

**CHAPTER 75-03-11.1**  
**SCHOOL-AGE CHILD CARE PROGRAM EARLY CHILDHOOD SERVICES**

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**75-03-11.1-01. [Reserved]**

**75-03-11.1-02. [Reserved]**

**75-03-11.1-03. Definitions.**

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. "Application" means all forms the department requires when applying or reapplying for a license.
2. "Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
3. "Attendance" means the total number of children present at any one time at the facility.
4. "Child with special needs" means a child whose medical providers have determined that the child has or is at risk of chronic physical, developmental, behavioral, or emotional conditions.
5. "Director" means an individual responsible for overseeing the general operation of, and implementing the policies and procedures of, the school-age child care program.
6. "Emergency designee" means an individual designated by the school-age child care program to be a backup staff member for emergency assistance or to provide substitute care.
7. "Medication" means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
8. "Operator" means the individual or governing board who has the legal responsibility and the administrative authority for the operations of a school-age child care program.
9. "School-age child care program" or "program" means a program licensed to provide early childhood services exclusively to school-age children before and after school, during school holidays, and during summer vacation.
10. "Substitute staff" means staff who work less than thirty-two hours per month and are not regularly scheduled for work.
11. "Supervisor" means any person with the responsibility for organizing and supervising daily program activities.
12. "Volunteer" means an individual who visits or provides an unpaid service or visit, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02

**75-03-11.1-04. Effect of licensing and display of license.**

1. The issuance of a license to operate a school-age child care program is evidence of compliance with the standards contained in this chapter and North Dakota Century Code chapter 50-11.1 at the time of licensure.
2. The current license must be displayed prominently in the premises to which it applies.
3. The license must specify the maximum number of children for whom the school-age child care program may provide care. The school-age child care program may not admit a greater number of children than the license allows.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-03, 50-11.1-04

### **75-03-11.1-05. Denial or revocation of license.**

1. The department may deny or revoke a license under the terms and conditions of North Dakota Century Code sections 50-11.1-04, 50-11.1-06.2, 50-11.1-09, and 50-11.1-10.
2. If an operator appeals an action to revoke a license, the operator may continue the operation of the school-age child care program pending the final administrative determination or until the license expires, whichever occurs first; provided, however, that this subsection does not limit the actions the department may take pursuant to North Dakota Century Code sections 50-11.1-07.8 and 50-11.1-12.
3. The department may revoke a license to operate a school-age child care program without first issuing a correction order or simultaneously with a suspension if continued operation would jeopardize the health and safety of the children present or would violate North Dakota Century Code section 50-11.1-09.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09, 50-11.1-10

### **75-03-11.1-06. Provisional license.**

1. The department may issue a provisional license for the operation of a school-age child care program although the applicant or operator fails to, or is unable to, comply with all applicable standards and rules of the department.
2. A provisional license must:
  - a. State that the operator has failed to comply with all applicable standards and regulations of the department;
  - b. State the items of noncompliance;
  - c. Expire at a set date, not to exceed six months from the date of issuance; and
  - d. Be exchanged for an unrestricted license, which bears an expiration date of one year from the date of issuance of the provisional license, after the applicant or operator demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
3. The department may issue a provisional license only to an applicant or operator who has waived, in writing:
  - a. The right to a written statement of charges as to the reasons for the denial of an unrestricted license; and
  - b. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted license, either at the time of application or during the period of operation under a provisional license.
4. Any provisional license issued must be accompanied by a written statement of violations signed by the department and must be acknowledged in writing by the applicant or operator.
5. Subject to the exceptions contained in this section, a provisional license entitles the operator to all rights and privileges afforded the operator of an unrestricted license.

6. The department may not issue a provisional license if the school-age child care program is not in compliance with section 75-03-11.1-17 or 75-03-11.1-18.
7. The operator shall display prominently the provisional license and agreement.
8. The operator shall provide parents written notice that the school-age child care program is operating on a provisional license and the basis for the provisional license.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-03, 50-11.1-04, 50-11.1-08

#### **75-03-11.1-06.1. Restricted license.**

The department may issue a restricted license:

1. To restrict an individual's presence when children are in care;
2. To restrict a pet or animal from areas accessible to children; or
3. When necessary to inform parents that the operator is licensed, but is restricted to operating in certain rooms or floors of the facility or restricted from using specific outdoor space of the facility.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04

#### **75-03-11.1-07. Application for and nontransferability of school-age child care program license.**

1. An applicant shall submit an application for a license to the department or its authorized agent. Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and is valid only for the premises indicated on the license.
3. An application for a new license must be filed upon change of operator or location.
4. The department may not issue more than one in-home registration, self-declaration, or license per residence. A residence means real property that is typically used as a single family dwelling.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; July 1, 2020; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

#### **75-03-11.1-08. Duties of school-age child care program operator.**

The operator of a school-age child care program is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator:

1. Shall designate a qualified director, shall delegate appropriate duties to the director, and shall:

- a. Ensure that the director is present at the school-age child care program at least sixty percent of the time that the program is open. If the operator has legal responsibility and the administrative authority over two or more school-age child care programs, a director shared between two or more school-age child care programs shall be present a combined total of sixty percent of the school-age programs' hours of operation.
  - b. Ensure that when the director and designated acting director are not present at the program, a person who meets the qualifications of a supervisor is on duty.
  - c. Ensure that the individual designated as an acting director for longer than thirty consecutive days meets the qualifications of a school-age child care program director.
  - d. Ensure that if the operator of the school-age child care program is also the director, that the operator meets the qualifications of a director set forth in section 75-03-11.1-08.1;
2. Shall apply for a license for the school-age child care program;
  3. Shall provide an environment that is physically and socially adequate for children;
  4. Shall notify the department or its authorized agent of any major changes in the operation of, or in the ownership or governing body of the school-age child care program, including staff member changes;
  5. Shall ensure that the school-age child care program carries liability insurance against bodily injury and property damage;
  6. Shall formulate written policies and procedures for the operation of the school-age child care program relating to:
    - a. Hiring practices and personnel policies for all staff members;
    - b. Methods for obtaining references and employment histories of staff members;
    - c. Methods of conducting staff member performance evaluations;
    - d. Children's activities, care, and enrollment;
    - e. The responsibilities and rights of staff members and parents;
    - f. An explanation of how accidents and illnesses may be handled;
    - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
    - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
    - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
    - j. Procedure for accountability when a child fails to arrive as expected at the school-age child care program; and
    - k. Transportation procedures, if the operator provides transportation;
  7. Shall maintain enrollment, attendance, health, and other required records;
  8. May select an emergency designee;

9. Shall maintain necessary information to verify staff member qualifications and to ensure safe care for the children in the school-age child care program;
10. Shall inform parents of enrolled children and other interested parties about the school-age child care program's goals, policies, procedures, and content of the program;
11. Shall advise parents of enrolled children of the school-age child care program's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director;
12. Shall provide parents of enrolled children information regarding the effective date, duration, scope, and impact of any significant changes in the school-age child care program's services;
13. Shall ensure that the school-age child care program is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
14. Shall ensure that the school-age child care program has sufficient qualified staff members available to substitute for regularly assigned staff who are sick, on leave, or who are otherwise unable to be on duty;
15. Shall ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
16. Shall provide parents with unlimited access and opportunities for parents to observe their children while in care and provide parents with regular opportunities to meet with staff members responsible for caring for or teaching children before and during enrollment to discuss their children's needs. Providing unlimited access does not prohibit a school-age child care program from locking its doors when children are in care;
17. Shall provide parents, upon request, with progress reports on their children;
18. Shall ensure that provisions are made for safe arrival and departure of all children, and a system is developed to ensure that children are released only as authorized by the parent;
19. Shall develop a system to ensure the safety of children whose parents have agreed to allow them to leave the program without supervision, which must include, at a minimum:
  - a. Written permission from the parents allowing a child to leave the program without supervision; and
  - b. Consistent sign-out procedures for released children;
20. Shall report immediately, as a mandated reporter, any suspected child abuse or neglect as required by North Dakota Century Code chapter 50-25.1;
21. Shall meet the qualifications of the director set forth in section 75-03-11.1-08.1 if the operator of the school-age child care program is also the director;
22. Shall ensure that staff members responsible for caring for or teaching children under the age of eighteen are directly supervised by an adult staff member; and
23. Shall report to the department or its authorized agent within twenty-four hours:
  - a. The death or serious accident or illness requiring hospitalization of a child while in the care of the program or attributable to care received in the program;

- b. An injury to any child which occurs while the child is in the care of the program and which requires medical treatment;
  - c. Poisonings or errors in the administration of medication;
  - d. Closures or relocations of child care programs due to emergencies; and
  - e. Fire that occurs or explosions that occur in or on the premises of the school-age child care program.
24. Shall ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**75-03-11.1-08.1. Minimum qualifications of a school-age child care program director.**

A director shall:

- 1. Be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care;
- 2. Possess knowledge and experience in management and interpersonal relationships;
- 3. Hold at least one of the following qualifications, in addition to those set out in subsection 1:
  - a. A bachelor's degree in the field of early childhood education, child development, or elementary education;
  - b. A bachelor's degree with at least six months of experience in a school-age child care program or similar setting and one of the following:
    - (1) Eight semester hours or twelve quarter hours of department-approved early childhood education, child development, or elementary education;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;
  - c. An associate degree in the field of early childhood education or child development with at least six months of experience in a school-age child care program or similar setting;
  - d. An associate's degree with at least one year of experience in a school-age child care program and one of the following:
    - (1) Eight semester hours or twelve quarter hours of department-approved early childhood education, child development, or elementary education;
    - (2) One hundred twenty hours of department-approved early childhood training; or
    - (3) A director's credential approved by the department;
  - e. A current certification as a child development associate or similar status with at least one year of experience in a school-age child care program or similar setting;

- f. Certification from a Montessori teacher training program with one year of experience in a Montessori school, school-age child care program, or similar setting, and at least one of the following:
  - (1) Eight semester hours or twelve quarter hours of department-approved child development, early childhood education, or elementary education;
  - (2) One hundred twenty hours of department-approved early childhood training; or
  - (3) A director's credential approved by the department; and
4. Certify annual completion of a minimum of thirteen hours of department-approved training related to child care. The same training courses may be counted toward licensing annual requirements only if three years has passed since the last completion date of that training course.

**History:** Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

#### **75-03-11.1-08.2. Duties of school-age child care program director.**

The school-age child care program director, in collaboration with the school-age child care program operator, shall:

1. Plan, supervise, and conduct daily activities in the school-age child care program;
2. Maintain enrollment, health, attendance, and other required records;
3. Screen, schedule, supervise, and be responsible for the conduct of staff members while the staff members are on duty;
4. Designate a supervisor for each school-age child care program site; and
5. Perform other duties as delegated by the operator.

**History:** Effective January 1, 1999; amended effective January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

#### **75-03-11.1-08.3. Minimum qualifications of school-age child care program supervisor.**

1. A supervisor shall hold at least one of the following qualifications:
  - a. An associate degree in the field of early childhood development or elementary education, or a secondary degree with an emphasis on middle school or junior high training;
  - b. Current certification as a child development associate;
  - c. Certification from a Montessori teacher training program; or
  - d. A high school diploma or high school equivalency with at least one year of experience in a child care program or similar setting.
2. The supervisor shall demonstrate the ability to work with children and the willingness to increase skills and competence through experience, training, and supervision.
3. The supervisor shall be an adult of good physical, emotional, social, and cognitive health, and shall use mature judgment when making decisions impacting the quality of child care. A



supervisor must possess knowledge and experience in building and maintaining interpersonal relationships.

4. The supervisor shall certify annual completion of a minimum of thirteen hours of department-approved training related to child care annually. The same training courses may be counted toward licensing annual requirements only if three years has passed since the last completion date of that training course.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2014; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**75-03-11.1-08.4. Minimum qualifications for all school-age child care program staff members responsible for caring for or teaching children.**

1. Each staff member shall be at least sixteen years of age, shall be an individual of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care.
2. a. Each staff member shall certify the staff member's own annual completion of department-approved training related to child care as set forth below:
  - (1) Staff members working more than thirty hours per week shall certify a minimum of thirteen hours of department-approved training annually;
  - (2) Staff members working fewer than thirty hours and at least twenty hours per week shall certify a minimum of eleven hours of department-approved training annually;
  - (3) Staff members working fewer than twenty hours and at least ten hours per week shall certify a minimum of nine hours of department-approved training annually; and
  - (4) Staff members working fewer than ten hours per week shall certify a minimum of seven hours of department-approved training annually.
- b. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course.
3. All staff members responsible for caring for or teaching children shall certify completion of a department-approved basic child care course within ninety days of employment.
4. The director shall provide newly hired staff members with responsibilities for caring for or teaching children a two-day onsite orientation to the child care program during the first week of employment. The director shall document orientation of each staff member on an orientation certification form. The orientation must address:
  - a. Emergency health, fire, and safety procedures for the school-age child care program;
  - b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children and staff members;
  - c. Any special health or nutrition problems of the children assigned to the staff member;
  - d. Any special needs of the children assigned to the staff member;
  - e. The planned program of activities at the school-age child care program;
  - f. Rules and policies of the school-age child care program; and

- g. Child abuse and neglect reporting laws.
- 5. Staff members shall ensure safe care for children under supervision. For the school-age child, supervision means a staff member responsible for caring for or teaching children being available for assistance and care so that the child's health and safety are protected.
- 6. A staff member may not place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health.
- 7. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department.
- 8. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in first aid by a program approved by the department.

**History:** Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**75-03-11.1-08.5. Minimum qualifications for volunteers.**

If a volunteer is providing child care, the volunteer shall meet the qualifications of a staff member responsible for caring for or teaching children and shall receive orientation for all assigned tasks.

**History:** Effective January 1, 1999; amended effective January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**75-03-11.1-08.6. Duties of school-age child care program supervisor.**

The supervisor, in collaboration with the director, shall:

- 1. Communicate with parents about the individual needs of their children, including any special concerns the parents may have;
- 2. Plan daily and weekly schedules of activities and make those plans available to parents; and
- 3. Ensure that program policies are adhered to in the classes and groups assigned to the supervisor.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**75-03-11.1-09. Staffing and group size requirements.**

- 1. The number of staff members responsible for caring for or teaching children and their responsibilities must reflect program requirements and individual differences in the needs of the children enrolled, and may permit mixed groups, if necessary. Service personnel engaged in housekeeping and food preparation may not be counted in the child to staff ratio for periods of time when they are engaged in housekeeping or food preparation. The operator shall ensure that a child with special needs requiring more than usual care and supervision has

adequate care and supervision without adversely affecting care provided to the other children in the school-age child care program.

2. Staffing requirements and maximum group size.
  - a. The operator of a school-age child care program shall ensure that the program is sufficiently staffed at all times to meet the child to staff ratios for children in attendance, and that no more children than the licensed capacity are served at one time. One staff member may care for or teach a maximum of twenty children, with a maximum group size of forty children.
  - b. A staff member may be counted in the required ratio only for the time the staff member is directly responsible for a group of children.
  - c. The director shall ensure that staff members responsible for caring for or teaching children and children under the age of eighteen are supervised by an adult at all times while in the school-age child care program.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02.1, 50-11.1-04, 50-11.1-08

**75-03-11.1-10. [Reserved]**

**75-03-11.1-11. [Reserved]**

**75-03-11.1-12. [Reserved]**

**75-03-11.1-13. Minimum health requirements for all applicants, operators, and staff members.**

1. If the physical, cognitive, social, or emotional health capabilities of an applicant, operator, or staff member appear questionable, the department may require the individual to present evidence of the individual's ability to provide the required care based on a formal evaluation. The department is not responsible for the costs of any required evaluation.
2. A staff member may not use or be under the influence of any illegal drugs or alcoholic beverages while caring for children.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**75-03-11.1-14. [Reserved]**

**75-03-11.1-15. Minimum standards for provision of transportation.**

1. The operator shall establish a written policy governing the transportation of children to and from the school-age child care program, if the school-age child care program provides transportation. This policy must specify who is to provide transportation and how parental

permission is to be obtained for activities which occur outside the school-age child care program. If the school-age child care program provides transportation, the operator shall inform the parents of any insurance coverage on the vehicles. Any vehicle used for transporting children must be in safe operating condition and in compliance with state and local laws.

2. When transportation is provided by a school-age child care program, children must be protected by adequate staff member supervision, safety precautions, and liability insurance.
  - a. Staffing requirements must be maintained to assure the safety of the children while being transported.
  - b. A child may not be left unattended in a vehicle.
3. Children must be instructed in safe transportation conduct as appropriate to their age and stage of development.
4. The driver must be at least eighteen years of age and shall comply with all relevant federal, state, and local laws, including child restraint system laws.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

#### **75-03-11.1-16. Minimum emergency evacuation and disaster plan.**

1. The operator shall establish and post an emergency disaster plan for the safety of the children in care. The operator shall develop written disaster plans in cooperation with local emergency management agencies. The plan must include:
  - a. Emergency procedures, including the availability of emergency food, water, and first-aid supplies;
  - b. Procedures for evacuation, relocation, shelter-in-place, and lockdown;
  - c. Communications and reunification with families;
  - d. Continuity of operations; and
  - e. Accommodations for infants, toddlers, children with disabilities, and children with chronic medical conditions.
2. Fire and emergency evacuation drills must be performed monthly.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2018; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

#### **75-03-11.1-17. Fire inspections.**

1. The operator shall ensure that annual fire inspections are completed by local or state fire authorities. The operator shall correct or have corrected any code violations noted by the fire inspector and shall file reports of the inspections and any corrections with the department or its authorized agent.

2. The operator shall ensure that the school-age child care program is equipped with sufficient smoke detectors and fire extinguishers, as recommended by the local fire department or state fire marshal.
3. The operator shall ensure that the school-age child care program provides:
  - a. The fire inspector's written statement of compliance with the local fire code, if there is one; or
  - b. The fire inspector's written statement that the school-age child care program has been inspected and that the inspector is satisfied that the school-age child care program meets minimum fire and safety standards.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

#### **75-03-11.1-18. Minimum sanitation and safety requirements.**

1. In school-age child care programs where meals are prepared, the operator shall ensure that the state department of health conducts an annual inspection. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the department or its authorized agent. If only snacks or occasional cooking projects are prepared, a health inspection is not required.
2. The operator shall ensure that the school-age child care program's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and the staff members.
3. The operator shall ensure that the school-age child care program ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
4. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
5. The operator shall ensure that garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The operator shall keep indoor garbage in covered containers. The operator may allow paper waste to be kept in open waste containers.
6. The operator shall ensure that wading pools used by the school-age child care program are strictly supervised and are emptied, cleaned, and sanitized daily.
7. The operator shall ensure that all swimming pools are approved annually by the local health unit.
8. Aquatic activities:
  - a. The operator shall have policies which ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the program

may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.

- b. The operator may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
9. The operator shall ensure that all school-age child care program buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chipped condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the department of environmental quality.
10. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys are kept clean and in a sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
11. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.
12. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
13. If the school-age child care program is providing care to children in wheelchairs, the operator shall provide doors of sufficient width and construction to accommodate any children in wheelchairs who are receiving care.
14. The operator shall ensure that exit doorways and pathways are not blocked.
15. The operator shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
16. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
17. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by local fire authorities. During the heating season when the school-age child care program is occupied by children, the room temperature must not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
18. The operator shall ensure that school-age child care program bathroom sinks, toilets, tables, chairs, and floors are cleaned daily.
19. The operator shall ensure that personal items including combs and toothbrushes are individually identified and stored in a sanitary manner.
20. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids.

Hand soap and paper towels, sanitary hand-drying equipment, or single-use or individually designated cloth towels must be available at each sink.

21. The operator shall ensure that potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, poisonous plants, and open stairways are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
22. Water supply standards:
  - a. The operator shall ensure that the school-age child care program has a drinking supply from an approved community water system or from a source tested and approved annually by the department of environmental quality;
  - b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking cups; and
  - c. The school-age child care program must have hot and cold running water.
23. Toilet and sink facilities:
  - a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members;
  - b. Toilets must be located in rooms separate from those used for cooking, eating, and sleeping;
  - c. A minimum of one flush toilet must be provided for each fifteen children;
  - d. The operator shall provide separate restrooms for boys and girls and shall ensure that partitions are installed to separate toilets in these restrooms;
  - e. The operator shall provide at least one handwashing sink per toilet room facility; and
  - f. The operator shall provide safe step stools to allow children to use standard-size toilets and sinks or the operator shall ensure the availability of child-size toilets and sinks.
24. The operator of a school-age child care program not on a municipal or public water supply or wastewater disposal system shall ensure the school-age child care program's sewage and wastewater system has been approved by the department of environmental quality.
25. Laundry:
  - a. If the school-age child care program provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation;
  - b. The operator shall ensure that soiled linens are placed in closed containers or hampers during storage and transportation;
  - c. The operator shall ensure that in all new or extensively remodeled school-age child care programs, the handling, sorting, or washing of soiled linens or blankets takes place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas;

- d. The operator shall ensure that in an existing school-age child care program where physical separation of laundry and kitchen areas is impractical, procedures are developed to prohibit the washing or transportation of laundry while meals are being prepared or served;
  - e. The operator shall ensure that sorting of laundry is not allowed in food preparation, serving, or kitchen areas;
  - f. If the school-age child care program provides laundry service for common use linens, towels, or blankets, or if different children's clothing, towels, or blankets are laundered together, the water temperature must be greater than one hundred forty degrees Fahrenheit [60 degrees Celsius]; and
  - g. The operator shall ensure that if the water temperature is less than one hundred forty degrees Fahrenheit [60 degrees Celsius], bleach or sanitizer is used in the laundry process during the rinse cycle or the program shall use a clothes dryer that reaches a temperature of at least one hundred forty degrees Fahrenheit [60 degrees Celsius].
26. The operator shall take steps to keep the school-age child care program free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the school-age child care program. Insect repellent may be applied outdoors on children with written parental permission.
27. Pets and animals:
- a. The operator shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
  - b. The operator shall ensure that animals are maintained in good health and appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
  - c. The operator shall ensure parents are aware of the presence of pets and animals in the school-age child care program.
  - d. The operator shall notify parents immediately if a child is bitten or scratched and skin is broken.
  - e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall remove the pet or animal immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
  - f. The operator shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The operator shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
  - g. The operator shall ensure that indoor and outdoor areas accessible to children are free of animal excrement.



- h. The operator shall ensure that the school-age child care program is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.
28. The operator shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the operator shall ensure:
- a. Pillows and mattresses have clean coverings.
  - b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
  - c. If beds, cots, mats, or cribs are used by different children, sheets and pillowcases are laundered before use by other children.
  - d. Cots, mats, or cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children;
  - e. That cots, mats, and cribs are single occupancy.
  - f. Each bed, cot, or mat has sufficient blankets available.
  - g. That aisles between beds, cots, mats, or cribs are a minimum space of two feet [60.96 centimeters] and are kept free of all obstructions while beds, cots, mats, or cribs are occupied.
  - h. Provide separate storage for personal blankets or coverings.
  - i. That mattresses and sheets are properly fitted.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

#### **75-03-11.1-19. Minimum requirements regarding space and lighting.**

1. Each school-age child care program shall provide adequate indoor and outdoor space for the daily activities of all children within the licensed capacity of the school-age child care program.
2. Adequate space must include a minimum of thirty-five square feet [3.25 square meters] of space per child indoors and a minimum of seventy-five square feet [6.97 square meters] of play space per child outdoors. Indoor space considered must exclude bathrooms, pantries, passageways leading to outdoor exits, areas occupied by furniture or appliances that children should not play on or under, and space children are not permitted to occupy. If available outdoor play space does not accommodate the licensed capacity of the school-age child care program at one time, the total appropriate outdoor space available must not be less than what is required for the number of children in the largest class or group of the program multiplied by seventy-five square feet [6.96 square meters]. Operators who provide seventy-five square feet [6.97 square meters] of separate indoor recreation space per child for the largest class or group are exempt from the outdoor space requirement. The operator shall prepare a written schedule of outdoor or separate indoor recreation space playtime which limits use of the play area to its capacity, giving every child an opportunity to play daily.
3. The school-age child care program must be properly lighted. If the lighting of the school-age child care program appears questionable, the department may require the operator to obtain

additional lights so that a minimum of sixty-five foot-candles of light is used in the areas generally used for children's activities.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2014.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**75-03-11.1-20. Program requirements.**

1. The school-age child care program operator shall have a plan of daily individual or small group activities appropriate to the ages and needs of the children in the school-age child care program. The plan must include activities which foster sound social, cognitive, emotional, and physical growth, and the plan must be developed with consideration of parental input. A written daily routine including mealtimes, rest times, planned developmentally appropriate activities, free play, and outside time must be available to parents. The daily routine must be flexible enough to allow for spontaneous activity as appropriate.
2. The plan must be flexible and subject to modification for individual child differences.
3. The plan must be written and varied to promote the physical and emotional well-being of the children, to encourage the acquisition of information and knowledge, and to foster the development of language skills, concepts, self-discipline, and problem-solving activities. The plan must describe how the activities planned meet the children's developmental needs, including the special needs of children. The written plan must be made available to parents.
4. The plan must include firsthand experiences for children to learn about the world in which they live.
5. Learning experiences must be conducted in consultation with parents to ensure harmony with the lifestyle and cultural background of the children.
6. The plan must provide a balance of quiet and active indoor and outdoor group and individual activities. A time for supervised child-initiated and self-selected activity must be established.
7. If the children are allowed to assist in any food preparation, the activity must be limited to use of equipment and appliances that do not present a safety hazard. Children may not be allowed in the kitchen or laundry area unsupervised.
8. A variety of games, toys, books, crafts, and other activities and materials must be provided to enhance the child's intellectual and social development and to broaden the child's life experience. Each school-age child care program must have enough play materials and equipment so that at any one time, each child in attendance can be involved individually or as a group.
9. The cultural diversity of the children must be reflected in the plan through incorporation of their language, food, celebration, and lifestyles, if appropriate.
10. Equipment and furniture must be durable and safe, and must be appropriately adapted for children's use.
11. Sufficient space accessible to children must be provided for each child's personal belongings.
12. The school-age child care program shall supplement, augment, and reinforce the child's activities at home and school.
13. At the time of enrollment, the director or supervisor shall discuss with the parents the children's habits, activities, and schedules while at home and in school and the parents'

special concerns about their past and future behavior and development. The schedule and activities must be designed to complement and supplement the children's experiences at home and in school.

14. Staff members responsible for caring for or teaching children shall encourage parents to visit the facility, observe, and participate in the care of their children.
15. The director or supervisor shall contact parents to offer them meaningful opportunities to participate in general program policymaking.
16. Staff members shall stress hygiene practices appropriate for a child's age and development.
17. The director or supervisor shall contact parents to exchange information concerning the child and any concerns about the health, development, or behavior of the child. These concerns must be communicated to the parent promptly and directly.
18. Each child's cultural and ethnic background and primary language or dialect must be respected by the staff members.
19. Each school-age child care program shall have a designated area where a child can sit quietly or lie down to rest.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

#### **75-03-11.1-21. Minimum standards for food and nutrition.**

1. When the operator is responsible for providing food to children, the food supplied must meet United States department of agriculture standards, and must be properly prepared, sufficient in amount, nutritious, varied according to diets of the children enrolled, and served at appropriate hours. Food that is prepared, served, or stored in a school-age child care program must be treated in a sanitary and safe manner with sanitary and safe equipment.
2. When parents bring sack lunches for their children, the operator shall supplement lunches when necessary to provide nutritious and sufficient amounts of food for children, and shall provide adequate and appropriate refrigeration and storage as required.
3. Children in care for more than three hours shall receive either a snack or meal, whichever is appropriate to that time of day. The operator shall serve nutritious meals to children in care during any normal mealtime hour.
4. When the operator is responsible for providing food to children, menus must be prepared on a weekly basis and made available to the parents, the department or its authorized agent, and other appropriate individuals.
5. The operator shall consider information provided by the children's parents as to the children's eating habits, food preferences, or special needs in creating the feeding schedules and in tailoring menus.
6. The operator shall serve snacks and meals to children in a manner commensurate with their age, using appropriate foods, portions, dishes, and eating utensils.
7. The operator or staff members may encourage children to eat the food served, but the operator or staff members may not coerce or force-feed children.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; July 1, 2020.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**75-03-11.1-22. Records.**

1. The operator shall keep a copy of this chapter on the premises of the school-age child care program and shall make it available to staff members at all times.
2. The operator shall maintain the following records and shall keep copies at the school age program premises where the child is enrolled:
  - a. The child's full name, birth date, and current home address;
  - b. Legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
  - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individual legally responsible for the child cannot be reached immediately in an emergency;
  - d. A written statement from the parents authorizing emergency medical care;
  - e. Names and telephone numbers of individuals authorized to take the child from the school-age child care program; and
  - f. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually.
3. The operator shall record and verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the operator considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
4. The operator shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents, and to the following, unless protected by law:
  - a. The authorized agent and department representatives;
  - b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
  - c. Individuals who possess written authorization from the child's parent. The school-age child care program shall have a release of information form available and shall have the form signed prior to the release of information.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

### **75-03-11.1-23. Discipline - Punishment prohibited.**

Disregard of any of the following disciplinary rules or disciplinary measure resulting in physical or emotional injury, neglect, or abuse to any child is grounds for license denial or revocation.

1. The school-age child care program must have a written policy regarding the discipline of children. The operator shall provide the policy to, and discuss the policy with, the staff members before the school-age child care program begins operation or before staff members begin working with children.
2. Discipline must be constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, praising appropriate behavior, or gentle physical restraint, such as holding. A child may not be subjected to physical harm, fear, or humiliation.
3. Authority to discipline may not be delegated to children nor may discipline be administered by children.
4. Separation, when used as discipline, must be appropriate to the child's development and circumstances. The child must be in a safe, lighted, well-ventilated room within sight or hearing range of a staff member responsible for caring for or teaching children. A staff member may not isolate a child in a locked room or closet.
5. A child may not be punished for lapses in toilet training.
6. A staff member may not use verbal abuse or make derogatory remarks about a child, or a child's family, race, or religion when addressing a child or in the presence of a child.
7. A staff member may not use profane, threatening, unduly loud, or abusive language in the presence of a child.
8. A staff member may not force-feed a child or coerce a child to eat, unless medically prescribed and administered under a medical provider's care.
9. A staff member may not use deprivation of meals or snacks as a form of discipline or punishment.
10. A staff member or any other adult at the school-age child care program may not kick, punch, spank, shake, pinch, bite, roughly handle, strike, mechanically restrain, or physically maltreat a child.
11. A staff member may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in a child's mouth to deter the child from biting other children.
12. A staff member may not withhold active play from children as a means of discipline or punishment, beyond a brief period of separation.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-01, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

### **75-03-11.1-24. Specialized types of care and minimum requirements.**

1. **Night care.**
  - a. Any school-age child care program offering night care shall provide program modifications for the needs of children and their parents during the night;

- b. In consultation with parents, attention must be given by the staff member responsible for caring for or teaching children to provide for a transition into this type of care appropriate to the child's needs;
- c. The operator shall encourage parents to leave their children in care or pick them up before and after their normal sleeping period when practical, to ensure minimal disturbance of the child during sleep, with consideration given to the parent's work schedule;
- d. The operator shall ensure that comfortable beds and cots, complete with a mattress or pad, are available;
- e. The school-age child care program shall require each child in night care to have night clothing and a toothbrush marked for identification; and
- f. The operator shall ensure that during sleeping hours, staff members responsible for caring for or teaching children are awake and within hearing range to provide for the needs of children and to respond to an emergency.

**2. Drop-in school-age child care.**

- a. If a school-age child care program serves drop-in children, it shall be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the program and to maintain the proper staff member to child ratio.
- b. The operator shall ensure that the program reflects the individual needs of the children who are provided drop-in care.
- c. The operator shall ensure that admission records comply with all enrollment requirements contained in section 75-03-11.1-22.
- d. The operator shall ensure that admittance procedures provide for a period of individual attention for the child to acquaint the child with the school-age child care program, its equipment, and the staff members.
- e. A school-age child care program may not receive drop-in care or part-time children who, when added to the children in regular attendance, cause the school-age child care program to exceed the total number of children for which the school-age child care program is licensed.

**3. Drop-in school-age child care programs.** An operator shall ensure that a school-age child care program serving only drop-in care children complies with this chapter, but is exempt from the following provisions:

- a. Subsections 12, 14, and 15 of section 75-03-11.1-20; subdivision f of subsection 1 of section 75-03-11.1-22; and subsection 1 of section 75-03-11.1-25; and
- b. A school-age child care program serving only drop-in children is exempt from the outdoor space requirements.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2018.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

#### **75-03-11.1-25. Minimum requirements for care of a child with special needs.**

An operator shall make appropriate accommodations, as required by the Americans with Disabilities Act, to meet the needs of a child with special needs. The operator shall receive documentation of the child's special needs from the parent upon the child's enrollment.

1. When a child with special needs is admitted, the director or supervisor shall consult with the child's parents, and with the parent's permission, the child's source of professional health care, or, when appropriate, other health and professional consultants to gain an understanding of the child's individual needs. The operator shall receive a written health care plan from the child's medical provider or parent with information related to the child's special needs, such as a description of the special needs, definition of the diagnosis, and general information for emergency and required care such as usual medication and procedures.
2. The operator shall ensure staff members responsible for caring for or teaching children receive proper instructions as to the nature of the child's special needs and potential for growth and development.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04

#### **75-03-11.1-26. Minimum provisions regarding emergency care for children.**

The school-age child care program shall have written plans to respond to illness, accidents, and emergencies, including burns, serious injury, and ingestion of poison. The operator shall ensure that parents of enrolled children are advised of these plans. Plans must:

1. Establish emergency response procedures;
2. Provide accessible posting of emergency response procedures and training for all staff members concerning those emergency procedures;
3. Require the availability of at least one working flashlight;
4. Require at least one department-approved first-aid kit be maintained and kept in each major activity area, inaccessible to children, yet readily accessible to staff members at all times;
5. Provide a working telephone immediately accessible to staff members with a list of emergency telephone numbers conspicuously posted;
6. Require that the program inform parents in writing of any first aid administered to their child within twenty-four hours of the incident and immediately notify parents of any injury which requires emergency care beyond first aid, and require an injury report to be made a part of the child's record;
7. Require a plan for responding to minor illnesses and minor accidents when children are in the care of the school-age child care program;
8. Require written permission to dispense medication and require proper instructions for the administration of medication be obtained from the parent of a child in the school-age child care program who requires medication:
  - a. Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to its dosage and storage, and labeled with the child's name and date.

- b. The program shall keep a written record of the administration of medication, including over-the-counter medication, for each child. Records must include the date and time of each administration, the dosage, the name of the staff member administering the medication, and the name of the child. The program shall include completed medication records in the child's record.
  - c. Medication must be stored in an area inaccessible to children, and medication stored in a refrigerator must be stored collectively in a spillproof container;
9. Require a supervised, temporary isolation area be designated for a child who is too ill to remain in the school-age child care program, or who has an infectious or contagious disease, with the following procedures being followed when those signs or symptoms are observed:
    - a. Parents are notified immediately and asked to pick up their child; and
    - b. First aid is provided and medical care sought, as necessary;
  10. Establish and implement practices in accordance with guidance obtained through consultation with local or state department of health authorities regarding the exclusion and return of children with infectious or communicable conditions. The program may obtain this guidance directly or through current published material regarding exclusion and return to the school-age child care program;
  11. Identify a source of emergency health services readily available to the school-age child care program, including:
    - a. A prearranged plan for emergency medical care in which parents of enrolled children are advised of the arrangement; and
    - b. Provisions for emergency transportation, specifically when a child is to be brought to another place for emergency care, an adult staff member responsible for caring for or teaching children shall remain with the child until medical personnel assume responsibility for the child's care and until the parent is notified; and
  12. Require information be provided to parents, as needed, concerning child health and social services available in the community.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01

**75-03-11.1-27. Effect of conviction on licensure and employment.**

1. An applicant, operator, director, or supervisor may not be, and a school-age child care program may not employ or allow, in any capacity that involves or permits contact between the emergency designee, substitute staff member, or staff member and any child cared for by the school-age child care program, an operator, emergency designee, substitute staff member, director, supervisor, or staff member who has been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-01.2, domestic violence; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07, harassment; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer;



12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 14-09-22, abuse of child; or 14-09-22.1, neglect of child;

- b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
  - c. An offense, other than an offense identified in subdivision a or b, if the department in the case of a school-age child care program applicant, operator, director, or supervisor, or the school-age child care program operator in the case of an emergency designee, substitute staff member, or staff member, determines that the individual has not been sufficiently rehabilitated. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.
2. The department has determined that the offenses enumerated in subdivisions a and b of subsection 1 have a direct bearing on the applicant's, operator's, emergency designee's, substitute staff member's, director's, supervisor's, or staff member's ability to serve the public as an operator, emergency designee, substitute staff member, director, supervisor, or staff member.
  3. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07, harassment; 12.1-17-07.1, stalking; in the case of a class B misdemeanor offense described in North Dakota Century Code section 12.1-17-01.2, domestic violence; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.
  4. The operator shall establish written policies, and engage in practices that conform to those policies, to effectively implement this section before hiring any staff member.
  5. An operator shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The operator shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.
  6. Review of fingerprint-based criminal history record check results.
    - a. If an individual disputes the results of the criminal history record check required under this chapter, the individual may request a review of the results by submitting a written request for review to the department within thirty calendar days of the date of the

department's memo outlining the results. The individual's request for review must include a statement of each disputed item and the reason for the dispute.

- b. The department shall assign the individual's request for review to a department review panel. An individual who has requested a review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.
- c. The department shall notify the individual of the department's final decision in writing within sixty calendar days of receipt of the individual's request for review.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

#### **75-03-11.1-28. Child abuse and neglect decisions.**

An operator shall ensure safe care for the children receiving services in the school-age child care program.

1. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by an applicant, operator, director, supervisor, emergency designee, substitute staff member, or staff member, that decision has a direct bearing on the applicant's or operator's ability to serve the public in a capacity involving the provision of child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that a child has been abused or neglected by the applicant, operator, director, supervisor, emergency designee, substitute staff member, or staff member, the applicant or operator shall furnish information satisfactory to the department from which the department can determine the applicant's, operator's, director's, supervisor's, emergency designee's, substitute staff member's, or staff member's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or operator.
2. Each applicant, operator, director, supervisor, emergency designee, substitute staff member, and staff member shall complete, and the operator shall submit to the department or its authorized agent, a department-approved authorization for background check form no later than the first day of employment.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

#### **75-03-11.1-29. Correction of violations.**

1. Within three business days of the receipt of a correction order, the operator shall notify the parents of each child receiving care at the school-age child care program that a correction order has been issued. In addition to providing notice to the parent of each child, the operator

shall post the correction order in a conspicuous location within the school-age child care program until the violation has been corrected or for five days, whichever is longer.

2. Violations noted in a correction order must be corrected:
  - a. For a violation of North Dakota Century Code section 50-11.1-02.2; subsection 13 of section 75-03-11.1-08; subsection 4 or 5 of section 75-03-11.1-08.4; section 75-03-11.1-09; subsection 2, 3, 10, or 20 of section 75-03-11.1-18; or section 75-03-11.1-23, within twenty-four hours.
  - b. For a violation requiring the hiring of a school-age child care program director with those qualifications set forth in section 75-03-11.1-08.1 or a child care supervisor with those qualifications set forth in section 75-03-11.1-08.3, within sixty days.
  - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-11.1-17, within sixty days.
  - d. For a violation that requires substantial building remodeling, construction, or change, within sixty days.
  - e. For all other violations, within twenty days.
3. All time periods for correction begin on the date of receipt of the correction order by the operator.
4. The department may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the operator and a showing that the need for the extension is created by unforeseeable circumstances and the operator has diligently pursued the correction of the violation.
5. The operator shall furnish a written notice to the department or its authorized agent upon completion of the required corrective action. The correction order remains in effect until the department or its authorized agent confirms that the corrections have been made.
6. At the end of the period allowed for correction, the department or its authorized agent shall reinspect a school-age child care program that has been issued a correction order. If, upon reinspection, the department or its authorized agent determines that the school-age child care program has not corrected a violation identified in the correction order, the department or its authorized agent shall mail a notice of noncompliance with the correction order by certified mail to the school-age child care program. The notice must specify the violations not corrected and the penalties assessed in accordance with North Dakota Century Code section 50-11.1-07.5.
7. If a school-age child care program receives more than one correction order in a single year, the department or authorized agent may refer the school-age child care program for consulting services to assist the operator in maintaining compliance to avoid future corrective action.
8. Refutation process for a correction order:
  - a. An operator may refute a correction order by submitting a refutation request in writing on the form provided by the department within five calendar days of receiving the correction order.
  - b. The department shall respond to written refutations within five business days of receipt.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; July 1, 2020; January 1, 2022.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3

#### **75-03-11.1-30. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of North Dakota Century Code chapter 50-11.1; subsection 13 of section 75-03-11.1-08; section 75-03-11.1-09; subsection 2, 3, 10, or 20 of section 75-03-11.1-18; or section 75-03-11.1-23 for each day that the operator has not verified correction, after the allowable time for correction of violations ends.
2. The department shall assess a fiscal sanction of fifteen dollars per day for each violation of section 75-03-11.1-08, except a violation of subsection 13 of section 75-03-11.1-08; subsection 1, 4, 5, 17, or 19 of section 75-03-11.1-18; subsection 1 of section 75-03-11.1-19; section 75-03-11.1-20; or subsection 1 of section 75-03-11.1-24 for each day that the operator has not verified correction, after the allowable time for correction of violations ends.
3. The department shall assess a fiscal sanction of five dollars per day for each violation of any other provision of this chapter for each day that the operator has not verified correction, after the allowable time for correction of violations ends.

**History:** Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013.

**General Authority:** NDCC 50-11.1-07.4, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-07.4, 50-11.1-08

#### **75-03-11.1-31. Appeals.**

An applicant or operator may appeal a decision to deny or revoke a license by filing a written appeal with the department. The appeal must be postmarked or received by the department within ten calendar days of receipt of the applicant's or operator's written notice of the decision to deny or revoke the license. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

**History:** Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-08, 50-11.1-10

#### **75-03-11.1-32. Appeals.**

Repealed effective January 1, 1999.