

DEPARTMENT OF EARLY CHILDHOOD

Division of Early Learning, Licensing, and Administration

CHILD CARE FACILITY LICENSING RULES AND REGULATIONS

8 CCR 1402-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

2.100 GENERAL RULES FOR CHILD CARE FACILITIES

2.101 AUTHORITY

These rules and regulations are adopted pursuant to the rulemaking authority provided in section 26.5-1-105(1), C.R.S., and are intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101, *et seq.* (the "APA"), C.R.S., the Anna Jo Garcia Haynes Early Childhood Act, section 26.5-1-101, *et seq.* (the "Early Childhood Act"), C.R.S., the Child Care Licensing Act, section 26.5-5-301, *et seq.*, C.R.S.; and the Child Care Development and Block Grant Act of 2014, 42 U.S.C. sec. 9858e, and section 26.5-4-110(3), C.R.S.

2.102 SCOPE AND PURPOSE

These rules and regulations shall govern the processes and procedures to become a licensed child care facility, and the health and safety requirements of licensed child care facilities in Colorado. These rules will address the License Types, Application Process, Fees, Civil Penalties, Appeals And Waivers, Background Checks, Reporting requirements, Posting requirements, Confidentiality, Civil Rights, Fire, Health Inspection and Zoning Codes, and Emergency and Disaster Preparedness.

2.103 APPLICABILITY

The provisions of these rules and regulations shall be applicable to Family Child Care Homes 2.300, Child Care Facilities 2.200, School Age Child Care 2.500, Substitute Placement Agencies 2.800, Neighborhood Youth Organizations 2.700, and Children's Resident Camps 2.400, licensed and regulated by the Colorado Department of Early Childhood.

2.104 DEFINITIONS

- A. "Affiliate of a licensee" means any person or entity that owns more than five (5) percent of the ownership interest in the business operated by the licensee or the applicant for a license; or, any person who is directly responsible for the care and welfare of children served; or, any executive, officer, member of the governing board, or employee of a licensee; or, a relative of a licensee, which relative provides care to children at the licensee's facility or is otherwise involved in the management or operations of the licensee's facility.
- B. "Annually" means the time frame from the initial date of hire, training, licensing, or certification, and the following twelve months.
- C. "Calendar year" means the time frame from January 1 to December 31.
- D. "Child abuse," and "child neglect" mean the same as in the definition of "child abuse or neglect" set forth in section 19-1-103(1), C.R.S., unless otherwise indicated.

- E. "Child Care Center" has the same meaning as set forth in section 26.5-5-303(3), C.R.S.
- F. "Children's Resident Camp" has the same meaning as set forth in section 26.5-5-303(5), C.R.S.
- G. "Consumer Product Safety Commission", as referred to in rules Regulating Child Care Facilities, means the National Commission that establishes standards for the safety of children's equipment and furnishings and for playground safety. All facilities licensed under the Child Care Licensing Act are subject to the Consumer Product Safety Act, 15 U.S.C. §§ 2051–2090, and its implementing regulations, 16 C.F.R. Parts 1101, 1102, 1105, 1107, 1109, 1110, 1112, 1115, 1116, 1117, 1120, 1130, 1145, 1199, 1200, 1203, 1207, 1213 through 1263, 1272, 1307, 1308, 1309, 1310, 1501, 1510, 1511, 1512, and 1513 (2022), herein incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost at <https://www.ecfr.gov/current/title-16/chapter-II>. These regulations are also available for public inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash St., Bldg. C, Denver, CO 80246, during regular business hours.
- H. "Convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.
- I. "Critical incident" is a serious incident or concern, or potential incident or concern, that poses a danger to a child or children at the facility or of a staff member at the facility.
- J. "Department" means the Colorado Department of Early Childhood.
- K. "Employee" or "applicant for employment," for the purpose of the child abuse or neglect records check required in rule section 2.120, is defined as: an individual (other than an individual who is related to all children for whom child care services are provided):
1. Who is employed by a licensed or qualified exempt child care provider for compensation, including contract employees or self-employed individuals;
 2. Whose activities involve the care or supervision of children for a licensed or qualified exempt child care provider or unsupervised access to children who are cared for or supervised by a licensed or qualified exempt child care provider; or
 3. Any individual residing in a licensed or qualified exempt family child care home who is age 18 or older.
- L. "Facility" is any business or operation established for the purpose of providing child care services that are required to be licensed pursuant to the Child Care Licensing Act, section 26.5-5-301 *et seq.*, C.R.S.
- M. "Family Child Care Home," has the same meaning as set forth in section 26.5-5-303(7), C.R.S.
- N. "Final Agency Decision" means the same as a final agency action or order in compliance with the State Administrative Procedure Act, section 24-4-106(2), C.R.S., that determines the rights and obligations of the parties and represents the conclusion of the agency's decision-making process.
- O. "Guest Child Care Facility" means the same as set forth in 26.5-5-303 (10) C.R.S.
- P. "Governing Body" means the individual, partnership, corporation, or association in which the ultimate authority and legal responsibility is vested for the administration and operation of a child care facility.

- Q. "Health Department" is the Colorado Department of Public Health and Environment (CDPHE) or the local county department of health.
- R. "Licensee" means the entity or individual to which a license is issued and that has the legal capacity to enter into an agreement or contract, assume obligations, incur and pay debts, sue and be sued in its own right, and be held responsible for its actions. A licensee may be a governing body.
- S. "Licensing Specialist" is the authorized representative of the Department who inspects and audits child care facilities to ensure compliance with licensing requirements and to investigate possible violations of those requirements.
- T. "Negative licensing action" or "adverse action," has the same meaning as set forth in section 26.5-5-303(16), C.R.S.,
- U. "Neighborhood Youth Organization," means the same as set forth in section 26.5-5-303(17), C.R.S.
- V. "Relative" means the same as set forth in section 26.5-5-303(24), C.R.S.
- W. "Trails" means the Colorado Department of Human Services (CDHS) confidential information system which maintains abuse and neglect referrals, investigations, and the investigation outcomes.

APPLICATION PROCESS, LICENSE TYPES, AND LICENSING PROVISIONS

2.105 ORIGINAL APPLICATION

- A. A completed original application accompanied by the appropriate fee must be submitted to the Department a minimum of sixty (60) days prior to the proposed opening date for the facility.
- B. A licensing evaluation will occur only after the Department has received the complete application and appropriate fee.

2.106 CHANGES REQUIRING A NEW APPLICATION

- A. A license is deemed surrendered and a new application is required in any of the following circumstances:
 - 1. Change of licensee, owner, or governing body;
 - 2. Change in classification of facility or service offered; or
 - 3. Change in location of the facility.

2.107 PERMANENT LICENSE

- A. A permanent license is granted when the Department is satisfied that the facility or agency is in compliance with the appropriate Department rules and the Child Care Licensing Act. The permanent license remains in effect until surrendered or revoked.
- B. Once a permanent license has been issued, the licensee must annually submit to the Department a declaration of compliance with the applicable licensing rules and notice of continuing operation on the form prescribed by the Department, along with the appropriate annual fee as set forth in rule section 2.111.

- C. Failure to submit the annual Continuation Notice and fee will constitute a consistent failure to maintain Department standards and may result in fines or the revocation of the license.

2.108 PROVISIONAL LICENSE

- A. A provisional license or certificate may be issued only for the initial six (6) month licensing period.
- B. This license permits the facility to operate while it is temporarily unable to conform to all rules upon proof by the applicant that attempts are being made to comply with the rules.
- C. If an applicant holds a valid provisional license at the time of application for a permanent license, the provisional license will remain in effect until the application is acted on by the Department.

2.109 PROBATIONARY LICENSE

- A. The Department may make the license of any facility a probationary license as provided in section 26.5-5-317(2), C.R.S. Making a license probationary is a negative licensing action as defined in section 26.5-5-303(16)(a), C.R.S.
- B. If the applicant holds a valid probationary license and submits the renewal application and appropriate fee for a permanent license, the current license will remain in effect until the renewal application is acted on by the Department.

2.110 MULTIPLE LICENSES

- A. If a licensee wishes to assume child care responsibility in more than one classification of care, separate applications, fees, and licensing evaluations are required for each classification. A family child care home may only be licensed as one type of classification at any one location address.
- B. If a licensee wishes to operate more than one facility of the same classification but at different locations, separate applications, fees, and licensing evaluations are required for each location.
- C. Operating multiple licenses of the same classification at a single location by the same licensee or governing body is prohibited.

2.111 FEES

- A. The appropriate application fee, must be submitted to the Department with the application for a child care, agency or neighborhood youth organization license at least sixty (60) calendar days prior to the anticipated opening date of the facility or the expiration date of the provisional or probationary license.
- B. The appropriate annual continuation fee, must be submitted to the Department annually, at least sixty (60) calendar days prior to the anniversary date of the license, along with a completed continuation declaration.
- C. Following is a schedule of original and annual continuation fees for all types of child care facilities and agencies:

FAMILY CHILD CARE HOMES (1-6 CHILDREN)	
	<u>JULY 1, 2020, and beyond*</u>
Original Application	\$65.00
Continuation	\$65.00
(*One year from licensed anniversary date)	

LARGE FAMILY CHILD CARE HOMES (7-12 CHILDREN)	
	<u>JULY 1, 2020, and beyond*</u>
Original Application	\$100.00
Continuation	\$100.00
(*One year from licensed anniversary date)	

EXPERIENCED FAMILY CHILD CARE PROVIDER (UP TO 9 CHILDREN)	
	<u>JULY 1, 2020, and beyond*</u>
Original Application	\$100.00
Continuation	\$100.00
(*One year from licensed anniversary date)	

SMALL CHILD CARE CENTERS, PRESCHOOLS, SCHOOL-AGE CHILD CARE, CHILDREN'S RESIDENT CAMPS AND NEIGHBORHOOD YOUTH ORGANIZATIONS (5-15 CHILDREN)	
	<u>JULY 1, 2020, and beyond*</u>
Original Application	\$200.00
Continuation	\$200.00
(*One year from licensed anniversary date)	

LARGE CHILD CARE CENTERS, PRESCHOOLS, SCHOOL-AGE CHILD CARE, CHILDREN'S RESIDENT CAMPS AND NEIGHBORHOOD YOUTH ORGANIZATIONS (16-30 CHILDREN)	
Facilities in this category will pay a base fee + a per child in capacity fee not to exceed \$1,800	
	<u>JULY 1, 2020, and beyond*</u>
Original Application	Base \$175.00+ \$3.00 Per Child
Continuation	Base \$175.00+ \$3.00 Per Child
(*One year from licensed anniversary date)	

LARGE CHILD CARE CENTERS, PRESCHOOLS, SCHOOL-AGE CHILD CARE, CHILDREN'S RESIDENT CAMPS AND NEIGHBORHOOD YOUTH ORGANIZATIONS (31 OR MORE CHILDREN)		
Facilities in this category will pay a base fee + a per child in capacity fee not to exceed \$1,800		
	JULY 1, 2020, and beyond*	
Original Application	Base \$300.00 + \$3.00 Per Child	
Continuation	Base \$300.00 + \$3.00 Per Child	
(*One year from licensed anniversary date)		
Changes Made to All License Types		
	July 1, 2020, and beyond	
Changes to Licensed Capacity	\$97.00	
Changes to Physical Premises	\$97.00	
Duplicate Licenses		

- D. The appropriate fee must be submitted for each appeal request submitted within each calendar year. There will be no charge for waiver requests or emergency appeals.

LESS THAN 24-HOUR APPEAL AND FEES (PER CALENDAR YEAR)	
Initial appeal request	Free
Second appeal request	\$10.00
Three or more requests	\$25.00
Emergency Appeals	Free

- E. Any eligible child care facility providing less than 24-hour care that holds a Colorado Shines level 3-5 and an average annual enrollment of at least fifty (50) percent of total children enrolled receiving assistance from the Colorado Child Care Assistance Program (CCCAP) or enroll on average at least fifty (50) percent of the county's total CCCAP population may receive a discounted continuation fee of up to fifty (50) percent of their respective license type. The Colorado Shines rating and CCCAP enrollment must be verified by the Department.

2.112 LICENSING EXEMPTIONS

- A. A license must be obtained before care begins unless such care is exempt as set forth below.
- B. A license is not required for:
1. A special school or class in religious instruction. Religious instruction is defined as instruction in religion as a subject of general education, or instruction in the principles of a particular religious faith. Faith or spiritually-based programs which offer religious instruction combined with early childhood education, child care or child development activities as a part of the daily routine must obtain a child care license.

2. A special school or class operated for a single skill-building purpose. Single skill building includes activities or instruction in one subject area. A single skill program includes the development of an individual skill which does not include naptime periods or overnight care, or any other time children are not engaged in that specific activity. Any time activities other than the identified single skill are provided, the program is no longer considered a single skill program and must obtain the appropriate license. Meals and snacks may be incorporated into the single skill request.
3. A child care center operated in connection with a church, shopping center, or business where children are cared for during short periods of time, not to exceed three hours in any twenty-four (24) hour period of time, while parents or persons in charge of such children, or employees of the church, shopping center, or business whose children are being cared for at such location are attending church services at such location, shopping, patronizing or working on the premises of the business. This facility must be operated on the premises of the church, business, or shopping center. Only children of parents or guardians who are attending a church activity; patronizing the business or shopping center or working at the church, shopping center or business can be cared for in the center.
4. Occasional care of children with or without compensation, which means the offering of child care infrequently and irregularly that has no apparent pattern.
5. A family care home that provides less than 24-hour care. Care must only be provided using one (1) of the options below at any one time:
 - a. Care of children who are directly related to the caregiver by blood, marriage or adoption. The relationship between the caregiver and child includes biological child(ren), step-child(ren), grandchild(ren), niece, nephew, sibling, or first cousin and provide care for children who are siblings from the same family household which is unrelated to the provider; or
 - b. Care of up to four (4) children, related or unrelated to the caregiver. No more than two (2) children under the age of two years may be cared for at any one time.
6. A child care facility that is approved, certified, or licensed by any other department or agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility.
7. The medical care of children in nursing homes.
8. Guest child care facility as defined in section 26.5-5-303(10), C.R.S.
9. Neighborhood Youth Organizations as defined in section 26.5-5-303(17), C.R.S.
10. Public services short-term child care facility as defined in section 26.5-5-303(22), C.R.S.

2.113 CIVIL PENALTIES AND INJUNCTIONS

- A. Violation of any provision of the Child Care Licensing Act or intentional false statements or reports made to the Department or to any agency lawfully delegated by the Department to make an investigation or inspection may result in fines assessed of not more than \$250 a day the first day, \$500 for the second day, and \$1,000 a day for the third and subsequent days, to a maximum of \$10,000:

1. A civil penalty will be assessed by the Department only in conformity with the provisions and procedures specified in Article 4 of Title 24,, C.R.S. No civil penalty will be assessed without a hearing conducted pursuant to the Child Care Licensing Act and Article 4 of Title 24,, C.R.S., before an Administrative Law Judge acting on behalf of the Department.
 2. Prior to receipt of a cease and desist order from the Department or from any agency delegated by the Department to make an investigation or inspection under the provision of the Child Care Licensing Act, any unlicensed child care facility may be fined up to \$250 a day for the first day, \$500 for the second day, and \$1,000 a day for the third and subsequent days, to a maximum of \$10,000 for each violation of the Child Care Licensing Act or for any statutory grounds as listed in section 26.5-5-317(2) C.R.S.
 3. For providing child care for which a license is required after receipt of a cease and desist order, an unlicensed facility shall be fined up to \$500, a sentence of up to 10 days in jail, or both.
 4. Assessment of any civil penalty under this rule section will not preclude the Department from initiating injunctive proceedings pursuant to section 26.5-5-320, C.R.S.
 5. A licensed child care facility may be fined up to \$250 a day for the first day, \$500 for the second day, and \$1,000 a day for the third and subsequent days, to a maximum of \$10,000 for each violation of the Child Care Licensing Act or for any statutory grounds as listed at section 26.5-5-317(2), C.R.S.
 6. Assessment of any civil penalty does not preclude the Department from also taking action to deny, suspend, revoke, make probationary, or refuse to renew that license.
 7. Any person intentionally making a false statement or report to the Department or to any agency delegated by the Department to make an investigation or inspection under the provisions of the Child Care Licensing Act may be fined up to \$250 a day for the first day, \$500 for the second day, \$1,000 a day for the third and subsequent days to a maximum of \$10,000.
 8. Civil penalties assessed by the Department must be made payable to the Colorado Department of Early Childhood.
- B. In addition to civil penalties that may be assessed under rule section 2.113(A), when an individual operates a facility after a license has been denied, suspended, revoked, or not renewed, or before an original license has been issued, injunctive proceedings may be initiated to enjoin the individual from operating a child care facility without a license.
- C. Within ten (10) working days after receipt of a notice of final agency action with regard to a negative licensing action or the imposition of a fine, or when the Department identifies and documents in a report of inspection serious violations of any of the standards that could impact the health, safety or welfare of a child cared for at the facility, , each, facility, must provide the Department with the names and mailing addresses of the parents or legal guardians of each child cared for at the facility, so that the Department can notify the parents or legal guardians of the negative licensing action taken or the serious violation impacting the health, safety or welfare of a child. The facility will be responsible for paying a fine to the Department that is equal to the direct and indirect costs associated with the mailing of the notice.

APPEALS AND WAIVERS

2.114 OVERVIEW OF APPEALS AND WAIVERS

The Department is authorized to hear and decide three kinds of appeal or waiver requests by applicants or licensees: hardship appeals in this rule set, also referred to as hardship waivers, stringency appeals, and materials waiver requests, according to the procedures set forth in this rule section.

2.115 HARDSHIP WAIVERS

- A. Any applicant or licensee who has applied for or been issued a license to operate a child care facility has a right to appeal, pursuant to section 26.5-5-314(5), C.R.S., any rule or standard which, in their opinion, poses an undue hardship on the person, facility, or community.
 - 1. Undue hardship is a situation where compliance with the rule creates a substantial, unnecessary burden on the applicant or licensee's business operation or the families or community it serves, which reasonable means cannot remedy. An undue hardship does not include the normal cost of operating the business.
 - 2. Emergency hardship appeals are requests by applicants or licensees to excuse noncompliance with a specific child care licensing rule due to urgent, significant, and unexpected situations outside the applicant's or licensee's control. Specific situations that may be considered "emergencies" under this paragraph include, but are not limited to:
 - a) Natural disasters;
 - b) Infectious disease outbreaks;
 - c) Mold outbreaks; or
 - d) Acts of nature or an accident resulting in structural damage to the child care facility.
- B. Such appeal must be submitted to the Department in writing within sixty (60) calendar days from the date on which the rule, standard, or emergency situation allegedly created the hardship. The applicant or licensee or their designated representative must send an appeal on the state-prescribed form to the appropriate division. Each rule appealed requires an individual appeal and applicable fee. If the appeal is an emergency hardship appeal, the applicant or licensee must mark it as such on the state-prescribed form.
- C. When submitting an appeal, the applicant or licensee must consider the impact on the health, safety, and wellbeing of any children in care and include a proposed alternate compliance plan.
- D. The Department must consider the impact of an appeal on the health, safety, and wellbeing of the children in care, which must take priority over any undue hardship alleged, when determining whether an appeal should be granted.
- E. If the Department grants an appeal for undue hardship, it will issue the applicant or licensee an official decision notification letter temporarily excusing the applicant or licensee from compliance with the appealed rule or standard and accepting the alternate compliance plan.

2.116 STRINGENCY APPEALS

- A. Any applicant or licensee who has applied for or been issued a license to operate a child care facility has a right to appeal, pursuant to section 26.5-5-314(5), C.R.S., any violation of a child care licensing rule cited in a report of inspection, on the basis that the rule has been too stringently applied by a representative of the Department. "Stringency," as used in this rule section 2.116, means the child care licensing representative applied rules too strictly, improperly, or unfairly. Disputes over the factual accuracy of a cited violation are not reviewable under this provision and must be resolved with the licensing representative's supervisor.
- B. Such appeal must be submitted to the Department in writing within sixty (60) calendar days from the date of the report of inspection at issue. The applicant or licensee or their designated representative must send an appeal on the state-prescribed form to the appropriate division. Each rule citation requires an individual appeal and applicable fee.
- C. When submitting an appeal, the applicant or licensee must provide all evidence that it believes shows the rule was applied too stringently.
- D. The Department must consider the impact of an appeal on the health, safety, and wellbeing of the children in care.
- E. If the Department finds a licensing rule was too stringently applied in the appealed citation, it will issue the applicant or licensee a new report of inspection with that citation removed, which shall for all purposes supersede the original report of inspection.

2.117 MATERIALS WAIVER REQUESTS

- A. A child care center that is applied for or has been issued a license may request a waiver, pursuant to section 26.5-5-313, C.R.S., to use certain hazardous materials in its program or curriculum that would otherwise violate child care licensing rules.
- B. The child care center must submit a materials waiver request in writing on the state-prescribed form to the appropriate division. Each rule for which waiver is requested requires an individual request and applicable fee. If the request also seeks to remove a citation on a report of inspection involving the materials, it must be submitted within sixty (60) calendar days from the date of the report of inspection; otherwise, it may be submitted at any time.
- C. A child care center requesting a materials waiver must adopt a safety policy, included with the waiver request, that provides that:
 - 1. Early childhood teachers are trained in the use of the specific material(s) in a way that provides reasonable, developmental and age-appropriate safety provisions for children;
 - 2. Current training certificates are provided for each staff/classroom where the materials waiver is being sought. Training must be completed through nationally recognized programs related to the curriculum or philosophy, or through other Department-approved training, curriculum, or program validation; and,
 - 3. Parents are notified in writing regarding the use of the hazardous materials in the child care center. The notice must include all of the potential safety risks associated with the materials. The child care center must obtain signed parental consent forms acknowledging awareness of the risks in using the materials in the child care center prior to implementing use of the identified materials and prior to any newly enrolled children attending the center after the waiver is implemented.

- D. The Department must consider the impact of a materials waiver request on the health, safety, and wellbeing of the children in care.
- E. If the Department grants a materials waiver request, it will issue the child care center an official decision notification letter allowing the use of the requested materials according to the provided safety policy. The applicant or licensee must post the decision letter next to the child care license until the letter's expiration date. If there is no expiration date, the decision letter expires three (3) years from the date of the letter. If programs want to continue the waiver after the expiration date of three (3) years they must submit a new waiver request. The approved waiver must be in place before using materials that pose a risk to children.

2.118 ADMINISTRATIVE REVIEW AND APPEAL PANEL PROCEDURES

- A. The applicant or licensee must comply with all child care licensing rules and standards, including the rule(s) subject to an appeal or materials waiver request, until the applicant or licensee has received a written decision granting the appeal or waiver.
- B. The Department will receive, review, and schedule all appeals and materials waiver requests for review by the appeals review panel constituted under section 26.5-5-314(5), C.R.S.
 - 1. For hardship appeals, the Department may propose that the appeals review panel grant one or more appeals as part of a consent agenda, which the appeals review panel may approve with a single vote; except if any panel member objects to the consent agenda, the appeals on such agenda must be decided individually. The appeals review panel may not deny appeals by consent agenda.
 - 2. For emergency hardship appeals, the Department may administratively grant the appeal if it meets the definition of an emergency situation and the proposed alternate compliance plan adequately protects the health, safety, and wellbeing of children in care. If the Department does not administratively grant the emergency hardship appeal, it must schedule the appeal for review by the appeals review panel.
 - 3. For materials waiver requests, the Department will administratively grant or deny the waiver request within sixty (60) days after receipt of the request. If it denies a waiver, the Department must provide notice in its decision of the child care center's right to appeal the denial within forty-five (45) days and the center's right to meet with Department personnel as part of that appeal.
 - 4. If a child care center appeals the denial of a materials waiver request within forty-five (45) days of the denial, the Department will schedule the appeal for review by the appeals review panel within forty-five (45) days of the appeal. The entire appeal process must not last longer than one hundred (100) days from the date of the notice of denial.
- C. The appeals review panel will adopt a written decision recommending that the Department grant, deny, or grant with modifications an appeal or materials waiver request. The Department must send an official decision letter, including the written decision of the appeals review panel, to the applicant or licensee, within ten (10) days from the date of the appeals review panel meeting.
 - 1. For hardship appeals and materials waiver requests, the official decision letter must be posted next to the child care license until its expiration date. If there is no expiration date, the letter expires three (3) years from its date.

2. If the Department approves a hardship appeal or materials waiver request and the applicant or licensee wishes to make changes to the alternate compliance plan or safety policy submitted with the original appeal or request, the applicant or licensee must submit a new hardship appeal or materials waiver request.
3. If, after the Department approves a hardship appeal or materials waiver request, the applicant or licensee violates the terms and conditions described in the approved alternate compliance plan, approved safety policy, or official decision letter, the Department's approval will immediately be rescinded and considered null and void. For purposes of this provision, any injuries, accidents, or founded complaints or investigations related to the appealed or waived licensing rule constitute a violation.

D. Hearing requests

1. For hardship or stringency appeals, if an applicant or licensee is aggrieved by the decision of the Department, the applicant or licensee may request an administrative hearing pursuant to section 24-4-105, C.R.S. Written requests for an administrative hearing must be received in writing within thirty (30) calendar days from the date the applicant or licensee received the Department's decision. In all such administrative hearings, the applicant or licensee will bear the burden of proof by a preponderance of the evidence.
2. For appeals from denials of materials waiver requests, the Department's decision is a final agency decision subject to judicial review pursuant to section 24-4-106, C.R.S.

CIVIL RIGHTS

2.119 CIVIL RIGHTS

All facilities licensed under the Child Care Licensing Act are subject to the following federal laws and regulations: the non-discrimination provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. section 2000d *et seq.* (2022), and its implementing regulation, 45 C.F.R. Part 80 (2022); Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000e *et seq.* (2022), and its implementing regulation, 29 C.F.R. Part 1606 (2022); the Age Discrimination Act of 1975, 42 U.S.C. sections 6101-6017 (2022) and its implementing regulation, 45 C.F.R. Part 91 (2022); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 794 (2022), and its implementing regulation, 45 C.F.R. Part 84 (2022), all of which are hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available for public inspection and copying at the Colorado Department of Early Childhood at 710 S. Ash St., Bldg. C, Denver, CO 80246, during regular business hours. These regulations are also available at no cost at <http://www.ecfr.gov>.

All facilities licensed under the Child Care Licensing Act are also subject to Titles I through V of the Americans with Disabilities Act, 42 U.S.C. section 12101 *et seq.* (2022), and its implementing regulation, 29 C.F.R. Part 1630 (2022), which is hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available for public inspection and copying at The Colorado Department of Early Childhood at 710 S. Ash St., Bldg. C, Denver, CO 80246, during regular business hours. These regulations are also available at no cost at <http://www.ecfr.gov>.

Decisions related to the enrollment or dismissal of a child with a disability or chronic condition must be in compliance with the Americans with Disabilities Act. The facility must provide reasonable accommodations for the child with a disability who has special needs.

A lack of independent ambulation or the need for assistance in feeding, toileting, or dressing or in other areas of self-care cannot be used as sole criteria for enrollment or placement or denial of enrollment. Efforts must be made to accommodate the child's needs and to integrate the child with their peers who do not have disabilities.

BACKGROUND CHECKS

2.120 CHILD ABUSE OR NEGLECT FOR BACKGROUND AND EMPLOYMENT INQUIRIES

- A. An operator of a licensed facility, guest child care facility as defined in section 26.5-5-303(10), C.R.S., or an exempt family child care home provider must submit a request to determine if an operator, applicant for employment or current employee has been found responsible for a confirmed report of child abuse or neglect in the Department's automated system (Trails).
- B. A child abuse or neglect records check is not necessary regarding out-of-state employees of a children's resident camp or school-age child care center for a camp or center that is in operation for fewer than ninety (90) calendar days; out-of-state employees operating under this exemption must be supervised at all times by a staff member who has successfully completed all background checks.
- C. The Trails child abuse or neglect records request must be made on the state-prescribed form, accompanied by the required fee within the following required time frames:
 - 1. Child care centers (less than 24-hour care), school-age child care facilities, family child care homes, and qualified exempt providers must meet the following:
 - a. For all individuals whose activities involve the care or supervision of children or who have unsupervised access to children, requests must be submitted and successfully completed prior to caring for children or allowing unsupervised access to children.
 - 1) Individuals who have obtained a successfully completed CBI or FBI record check may care for children, for no longer than ninety (90) calendar days, while waiting for all other required background checks to be completed. The individual must be supervised at all times by an individual who has successfully completed all required background checks.
 - b. For each adult eighteen (18) years of age or older, residing in a licensed family child care home or a qualified exempt provider home, requests must be submitted at time of application.
 - c. For each adult eighteen (18) years of age or older, who begin residing in the home after care begins, requests must be submitted within five (5) calendar days of when he or she begins residing in the home, and these adults must not be allowed unsupervised access to children in care until all background checks have been successfully completed.
 - 2. All other requests except those specified in rule section 2.120(C)(1) must be submitted within ten (10) calendar days of the first day of employment for each employee or facility.
- D. The Trails child abuse and neglect records request must be made within ten (10) calendar days of the first day of employment for each employee or facility on the state-prescribed form, accompanied by the required fee.

- E. The Trails child abuse and neglect records request must be accompanied by the individual's written authorization to obtain such information from the State automated system, if applicable.
- F. The Department will inform the requesting party in writing of whether the individual has been confirmed to be a person responsible for an incident of child abuse or neglect.
 - 1. If the result of the inquiry is that the individual has been confirmed as responsible for an incident of child abuse or neglect, the Department must provide the requesting party with information regarding the date of the reported incident, the type of abuse or neglect with the severity level, and the county department that confirmed the report.
 - 2. If the result of the inquiry is that the individual has not been confirmed to be responsible for an incident of child abuse or neglect, the Department must notify the requesting party of this fact.
- G. The information provided by the Department must serve only as the basis for further investigation. The director or operator may inform an applicant or employee that the report from the Department's automated system was a factor in the director or operator's decision with regard to the applicant or employee's employment.
- H. Any person who willfully permits or who encourages the release of data or information related to child abuse or neglect contained in the Department's automated system to persons not permitted access to such information commits a Class 1 misdemeanor and may be punished as provided in section 18-1.3-501(1), C.R.S.
- I. Every five (5) years, all child abuse and neglect inquiry background checks must be renewed by resubmitting an inquiry form and current fee to the Department for processing. An updated clearance letter or verification of the submission of the inquiry form must be obtained before five (5) years from the date reflected on the current clearance letter.
- J. The results of the abuse and neglect inquiry must be maintained at the center, facility, or agency and must be available for review upon request by a Licensing Specialist.

2.121 CRIMINAL RECORD CHECK

- A. Criminal records checks are required under the following circumstances:
 - 1. In order to obtain any Colorado Bureau of Investigation (CBI) and/or Federal Bureau of Investigation (FBI) fingerprint criminal history records, each applicant listed below must have their fingerprints taken and processed at a vendor approved by CBI. Approved vendors may be located using the CBI website at Colorado.gov/cbi. Payment of the fee for the criminal record check is the responsibility of the individual being checked, identified as follows:
 - a. Each applicant for an original license for a center, facility, or agency and any adult eighteen (18) years of age or older who resides in the licensed center, facility or agency.
 - b. Each exempt family child care home provider who provides care for a child and each individual who provides care for a child who is related to the individual (referred collectively in this rule section as a "qualified provider"), if the child's care is funded in whole or in part with money received on the child's behalf from the publicly funded Colorado Child Care Assistance Program; and, any adult eighteen (18) years of age or older who resides with a qualified provider where the care is provided.

2. Each applicant for an original license for a Neighborhood Youth Organization must comply with the criminal background check requirements found at section 26.5-5-308, C.R.S.
 - a. The applicant must ascertain whether the person being investigated has been convicted of felony child abuse as defined in section 18-6-401, C.R.S., or a felony offense involving unlawful sexual behavior as defined in section 16-22-102(9), C.R.S. The Neighborhood Youth Organization must not hire a person as an employee or approve a person as a volunteer after confirmation of such a criminal history.
- B. Only in the case of a children's resident camp or school-age child care center, out-of-state persons employed in a temporary capacity for less than ninety (90) days are not required to be fingerprinted to obtain a criminal record check. Each person exempted from fingerprinting and being checked with the Department's automated system must sign a statement which affirmatively states that she/he has not been convicted of any charge of child abuse or neglect, unlawful sexual offense, or any felony. Out-of-state employees operating under this exemption must be supervised at all times by a staff member who has successfully completed all background checks.
 1. Prospective employers of such exempted persons must conduct reference checks of the prospective employees in order to verify previous work history and must conduct personal interviews with each such prospective employee.
- C. At the time the annual declaration of compliance (see rule section 2.107(B) is submitted to the Department, except as required per this rule section 2.121(C), a criminal record check is required only for adults living at the licensed facility who have not previously obtained one. Because the Colorado Bureau of Investigation (CBI) provides the Department with ongoing notification of arrests, owners, applicants, licensees, and persons who live in the licensed facility who have previously obtained a criminal record check, they are not required to obtain additional criminal record checks.
 1. Any resident of the family child care home or qualified exempt provider home turning eighteen (18) years of age shall complete the fingerprint process at an approved vendor fourteen (14) calendar days prior to their 18th birthday.
 2. The fingerprint process shall be completed at an approved vendor within five (5) calendar days of when any new resident, eighteen (18) years of age or older, begins residing in a family child care home or qualified exempt provider home. Adults must not be allowed unsupervised access to children in care until all background checks have been successfully completed.
- D. Each owner and employee sixteen (16) years of age or older of a facility or agency shall complete the fingerprint process at an approved vendor. Payment of the fee for the criminal record check is the responsibility of the individual being checked or the facility or agency. The results of the criminal record check, the CBI and/or Federal Bureau of Investigation (FBI) response letters, must be maintained at the home, center, facility, or agency and must be available for review upon request by a Licensing Specialist.
 1. When an individual leaves employment, the facility must submit to the Department a completed Notification of Name Removal form to request the removal of the individual's name from their facility license number in the CBI database.

2. Except as required per rule section 2.121(D)(3), any adult volunteer, working as a staff member to meet the required staff-child ratio or staff qualifications, who works fourteen (14) days (112 hours) or more in a calendar year shall complete the fingerprint process at an approved vendor. The results of the criminal record check must be maintained at the facility or agency and must be available for inspection by a Licensing Specialist. An employee operating as a volunteer to meet required staff-child ratio that does not have a completed background check on file must be supervised at all times by a qualified staff member who has successfully completed all background checks.
3. Criminal background check requests for volunteers, whose activities involve the care and supervision of children; or who have unsupervised access to children, must be submitted and successfully completed prior to caring for children or allowing the individual unsupervised access to children in child care centers (less than 24-hour care), school-age child care facilities, family child care homes, and qualified exempt provider homes.
4. Requests for a criminal record check, other than those required per this rule section 2.121(D)(4) must be completed at an approved vendor within five (5) working days of the day that the individual begins to work at the facility or agency.
 - a. Criminal background check requests must be successfully completed prior to an individual caring for children or allowing the individual unsupervised access to children in child care centers (less than 24-hour care), school-age child care facilities, family child care homes, and qualified exempt provider homes.
 - b. A National Sex Offender Registry check request must be submitted and successfully completed prior to an individual caring for children or allowing the individual unsupervised access to children in child care centers (less than 24-hour care), school-age child care facilities, family child care homes, and qualified exempt provider homes.
5. Every five (5) years, requests for FBI criminal record checks must be renewed by completing the fingerprint process at an approved vendor. An updated clearance letter or verification of the submission of the request must be obtained prior to five (5) years from the date reflected on the current clearance letter.
6. Facilities and agencies that hire individuals who have been convicted of any felony, except those listed in rule section 2.121(D)(7) below, unlawful sexual behavior, or any misdemeanor, the underlying factual basis of which has been found by the court on record to include an act of domestic violence must inform the Department of that hiring within fifteen (15) calendar days of receiving knowledge of the conviction.
7. A child care facility shall not employ or certify an individual who has been convicted of:
 - a. Child abuse, as defined in section 18-6-401, C.R.S.
 - b. A crime of violence, as defined in section 18-1.3-406(2), C.R.S.
 - c. An offense involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S.
 - d. A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.

- e. A felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a license or certificate.
 - f. A pattern of felony or misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of felony or misdemeanor" shall include consideration of sections 26.5-5-317 and 26.5-5-309(4), C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as:
 - 1) Three (3) or more convictions of third (3rd) degree assault as described in section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in section 18-6-800.3, C.R.S.;
 - 2) Five (5) misdemeanor convictions of any type, with at least two (2) convictions of third (3rd) degree assault as described in section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in section 18-6-800.3, C.R.S.; or
 - 3) Seven (7) misdemeanor convictions of any type.
 - g. Any offense in any other state, the elements of which are substantially similar to the elements listed in this rule section 2.121(D)(7).
- E. Payment of the fee for the FBI check is the responsibility of the individual who is obtaining the check or the facility or agency.
- F. The Department may deny, revoke, suspend, change to probationary or fine a child care facility if the applicant(s), an affiliate of the applicant, or any person living with or employed by the applicant has been found to violate any of the provisions set forth in section 26.5-5-317(2), C.R.S.
- G. The Department may deny an application for a child care facility license if the applicant is a relative affiliate of a licensee, as described in section 26.5-5-303(1.5)(d), C.R.S., of a child care facility, which is the subject of a previous negative licensing action or is the subject of a pending investigation by the Department that may result in a negative licensing action.
- H. For all CBI fingerprint-based criminal history record information checks required in this rule section 2.121, including those confirming a criminal history as well as those confirming no criminal history, the Department will conduct a comparison search on the State Judicial Department's court case management system and the sex offender registry of the Colorado Department of Public Safety. The court case management search must be based on name, date of birth, and address, in addition to any other available criminal history data that the Department deems appropriate, is used to determine the type of crime(s) for which a person was arrested or convicted and the disposition thereof. The sex offender registry search is used to determine whether the address of a licensee or prospective licensee is listed as belonging to a registered sex offender.

I. Portability of Background Checks

1. Where two or more individually licensed facilities are wholly owned, operated, and controlled by a common ownership group or school district, a fingerprint-based criminal history records check and a check of the records and reports of child abuse or neglect maintained by the Colorado Department of Human Services, completed for one of the licensed facilities of the common ownership group or school district pursuant to this rule section for whom a criminal records check is required under section 26.5-5-316, C.R.S., may satisfy the records check requirement for any other licensed facility under the same common ownership group or school district. A new fingerprint-based criminal history records check or new check of the records and reports of child abuse or neglect maintained by the Colorado Department of Human Services is not required of such an individual if the common ownership group or school district maintains a central records management system for employees of all its licensed facilities; takes action as required pursuant to section 26.5-5-309, C.R.S., when informed of the results of a fingerprint-based criminal history record check or check of the records and reports of child abuse or neglect maintained by the Colorado Department of Human Services that requires action pursuant to the Child Care Licensing Act; and informs the Department whenever an additional licensed facility comes under or is no longer under its ownership or control.
2. When a licensee is inspected pursuant to the Child Care Licensing Act and records regarding Colorado Bureau of Investigation (CBI) and/or Federal Bureau of Investigation (FBI) fingerprint-based criminal background checks, as well as records and reports of child abuse and neglect maintained by the Department, and the comparison search on the State Judicial Department's court case management system are held at a central records management system, the licensee must be afforded fourteen (14) calendar days to provide to the Department documentation necessary to verify that employees at the licensed facility have the required records related to fingerprint-based criminal background checks.

J. State-based background checks

1. The following background check requests must be submitted and successfully completed for each state an individual has resided in, in the past five years, prior to an individual caring for children or allowing the individual unsupervised access to children in child care centers (less than 24-hour care), school-age child care facilities, family child care homes, and qualified exempt provider homes:
 - a. State criminal history check
 - b. State sex offender registry check
 - c. State abuse and neglect registry check

ADMINISTRATION

2.122 FIRE INSPECTIONS, HEALTH INSPECTIONS, AND ZONING CODES

- A. Prior to the original license being issued, following the renovation of the facility that would affect the licensing of the facility and at least every two (2) years thereafter, all child care facilities except family child care homes and Neighborhood Youth Organizations must be inspected and obtain an approving inspection report from the local department of health or the Colorado Department of Public Health and Environment (CDPHE) and from the local fire department. These reports must be maintained at the facility and be available for review upon request by a Licensing Specialist.

- B. Prior to the original license being issued, all child care facilities, must submit to the Department written approval from the local zoning department approving operation of the facility. The approval must include the address of the child care facility and the ages and number of children to be served. The facility must also submit written zoning department approval to the Department any time there is a change to the license, including moving the facility to another location, increasing the capacity, or adding different ages of children.
- C. All child care facilities must operate in compliance with local planning and zoning requirements of the municipality, city and county, or county where the facility is located.

2.123 GOVERNING BODY

- A. The governing body must be identified by its legal name on the original application and annual continuation notice. The names and addresses of individuals who hold primary financial control and officers of the governing body must be fully disclosed to the Department.
- B. The governing body must demonstrate to the Department, upon request, that there is sufficient financial support to operate and maintain the facility in accordance with all general licensing rules defined in rule section 2.104, the rules regulating the specific type of facility, and the goals and objectives of the facility.

2.124 REPORTS

- A. Reporting for family child care homes, child care center, preschools, school-age child care, children's resident camps and Neighborhood Youth Organizations.
 - 1. Within twenty-four (24) hours, excluding weekends and holidays, of the occurrence of a critical incident at the facility or within twenty-four (24) hours of a child's return to the facility the licensee must report in writing to the Colorado Department of Early Childhood, Division of Early Learning, Licensing, and Administration the following critical incidents involving a child in the care of the facility or a staff member on duty:
 - a. Any fatality including the death of a child, staff member or volunteer as a result of an accident, suicide, assault, Sudden Unexpected Infant Death or any natural cause while at the facility, or while on authorized or unauthorized leave from the facility. This report must be completed in the online injury system within twenty-four (24) hours of an incident. If a provider is unable to access the online system, you must use the paper form, and submit the form to the Department within twenty-four (24) hours of the incident.
 - b. An injury to a child that requires medical attention by a health care professional or admission to a hospital, whether or not treatment was given. This report must be completed in the online injury system within 24 hours of an incident. If a provider is unable to access the online system, you must use the paper form, and submit the form to the Department within twenty-four (24) hours of the incident.

- c. A child or staff member with a reportable disease, as defined by the Colorado Department of Public Health and Environment at 6 CCR 1009-1, Appendix A (June 14, 2023), which is hereby incorporated by reference. No later editions or amendments are incorporated. These regulations are available for public inspection and copying at the Colorado Department of Early Childhood at 710 S. Ash St., Bldg. C, Denver, CO 80246, during regular business hours. These regulations are also available at no cost from the Colorado Department of Public Health and Environment at 4300 Cherry Creek Drive South, Denver, Colorado 80246 or at <https://www.coloradosos.gov/CCR/Welcome.do>. This report must be completed in the online injury system within twenty-four (24) hours of an incident. If a provider is unable to access the online system, you must use the paper form, and submit the form to the Department within twenty-four (24) hours of the incident.
 - d. Any allegation of physical, sexual, or emotional abuse or neglect to a child that results in a mandatory report to law enforcement or a county department of human or social services agency, or the child abuse reporting hotline as described in section 19-3-304, C.R.S.
 - e. Any fire that is responded to by a local fire department.
 - f. Any major threat to the security of a facility including, but not limited to, a threat to kidnap a child, riots, bomb threats, hostage situations, use of a weapon, drive by shootings, active shooter situations, lock downs, or lock out situations.
 - g. A drug or alcohol related incident involving a staff member or a child that requires outside medical or emergency response.
 - h. An assault which results in a report to law enforcement, as defined by sections 18-3-201 through 18-3-204, C.R.S., by a child upon a child; a child upon a staff member, volunteer or other adult; a staff member, volunteer, or other adult upon a child, other staff member or other adult.
 - i. A suicide attempt by a child at the facility which requires emergency intervention.
 - j. Felony theft or destruction of property by a child at the facility for which law enforcement is notified.
 - k. Any police or sheriff contact with the facility.
 - l. Any damage to the facility as a result of severe weather, fire, flood, mold or other natural disaster, or damage to the facility by any means that prevents the facility from normal operation.
2. Reports Made to the Department within Ten (10) Working Days.
- a. Any legal action against a facility, agency, owner, operator, or governing body that relates to or may impact the care or placement of children.
 - b. Change of director of facility or agency; and
 - c. Closure of the facility or agency.
3. Changes to a License Requiring Written Notification to the Department and Prior Department Approval.

- a. Proposed change in the number or age of children for whom the facility is licensed that differs from that authorized by the license.
- b. Changes in the physical facility or use of rooms for child care at a facility.
- c. Change of name of the facility or agency.
- d. Change of residents in the facility, not to include those residents placed in the facility by a county department.

2.125 REPORTING OF LICENSING COMPLAINTS

- A. Child care facilities must provide written information to parents or legal guardians at the time of admission and staff members at the time of employment on how to file a complaint concerning suspected licensing violations. For family child care homes, child care centers, preschools, school age child care, children's resident camps, and neighborhood youth organizations, the information must include the complete name, mailing address, and telephone number of the Colorado Department of Early Childhood.

2.126 REPORTING AND INVESTIGATING CHILD ABUSE

- A. A child care facility must require each staff member of the facility to read and sign a statement clearly defining child abuse and neglect pursuant to state law and outlining the staff member's personal responsibility to report all incidents of child abuse or neglect according to state law.
- B. Pursuant to section 19-3-304, C.R.S., any caregiver or staff member in a child care facility who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department of human or social services, the local law enforcement agency, or through the child abuse hotline reporting system as set forth in section 26-5-111, C.R.S.
- C. At the time of admission the facility must give the child's parent or guardian information that explains how to report suspected child abuse or child neglect.
- D. Investigation of Child Abuse
 - 1. Staff members of the county department of human or social services or a law enforcement agency that investigates an allegation of child abuse must be given the right to interview staff and children in care, and to obtain names, addresses, and telephone numbers of parents or legal guardians of children enrolled at the child care facility.
 - 2. An agency or facility must not interfere or refuse to cooperate with a child protection investigation.
 - 3. An agency or facility must not interview staff or children regarding the specific allegation(s) of child abuse or child neglect until the county department of human or social services and/or local law enforcement agency has had the opportunity to interview all appropriate individuals and completed their investigation.

4. Any report made to the law enforcement authorities or a county department of human or social services of an allegation of abuse of any child at the child care facility will result in the temporary suspension or reassignment of duties of the alleged perpetrator to remove the risk of harm to the child/children if there is reasonable cause to believe that the life or health of the victim or other children at the facility is in imminent danger due to continued contact between the alleged perpetrator and the child/children at the facility. Such suspension or reassignment of duties will remain in effect pending the outcome of the investigation by the appropriate authorities.

2.127 POSTING LICENSING INFORMATION

- A. At all times during the operating hours of the facility, the facility/agency must post the current child care license in a prominent and conspicuous location easily observable by those entering the child care facility.
- B. At all times during the operating hours of a family child care home, child care center, school-age child care center, or children's resident camp, the facility must post its most recent licensing inspection report or a notice as to where the report may be reviewed at the facility by the parent or legal guardian of a child or their designee.
- C. At all times during the operating hours of a family child care home, child care center, preschool, school-age child care center, children's resident camp and Neighborhood Youth Organization, the facility must post in a prominent and conspicuous location information regarding the procedures for filing a complaint with the Colorado Department of Early Childhood, including the telephone number and mailing address.
- D. All facilities, except family child care homes must post in every room of the child care facility, excluding bedrooms and living areas, the license capacity of the room and the staff-to-child ratio required by regulation to be maintained for the age of children cared for in the room.

RECORDS

2.128 CONFIDENTIALITY OF RECORDS

- A. The records concerning the licensing of facilities and agencies are open to the public except as provided below.
- B. Anyone wishing to review a record must make a written request to the Department.
- C. The following documents are confidential and not available for review:
 1. Information identifying children or their families;
 2. Scholastic records, health reports, social or psychological reports. These are available only to the person to whom the records pertain or his or her legal guardian;
 3. Personal references requested by the State Department; and
 4. Reports and records received from other agencies, including police and child protection investigation reports.

2.129 MAINTENANCE AND CONFIDENTIALITY OF CHILD RECORDS

- A. Each licensed child care facility shall maintain records as required by the Department pertaining to the admission, progress, health, and discharge of children in care at the facility.

1. These records shall be made available to the state department upon request.
2. These records shall be maintained and stored in a confidential format.
3. All information regarding children and their families shall be kept confidential.

2.130 ACCESSIBILITY OF RECORDS

- A. During hours of operation, a facility must allow access to parents and guardians having legal custody of a child in care to those areas of the facility that are licensed for child care.
- B. During the hours of operation, the facility's most recent licensing, fire department, and health department inspection reports must be accessible to parents and legal guardians of children in care or their designee and to parents and legal guardians considering placing their children in care at the facility.
- C. A facility does not violate this rule section when it restricts access by a parent, guardian or their designee to a child during an emergency as instructed by local authorities.

2.131 PERJURY

- A. Application Forms for Employment with a Child Care Provider
 1. Every application used in the State of Colorado for employment with a child care provider or facility, must include the following notice to the applicant: "Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in section 18-8-503, C.R.S., and upon conviction thereof, shall be punished accordingly."

GENERAL HEALTH RULES

2.132 SMOKING AND TOBACCO PRODUCTS

Pursuant to sections 26.5-5-314(2)(e), 25-14-103.5, and 18-13-121, C.R.S., tobacco and nicotine products are prohibited by law from use in and around licensed child care facilities.

- A. Smoking and tobacco product use is prohibited at all times while transporting children on field trips and excursions.
- B. Smoking and tobacco product use is not prohibited in family child care homes during non-business hours.

EMERGENCY AND DISASTER PREPAREDNESS FOR CHILD CARE CENTERS, FAMILY CHILD CARE HOMES, SCHOOL-AGE PROGRAMS, AND CHILDREN'S RESIDENT CAMP

2.133 STAFF TRAINING

- A. Prior to caring for children, all staff must complete a Department-approved training in emergency and disaster preparedness: Evacuation, Shelter in Place, Lockdown, and Active Shooter on Premises Plans for Children in Care. For seasonal children's resident camp programs, operating no more than 90 days per calendar year, at least one on site director must be trained in the Department approved training.
- B. Each staff member of the facility must be trained in fire safety and the use of available fire extinguishers and fire alarms.

2.134 EVACUATION, SHELTER IN PLACE, LOCKDOWN, AND ACTIVE SHOOTER ON PREMISES PLANS FOR CHILDREN IN CARE

- A. All child care providers must have a written plan for: evacuating and safely moving children to an alternate site; lockdown; shelter in place; and an active shooter on premises. The plan must include provisions for multiple types of hazards, such as floods, fires, tornadoes, and active shooter situations. The plan must be updated as changes occur and reviewed annually. All employees of a child care provider must also be annually trained on the provider's written plan prior to caring for children, and retrained as changes occur.
1. "Lockdown drill" means a drill in which the occupants of a building are restricted to the interior of the building and the building is secured.
 2. "Shelter-in-place drill" means a drill in which the occupants of a building seek shelter in the building from an external threat.
 3. "Active shooter on premises drill" means a drill to address an individual actively engaged in killing or attempting to kill people in a confined space or other populated area.

2.135 REUNITING FAMILIES AFTER AN EMERGENCY OR DISASTER.

- A. All child care providers must have a written plan for emergency notification of parents and reunification of families following an emergency or disaster.

2.136 CHILDREN WITH DISABILITIES AND THOSE WITH ACCESS AND FUNCTIONAL NEEDS

- A. All child care providers must have a written plan that accounts for children with disabilities as defined in 42 U.S.C. Section 12102 and those with access and functional needs as defined in the State Emergency Operations Plan (2019) (SEOP). The State Emergency Operations Plan (SEOP) is hereby incorporated by reference. No later editions or amendments are incorporated. The State Emergency Operations Plan (SEOP) is available for public inspection and copying at the Colorado Department of Early Childhood at 710 S. Ash St., Bldg. C, Denver, CO 80246 during regular business hours. The State Emergency Operations Plan (SEOP) is also available for no cost from the Colorado Division of Homeland Security & Emergency Management at <https://www.colorado.gov/pacific/dhsem/state-eop>. The plan must include a specific requirement indicating how all children with special needs will be included in the emergency plan.

2.137 CONTINUITY OF OPERATIONS AFTER A DISASTER.

- A. All child care providers must have a written plan for continuity of operations in the aftermath of an emergency or disaster. Components of the plan must include:
1. Responsibility for essential staffing needs and predetermined roles during and after the emergency or disaster;
 2. Procedure for backing up or retrieving staff and children's files; and
 3. Procedure for protecting confidential and financial records.
- B. During an emergency or other significant, unexpected event, a child care facility may request an emergency waiver to move to a temporary location or exceed capacity, on a temporary basis, to accept children and families from affected areas.

2.138 FIRE, NATURAL DISASTER, AND EMERGENCY DRILLS.

- A. Emergency drills, lockdown and active shooter on premises drills must be held at least quarterly but often enough so that all occupants are familiar with the drill procedure and their conduct during a drill is a matter of established routine. Fire drills must be held monthly and be consistent with local fire department procedures. Tornado drills must be held monthly from March to October. A record of all emergency drills held over the past twelve (12) months must be maintained by the facility or center, including date and time of drill, number of adults and children participating, and the amount of time taken to evacuate.
- B. Drills must be held at unexpected times and under varying conditions to simulate the conditions of an actual fire or other emergency event.
- C. Drills must emphasize orderly evacuation under proper discipline rather than speed. No running should be permitted.
- D. Drills must include suitable procedures for ensuring that all persons in the building, or all persons subject to the drill, participate.
- E. Fire alarm equipment must be used regularly in the conduct of fire exit drills. Hand bells or other alarm emanating devices may be used in lieu of fire alarm equipment if use of fire alarm equipment is not feasible including, but not limited to, facilities operating in buildings where multiple unrelated tenants share a common fire alarm system.
- F. If appropriate to the location of the facility, forest fire, and/or flood drills must be held often enough that all occupants are familiar with the drill procedure and their conduct during a drill is a matter of established routine. A record of drills held over the past twelve (12) months must be maintained by the facility.
- G. For children's resident camps and school-age day camps, at least one fire drill must be held within twenty-four (24) hours of the commencement of each camp session. The dates of the fire drills must be recorded in the camp office.
- H. There must be a carbon monoxide detector installed in the area of the child care facility as recommended by the manufacturer and in the area where children sleep.

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