities having from one to 15 children, there must be at least one toilet and one sink. There shall be at least one additional toilet and sink for every 30 children thereafter. For design and construction of a new child care facility or modification to an existing facility, the program must submit copies of permits obtained to do the work or proof that the permit was satisfied according to the city/county local jurisdiction.
3. Bathrooms shall not open directly into an area where food is prepared. A toilet facility may open directly into an area used by children where food is served, such as into a classroom where tables/chairs have multiple uses.
4. Running water, soap, trash receptacles, toilet paper, and disposable towels or hand-drying machines that are properly installed and maintained must be available and within reach of children using the bathroom.
5. Each sink and toilet must be maintained in good operating condition, cleaned and sanitized or disinfected as needed, at least once per day.

### **15.7 Outdoor Play Area**

1. The outdoor play area must be clean and free from litter, nails, glass and other hazards.
2. The outdoor play area must be designed to allow personnel to clearly see children while playing on all equipment.
3. The outdoor play area must have a shaded area for children. Shading may be provided by trees, buildings or shade structures.
4. Metal equipment must be located out of direct sun rays and in a shaded area.
5. During outdoor play, personnel must also be in the outdoor play area so that all children can be observed and direct supervision can be provided. The outdoor play area should be arranged so all areas are visible to the personnel and easily supervised at all times.

## 15.8 Fencing

1. The facility's outdoor play area must be fenced as required by local ordinances to prevent access by children to all water hazards within or adjacent to outdoor play areas, such as pools, ditches, retention ponds and fish ponds.
2. The outdoor play area must have adequate fencing or walls a minimum of 4 feet in height. Fencing, including gates, must be continuous and must not have gaps that would allow children to exit the outdoor play area. The base of the fence must remain at ground level, and be free from erosion or build-up to prevent inside or outside access by children or animals.

The school-age child care program may operate without a fence if all of the following provisions are met:

- ✓ In addition to the established staff-to-child ratios, for the purpose of safety, an additional staff member is present at all times during outdoor activities, to assist in providing direct supervision;
- ✓ The outdoor play area if bordered by a road or street open to travel by the public, shall have a posted or unposted speed limit of no more than 25 miles per hour, or where the posted or unposted speed limit is no greater than 35 miles per hour and the playground is a minimum of 30 feet from the edge of the road; and
- ✓ The licensing authority has provided written authorization to the program to operate without a fence.

## 16 Equipment and Furnishings

Equipment, materials, furnishings and play areas should be sturdy, safe and in good repair. Walls, ceilings, floors, furnishings, equipment, toys, and other surfaces should be suitable to the location and the users. They should be maintained in good repair, free from visible soil and clean. Equipment and furnishings should be placed to help prevent collisions and injuries, ensure proper supervision while meeting the objectives of the curriculum and permit freedom of movement by children. Televisions should be anchored or mounted to prevent tipping over. Chairs and other furnishings that children can easily climb should be kept away from cabinets and shelves to discourage children from climbing to a dangerous height or reaching something hazardous.<sup>5</sup> The program should make reasonable accommodations to the program environment and schedule so that children with special needs may participate.

### 16.1 Indoor Equipment

1. A school-age child care program must make available enough toys, equipment and furnishings suitable to each child's age and development for each child to be involved in activities. These items must be accessible and in good working order.
2. Toys, equipment and furnishings must be safe and maintained in a sanitary condition, and must be cleaned and sanitized or disinfected immediately if exposed to bodily fluids, such as saliva.
3. Facilities must provide age-appropriate seating at meal and snack time for all

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<sup>5</sup> Caring for our Children: National Health and Safety Performance Standards, Pages 239-240, [cfoc.nrckids.org](http://cfoc.nrckids.org)

children.

## 16.2 Outdoor Equipment

1. A school-age child care program must provide and maintain enough usable equipment and offer play activities suitable to the age and development of each child.
2. All playground equipment must be securely anchored, unless portable or stationary by design, in good repair, maintained in safe condition, and placed to ensure safe use by the children. Maintenance must include inspections conducted every month of all supports above and below the ground and of all connectors and moving parts. Documentation of maintenance inspections must be maintained for two years.
3. Permanent or stationary playground equipment must have a ground cover or other protective surface under the equipment and within the fall zone that provides resilience, and is maintained to reduce the incidence of injuries to children in the event of falls. Equipment used for climbing should not be placed over, or immediately next to, hard surfaces such as asphalt, concrete, dirt, grass, or flooring covered by carpet or gym mats not intended for use as surfacing for climbing equipment. All pieces of playground equipment should be placed over and surrounded by a shock-absorbing surface.
4. All equipment, fences and objects on the program's premises must be free from sharp, broken and jagged edges, and must be properly placed to prevent overcrowding or safety hazards in any one area.
5. All equipment used in the outdoor play area must be constructed and maintained to allow for water drainage, and must be maintained in a safe and sanitary condition.
6. Sandboxes must be covered at the end of each day. The covering used must prevent access to the sandbox by animals.

## 17 Health and Sanitation

### 17.1 Handwashing

Employees, volunteers, substitutes, and children must wash their hands with soap and running water, dry thoroughly and follow personal hygiene procedures for themselves and while assisting others. Examples of activities when handwashing is required include, but are not limited to: before and after eating, immediately following outdoor play, after toileting, following the use of any cleaners or toxic chemicals, before and after administering medication, and during food preparation and snack distribution.

1. Employees, volunteers, substitutes and children must follow the Centers for Disease Control guidelines for handwashing see **Appendix XYZ for further details.**
2. The use of hand sanitizers does not substitute for handwashing. However, in areas away from the facility where no running water is available, hand sanitizers may be used. Examples of such places are field trips, nature trails or picnic



areas where running water is not readily available.

3. Employees, volunteers, and substitutes with open wounds and/or any injury that inhibits handwashing, such as casts, bandages, or braces, must not prepare food.

## 17.2 Drinking Water

Safe drinking water must be available to all children. If disposable cups are used, they must be discarded after each use.

# 18 Fire Safety and Emergency Preparedness

Regular fire safety checks by trained officials (i.e., fire department inspector or building code inspector) will ensure that a child care facility continues to meet all applicable fire safety codes. Regular emergency and evacuation drills/exercises constitute an important safety practice in areas where these natural or human-generated disasters might occur. The routine practice of such drills fosters a calm, competent response to a natural or human-generated disaster when it occurs. Turnover of both staff and children, in addition to the changing developmental abilities of the children who participate in evacuation procedures in child care, necessitate frequent practice of the exercises. There must be a plan to account for all children and adults in a facility at the time of an evacuation. Practice accounting for children and adults during evacuation drills makes it easier to do in an emergency.<sup>6</sup>

## 18.1 Emergency Preparedness

1. The operator must develop a written emergency preparedness plan that includes, at a minimum, procedures to be taken by the facility during a fire, shelter in place, lockdown and inclement weather (for example: hurricanes, tropical storms or tornadoes), and to facilitate parent/guardian reunification onsite and offsite. The plan must describe how the facility will meet the needs of all children, including children with special needs, during and following an emergency event.
2. Emergency preparedness drills must be conducted when children are in care. Each drill outlined in the emergency preparedness plan must be practiced a minimum of one time per year, and may substitute for up to three monthly fire drills. Documentation of this substitution must be maintained for one year. A current attendance record must accompany staff during the drill or actual emergency and must be used to account for all children, as referenced in paragraph 65C-22.002(7)(e), F.A.C. (see **Appendix XYZ.**)
3. The operator must maintain and post in an easily seen location a written record of emergency preparedness drills showing the type of drill, date conducted, number of children and staff in attendance, and time taken for all individuals to complete the drill.
4. Documentation of conducted fire and emergency preparedness drills must be available at the time of inspection. Documentation produced after the inspection will not be used to meet the licensing standard or corrective action requirements.
5. The operator must prepare and post an emergency evacuation plan in each room

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<sup>6</sup> Caring for Our Children: National Health and Safety Performance Standards, Pages 199, 370-371, cfoc.nrckids.org

of the facility, excluding restrooms, including a diagram of safe routes by which the personnel and children may exit in the event of fire or other emergency requiring evacuation.

## 18.2 Fire Safety

1. Unless statutorily exempted, all school-age child care programs must conform to state standards adopted by the State Fire Marshal, Chapter 69A-36, F.A.C., Uniform Fire Safety Standards for Nonresidential Child Care Facilities, and must be inspected annually. A copy of the current and approved annual fire inspection report by a certified fire inspector must be on file with the licensing authority. If the program is granted a fire inspection exemption by the local fire inspection office, the exemption must be documented and maintained on file at the program.
2. There must be at least one operable corded telephone that is neither locked nor located at a pay station that is available to all staff at all times during the hours of operation.
3. The school-age child care facility must properly maintain fire extinguishers with a minimum rating of 2A10BC at all times. All staff must be trained in the use and operation of a fire extinguisher within 30 days of their employment date. Documentation of such training must be maintained in the personnel file. Travel distance to the nearest extinguisher must not be more than 75 feet from rooms occupied by children. A fire extinguisher must be present in vehicles used to transport children and areas where food is prepared.
4. The operator must prepare and post the emergency evacuation plan in each room of the facility, including a diagram of safe routes by which the personnel and children may exit in the event of fire or other emergency requiring evacuation.
5. Automatic range-top fire suppression systems are required in the kitchen for facilities that deep fry food. Suppression hood systems must be maintained and inspected in accordance with the Florida Fire Prevention Code as adopted in Chapter 69A-60, F.A.C.

## 18.3 Fire Drills

1. During the facility's licensure year, fire drills utilizing the approved alarm system must be conducted monthly at various dates and times when children are in care.
2. A current attendance record must accompany staff out of the building during a drill or actual evacuation, and be used to account for all children. When the facility's approved alarm system is activated, all adults and children must evacuate the facility. The operator must maintain a written record of the fire drills showing the date, number of children and staff in attendance, evacuation route used, and time taken for all individuals to evacuate the premises. Each fire drill record must be maintained for a minimum of two years from the date of the fire drill. The fire drills conducted must include, at a minimum:
  - ✓ One fire drill using an alternate evacuation route, and
  - ✓ One drill in the presence of and at the request of the licensing authority in coordination with the operator or designee.



## 18.4 After a Fire or Natural Disaster

After a fire or natural disaster, the operator must notify the licensing authority within 24 hours of operational status in order for the licensing authority to ensure health standards are being met for continued operation.

# 19 Health-Related Requirements

1. There are three common modes of transmission for the spread of microorganisms in child care settings: contact, droplet, and airborne.
2. Many common infections encountered in the child care setting are transmitted by direct or indirect contact.

## 19.1 Communicable Disease Control

1. Children in care must be observed on a daily basis for signs of communicable disease.
2. Any child, child care personnel or other person in the school-age child care program suspected of having a communicable disease must be removed from the program or placed in an isolation area until removed. Such person may not return without medical authorization, or until the signs and symptoms of the disease are no longer present.
3. A child's condition must be reported to the custodial parent or legal guardian.
4. Signs and symptoms of suspected communicable disease include:
  - ✓ Severe coughing, causing a child to become red or blue in the face or to make a whooping sound;
  - ✓ Difficult or rapid breathing;
  - ✓ Stiff neck;
  - ✓ Diarrhea (more than one abnormally loose stool within a 24-hour period);
  - ✓ Temperature of 101 degrees Fahrenheit or higher in conjunction with any other signs of illness;
  - ✓ Pink eye;
  - ✓ Exposed, open skin lesions;
  - ✓ Unusually dark urine and/or gray or white stool;
  - ✓ Yellowish skin or eyes; or
  - ✓ Any other unusual sign or symptom of illness.
5. A child identified as having head lice must not be permitted to return until the following day, and then only if treatment has occurred and been verified. Verification of treatment may include a product box, box top, empty bottle, or signed statement by a parent that treatment has occurred. The child care facility must treat areas, equipment, toys, and furnishings with which the child has been in contact.

## 19.2 Isolation Area

1. Each school-age child care program must have a designated isolation area for a child who becomes ill while in care.
2. Such space must be adequately ventilated, cooled, heated, and equipped with a

bed, mat, or cot, and materials that can be cleaned and sanitized or disinfected easily.

3. Linens are to be changed after each use, and used linens must be kept in a closed container in the isolation area until cleaned.
4. Disposable items must be kept in a closed container in the isolation area until thrown away.
5. The isolated child must be within sight and hearing of a staff person at all times. The child must be carefully observed at all times for worsening conditions.

### **19.3 Outbreaks**

1. Operators are required to notify the local county health department immediately upon any suspected outbreak of communicable disease in accordance with Chapter 64D-3, F.A.C., Communicable Disease Control, and must follow the health department's direction.
2. A suspected outbreak occurs when two or more children or employees have the onset of similar signs or symptoms within a 72-hour period or when a case of a serious or reportable communicable disease is diagnosed or suspected in a child or employee. Some examples include shigella, salmonella, chicken pox, measles and foot and mouth disease. Contact your local health department for a determination of whether reporting is required.

### **19.4 First Aid, Cardiopulmonary Resuscitation and Emergency Procedures**

1. Each school-age child care program must have at least one staff member with a current and valid certificate(s) of course completion for first aid training and child cardiopulmonary resuscitation (CPR) procedures.
2. One staff member satisfying these training requirements must be present at all times that children are in care, both on-site and on field trips.
3. A field trip includes all activities away from the program, excluding regular transportation to and from the program (i.e., pick-up and drop-off).
4. Certificates of course completion are valid based on the time frames established by each first aid and CPR training program, not to exceed three years.
5. CPR courses must include on-site, instructor-based skill assessments by a certified CPR instructor. Documentation of completion of the online course and on-site assessment must be maintained at the facility and available for review by the licensing authority.
6. Documentation identifying which staff members have met the first aid and child CPR training requirement must be kept on file.
7. At least one first aid kit must be maintained on the premises at all times.
8. A first aid kit must also accompany child care staff when children are participating on field trips.
9. Each kit must be in a closed container and labeled "First Aid." The kits must be accessible to the child care staff at all times and kept out of the reach of children.
10. If the first aid kit is stored in the food preparation area, it must be stored in a

manner to prevent contamination of food, food contact surfaces, or first aid supplies.

## 19.5 First Aid Kit Minimum Requirements

Each kit must at a minimum include:

- ✓ Soap (to be used with water) and/or hand sanitizer (for use when water may not be available),
- ✓ Band-aids or equivalent,
- ✓ Disposable non-porous gloves,
- ✓ Cotton balls or applicators,
- ✓ Sterile gauze pads and rolls,
- ✓ Adhesive tape,
- ✓ Thermometer,
- ✓ Tweezers,
- ✓ Pre-moistened wipes,
- ✓ Scissors, and
- ✓ A current resource guide on first aid and CPR procedures.

## 20 Emergency Procedures and Notification

1. Emergency telephone numbers must be posted on or near all telephones, including 911, ambulance, fire, police, poison control center, Florida Abuse Hotline, and the county public health department. Additionally, the address and directions to the facility must be posted with descriptions of major intersections and local landmarks.
2. Custodial parents or legal guardians must be notified immediately in the event of any serious illness, accident, injury or emergency to their child, and their specific instructions regarding action to be taken under such circumstances must be obtained and followed.
3. If the custodial parent or legal guardian cannot be reached, the school-age child care program director or owner will contact those persons designated by the custodial parent or legal guardian to be contacted under such circumstances, and must follow any written instructions provided by the custodial parent or legal guardian on the enrollment form.

### 20.1 Accidents/Incidents

1. All accidents and incidents that occur while a child is in the care of program staff must be documented on the same day they occur.
2. This documentation must be shared with the custodial parent or legal guardian on the date of occurrence.
3. Documentation must include the name of the affected party, date and time of the occurrence, description of the occurrence, actions taken and by whom, and appropriate signatures of program staff and the custodial parent or legal guardian.
4. The documentation must be maintained for one year. If the parent or legal guardian does not pick up the child on the date of occurrence of the accident or incident, the individual authorized to pick up the child must sign and be provided

a copy of the accident/incident form.

## 21 Medication

School-age child care programs are not required to give medication; however, if a program chooses to do so, the following must apply:

1. The school-age child care program must have written authorization from the custodial parent or legal guardian to give prescription and non-prescription medications. This authorization must be dated and signed by the custodial parent or legal guardian and contain the child's name; the name of the medication to be given; and date, time and amount of the correct dosage to be given.
2. Any known allergies to medication or special restrictions must also be documented, maintained in the child's file, shared with staff and posted with the child's stored medication.
3. Prescription and non-prescription medication brought to the school-age child care program by the custodial parent or legal guardian must be in the original container. Prescription medication must have a label stating the name of the physician, child's name, name of the medication, and medication directions. All prescription and non-prescription medication must be dispensed according to written directions on the prescription label or printed manufacturer's label.
4. In the event of an emergency, non-prescription medication that is not brought in by the parent or legal guardian can be dispensed only if the program has written permission from the parent or legal guardian to do so.
5. Any medication given under these conditions must be documented in the child's file, and the custodial parent or legal guardian must be notified on the day of occurrence.
6. The facility must maintain a record for each child receiving medications that documents the full name of the child, the name of the medication, the date and time the medication was given, the amount and dosage, and the name of the person who gave the medication. This record must be initialed or signed by the program personnel who gave the medication. The record must be maintained for a minimum of 12 months after the last day the child received the medicine.
7. All medicine must have child resistant caps, if applicable, and must either be stored in a locked area or must be out of any child's reach. If medication is stored in the food preparation area, it must be stored in a manner to prevent contamination of food, food contact surfaces, or medication.
8. Medication that has expired or that is no longer being dispensed must be returned to the custodial parent or legal guardian or discarded if the child is no longer enrolled in the program.

## 22 Food and Nutrition Services

Handling of food in a safe and careful manner prevents the spread of bacteria, viruses and fungi. Outbreaks of foodborne illnesses have occurred in many settings, including child care facilities. Meals and snacks should contain at a minimum the meal and snack patterns shown for school-age children in the Child and Adult Care Food Program guidelines

(\*CACFP) found at [www.fns.usda.gov/cacfp/meals-and-snacks](http://www.fns.usda.gov/cacfp/meals-and-snacks). This age is characterized by rapid growth that increases the need for energy and essential nutrients to support optimal growth. Proper seating while eating reduces the risk of food aspiration and improves comfort in eating.<sup>7</sup>

## 22.1 Food Preparation Area

A food preparation area is a designated room, such as a kitchen or a designated space in a facility not used in such day-to-day operations as that available for indoor play, classroom, work or nap spaces, and not included when calculating usable indoor floor space.

1. A food preparation area is required for facilities that choose to prepare food in a manner consistent with the definition of “preparation of food” in 65C-22.0011(5), F.A.C. Specific requirements for the food preparation area include:
  - ✓ Ventilation provided either by mechanical or natural means to provide fresh air and control of unpleasant odors, such as a fan, vent or open window with a screen.
  - ✓ Smooth, nonabsorbent food contact surfaces with no unsealed cracks or seams. Food-contact surfaces are surfaces of equipment, countertops, utensils, etc., that food comes into contact with during food preparation.
  - ✓ Food equipment maintained and stored in a sanitary manner and out of the reach of children.
  - ✓ Shielded lighting.
  - ✓ Nonabsorbent and easily-cleaned flooring and floor covering.
  - ✓ Easily cleanable or replaceable ceiling in the event of water and other damage, mildew, or mold.
  - ✓ A separate handwashing station with hot running water a minimum of 100 degrees Fahrenheit. A handwashing station must include a sink with running water and drainage, soap, trash can, and disposable towels or hand-drying machines that are properly installed and maintained. Handwashing stations must include posted signs visible to employees and children, demonstrating proper handwashing technique. Portable sinks may not be used for dishwashing or food preparation. If a portable sink is used for handwashing in the food preparation area, hot water must be provided.
  - ✓ Leak-proof, nonabsorbent containers, covered with a tight-fitting lid, for all food waste stored inside the facility. The container must be emptied, cleaned and sanitized or disinfected daily.
  - ✓ A food preparation area clean and free of dust, dirt, food particles and grease deposits.
2. Employees, volunteers and substitutes, while working in the food preparation area, must wear proper head covering, such as a hair net or hat. To prevent contact with ready-to-eat foods, staff must use disposable gloves, utensils, or similar items in the food preparation area.
3. For safety, children must not be present in the food preparation area when meals

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<sup>7</sup> Caring for Our Children: National Health and Safety Performance Standards Pages 175 & 177, [cfoc.nrckids.org](http://cfoc.nrckids.org)



and snacks are prepared unless while being supervised or participating in a cooking activity.

## 22.2 Food Storage

Storage of food off the floor in a safe and sanitary manner helps prevent food contamination from cleaning chemicals or spills of other foods, and keeps insects and rodents from entering the products. Safe handling and storage of all food is a basic principle to prevent and reduce food-borne illnesses. Keeping cold food below 41 degrees Fahrenheit and hot food above 135 degrees Fahrenheit prevents bacteria growth. Food intended for human consumption can become contaminated if left at room temperature.<sup>8</sup>

Facilities choosing to prepare food must have a designated space for food storage within the designated food preparation area or in a room not calculated as part of indoor floor space, and in an area not used for diapering. Off-site food storage is permissible only if the site of storage is a licensed child care facility under the same ownership that includes a food preparation area that meets licensing standards.

1. Food containers, such as cans, plastic containers, boxes, and bags, must be stored above the floor on clean surfaces protected from splash and other contamination.
2. Food must be consumed or discarded on or before the expiration dates listed by the manufacturer.
3. Poisonous/toxic chemicals or cleaning products must be stored separately from food.
4. Opened packages of perishable or leftover food items must be properly covered or sealed in containers or bags, labeled with the date, and properly stored and discarded within seven calendar days.
5. Opened packages of dried goods must be properly covered/sealed, properly stored, and discarded according to the manufacturer's recommended date or if the quality of the goods has been compromised.
6. Refrigerators/freezers:
  - ✓ An accurate thermometer used to verify adequate cold storage temperature must be placed inside each refrigeration and freezer unit. Refrigerators must be maintained at 41 degrees Fahrenheit or below, and freezers must be maintained at 0 degrees Fahrenheit. The thermometer must be located in the center of the unit and readily accessible. Temperature readings higher than 41 degrees Fahrenheit require further temperature testing of food stored in the unit using a probe type thermometer; and/or adjustments to the unit setting to reach and maintain cooler temperatures. Do not use an oven thermometer for cold storage temperature readings.
  - ✓ Food may be frozen prior to the expiration date, but when thawed, it must be labeled with the date it was removed from the freezer and discarded within seven calendar days.
  - ✓ Frozen food must be labeled by date and type noted below and stored according to the following table:

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<sup>8</sup> Caring for Our Children: National Health and Safety Performance Standards Page 190, cfoc.nrckids.org

<b>Food Item</b>	<b>Months</b>
Bacon and sausage	1 to 2 months
Casseroles	2 to 3 months
Frozen dinner and entrees	3 to 4 months
Ham, hot dogs, lunchmeats	1 to 2 months
Meat, uncooked	4 to 12 months
<b>Food Item</b>	<b>Months</b>
Meat, uncooked ground	3 to 4 months
Meat, cooked	2 to 3 months
Poultry, cooked	4 months
Soups and stews	2 to 3 months

Table 1: Referenced in 65C-22.002(8)(f)3.F.A.C.

## 22.3 Food Hygiene

1. Children are at a high risk for contracting food-borne illness, as their bodies are in the process of growing, developing, and building adequate immune systems to fight illness. While some food-borne illnesses originate at farms or food manufacturing plants, the majority are the result of poor food handling practices.
2. If a school-age child care program provides food to children in care, it must provide nutritious meals and snacks of a quantity and quality to help meet the daily nutritional needs of the children. The USDA MyPlate, is to be used to determine which food groups to serve at each meal or snack and the serving size of the selected foods for children ages 2 and older. Copies of the USDA MyPlate dieting guidelines may be obtained from the USDA website at <http://www.choosemyplate.gov>.
3. If a facility chooses to provide food to children directly or by contract with an outside source such as a caterer, the food must be free from spoilage and contamination and safe for human consumption, and must be stored and handled in a sanitary manner at all times. The facility must have adequate equipment available to maintain food safety.
  - ✓ Meat, poultry, fish, dairy products, and processed foods must have been inspected under the United States Department of Agriculture requirements.
  - ✓ No raw milk or unpasteurized juice may be served without the written consent of the parent or legal guardian.
  - ✓ No home-canned food may be served.
  - ✓ No homegrown eggs may be served.
  - ✓ No recalled food products may be served.
  - ✓ All raw fruits and vegetables must be washed thoroughly before being served or cooked.
  - ✓ To prevent food from becoming potentially hazardous, hot foods must be maintained at a temperature of 135 degrees Fahrenheit or above, and cold foods must be maintained at a temperature of 41 degrees Fahrenheit or below. The facility must supply adequate equipment to maintain temperature requirements.
  - ✓ Foods that comprise meals included on a facility's menu may not be prepared or partially prepared outside of the facility unless prepared by a caterer or a



licensed child care facility under the same ownership that includes a food preparation area that meets licensing standards.

- ✓ Food must be thoroughly cooked and/or reheated according to the following table:

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<b>Food</b>	<b>Minimum Internal Temperature</b>
Fruits, Vegetables, Grains, and Legumes	135° F
Roasts ( Fresh Beef, Pork and Lamb)	145° F (with a 3 minute rest time)
Fish	145° F
Eggs	Cook until yolk and white are firm
Eggs dishes	160° F
Ground meats (beef, pork, and lamb) and fresh ham (raw)	160° F
Poultry – whole, parts, or ground	165° F
Leftovers	165° F
Foods cooked in microwave	165° F
Sauces, gravy, soups , casseroles	165° F

Table 2: Referenced in 65C-22.005(b)9., F.A.C.

4. If a facility chooses to provide or make available food to children in care from an outside source, such as a caterer, or as the result of a learning activity provided by a child care program, such as a garden, it is the responsibility of the provider to ensure all food intended for consumption by a child in care is free from spoilage and contamination and safe for human consumption.
  - ✓ Food Acceptance Log. A log must be maintained for all prepared meals being transported into the facility. The log must be retained for a minimum of 12 months. The log must include the date, time of arrival, quantity and types of food, verification by the recipient of condition of the food, verification by the recipient of adequate temperatures of food, and the name and signature of the recipient.
  - ✓ Parents and legal guardians must be advised in advance of each food-related activity, such as special occasions and learning activities that include food consumption. Written parental permission may be obtained in the form of a general or specific permission slip. Documentation of parent permission for food activities must be maintained for a minimum of 12 months from the date of each activity.
5. If a school-age child care program chooses not to provide meals and snacks, arrangements must be made with the custodial parent or legal guardian to provide nutritional food for the child. In the event that a child's parent fails to provide nutritious meals/snacks, the program must provide supplemental food items to complete the child's meal.
6. If a special diet is required for a child by a physician, a copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet must be maintained in the child's file and followed. If the custodial parent or legal guardian notifies the program of any known food allergies, written documentation must be maintained in the child's file for as long as the child is in care. Special food restrictions must be shared with staff and must be posted in an easily seen location.

7. Meal and snack menus must be planned, written, dated, and posted at the beginning of each week in an easily seen place accessible to parents. Any menu substitution must be noted on the menu. A generalized menu of possible snack choices for programs that receive food donations is acceptable. All meals and snacks prepared outside of the facility's kitchen or designated food preparation area, such as catered food, must be listed along with the source. Daily meal and snack menus must be maintained for a minimum of 12 months for licensing purposes. Operators who participate in the USDA Food Program must keep menus in accordance with the Department of Health and USDA requirements.

## 22.4 Dishwashing and Sanitization

For facilities that prepare food, non-disposable food equipment, tableware, and utensils utilized for food preparation and food consumption must be properly cleaned by pre-rinsing or scraping, washing, rinsing, sanitizing, and air drying. If the school-age child care facility lacks adequate dishwashing and sanitation described in this section for dishes, equipment, and utensils, only disposable single-use items may be used. All single service items must be discarded after each use. Food equipment, tableware and utensils used to prepare food must be washed and sanitized on-site, except when a caterer is used and the caterer is responsible for dishwashing as evidenced by a written agreement. Dishwashing and sanitization must be accomplished by one of the following:

1. A dishwasher with a sanitizing cycle.
  - ✓ The dishwasher must use heat or chemical injection for sanitization.
  - ✓ If chemical sanitization is used, the wash water temperature must be set at a minimum of 120 degrees Fahrenheit, and the rinse water must be a minimum of 75 degrees Fahrenheit. If the dishwasher does not have a built-in thermometer to display the temperature of each cycle, a thermometer or thermometer test strips must be available to determine the rinse cycle temperature.
  - ✓ Automatic sanitizing dispenser must be properly installed and maintained.
  - ✓ A test kit or other device that accurately measures the concentration of the sanitizing solution must be available and used to confirm appropriate concentration of solution during one full cycle per day.
  - ✓ If hot water is used for sanitization, the dishwasher must achieve a temperature of 160 degrees Fahrenheit on the surface of equipment/dishes/utensils being washed. If the dishwasher does not have a built-in thermometer to display the temperature of each cycle, a thermometer or thermometer test strips must be available to determine the rinse cycle temperature.
  - ✓ The facility must have a means for measuring the required temperature either by an irreversible registering temperature indicator (heat strip) or an external temperature display built into the machine.
2. An installed three-compartment sink or an installed two-compartment sink with a non-stationary or portable compartment receptacle.
  - ✓ Installed compartment sinks may be used to wash produce and to fill cooking pots and pans with water when not in use for dishwashing.

- ✓ Sinks must be sanitized before and after each use.
  - ✓ The first compartment must be used for washing; the second compartment must be used for rinsing; and the third compartment must be used for sanitizing.
  - ✓ If only an installed two-compartment sink is available, the second compartment must be used for rinsing and a non-stationary or portable compartment receptacle must be available and used to sanitize.
3. Chemical sanitization.
- ✓ If chemical sanitization is used, an exposure time of at least 7 seconds is required for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 75 degrees Fahrenheit.
  - ✓ If other sanitizers are used, the manufacturer instructions must be strictly followed.
  - ✓ A test kit or other device that accurately measures the concentration of the sanitizing solution must be available and used to confirm appropriate concentration of solution during each use.
4. Hot water sanitization.
- ✓ If hot water is used for sanitizing, equipment/dishes/utensils must be immersed for a period of at least one-half minute in hot water at a temperature of 170 degrees Fahrenheit or above. A probe type thermometer must be available for staff to measure water temperature;

## 22.5 Food handling

1. Milk and food must not sit out of refrigeration for longer than 15 minutes prior to the beginning of the meal.
2. Employees, volunteers and substitutes, while distributing snacks or serving food, must use clean disposable gloves, utensils or similar items to prevent skin contact with food.
3. Food provided by parents must be stored and handled in a sanitary manner at all times. If food is supposed to be kept cold, the food must be stored in a refrigerator below 41 degrees until eaten, or parents must include ice packs to keep food cold.

## 23 Training Requirements

### 23.1 Beginning Training

Child care personnel must begin training within 90 days of employment and successfully complete the Department's training within 12 months from the date training begins. Training completion may not exceed 15 months from the date of employment in the child care industry in any licensed Florida child care facility.

## 23.2 Training Courses

1. Child care personnel must successfully complete 40 hours of child care training as evidenced by successful completion of competency examinations offered by the Department or its designated representative with a weighted score of 70 or better. School-age child care personnel must complete:
  - ✓ Child Care Facility Rules and Regulation (6 hours);
  - ✓ Health, Safety, and Nutrition (8 hours);
  - ✓ Identifying and Reporting Child Abuse and Neglect (4 hours);
  - ✓ Understanding Developmentally Appropriate Practices (5 hours)
  - ✓ School Age-Appropriate Practices (5 hours); and
  - ✓ The remaining 12 hours must be met by completing training identified in subparagraph 2 below.
2. School-age child care personnel must also successfully complete competency examinations offered by the Department or its designated representative with a weighted score of 70 or better for the following courses:
  - ✓ School-Age Alternative Training (12 hours online)
  - ✓ Completion of specialized school-age training, provided by a national organization or affiliates of a national organization, that requires demonstration of competencies through passage of examination(s), or completion and assessment of a Professional Resource File (portfolio of materials that demonstrate competency).
3. School-age child care personnel with successful completion of introductory child care training for child care personnel as defined in s.402.305 (2), F.S., are considered in compliance with the school-age child care personnel training requirements.

## 23.3 Break in Service

1. In the event an individual leaves the child care industry in compliance with the training requirements described in this section, and returns to the industry either at the same or a different child care facility, he or she must be granted 90 days to comply with any new mandated training requirements established during the gap in employment in the child care industry.
2. In the event an individual leaves the child care industry not in compliance with the training requirements described in this section, and returns to the industry either at the same or a different child care facility, prior to re-employment he or she must comply with the training requirements described in this section, in addition to any new mandated training requirements that may have been established during the gap in employment in the child care industry.

## 23.4 Documentation of Training

1. The Department's Training Transcript will be the only acceptable verification of successful completion of the Department's training. A copy of the Department's Training Transcript may be obtained from the Department's website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare).

2. A copy of the Training Transcript must be included in each staff member's personnel record maintained at the school-age child care program.
3. Any course completion certificate not documented on the Training Transcript will be considered invalid, requiring that the course(s) be retaken. Until the coursework is retaken and completed, child care facilities will be out of compliance with the mandated training standard.

## 23.5 Training Exemptions

**Literacy Training Exemption.** School-age child care personnel are exempt from the training requirement of five clock hours of early literacy and language development of children from birth to 5 years of age, under paragraph 65C-22.003(2)(b), F.A.C.

**Competency Examination Exemptions.** Prior to attending training child care personnel have one opportunity, if they choose, to exempt from one or more of the Department's Introductory Child Care Training courses by successful completion of corresponding competency examinations with a weighted score of 70 or better.

### **Educational Exemptions.**

1. The Department shall exempt child care personnel who meet one of the following educational qualifications from the "Health, Safety and Nutrition"; "Child Growth and Development"; and "Behavioral Observation and Screening" courses:
  - ✓ Associate's degree or higher with six college credit hours in early childhood education or degree in elementary education.
2. The Department shall exempt child care personnel with a Bachelor's degree or higher in Elementary Education from the "Understanding the Developmentally Appropriate Practices" and "School-Age Appropriate Practices" course.
3. The Department shall exempt child care personnel with a bachelor's degree or higher in Exceptional Student Education from the "Special Needs Appropriate Practices" course.

**There are no educational exemptions from the "Child Care Facility Rules and Regulations" and the "Identifying and Reporting Child Abuse and Neglect" courses.**

## 23.6 Staff Credential Exemption

School-age child care programs are exempt from the staff credential requirement as outlined in subsection 65C-22.003(7), F.A.C.

## 23.7 Annual In-Service Training

1. Upon successful completion of the 40-hour introductory training requirements, child care personnel must complete a minimum of 10 clock-hours or one CEU of in-service training annually during the state's fiscal year beginning July 1 and ending June 30.
2. The annual 10 clock-hours or one CEU of in-service training concentrating on children ages birth through 12 must be completed in one or more of the following areas (college-level courses will be accepted):
  - ✓ Health and safety, including universal precautions, prevention of infectious diseases, sudden infant death syndrome, use of safe sleep practices,



administration of medicine, emergency preparedness, handling of hazardous materials;

- ✓ Child CPR;
  - ✓ First Aid (may be taken to meet the in-service requirement only once every three years);
  - ✓ Nutrition;
  - ✓ Child development – typical and atypical;
  - ✓ Child transportation and safety;
  - ✓ Behavior management;
  - ✓ Working with families;
  - ✓ Design and use of child-oriented space;
  - ✓ Community, health and social service resources;
  - ✓ Child abuse;
  - ✓ Child care for multilingual children;
  - ✓ Working with children with disabilities in child care;
  - ✓ Safety in outdoor play;
  - ✓ Literacy;
  - ✓ Guidance and discipline;
  - ✓ Computer technology;
  - ✓ Leadership development/program management and staff supervision;
  - ✓ Age-appropriate lesson planning;
  - ✓ Homework assistance for school-age care;
  - ✓ Food safety training;
  - ✓ Developing special interest centers/spaces and environments;
  - ✓ Other course areas relating to child care or child care management;
  - ✓ Any of the online courses offered through the Department's child care website.
3. Documentation of the in-service training requirement must be recorded on CF-FSP Form 5268, Child Care In-Service Training Record, and included in the child care facility's personnel records. CF-FSP Form 5268 may be obtained from the Department's website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare) or from the following link: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03033>. A new in-service training record is required each fiscal year. The in-service training records for the previous two fiscal years must also be maintained at the school-age child care program for review by the licensing authority.
  4. All child care personnel employed in the industry beyond 15 months, who change employment from one child care program to another during the fiscal year, must complete the annual in-service training requirement.



5. Child care personnel not in compliance with the annual in-service training requirement described in this section must complete the remaining in-service training requirement within 30 days of the noncompliance finding by the licensing authority. These hours cannot be used to meet the current year's in-service training requirements.

## 23.8 Director Credential

Section 402.305(2)(f), F.S., requires a child care facility to have a credentialed director. Every applicant for a license to operate a child care facility or a license for a change of ownership of a child care facility must document that the facility director has an active Director Credential prior to issuance of the license.

An applicant for the Director Credential must meet the requirements referenced in CF-FSP Form 5290, March 2009, Florida Child Care Director Credential and Renewal Application, which is incorporated by reference in paragraph 65C-22.003(8)(a), F.A.C. CF-FSP Form 5290 may be obtained from the Department's website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare). All applications and documentation will be verified, and if complete, the credential will be issued by the Department or designated representative on CF-FSP Form 5252, April 2006, Florida Director Credential Certificate, which is incorporated by reference in paragraph 65C-22.003(8)(a), F.A.C.

1. Each school-age child care program must have a credentialed director that is on-site a majority of hours that the facility is in operation.
2. CF-FSP Form 5252, Florida Director Credential Certificate, must be maintained at the school-age child care program for review by the licensing authority.
3. An individual with an inactive Director Credential is ineligible to be the director of a child care facility.
4. School-age child care program owners must notify the licensing authority within five working days of when the facility loses a credentialed director or when there is a change of director.
  - ✓ The licensing authority will then issue a provisional license for a period not to exceed six months for any facility without a credentialed director.
  - ✓ The provisional license will have an effective date of the first day the facility was without a credentialed director.
5. An individual may not be the director of a child care facility and a school-age program that overlap in the hours of operation.
6. A credentialed director may supervise multiple before-school and after-school sites for a single organization as follows:
  - ✓ Three sites regardless of the number of children enrolled, or
  - ✓ More than three sites if the combined total number of children enrolled at the sites does not exceed 350. In calculating the total number of children enrolled, the number of children in the before- and after-school programs shall be calculated and viewed as separate programs.
  - ✓ In counties where the public school district has included 4-year-old children in public before-school and after-school programs, the school district may participate in the multi-site supervision option. Public school districts that

serve 4-year-old children in the before-school and after-school programs are required to have a credentialed staff person pursuant to the credentialing requirements in paragraph 65C-22.003(7)(a), F.A.C., in order to accommodate the 4-year-old children.

7. When a credentialed director is supervising multiple sites, the individual left in charge of the site during the director's absence must meet the following requirements:
  - ✓ Be at least 21 years of age;
  - ✓ Have completed the approved 40 clock-hour Introductory Child Care Training" approved by the Department; and
  - ✓ Have completed the Department's Part II specialized training course, "Special Needs Appropriate Practices" or completed a minimum of eight hours of in-service training in serving children with disabilities; or
  - ✓ Have completed the Department's 10-hour "School-Age Appropriate Practices" specialized training module or the 5-hour "Understanding Developmentally Appropriate Practices" course and the 5-hour "School Age Appropriate Practices" course.

### 23.9 Director Credential Renewal

1. To maintain an active Director Credential, complete the renewal section of the CF-FSP Form 5290, March 2009, Florida Child Care Director Credential and Renewal Application, which may be obtained from the Department's website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare).
2. A Director Credential renewal is active for five years from the date of issuance. The completed renewal application, including all required documentation, may be submitted to the Department for review and issuance of a Director Credential Renewal Certificate no earlier than one year prior to the end of the active period of the Director Credential. The Director Credential renewal date is determined by the end date of the active period.
3. If a renewal application is received after the end of the active period for the Director Credential, the Director Credential Renewal Application will be reviewed and, if approved, a certificate will be issued with a renewal date of five years from the date the completed renewal application was processed.

### 23.10 Director Credential Training Providers

1. The Department is responsible for reviewing and approving "Overview of Child Care Management" courses offered through vocational-technical schools, community/state colleges and universities to determine if the requirements for the Director Credential coursework are met. Applications for new coursework are no longer accepted by the Department. Child care program administration courses offered for college credit may be reviewed for approval on an individual basis. A list of approved "Overview of Child Care Management" courses may be obtained from the Department's website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare).
2. All college-level coursework pertaining to the following content areas will be accepted as approved coursework toward the Advanced Level Director Credential requirements:

- ✓ Child Care and Education Organizational Leadership and Management;
- ✓ Child Care and Education Financial and Legal Issues; and
- ✓ Child Care and Education Programming.

## 24 Record Keeping

### 24.1 General Requirements

1. Each of the records described in this section must be maintained at the program location and must be available during the hours of operation for review by the licensing authority.
2. A copy of all background screening clearance documents for the director and owner must be provided to the Department to be included in the Department's official licensing file.
3. Copies of required records are acceptable for documentation. Original documents are the property of the party providing the information.
  - ✓ Driver's log. Must be retained for the previous 12 months.
  - ✓ Facility's written disciplinary policies.
  - ✓ Written record of fire drills. Must be maintained for a minimum of one year.
  - ✓ Documentation of staff members who have met the first aid and child cardiopulmonary resuscitation (CPR) training requirement.
  - ✓ Posted emergency telephone numbers, the facility address and directions to the facility.
  - ✓ Documentation of accidents/incidents. Must be maintained for one year.
  - ✓ Emergency evacuation plan and preparedness plan. Documentation must be maintained for one year from the date of each drill.
  - ✓ Record for each child receiving medication. Must be maintained for a minimum of 12 months after the last day the child received the dosage.
  - ✓ Sample meal plan for special diet (if applicable). A copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet must be maintained for as long as the child is in care.
  - ✓ Written documentation of known food allergies (if applicable). Must be maintained for as long as the child is in care.
  - ✓ Daily meal and snack menus, including meal substitutions. Must be maintained for 12 months.

### 24.2 Children's Files

1. Health Records. School-aged children attending public or non-public schools are not required to have student health examination and immunization records on file at the school-age child care program since these records are on file at the school where the child is enrolled.
2. Enrollment Information. The facility operator must obtain enrollment information

from the child's custodial parent or legal guardian prior to accepting a child in care. This information must be documented on CF-FSP Form 5219, Child Care Application for Enrollment, or an equivalent form that contains all of the information required by the Department. CF-FSP Form 5219 may be obtained from the licensing authority or by going to the Department's website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare).

- ✓ Enrollment information must be kept current and on file.
- ✓ The child must not be released to any person other than the person(s) authorized or in the manner authorized in writing by the custodial parent or legal guardians.
- ✓ There must be signed statements from the custodial parents or legal guardian that the school-age child care program has provided them with the following information:
  - The Department's child care facility brochure, CF/PI 175-24, Know Your Child Care Facility. This brochure may be obtained from the licensing authority or by going to the Department's website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare). Local licensing agencies may use an equivalent brochure approved by the Department.
  - The school-age child care program's written disciplinary practices.
  - Annually, during the months of August and September, the child care facility director must provide parents with information detailing the causes, symptoms, and transmission of the influenza virus pursuant to section 402.305(9)(b), F.S. To assist providers, the Department has a brochure, CF/PI 175-70, June 2009, Influenza Virus, Guide to Parents, which may be obtained from the Department's website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare).

## 24.3 Personnel Records

Records must be maintained and kept current on all child care personnel, as defined by section 402.302(3), F.S., and household members if the facility is located in a private residence. These must include:

1. A signed employment application with the required statement pursuant to section 402.3055(1)(b), F.S.
2. Documentation of position and date of employment.
3. A signed CF-FSP Form 5337, Child Abuse & Neglect Reporting Requirements form. CF-FSP Form 5337 is incorporated by reference in paragraph 65C-22.006(4)(c), F.A.C.
4. A signed CF-FSP 5217, July 2012, Volunteer Acknowledgement form, for volunteers. CF-FSP 5217 may be obtained from the Department's website, [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare).
5. Copies of training information and credentials as described in section 23 of this handbook.
6. For the Driver only - a copy of the driver's license and the physician certification or another form containing the same elements of the physician certification, granting medical approval to operate a vehicle. In addition, valid certificate(s) of

course completion for first aid training and child cardiopulmonary resuscitation (CPR) procedures must also be maintained in the driver's personnel file.

## 24.4 Background Screening

**Initial Screening.** Screening information must be documented on CF-FSP Form 5131, Background Screening and Personnel File Requirements, which is incorporated by reference in paragraph 65C-22.006(4)(d), F.A.C.

1. Level 2 screening as defined in section 402.305., F.S. is required for all child care personnel and includes a national and statewide criminal records.
2. An employment history check must include the previous five years, which must include the applicant's job title and a description of his/her regular duties, confirmation of employment dates, and level of job performance. Failed attempts to obtain the employment history must be documented in the personnel file and include date, time, and the reason the information was not obtained.
3. CF Form 1649A, (insert new date), Child Care Affidavit of Good Moral Character, must be completed for all child care personnel at the time of initial screening or upon a change in employers. CF Form 1649A may be obtained from the Department's website at [www.myflfamilies.com/childcare](http://www.myflfamilies.com/childcare).

**Re-Screening.** A screening conducted under this rule is valid for five years, at which time a re-screen must be conducted in the same manner as the initial screening.

1. The five-year re-screen is required for all child care personnel.
2. The five-year re-screen must include, at a minimum, national and statewide criminal records checks through the Florida Department of Law Enforcement (FDLE).
3. A copy of all background screening clearance documents for the director and owner must be included in the Department's official licensing file or in accordance with the appropriate local licensing agency requirements.
4. Child care personnel must be re-screened following a break in employment in the child care industry that exceeds 90 days.
5. If child care personnel take a leave of absence, such as maternity leave, extended sick leave, migrant child care programs, etc., re-screening is not required unless the five-year re-screen has come due during the leave of absence.

**All screening and rescreening must be processed using the Background Screening Clearinghouse. [Link for DCF BGS page - <http://www.dcf.state.fl.us/programs/backgroundscreening/> and AHCA pg <https://apps.ahca.myflorida.com/SingleSignOnPortal/Login.aspx?ReturnUrl=%2fSingleSignOnPortal%2f> ]**

## 25 Access

A school-age child care program must provide the custodial parent or legal guardian access, in person and by telephone, to the program during normal hours of operation or during the time the child is in care.

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## 26 Appendix

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# 2015

## Florida Statutes

### Sections

#### 402.26-402.319

#### Child Care

*This copy has been modified for easy reading. For an official copy, refer to the Florida Statutes. You can access the Florida Statutes at [www.leg.state.fl.us/statutes](http://www.leg.state.fl.us/statutes)*

#### **402.26 Child care; legislative intent.—**

(1) The Legislature recognizes the critical importance to the citizens of the state of both safety and quality in child care. Child care in Florida is in the midst of continuing change and development, driven by extraordinary changes in demographics. Many parents with children under age 6 are employed outside the home. For the majority of Florida's children, child care will be a common experience. For many families, child care is an indispensable part of the effort to meet basic economic obligations or to make economic gains. State policy continues to recognize the changing composition of the labor force and the need to respond to the concerns of Florida's citizens as they enter the child care market. In particular, the Legislature recognizes the need to have more working parents employed in family-friendly workplaces. In addition, the Legislature recognizes the abilities of public and private employers to assist the family's efforts to balance family care needs with employment opportunities.

(2) The Legislature also recognizes the effects of both safety and quality in child care in reducing the need for special education, public assistance, and dependency programs and in reducing the incidence of delinquency and educational failure. In a budgetary context that spends billions of dollars to address the aftermath of bad outcomes, safe, quality child care is one area in which the often maligned concept of cost-effective social intervention can be applied. It is the intent of the Legislature, therefore, that state policy should be firmly embedded in the recognition that child care is a voluntary choice of the child's parents. For parents who choose child care, it is the intent of the Legislature to protect the health and welfare of children in care.

(3) To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child.

(4) It is also the intent of the Legislature to promote the development of child care options in the private sector and disseminate information that will assist the public in determining appropriate child care options.

(5) It is the further intent of the Legislature to provide and make accessible child care opportunities for children at risk, economically disadvantaged children, and other children traditionally disenfranchised from society. In achieving this intent, the Legislature shall develop a school readiness program, a range of child care options, support services, and linkages with other programs to fully meet the child care needs of this population.

(6) It is the intent of the Legislature that a child care facility licensed pursuant to s. [402.305](#) or a child care facility exempt from licensing pursuant to s. [402.316](#), that achieves Gold Seal Quality status pursuant to s. [402.281](#), be considered an educational institution for the purpose of qualifying for exemption from ad valorem tax pursuant to s. [196.198](#).

**History.**—s. 32, ch. 90-306; s. 70, ch. 96-175; s. 4, ch. 99-304; s. 6, ch. 2010-210.

**402.281 Gold Seal Quality Care program.—**

(1)(a) There is established within the department the Gold Seal Quality Care Program.

(b) A child care facility, large family child care home, or family day care home that is accredited by an accrediting association approved by the department under subsection (3) and meets all other requirements shall, upon application to the department, receive a separate “Gold Seal Quality Care” designation.

(2) The department shall adopt rules establishing Gold Seal Quality Care accreditation standards based on the applicable accrediting standards of the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care, and the National Early Childhood Program Accreditation Commission.

(3)(a) In order to be approved by the department for participation in the Gold Seal Quality Care program, an accrediting association must apply to the department and demonstrate that it:

1. Is a recognized accrediting association.
2. Has accrediting standards that substantially meet or exceed the Gold Seal Quality Care standards adopted by the department under subsection (2).

(b) In approving accrediting associations, the department shall consult with the Department of Education, the Florida Head Start Directors Association, the Florida Association of Child Care Management, the Florida Family Child Care Home Association, the Florida Children’s Forum, the Florida Association for the Education of the Young, the Child Development Education Alliance, the Florida Association of Academic Nonpublic Schools, the Association of Early Learning Coalitions, providers receiving exemptions under s. [402.316](#), and parents.

(4) In order to obtain and maintain a designation as a Gold Seal Quality Care provider, a child care facility, large family child care home, or family day care home must meet the following additional criteria:

(a) The child care provider must not have had any class I violations, as defined by rule, within the 2 years preceding its application for designation as a Gold Seal Quality Care provider. Commission of a class I violation shall be grounds for termination of the designation as a Gold Seal Quality Care provider until the provider has no class I violations for a period of 2 years.

(b) The child care provider must not have had three or more class II violations, as defined by rule, within the 2 years preceding its application for designation as a Gold Seal Quality Care provider. Commission of three or more class II violations within a 2-year period shall be grounds for termination of the designation as a Gold Seal Quality Care provider until the provider has no class II violations for a period of 1 year.

(c) The child care provider must not have been cited for the same class III violation, as defined by rule, three or more times and failed to correct the violation within 1 year after the date of each citation, within the 2 years preceding its application for designation as a Gold Seal Quality Care provider. Commission of the same class III violation three or more times and failure to correct within the required time during a 2-year period may be grounds for termination of the designation as a Gold Seal Quality Care provider until the provider has no class III violations for a period of 1 year.

(5) The Department of Children and Families shall adopt rules under ss. [120.536](#) (1) and [120.54](#) which provide criteria and procedures for reviewing and approving accrediting associations for participation in the Gold Seal Quality Care program, conferring and revoking designations of Gold Seal Quality Care providers, and classifying violations.

**History.**—s. 72, ch. 96-175; s. 5, ch. 99-304; s. 17, ch. 2000-337; s. 26, ch. 2001-170; s. 1, ch. 2006-91; s. 7, ch. 2010-210; s. 1, ch. 2011-75; s. 282, ch. 2011-142; s. 22, ch. 2013-252; s. 142, ch. 2014-19.

**402.301 Child care facilities; legislative intent and declaration of purpose and policy.**—It is the legislative intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care. Toward that end:

(1) It is the purpose of ss. [402.301-402.319](#) to establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to approve county administration and enforcement to regulate conditions in such facilities through a program of licensing.

(2) It is the intent of the Legislature that all owners, operators, and child care personnel shall be of good moral character.

(3) It shall be the policy of the state to ensure protection of children and to encourage child care providers and parents to share responsibility for and to assist in the improvement of child care programs.

(4) It shall be the policy of the state to promote public and private employer initiatives to establish day care services for their employees.

(5) It is the further legislative intent that the freedom of religion of all citizens shall be inviolate. Nothing in ss. [402.301-402.319](#) shall give any governmental agency jurisdiction or

authority to regulate, supervise, or in any way be involved in any Sunday School, Sabbath School, or religious services or any nursery service or other program conducted during religious or church services primarily for the convenience of those attending such services.

(6) It is further the intent that membership organizations affiliated with national organizations which do not provide child care, whose primary purpose is providing activities that contribute to the development of good character or good sportsmanship or to the education or cultural development of minors in this state, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance with the association's minimum standards and procedures shall not be considered child care facilities. However, all personnel as defined in s. 402.302 of such membership organizations shall meet background screening requirements through the department pursuant to ss. 402.305 and 402.3055.

(7) It shall be the policy of the state to encourage child care providers to serve children with disabilities. When requested, the department shall provide technical assistance to parents and child care providers in order to facilitate serving children with disabilities.

**History.**—s. 1, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 1, ch. 84-551; s. 21, ch. 87-238; s. 1, ch. 91-300; ss. 1, 2, ch. 93-115; s. 74, ch. 96-175; s. 5, ch. 2015-79.

**402.302 Definitions.**—As used in this chapter, the term:

(1) **“Child care”** means the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.

(2) **“Child care facility”** includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

(a) Public schools and nonpublic schools and their integral programs, except as provided in s. [402.3025](#);

(b) Summer camps having children in full-time residence;

(c) Summer day camps;

(d) Bible schools normally conducted during vacation periods; and

(e) Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child



care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435.

**(3) “Child care personnel”** means all owners, operators, employees, and volunteers working in a child care facility. The term does not include persons who work in a child care facility after hours when children are not present or parents of children in a child care facility. For purposes of screening, the term includes any member, over the age of 12 years, of a child care facility operator’s family, or person, over the age of 12 years, residing with a child care facility operator if the child care facility is located in or adjacent to the home of the operator or if the family member of, or person residing with, the child care facility operator has any direct contact with the children in the facility during its hours of operation. Members of the operator’s family or persons residing with the operator who are between the ages of 12 years and 18 years are not required to be fingerprinted but must be screened for delinquency records. For purposes of screening, the term also includes persons who work in child care programs that provide care for children 15 hours or more each week in public or nonpublic schools, family day care homes, membership organizations under s. 402.301, or programs otherwise exempted under s. [402.316](#). The term does not include public or nonpublic school personnel who are providing care during regular school hours, or after hours for activities related to a school’s program for grades kindergarten through 12. A volunteer who assists on an intermittent basis for less than 10 hours per month is not included in the term “personnel” for the purposes of screening and training if a person who meets the screening requirement of s. [402.305](#)(2) is always present and has the volunteer in his or her line of sight. Students who observe and participate in a child care facility as a part of their required coursework are not considered child care personnel, provided such observation and participation are on an intermittent basis and a person who meets the screening requirement of s. [402.305](#)(2) is always present and has the student in his or her line of sight.

**(4) “Child welfare provider”** means a licensed child-caring or child-placing agency.

**(5) “Department”** means the Department of Children and Families.

**(6) “Drop-in child care”** means child care provided occasionally in a child care facility in a shopping mall or business establishment where a child is in care for no more than a 4-hour period and the parent remains on the premises of the shopping mall or business establishment at all times. Drop-in child care arrangements shall meet all requirements for a child care facility unless specifically exempted.

**(7) “Evening child care”** means child care provided during the evening hours and may encompass the hours of 6:00 p.m. to 7:00 a.m. to accommodate parents who work evenings and late-night shifts.

**(8) “Family day care home”** means an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

- (a) A maximum of four children from birth to 12 months of age.
- (b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
- (c) A maximum of six preschool children if all are older than 12 months of age.
- (d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

**(9) “Household children”** means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of the operator’s household children shall be left to the discretion of the operator unless those children receive subsidized child care through the school readiness program pursuant to s. [1002.92](#) to be in the home.

**(10) “Indoor recreational facility”** means an indoor commercial facility which is established for the primary purpose of entertaining children in a planned fitness environment through equipment, games, and activities in conjunction with food service and which provides child care for a particular child no more than 4 hours on any one day. An indoor recreational facility must be licensed as a child care facility under s. [402.305](#), but is exempt from the minimum outdoor-square-footage-per-child requirement specified in that section, if the indoor recreational facility has, at a minimum, 3,000 square feet of usable indoor floor space.

**(11) “Large family child care home”** means an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation. One of the two full-time child care personnel must be the owner or occupant of the residence. A large family child care home must first have operated as a licensed family day care home for 2 years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home. Household children under 13 years of age, when on the premises of the large family

child care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

- (a) A maximum of 8 children from birth to 24 months of age.
- (b) A maximum of 12 children, with no more than 4 children under 24 months of age.

**(12) “Local licensing agency”** means any agency or individual designated by the county to license child care facilities.

**(13) “Operator”** means any onsite person ultimately responsible for the overall operation of a child care facility, whether or not he or she is the owner or administrator of such facility.

**(14) “Owner”** means the person who is licensed to operate the child care facility.

**(15) “Screening”** means the act of assessing the background of child care personnel and volunteers and includes, but is not limited to, employment history checks, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation.

**(16) “Secretary”** means the Secretary of Children and Families.

**(17) “Substantial compliance”** means that level of adherence which is sufficient to safeguard the health, safety, and well-being of all children under care. Substantial compliance is greater than minimal adherence but not to the level of absolute adherence. Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance.

**(18) “Weekend child care”** means child care provided between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

**History.**—s. 2, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 2, ch. 84-551; s. 23, ch. 85-54; s. 22, ch. 87-238; s. 2, ch. 88-391; s. 1, ch. 90-35; s. 34, ch. 90-306; s. 7, ch. 91-300; ss. 1, 2, ch. 93-115; s. 1, ch. 94-257; s. 1059, ch. 95-148; s. 57, ch. 95-228; s. 75, ch. 96-175; s. 1, ch. 97-63; s. 1, ch. 98-165; s. 8, ch. 99-304; s. 16, ch. 2000-253; s. 989, ch. 2002-387; s. 57, ch. 2004-267; s. 2, ch. 2006-91; s. 22, ch. 2010-114; s. 1, ch. 2010-158; s. 2, ch. 2011-75; s. 23, ch. 2013-252; s. 143, ch. 2014-19; s. 6, ch. 2015-79.

**402.3025 Public and nonpublic schools.**—For the purposes of ss. [402.301-402.319](#), the following shall apply:

**(1) PUBLIC SCHOOLS.**—

(a) The following programs for children shall not be deemed to be child care and shall not be subject to the provisions of ss. [402.301-402.319](#):

1. Programs for children in 5-year-old kindergarten and grades one or above.
2. Programs for children who are at least 3 years of age, but who are under 5 years of age, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education.
3. Programs for children under 3 years of age who are eligible for participation in the programs under the existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education.

(b) The following programs for children shall be deemed to be child care and shall be subject to the provisions of ss. [402.301-402.319](#):

1. Programs for children who are under 5 years of age when the programs are not operated and staffed directly by the schools.
2. Programs for children under 3 years of age who are not eligible for participation in the programs under existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457.

(c) The monitoring and enforcement of compliance with age-appropriate standards established by rule of the State Board of Education shall be the responsibility of the Department of Education.

**(2) NONPUBLIC SCHOOLS.—**

(a) Programs for children under 3 years of age shall be deemed to be child care and subject to the provisions of ss. [402.301-402.319](#).

(b) Programs for children in 5-year-old kindergarten and grades one or above shall not be deemed to be child care and shall not be subject to the provisions of ss. [402.301-402.319](#).

(c) Programs for children who are at least 3 years of age, but under 5 years of age, shall not be deemed to be child care and shall not be subject to the provisions of ss. [402.301-402.319](#) relating to child care facilities, provided the programs in the schools are operated and staffed directly by the schools, provided a majority of the children enrolled in the schools are 5 years of age or older, and provided there is compliance with the screening requirements for personnel pursuant to s. [402.305](#) or s. [402.3057](#). A nonpublic school may designate certain programs as child care, in which case these programs shall be subject to the provisions of ss. [402.301-402.319](#).

(d)1. Programs for children who are at least 3 years of age, but under 5 years of age, which are not licensed under ss. [402.301-402.319](#) shall substantially comply with the minimum child care standards promulgated pursuant to ss. [402.305-402.3057](#).

2. The department or local licensing agency shall enforce compliance with such standards, where possible, to eliminate or minimize duplicative inspections or visits by staff enforcing the minimum child care standards and staff enforcing other standards under the jurisdiction of the department.

3. The department or local licensing agency may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

- a. To protect the health, sanitation, safety, and well-being of all children under care.
- b. To enforce its rules and regulations.
- c. To use corrective action plans, whenever possible, to attain compliance prior to the use of more restrictive enforcement measures.

- d. To make application for injunction to the proper circuit court, and the judge of that court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of ss. [402.301-402.319](#). Any violation of this section or of the standards applied under ss. [402.305-402.3057](#) which threatens harm to any child in the school's programs for children who are at least 3 years of age, but are under 5 years of age, or repeated violations of this section or the standards under ss. [402.305-402.3057](#), shall be grounds to seek an injunction to close a program in a school.

- e. To impose an administrative fine, not to exceed \$100, for each violation of the minimum child care standards promulgated pursuant to ss. [402.305-402.3057](#).

4. It is a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#), for any person willfully, knowingly, or intentionally to:

- a. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any required written documentation for exclusion from licensure pursuant to this section a material fact used in making a determination as to such exclusion; or

- b. Use information from the criminal records obtained under s. [402.305](#) or s. [402.3055](#) for any purpose other than screening that person for employment as specified in those sections or release such information to any other person for any purpose other than screening for employment as specified in those sections.

5. It is a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#), for any person willfully, knowingly, or intentionally to use information from the juvenile records of any person obtained under s. [402.305](#) or s. [402.3055](#) for any purpose other than screening for employment as specified in those sections or to release information from such records to any other person for any purpose other than screening for employment as specified in those sections.

(e) The department and the nonpublic school accrediting agencies are encouraged to develop agreements to facilitate the enforcement of the minimum child care standards as they relate to the schools which the agencies accredit.

**(3) INSPECTION FEE.**—The department shall establish a fee for inspection activities performed pursuant to this section, in an amount sufficient to cover costs. However, the amount of such fee for the inspection of a school shall not exceed the fee imposed for child care licensure pursuant to s. [402.315](#)

**History.**—s. 3, ch. 88-391; s. 1, ch. 89-296; s. 35, ch. 90-347; ss. 1, 2, ch. 93-115; s. 94, ch. 2000-349; s. 50, ch. 2013-18.

#### **402.3026 Full-service schools.—**

**(1)** The State Board of Education and the Department of Health shall jointly establish full-service schools to serve students from schools that have a student population that has a high risk of needing medical and social services, based on the results of the demographic evaluations. The full-service schools must integrate the services of the Department of Health that are critical to the continuity-of-care process. The Department of Health shall provide services to these high-risk students through facilities established within the grounds of the school. The Department of Health professionals shall carry out their specialized services as an extension of the educational environment. Such services may include, without limitation, nutritional services, basic medical services, aid to dependent children, parenting skills, counseling for abused children, counseling for children at high risk for delinquent behavior and their parents, and adult education.

**(2)** The Department of Health shall designate an executive staff director to coordinate the full-service schools program and to act as liaison with the Department of Education to coordinate the provision of health and rehabilitative services in educational facilities.

**History.**—s. 20, ch. 90-273; s. 122, ch. 94-209; s. 34, ch. 99-5; s. 146, ch. 99-8.

#### **402.305 Licensing standards; child care facilities.—**

**(1) LICENSING STANDARDS.**—The department shall establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility.

(a) The standards shall be designed to address the following areas:

1. The health, sanitation, safety, and adequate physical surroundings for all children in child care.



2. The health and nutrition of all children in child care.
3. The child development needs of all children in child care.

(b) All standards established under ss. [402.301-402.319](#) must be consistent with the rules adopted by the State Fire Marshal for child care facilities. However, if the facility is operated in a public school, the department shall use the public school fire code, as provided in the rules of the State Board of Education, as the minimum standard for firesafety.

(c) The minimum standards for child care facilities shall be adopted in the rules of the department and shall address the areas delineated in this section. The department, in adopting rules to establish minimum standards for child care facilities, shall recognize that different age groups of children may require different standards. The department may adopt different minimum standards for facilities that serve children in different age groups, including school-age children. The department shall also adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after-school programs that do not require licensure. Notwithstanding any other provision of law to the contrary, minimum child care licensing standards shall be developed to provide for reasonable, affordable, and safe before-school and after-school care. After-school programs that otherwise meet the criteria for exclusion from licensure may provide snacks and meals through the federal Afterschool Meal Program (AMP) administered by the Department of Health in accordance with federal regulations and standards. The Department of Health shall consider meals to be provided through the AMP only if the program is actively participating in the AMP, is in good standing with the department, and the meals meet AMP requirements. Standards, at a minimum, shall allow for a credentialed director to supervise multiple before-school and after-school sites.

**(2) PERSONNEL.**—Minimum standards for child care personnel shall include minimum requirements as to:

(a) Good moral character based upon screening. This screening shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter.

(b) The department may grant exemptions from disqualification from working with children or the developmentally disabled as provided in s. [435.07](#).

(c) Minimum age requirements. Such minimum standards shall prohibit a person under the age of 21 from being the operator of a child care facility and a person under the age of 16 from being employed at such facility unless such person is under direct supervision and is not counted for the purposes of computing the personnel-to-child ratio.

(d) Minimum training requirements for child care personnel.

1. Such minimum standards for training shall ensure that all child care personnel take an approved 40-clock-hour introductory course in child care, which course covers at least the following topic areas:

- a. State and local rules and regulations which govern child care.
- b. Health, safety, and nutrition.
- c. Identifying and reporting child abuse and neglect.
- d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.
- e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.
- f. Specialized areas, including computer technology for professional and classroom use and early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators and child care personnel of a child care facility.
- g. Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities.

Within 90 days after employment, child care personnel shall begin training to meet the training requirements. Child care personnel shall successfully complete such training within 1 year after the date on which the training began, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. [1007.24](#) and [1007.25](#). Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations. Child care personnel possessing a 2-year degree or higher that includes 6 college credit hours in early childhood development or child growth and development, or a child development associate credential or an equivalent state-approved child development associate credential, or a child development associate waiver certificate shall be automatically exempted from the training requirements in sub-subparagraphs b., d., and e.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. The introductory course shall cover recognition and prevention of shaken baby syndrome; prevention of sudden infant death syndrome; recognition and care of infants and toddlers with developmental disabilities, including autism spectrum disorder and Down syndrome; and early childhood brain development within the topic areas identified in this paragraph.

4. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional 1 continuing education unit of approved inservice training, or 10 clock hours of equivalent training, as determined by the department.

5. Child care personnel shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subparagraph 4.

6. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and career programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

7. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

8. The department shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evaluation shall be conducted every 2 years. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase inservice training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care personnel.

9. The child care operator shall be required to take basic training in serving children with disabilities within 5 years after employment, either as a part of the introductory training or the annual 8 hours of inservice training.

(e) Periodic health examinations.

(f) By January 1, 2000, a credential for child care facility directors. By January 1, 2004, the credential shall be a required minimum standard for licensing.

**(3) MINIMUM STAFF CREDENTIALS.**—By July 1, 1996, for every 20 children in a licensed child care facility, if the facility operates 8 hours or more per week, one of the child care personnel in the facility must have:

- (a) A child development associate credential;
- (b) A child care professional credential, unless the department determines that such child care professional credential is not equivalent to or greater than a child development associate credential; or
- (c) A credential that is equivalent to or greater than the credential required in paragraph (a) or paragraph (b).

The department shall establish by rule those hours of operation, such as during rest periods and transitional periods, when this subsection does not apply.

**(4) STAFF-TO-CHILDREN RATIO.—**

(a) Minimum standards for the care of children in a licensed child care facility as established by rule of the department must include:

1. For children from birth through 1 year of age, there must be one child care personnel for every four children.
2. For children 1 year of age or older, but under 2 years of age, there must be one child care personnel for every six children.
3. For children 2 years of age or older, but under 3 years of age, there must be one child care personnel for every 11 children.
4. For children 3 years of age or older, but under 4 years of age, there must be one child care personnel for every 15 children.
5. For children 4 years of age or older, but under 5 years of age, there must be one child care personnel for every 20 children.
6. For children 5 years of age or older, there must be one child care personnel for every 25 children.
7. When children 2 years of age and older are in care, the staff-to-children ratio shall be based on the age group with the largest number of children within the group.

(b) This subsection does not apply to nonpublic schools and their integral programs as defined in s. [402.3025\(2\)\(d\)1](#). In addition, an individual participating in a community service program activity under s. [445.024\(1\)\(e\)](#), or a work experience activity under s. [445.024\(1\)\(f\)](#), at a child care facility may not be considered in calculating the staff-to-children ratio.

**(5) PHYSICAL FACILITIES.—**Minimum standards shall include requirements for building conditions, indoor play space, outdoor play space, napping space, bathroom facilities, food preparation facilities, outdoor equipment, and indoor equipment. Because of the nature and duration of drop-in child care, outdoor play space and outdoor equipment shall not be required for licensure; however, if such play space and equipment are provided, then the minimum standards shall apply to drop-in child care. With respect to minimum standards for physical facilities of a child care program for school-age children which is operated in a public school

facility, the department shall adopt the State Uniform Building Code for Public Educational Facilities Construction as the minimum standards, regardless of the operator of the program. The Legislature intends that if a child care program for school-age children is operated in a public school, the program need not conform to standards for physical facilities other than the standards adopted by the Commissioner of Education.

**(6) SQUARE FOOTAGE PER CHILD.**—Minimum standards shall be established by the department by rule.

(a) A child care facility that holds a valid license on October 1, 1992, must have a minimum of 20 square feet of usable indoor floor space for each child and a minimum of 45 square feet of usable outdoor play area for each child. Outdoor play area shall be calculated at the rate of 45 feet per child in any group using the play area at one time. A minimum play area shall be provided for one half of the licensed capacity. This standard applies as long as the child care facility remains licensed at the site occupied on October 1, 1992, and shall not be affected by any change in the ownership of the site.

(b) A child care facility that does not hold a valid license on October 1, 1992, and seeks regulatory approval to operate as a child care facility must have a minimum of 35 square feet of usable floor space for each child and a minimum of 45 square feet of usable outdoor play area for each child.

The minimum standard for outdoor play area does not apply in calculating square footage for children under 1 year of age. However, appropriate outdoor infant equipment shall be substituted for outdoor play space. The centers shall provide facilities and equipment conducive to the physical activities appropriate for the age and physical development of the child.

**(7) SANITATION AND SAFETY.**—

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(b) In the case of a child care program for school-age children attending before and after school programs on the public school site, the department shall use the public school fire code, as adopted in the rules of the State Board of Education, as the minimum standard for firesafety. In the case of a child care program for school-age children attending before-school and after-school programs on a site operated by a municipality, the department shall adopt rules for such site and intended use.

(c) Some type of communications system, such as a pocket pager or beeper, shall be provided to a parent whose child is in drop-in child care to ensure the immediate return of the parent to the child, if necessary.

**(8) NUTRITIONAL PRACTICES.**—Minimum standards shall include requirements for the provision of meals or snacks of a quality and quantity to assure that the nutritional needs of the child are met.

**(9) ADMISSIONS AND RECORDKEEPING.—**

(a) Minimum standards shall include requirements for preadmission and periodic health examinations, requirements for immunizations, and requirements for maintaining emergency information and health records on all children.

(b) During the months of August and September of each year, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) Because of the nature and duration of drop-in child care, requirements for preadmission and periodic health examinations and requirements for medically signed records of immunization required for child care facilities shall not apply. A parent of a child in drop-in child care shall, however, be required to attest to the child's health condition and the type and current status of the child's immunizations.

(d) Any child shall be exempt from medical or physical examination or medical or surgical treatment upon written request of the parent or guardian of such child who objects to the examination and treatment. However, the laws, rules, and regulations relating to contagious or communicable diseases and sanitary matters shall not be violated because of any exemption from or variation of the health and immunization minimum standards.

**(10) TRANSPORTATION SAFETY.**—Minimum standards shall include requirements for child restraints or seat belts in vehicles used by child care facilities and large family child care homes to transport children, requirements for annual inspections of the vehicles, limitations on the number of children in the vehicles, and accountability for children being transported.

**(11) ACCESS.**—Minimum standards shall provide for reasonable access to the child care facility by the custodial parent or guardian during the time the child is in care.

**(12) CHILD DISCIPLINE.—**



(a) Minimum standards for child discipline practices shall ensure that age-appropriate, constructive disciplinary practices are used for children in care. Such standards shall include at least the following requirements:

1. Children shall not be subjected to discipline which is severe, humiliating, or frightening.
2. Discipline shall not be associated with food, rest, or toileting.
3. Spanking or any other form of physical punishment is prohibited.

(b) Prior to admission of a child to a child care facility, the facility shall notify the parents in writing of the disciplinary practices used by the facility.

**(13) PLAN OF ACTIVITIES.**—Minimum standards shall ensure that each child care facility has and implements a written plan for the daily provision of varied activities and active and quiet play opportunities appropriate to the age of the child. The written plan must include a program, to be implemented periodically for children of an appropriate age, which will assist the children in preventing and avoiding physical and mental abuse.

**(14) URBAN CHILD CARE FACILITIES.**—Minimum standards shall include requirements for child care facilities located in urban areas. The standards must allow urban child care facilities to substitute indoor play space for outdoor play space, if outdoor play space is not available in the area, and must set forth additional requirements that apply to a facility which makes that substitution, including, but not limited to, additional square footage requirements for indoor space; air ventilation provisions; and a requirement to provide facilities and equipment conducive to physical activities appropriate for the age of the children.

**(15) TRANSITION PERIODS.**—During the periods of time in which children are arriving and departing from the child care facility, notwithstanding local fire ordinances, the provisions of subsection (6) are suspended for a period of time not to exceed 30 minutes.

**(16) EVENING AND WEEKEND CHILD CARE.**—Minimum standards shall be developed by the department to provide for reasonable, affordable, and safe evening and weekend child care. Each facility offering evening or weekend child care must meet these minimum standards, regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility. The department may modify by rule the licensing standards contained in this section to accommodate evening child care.

**(17) SPECIALIZED CHILD CARE FACILITIES FOR THE CARE OF MILDLY ILL CHILDREN.**—Minimum standards shall be developed by the department, in conjunction with the Department of Health, for specialized child care facilities for the care of mildly ill children. The minimum standards shall address the following areas: personnel requirements; staff-to-child ratios; staff training and credentials; health and safety; physical facility requirements, including square

footage; client eligibility, including a definition of “mildly ill children”; sanitation and safety; admission and recordkeeping; dispensing of medication; and a schedule of activities.

**(18) TRANSFER OF OWNERSHIP.—**

(a) One week prior to the transfer of ownership of a child care facility or family day care home, the transferor shall notify the parent or caretaker of each child of the impending transfer.

(b) The department shall, by rule, establish methods by which notice will be achieved and minimum standards by which to implement this subsection.

**History.**—s. 5, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 1, 6, 7, ch. 83-248; s. 3, ch. 84-551; s. 24, ch. 85-54; s. 41, ch. 87-225; s. 23, ch. 87-238; s. 25, ch. 89-379; s. 2, ch. 90-35; s. 2, ch. 90-225; s. 35, ch. 90-306; s. 10, ch. 91-33; s. 28, ch. 91-57; s. 92, ch. 91-221; s. 2, ch. 91-300; s. 56, ch. 92-58; ss. 1, 2, ch. 93-115; s. 14, ch. 93-156; s. 22, ch. 94-134; s. 22, ch. 94-135; s. 1060, ch. 95-148; s. 18, ch. 95-152; s. 15, ch. 95-158; s. 22, ch. 95-195; s. 41, ch. 95-228; s. 131, ch. 95-418; ss. 76, 77, ch. 96-175; s. 12, ch. 96-268; s. 2, ch. 97-63; s. 2, ch. 98-165; s. 1, ch. 99-241; s. 10, ch. 99-304; s. 164, ch. 2000-165; s. 19, ch. 2000-253; s. 18, ch. 2000-337; ss. 21, 26, ch. 2001-170; s. 2, ch. 2002-300; s. 40, ch. 2003-1; s. 1, ch. 2003-131; s. 3, ch. 2003-146; s. 10, ch. 2004-41; s. 1, ch. 2004-49; s. 58, ch. 2004-267; s. 15, ch. 2004-269; s. 32, ch. 2004-357; s. 7, ch. 2005-71; s. 12, ch. 2007-6; s. 3, ch. 2007-197; s. 1, ch. 2009-147; s. 3, ch. 2010-224; s. 24, ch. 2013-252.

**402.30501 Modification of introductory child care course for community college credit**

**authorized.**—The Department of Children and Families may modify the 40-clock-hour introductory course in child care under s. [402.305](#) or s. [402.3131](#) to meet the requirements of articulating the course to community college credit. Any modification must continue to provide that the course satisfies the requirements of s. [402.305](#)(2)(d).

**History.**—s. 4, ch. 2002-300; s. 144, ch. 2014-19.

**402.3054 Child enrichment service providers.—**

(1) For the purposes of this section, “child enrichment service provider” means an individual who provides enrichment activities, such as language training, music instruction, educational instruction, and other experiences, to specific children during a specific time that is not part of the regular program in a child care facility.

(2) The child’s parent shall provide written consent before a child may participate in activities conducted by a child enrichment service provider that are not part of the regular

program of the child care facility. A child enrichment service provider receives compensation from the child's parent or from the child care facility and shall not be considered a volunteer or child care personnel.

**(3)** A child enrichment service provider shall be of good moral character based upon screening. This screening shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter. A child enrichment service provider must meet the screening requirements prior to providing services to a child in a child care facility. A child enrichment service provider who has met the screening standards shall not be required to be under the direct and constant supervision of child care personnel.

**History.**—s. 18, ch. 2000-253; s. 59, ch. 2004-267.

#### **402.3055 Child care personnel requirements.—**

##### **(1) REQUIREMENTS FOR CHILD CARE PERSONNEL.—**

(a) The department or local licensing agency shall require that the application for a child care license contain a question that specifically asks the applicant, owner, or operator if he or she has ever had a license denied, revoked, or suspended in any state or jurisdiction or has been the subject of a disciplinary action or been fined while employed in a child care facility. The applicant, owner, or operator shall attest to the accuracy of the information requested under penalty of perjury. If the applicant, owner, or operator admits that he or she has been a party in such action, the department or local licensing agency shall review the nature of the suspension, revocation, disciplinary action, or fine before granting the applicant a license to operate a child care facility. If the department or local licensing agency determines as the result of such review that it is not in the best interest of the state or local jurisdiction for the applicant to be licensed, a license shall not be granted.

(b) The child care facility employer shall require that the application for a child care personnel position contain a question that specifically asks the applicant if he or she has ever worked in a facility that has had a license denied, revoked, or suspended in any state or jurisdiction or has been the subject of a disciplinary action or been fined while employed in a child care facility. The applicant shall attest to the accuracy of the information requested under penalty of perjury. If the applicant admits that he or she has been a party in such action, the employer shall review the nature of the denial, suspension, revocation, disciplinary action, or fine before the applicant is hired.

##### **(2) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS PROVIDED.—**

(a) The department or local licensing agency shall deny, suspend, or revoke a license or pursue other remedies provided in s. [402.310](#), s. [402.312](#), or s. [402.319](#) in addition to or in lieu

of denial, suspension, or revocation for failure to comply with this section. The disciplinary actions determination to be made by the department or the local licensing agency and the procedure for hearing for applicants and licensees shall be in accordance with s. [402.310](#).

(b) When the department or the local licensing agency has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or other child care program and the child care personnel affected, stating the specific record which indicates noncompliance with the standards in s. [402.305](#)(2).

(c) When the department is the agency initiating the statement regarding noncompliance, the procedures established for hearing under chapter 120 shall be available to the applicant, licensee, or other child care program and to the affected child care personnel, in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(d) When a local licensing agency is the agency initiating the statement regarding noncompliance of an employee with the standards contained in s. [402.305](#)(2), the employee, applicant, licensee, or other child care program has 15 days from the time of written notification of the agency's finding to make a written request for a hearing. If a request for a hearing is not received in that time, the permanent employee, applicant, licensee, or other child care program is presumed to accept the finding.

(e) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(f) An employee, applicant, licensee, or other child care program shall have the right to appeal a finding of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the permanent employee is employed. The hearing shall be conducted in accordance with the provisions of chapter 120.

(g) Refusal on the part of an applicant or licensee to dismiss child care personnel who have been found to be in noncompliance with personnel standards of s. [402.305](#) (2) shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department or local licensing agency.

**History.**—ss. 4, 19, ch. 84-551; s. 25, ch. 85-54; s. 24, ch. 87-238; ss. 36, 61, ch. 90-306; s. 36, ch. 90-347; ss. 1, 2, ch. 93-115; s. 811, ch. 95-148; s. 58, ch. 95-228; s. 7, ch. 95-407; s. 223, ch. 99-13; s. 12, ch. 99-304.

**402.3057 Persons not required to be refingerprinted or rescreened.**—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional

personnel who have been fingerprinted pursuant to chapter 1012, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. [110.1127](#)(2)(c), [393.0655](#)(1), [394.457](#)(6), [397.451](#), [402.305](#)(2), and [409.175](#)(6), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

**History.**—s. 1, ch. 87-128; s. 1, ch. 87-141; s. 67, ch. 91-105; s. 7, ch. 91-266; s. 28, ch. 93-39; s. 224, ch. 99-13; s. 9, ch. 2002-219; s. 990, ch. 2002-387; s. 45, ch. 2004-5; s. 15, ch. 2012-215.

#### **402.306 Designation of licensing agency; dissemination by the department and local licensing agency of information on child care.—**

(1) Any county whose licensing standards meet or exceed state minimum standards may:

- (a) Designate a local licensing agency to license child care facilities in the county; or
- (b) Contract with the department to delegate the administration of state minimum standards in the county to the department.

(2) Child care facilities in any county whose standards do not meet or exceed state minimum standards shall be subject to licensing by the department under state minimum standards.

(3) The department and local licensing agencies, or the designees thereof, shall be responsible for coordination and dissemination of information on child care to the community and shall make available upon request all licensing standards and procedures, in addition to the names and addresses of licensed child care facilities and, where applicable pursuant to s. 402.313, licensed or registered family day care homes.

**History.**—s. 6, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 5, ch. 84-551; ss. 1, 2, ch. 93-115.

#### **402.307 Approval of licensing agency.—**

(1) Within 30 days after the promulgation of state minimum standards, each county shall provide the department with a copy of its standards if they differ from the state minimum standards. At the same time, each county shall provide the department with the administrative procedures it intends to use for the licensing of child care facilities.

(2) The department shall have the authority to determine if local standards meet or exceed state minimum standards. Within 60 days after the county has submitted its standards and procedures, the department, upon being satisfied that such standards meet or exceed state

minimum standards and that there is compliance with all provisions of ss. [402.301-402.319](#), shall approve the local licensing agency.

**(3)** Approval to issue licenses for the department shall be renewed annually. For renewal, the local licensing agency shall submit to the department a copy of the licensing standards and procedures applied. An onsite review may be made if deemed necessary by the department.

**(4)** If, following an onsite review, the department finds the local licensing agency is not applying the approved standards, the department shall report the specific violations to the county commission of the involved county which shall investigate the violations and take whatever action necessary to correct them.

**(5)** To ensure that accurate statistical data are available, each local licensing agency shall report annually to the department the number of child care facilities under its jurisdiction, the number of children served, the ages of children served, and the number of revocations or denials of licenses.

**History.**—s. 7, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 6, ch. 84-551; ss. 1, 2, ch. 93-115.

#### **402.308 Issuance of license.—**

**(1) ANNUAL LICENSING.**—Every child care facility in the state shall have a license which shall be renewed annually.

**(2) CHANGE OF OWNERSHIP.**—Every child care facility shall reapply for and receive a license prior to the time a new owner assumes responsibility for the facility. The department shall grant or deny the reapplication for license within 45 days from the date upon which the child care facility reapplies.

**(3) STATE ADMINISTRATION OF LICENSING.**—In any county in which the department has the authority to issue licenses, the following procedures shall be applied:

(a) Application for a license or for a renewal of a license to operate a child care facility shall be made in the manner and on the forms prescribed by the department. The applicant's social security number shall be included on the form submitted to the department. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each applicant is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.



(b) Prior to the renewal of a license, the department shall reexamine the child care facility, including in that process the examination of the premises and those records of the facility as required under s. [402.305](#), to determine that minimum standards for licensing continue to be met.

(c) The department shall coordinate all inspections of child care facilities. A child care facility is not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the secretary of the department within 15 days after written notice that such conflict exists.

(d) The department shall issue or renew a license upon receipt of the license fee and upon being satisfied that all standards required by ss. [402.301-402.319](#) have been met. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any of the child care personnel at the applicant facility have failed the screening required by ss. [402.305](#)(2) and [402.3055](#).

**(4) LOCAL ADMINISTRATION OF LICENSING.**—In any county in which there is a local licensing agency approved by the department, the following procedures shall apply:

(a) Application for a license or for renewal of license to operate a child care facility shall be made in the manner and on the forms prescribed by the local licensing agency.

(b) Prior to the renewal of a license, the agency shall reexamine the child care facility, including in that process the examination of the premises and records of the facility as required in s. [402.305](#) to determine that minimum standards for licensing continue to be met.

(c) The local agency shall coordinate all inspections of child care facilities. A child care facility is not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the county commission or its representative within 15 days after written notice that such conflict exists.

(d) The local licensing agency shall issue a license or renew a license upon being satisfied that all standards required by ss. [402.301-402.319](#) have been met. A license may be issued or renewed if all the screening materials have been timely submitted; however, the local licensing agency shall not issue or renew a license if any of the child care personnel at the applicant facility have failed the screening required by ss. [402.305](#)(2) and [402.3055](#).

**(5) ISSUANCE OF LOCAL OCCUPATIONAL LICENSES.**—No county or municipality shall issue an occupational license which is being obtained for the purpose of operating a child care facility regulated under this act without first ascertaining that the applicant has been licensed to operate such facility at the specified location or locations by the department or local licensing agency. The department or local licensing agency shall furnish to local agencies

responsible for issuing occupational licenses sufficient instruction for making the above required determinations.

**History.**—s. 8, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 2, 6, 7, ch. 83-248; s. 7, ch. 84-551; s. 26, ch. 85-54; s. 25, ch. 87-238; ss. 1, 2, ch. 93-115; s. 44, ch. 97-170; s. 225, ch. 99-13.

#### **402.309 Provisional license or registration.—**

(1) The local licensing agency or the department, whichever is authorized to license child care facilities in a county, may issue a provisional license for child care facilities, family day care homes, or large family child care homes, or a provisional registration for family day care homes to applicants for an initial license or registration or to licensees or registrants seeking a renewal who are unable to meet all the standards provided for in ss. [402.301-402.319](#).

(2) A provisional license or registration may not be issued unless the operator or owner makes adequate provisions for the health and safety of the child. A provisional license may be issued for a child care facility if all of the screening materials have been timely submitted. A provisional license or registration may not be issued unless the child care facility, family day care home, or large family child care home is in compliance with the requirements for screening of child care personnel in ss. [402.305](#), [402.3055](#), [402.313](#), and [402.3131](#), respectively.

(3) The provisional license or registration may not be issued for a period that exceeds 6 months; however, it may be renewed one time for a period that may not exceed 6 months under unusual circumstances beyond the control of the applicant.

(4) The provisional license or registration may be suspended or revoked if periodic inspection or review by the local licensing agency or the department indicates that insufficient progress has been made toward compliance.

(5) The department shall adopt rules specifying the conditions and procedures under which a provisional license or registration may be issued, suspended, or revoked.

**History.**—s. 9, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 8, ch. 84-551; s. 27, ch. 85-54; s. 26, ch. 87-238; ss. 1, 2, ch. 93-115; s. 7, ch. 2006-91.

#### **402.310 Disciplinary actions; hearings upon denial, suspension, or revocation of license or registration; administrative fines.—**

(1)(a) The department or local licensing agency may administer any of the following disciplinary sanctions for a violation of any provision of ss. [402.301-402.319](#), or the rules adopted thereunder:

1. Impose an administrative fine not to exceed \$100 per violation, per day. However, if the violation could or does cause death or serious harm, the department or local licensing agency may impose an administrative fine, not to exceed \$500 per violation per day in addition to or in lieu of any other disciplinary action imposed under this section.

2. Convert a license or registration to probation status and require the licensee or registrant to comply with the terms of probation. A probation-status license or registration may not be issued for a period that exceeds 6 months and the probation-status license or registration may not be renewed. A probation-status license or registration may be suspended or revoked if periodic inspection by the department or local licensing agency finds that the probation-status licensee or registrant is not in compliance with the terms of probation or that the probation-status licensee or registrant is not making sufficient progress toward compliance with ss. [402.301-402.319](#).

3. Deny, suspend, or revoke a license or registration.

(b) In determining the appropriate disciplinary action to be taken for a violation as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of ss. [402.301-402.319](#) have been violated.

2. Actions taken by the licensee or registrant to correct the violation or to remedy complaints.

3. Any previous violations of the licensee or registrant.

(c) The department shall adopt rules to:

1. Establish the grounds under which the department may deny, suspend, or revoke a license or registration or place a licensee or registrant on probation status for violations of ss. [402.301-402.319](#).

2. Establish a uniform system of procedures to impose disciplinary sanctions for violations of ss. [402.301-402.319](#). The uniform system of procedures must provide for the consistent application of disciplinary actions across districts and a progressively increasing level of penalties from predisciplinary actions, such as efforts to assist licensees or registrants to correct the statutory or regulatory violations, and to severe disciplinary sanctions for actions that jeopardize the health and safety of children, such as for the deliberate misuse of medications. The department shall implement this subparagraph on January 1, 2007, and the implementation is not contingent upon a specific appropriation.

(d) The disciplinary sanctions set forth in this section apply to licensed child care facilities, licensed large family child care homes, and licensed or registered family day care homes.

(2) When the department has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall determine the matter in accordance with procedures prescribed in chapter 120. When the local licensing agency has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall notify the applicant, registrant, or licensee in writing, stating the grounds upon which the license or registration is being denied, suspended, or revoked or an administrative fine is being imposed. If the applicant, registrant, or licensee makes no written request for a hearing to the local licensing agency within 15 days after receipt of the notice, the license shall be deemed denied, suspended, or revoked; the license or registration shall be converted to probation status; or an administrative fine shall be imposed.

(3) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(4) An applicant, registrant, or licensee shall have the right to appeal a decision of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the child care facility, family day care home, or large family child care home is being operated or is to be established. The hearing shall be conducted in accordance with the provisions of chapter 120.

**History.**—s. 10, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-117; s. 1, ch. 77-457; s. 19, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 3, 6, 7, ch. 83-248; s. 9, ch. 84-551; s. 42, ch. 87-225; s. 37, ch. 90-306; ss. 1, 2, ch. 93-115; s. 24, ch. 2000-153; s. 3, ch. 2006-91.

**402.311 Inspection.**—A licensed child care facility shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities and personnel and to those records required in s. [402.305](#), at reasonable times during regular business hours, to ensure compliance with the provisions of ss. [402.301-402.319](#). The right of entry and inspection shall also extend to any premises which the department or local licensing agency has reason to believe are being operated or maintained as a child care facility without a license, but no such entry or inspection of any premises shall be made without the permission of the person in charge thereof unless a warrant is first obtained from the circuit

court authorizing same. Any application for a license or renewal made pursuant to this act or the advertisement to the public for the provision of child care as defined in s. [402.302](#) shall constitute permission for any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application. In the event a licensed facility refuses permission for entry or inspection to the department or local licensing agency, a warrant shall be obtained from the circuit court authorizing same prior to such entry or inspection. The department or local licensing agency may institute disciplinary proceedings pursuant to s. [402.310](#), for such refusal.

**History.**—s. 11, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 10, ch. 84-551; s. 61, ch. 90-306; ss. 1, 2, ch. 93-115.

#### **402.3115 Elimination of duplicative and unnecessary inspections; abbreviated**

**inspections.**—The Department of Children and Families and local governmental agencies that license child care facilities shall develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition, the department and the local governmental agencies shall develop and implement an abbreviated inspection plan for child care facilities that have had no Class 1 or Class 2 deficiencies, as defined by rule, for at least 2 consecutive years. The abbreviated inspection must include those elements identified by the department and the local governmental agencies as being key indicators of whether the child care facility continues to provide quality care and programming.

**History.**—s. 79, ch. 96-175; s. 147, ch. 99-8; s. 226, ch. 99-13; s. 145, ch. 2014-19.

#### **402.312 License required; injunctive relief.—**

**(1)** The operation of a child care facility without a license, a family day care home without a license or registration, or a large family child care home without a license is prohibited. If the department or the local licensing agency discovers that a child care facility is being operated without a license, a family day care home is being operated without a license or registration, or a large family child care home is being operated without a license, the department or local licensing agency is authorized to seek an injunction in the circuit court where the facility is located to enjoin continued operation of such facility, family day care home, or large family child care home. When the court is closed for the transaction of judicial business, the department or local licensing agency is authorized to seek an emergency injunction to enjoin continued operation of such unlicensed facility, unregistered or unlicensed family day care home, or unlicensed large family child care home, which injunction shall be continued, modified, or revoked on the next day of judicial business.

(2) Other grounds for seeking an injunction to close a child care facility, family day care home, or a large family child care home are that:

(a) There is any violation of the standards applied under ss. [402.301-402.319](#) which threatens harm to any child in the child care facility, a family day care home, or large family child care home.

(b) A licensee or registrant has repeatedly violated the standards provided for under ss. [402.301-402.319](#).

(c) A child care facility, family day care home, or large family child care home continues to have children in attendance after the closing date established by the department or the local licensing agency.

(3) The department or local licensing agency may impose an administrative fine on any child care facility, family day care home, or large family child care home operating without a license or registration, consistent with the provisions of s. [402.310](#).

**History.**—s. 12, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 4, 6, 7, ch. 83-248; s. 11, ch. 84-551; s. 61, ch. 90-306; ss. 1, 2, ch. 93-115; s. 2, ch. 2003-131.

**402.3125 Display and appearance of license; posting of violations; information to be provided to parents.—**

(1)(a) Upon receipt of a license issued under s. [402.308](#) or s. [402.309](#), the child care facility shall display such license in a conspicuous place within the facility.

(b)1. In addition to posting the license as required under paragraph (a), the child care facility shall post with the license:

a. Each citation for a violation of any standard or requirement of ss. [402.301-402.319](#) that has resulted in disciplinary action under s. [402.310](#) or s. [402.312](#).

b. An explanation, written in simple language, of each citation.

c. A description, written in simple language, of the corrective action, if any, taken by the facility for each citation. Included in the description shall be the dates on which the corrective action was taken.

2. Each citation, explanation, and description of corrective action shall remain posted for 1 year after the citation's effective date.

(2) The department shall ensure that every license it issues under s. [402.308](#) or s. [402.309](#) bears the distinctive seals of the State of Florida and of the department and is clearly recognizable by its size, color, seals, and contents to be a state license or provisional license for a child care facility.

(3) Each local licensing agency shall ensure that every license it issues under s. [402.308](#) or s. [402.309](#) bears the distinctive seals of the issuing county and of the department and is



clearly recognizable by its size, color, seals, and contents to be a county license or provisional license for a child care facility. Noncompliance by a local licensing agency shall be deemed by the department to be failure to meet minimum state standards and shall result in the department immediately assuming licensure authority in the county.

(4) Any license issued pursuant to subsection (2) or subsection (3) shall include the name, address, and telephone number of the licensing agency.

(5) The department shall develop a model brochure for distribution by the department and by local licensing agencies to every child care facility in the state. Pursuant thereto:

(a) Upon receipt of such brochures, each child care facility shall provide a copy of same to every parent, guardian, or other person having entered a child in such facility. Thereafter, a copy of such brochure shall be provided to every parent, guardian, or other person entering a child in such facility upon entrance of the child or prior thereto.

(b) Each child care facility shall certify to the department or local licensing agency, whichever is appropriate, that it has so provided and will continue to so provide such brochures, which certification shall operate as a condition upon issuance and renewal of licensure. Noncompliance by any child care facility shall be grounds for sanction as provided in ss. [402.310](#) and [402.312](#).

(c) The brochure shall, at a minimum, contain the following information:

1. A statement that the facility is licensed and has met state standards for licensure as established by s. [402.305](#) or that the facility is licensed by a local licensing agency and has met or exceeded the state standards, pursuant to ss. [402.306](#) and [402.307](#). Such statement shall include a listing of specific standards that licensed facilities must meet pursuant to s. [402.305](#).

2. A statement indicating that information about the licensure status of the child care facility can be obtained by telephoning the department office or the office of the local licensing agency issuing the license at a telephone number or numbers which shall be printed upon or otherwise affixed to the brochure.

3. The statewide toll-free telephone number of the central abuse hotline, together with a notice that reports of suspected and actual cases of child physical abuse, sexual abuse, and neglect are received and referred for investigation by the hotline.

4. The date that the current license for the facility was issued and the date of its scheduled expiration if it is not renewed.

5. Any other information relating to competent child care that the department deems would be helpful to parents and other caretakers in their selection of a child care facility.

(d) The department shall prepare a brochure containing substantially the same information as specified in paragraph (c) and shall make such brochure available to all interested persons, including physicians and other health professionals; mental health

professionals; school teachers or other school personnel; social workers or other professional child care, foster care, residential, or institutional workers; and law enforcement officers.

**History.**—ss. 12, 19, ch. 84-551; s. 43, ch. 87-225; s. 61, ch. 90-306; ss. 1, 2, ch. 93-115; s. 1, ch. 95-329; s. 95, ch. 2000-349.

#### **402.313 Family day care homes.—**

(1) Family day care homes shall be licensed under this act if they are presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed.

(a) If not subject to license, family day care homes shall register annually with the department, providing the following information:

1. The name and address of the home.
2. The name of the operator.
3. The number of children served.
4. Proof of a written plan to provide at least one other competent adult to be available to substitute for the operator in an emergency. This plan shall include the name, address, and telephone number of the designated substitute.
5. Proof of screening and background checks.
6. Proof of successful completion of the 30-hour training course, as evidenced by passage of a competency examination, which shall include:
  - a. State and local rules and regulations that govern child care.
  - b. Health, safety, and nutrition.
  - c. Identifying and reporting child abuse and neglect.
  - d. Child development, including typical and atypical language development; and cognitive, motor, social, and self-help skills development.
  - e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine a child's developmental level.
  - f. Specialized areas, including early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators of family day care homes.

7. Proof that immunization records are kept current.

8. Proof of completion of the required continuing education units or clock hours.

(b) A family day care home may volunteer to be licensed under this act.

(c) The department may provide technical assistance to counties and family day care home providers to enable counties and family day care providers to achieve compliance with family day care homes standards.

**(2)** This information shall be included in a directory to be published annually by the department to inform the public of available child care facilities.

**(3)** Child care personnel in family day care homes shall be subject to the applicable screening provisions contained in ss. [402.305\(2\)](#) and [402.3055](#). For purposes of screening in family day care homes, the term includes any member over the age of 12 years of a family day care home operator's family, or persons over the age of 12 years residing with the operator in the family day care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years shall not be required to be fingerprinted, but shall be screened for delinquency records.

**(4)** Operators of family day care homes must successfully complete an approved 30-clock-hour introductory course in child care, as evidenced by passage of a competency examination, before caring for children.

**(5)** In order to further develop their child care skills and, if appropriate, their administrative skills, operators of family day care homes shall be required to complete an additional 1 continuing education unit of approved training or 10 clock hours of equivalent training, as determined by the department, annually.

**(6)** Operators of family day care homes shall be required to complete 0.5 continuing education unit of approved training in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (5).

**(7)** Operators of family day care homes shall be required annually to complete a health and safety home inspection self-evaluation checklist developed by the department in conjunction with the statewide resource and referral program. The completed checklist shall be signed by the operator of the family day care home and provided to parents as certification that basic health and safety standards are being met.

**(8)** Family day care home operators may avail themselves of supportive services offered by the department.

**(9)** The department shall prepare a brochure on family day care for distribution by the department and by local licensing agencies, if appropriate, to family day care homes for distribution to parents utilizing such child care, and to all interested persons, including physicians and other health professionals; mental health professionals; school teachers or other school personnel; social workers or other professional child care, foster care, residential, or institutional workers; and law enforcement officers. The brochure shall, at a minimum, contain the following information:

(a) A brief description of the requirements for family day care registration, training, and fingerprinting and screening.

(b) A listing of those counties that require licensure of family day care homes. Such counties shall provide an addendum to the brochure that provides a brief description of the licensure requirements or may provide a brochure in lieu of the one described in this subsection, provided it contains all the required information on licensure and the required information in the subsequent paragraphs.

(c) A statement indicating that information about the family day care home's compliance with applicable state or local requirements can be obtained by telephoning the department office or the office of the local licensing agency, if appropriate, at a telephone number or numbers which shall be affixed to the brochure.

(d) The statewide toll-free telephone number of the central abuse hotline, together with a notice that reports of suspected and actual child physical abuse, sexual abuse, and neglect are received and referred for investigation by the hotline.

(e) Any other information relating to competent child care that the department or local licensing agency, if preparing a separate brochure, deems would be helpful to parents and other caretakers in their selection of a family day care home.

**(10)** On an annual basis, the department shall evaluate the registration and licensure system for family day care homes. Such evaluation shall, at a minimum, address the following:

(a) The number of family day care homes registered and licensed and the dates of such registration and licensure.

(b) The number of children being served in both registered and licensed family day care homes and any available slots in such homes.

(c) The number of complaints received concerning family day care, the nature of the complaints, and the resolution of such complaints.

(d) The training activities utilized by child care personnel in family day care homes for meeting the state or local training requirements.

The evaluation shall be utilized by the department in any administrative modifications or adjustments to be made in the registration of family day care homes or in any legislative requests for modifications to the system of registration or to other requirements for family day care homes.

**(11)** In order to inform the public of the state requirement for registration of family day care homes as well as the other requirements for such homes to legally operate in the state, the department shall institute a media campaign to accomplish this end. Such a campaign shall include, at a minimum, flyers, newspaper advertisements, radio advertisements, and television advertisements.

**(12)** Notwithstanding any other state or local law or ordinance, any family day care home licensed pursuant to this chapter or pursuant to a county ordinance shall be charged the utility rates accorded to a residential home. A licensed family day care home may not be charged commercial utility rates.

**(13)** The department shall, by rule, establish minimum standards for family day care homes that are required to be licensed by county licensing ordinance or county licensing resolution or that voluntarily choose to be licensed. The standards should include requirements for staffing, training, maintenance of immunization records, minimum health and safety standards, reduced standards for the regulation of child care during evening hours by municipalities and counties, and enforcement of standards.

**(14)** During the months of August and September of each year, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

**History.**—s. 13, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 28, ch. 85-54; s. 44, ch. 87-225; s. 27, ch. 87-238; s. 38, ch. 90-306; s. 3, ch. 91-300; ss. 1, 2, ch. 93-115; s. 46, ch. 95-196; s. 59, ch. 95-228; s. 80, ch. 96-175; s. 3, ch. 97-63; s. 39, ch. 97-173; s. 14, ch. 99-304; s. 96, ch. 2000-349; s. 62, ch. 2002-1; s. 3, ch. 2002-300; s. 3, ch. 2003-131; s. 4, ch. 2006-91; s. 2, ch. 2009-147; s. 11, ch. 2010-210.

#### **402.3131 Large family child care homes.—**

**(1)** Large family child care homes shall be licensed under this section.

(a) A licensed family day care home must first have operated for a minimum of 2 consecutive years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home.

(b) The department may provide technical assistance to counties and family day care home providers to enable the counties and providers to achieve compliance with minimum standards for large family child care homes.

**(2)** Child care personnel in large family child care homes shall be subject to the applicable screening provisions contained in ss. [402.305\(2\)](#) and [402.3055](#). For purposes of screening child care personnel in large family child care homes, the term “child care personnel” includes any member of a large family child care home operator’s family 12 years of age or older, or any person 12 years of age or older residing with the operator in the large family child care home. Members of the operator’s family, or persons residing with the operator, who are

between the ages of 12 years and 18 years, inclusive, shall not be required to be fingerprinted, but shall be screened for delinquency records.

(3) Operators of large family child care homes must successfully complete an approved 40-clock-hour introductory course in group child care, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. [1007.24](#) and [1007.25](#).

(4) In order to further develop their child care skills and, if appropriate, their administrative skills, operators of large family child care homes who have completed the required introductory course shall be required to complete an additional 1 continuing education unit of approved training or 10 clock hours of equivalent training, as determined by the department, annually.

(5) Operators of large family child care homes shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (4).

(6) The department shall prepare a brochure on large family child care homes for distribution to the general public.

(7) The department shall, by rule, establish minimum standards for large family child care homes. The standards shall include, at a minimum, requirements for staffing, maintenance of immunization records, minimum health standards, minimum safety standards, minimum square footage, and enforcement of standards.

(8) Prior to being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

(9) During the months of August and September of each year, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

**History.**—s. 15, ch. 99-304; s. 1, ch. 2002-300; s. 41, ch. 2003-1; s. 4, ch. 2003-131; s. 5, ch. 2006-91; s. 3, ch. 2009-147.



**402.314 Supportive services.**—The department shall provide consultation services, technical assistance, and inservice training, when requested and as available, to operators, licensees, registrants, and applicants to help improve programs, homes, and facilities for child care, and shall work cooperatively with other organizations and agencies concerned with child care.

**History.**—s. 13, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 29, ch. 85-54; ss. 1, 2, ch. 93-115.

**402.315 Funding; license fees.**—

(1) If the county designates a local agency to be responsible for the licensing of child care facilities, the county shall bear at least 75 percent of the costs involved.

(2) The department shall bear the costs of the licensing of child care facilities when contracted to do so by a county or when directly responsible for licensing in a county which fails to meet or exceed state minimum standards.

(3) The department shall collect a fee for any license it issues for a child care facility, family day care home, or large family child care home pursuant to ss. [402.305](#), [402.313](#), and [402.3131](#).

(a) For a child care facility licensed pursuant to s. [402.305](#), such fee shall be \$1 per child, based on the licensed capacity of the facility, except that the minimum fee shall be \$25 per facility and the maximum fee shall be \$100 per facility.

(b) For a family day care home registered pursuant to s. [402.313](#), such fee shall be \$25.

(c) For a family day care home licensed pursuant to s. [402.313](#), such fee shall be \$50.

(d) For a large family child care home licensed pursuant to s. [402.3131](#), such fee shall be \$60.

(4) Any county may collect a fee for any license it issues pursuant to s. [402.308](#).

(5) All moneys collected by the department for child care licensing shall be held in a trust fund of the department to be reallocated to the department during the following fiscal year to fund child care licensing activities, including the Gold Seal Quality Care program created pursuant to s. [402.281](#).

**History.**—s. 15, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 5, 6, 7, ch. 83-248; s. 13, ch. 84-551; s. 30, ch. 85-54; ss. 1, 2, ch. 93-115; s. 81, ch. 96-175; s. 14, ch. 2010-210.

**402.316 Exemptions.**—

(1) The provisions of ss. [402.301-402.319](#), except for the requirements regarding screening of child care personnel, shall not apply to a child care facility which is an integral part

of church or parochial schools conducting regularly scheduled classes, courses of study, or educational programs accredited by, or by a member of, an organization which publishes and requires compliance with its standards for health, safety, and sanitation. However, such facilities shall meet minimum requirements of the applicable local governing body as to health, sanitation, and safety and shall meet the screening requirements pursuant to ss. [402.305](#) and [402.3055](#). Failure by a facility to comply with such screening requirements shall result in the loss of the facility's exemption from licensure.

**(2)** Any county or city with state or local child care licensing programs in existence on July 1, 1974, will continue to license the child care facilities as covered by such programs, notwithstanding the provisions of subsection (1), until and unless the licensing agency makes a determination to exempt them.

**(3)** Any child care facility covered by the exemption provisions of subsection (1), but desiring to be included in this act, is authorized to do so by submitting notification to the department. Once licensed, such facility cannot withdraw from the act and continue to operate.

**History.**—s. 16, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 14, ch. 84-551; s. 31, ch. 85-54; ss. 1, 2, ch. 93-115.

**402.317 Prolonged child care.**—Notwithstanding the time restriction specified in s. [402.302](#)(1), child care may be provided for 24 hours or longer for a child whose parent or legal guardian works a shift of 24 hours or more. The requirement that a parent or legal guardian work a shift of 24 hours or more must be certified in writing by the employer, and the written certification shall be maintained in the facility by the child care provider and made available to the licensing agency. The time that a child remains in child care, however, may not exceed 72 consecutive hours in any 7-day period. During a declared state of emergency, the child care licensing agency may temporarily waive the time limitations provided in this section.

**History.**—s. 8, ch. 2006-91.

**402.318 Advertisement.**—A person, as defined in s. [1.01](#)(3), may not advertise a child care facility, family day care home, or large family child care home without including within such advertisement the state or local agency license number or registration number of such facility or home. Violation of this section is a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

**History.**—ss. 15, 19, ch. 84-551; s. 74, ch. 91-224; ss. 1, 2, ch. 93-115; s. 3, ch. 2011-75.

**402.319 Penalties.**—

(1) It is a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#), for any person knowingly to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or licensure regulated under ss. [402.301-402.318](#) all information required under those sections or a material fact used in making a determination as to such person's qualifications to be child care personnel, as defined in s. [402.302](#), in a child care facility, family day care home, or other child care program.

(b) Operate or attempt to operate a child care facility without having procured a license as required by this act.

(c) Operate or attempt to operate a family day care home without a license or without registering with the department, whichever is applicable.

(d) Operate or attempt to operate a child care facility or family day care home under a license that is suspended, revoked, or terminated.

(e) Misrepresent, by act or omission, a child care facility or family day care home to be duly licensed pursuant to this act without being so licensed.

(f) Make any other misrepresentation, by act or omission, regarding the licensure or operation of a child care facility or family day care home to a parent or guardian who has a child placed in the facility or is inquiring as to placing a child in the facility, or to a representative of the licensing authority, or to a representative of a law enforcement agency, including, but not limited to, any misrepresentation as to:

1. The number of children at the child care facility or the family day care home;
2. The part of the child care facility or family day care home designated for child care;
3. The qualifications or credentials of child care personnel;
4. Whether a family day care home or child care facility complies with the screening requirements of s. [402.305](#); or

5. Whether child care personnel have the training as required by s. [402.305](#).

(2) If any child care personnel makes any misrepresentation in violation of this section to a parent or guardian who has placed a child in the child care facility or family day care home, and the parent or guardian relied upon the misrepresentation, and the child suffers great bodily harm, permanent disfigurement, permanent disability, or death as a result of an intentional act or negligence by the child care personnel, then the child care personnel commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

**History.**—ss. 16, 19, ch. 84-551; s. 32, ch. 85-54; s. 37, ch. 90-347; ss. 1, 2, ch. 93-115; s. 60, ch. 95-228; s. 2, ch. 99-207.

Insert: Chapter 65C-22, Florida Administrative Code

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Insert: CF-FSP 5317 Child Care Facility Standards

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