

## CHAPTER 1

### GENERAL PROVISIONS

#### **Section 1. Authority.**

These rules are promulgated pursuant to W.S. § 9-2-2104(a)(vii) and W.S. § 14-4-104.

#### **Section 2. Purpose.**

These rules have been adopted to provide uniform licensing for the protection of children in a Family Child Care Home, Family Child Care Center, and Child Care Center. The Department has specific rules to comply with requirements of the federal Child Care Development Block Grant (CCDBG), Pub. L. 113-186, which include but are not limited to: criminal background checks, health and safety for facility and staff training, emergency preparedness plan, expulsion and suspension, and ratios and groups size limitations.

#### **Section 3. Severability.**

If any provision of these rules is declared unconstitutional or beyond the authority conferred upon the Department of Family Services (Department) by the Wyoming Legislature, the remaining provisions shall not be affected by the declaration.

#### **Section 4. Introduction.**

The Department is responsible for the licensing, monitoring and enforcement of the rules for all Wyoming providers of child care services covered in these rules. Owners/directors are required to comply with all federal, state and local laws, statutes and rules that pertain to a child care business in addition to these rules. Allegations of violations of applicable laws, statutes or rules shall be reviewed by the Department and appropriate action taken by the Department.

#### **Section 5. Notice.**

(a) Except as provided in paragraph (b) or as otherwise provided in these Rules, the Department shall give notice in writing, which may be delivered by first class mail or electronic means.

(b) The Department shall give notice in writing for immediate suspension, which shall be delivered in person.

#### **Section 6. Definitions.**

(a) “Applicant” means any person who submits an application to the Department for a child care license.

(b) “Application” means the form on which a person indicates, in writing, a request to

become licensed or renew a license. The individual who will be legally responsible for the operation of the facility which includes assuring compliance with the licensing law and rules shall apply for the license, using the form provided by the Department.

(c) “Authorized fire inspector” means the representative of the Department of Fire Prevention or in localities where self-enforcement of minimum standards exists, the official fire inspector.

(d) “Certification” refers to the laws governing the issuance of a child care license or certificate in accordance with W.S. §§ 14-4-101 through 117. Certification and Licensing are used interchangeably in these rules.

(e) “Change Request” means the application form on which a provider/director requests a change to the child care license.

(f) “Child abuse or neglect” means the improper treatment of children as defined in W.S. §§ 14-3-202(a)(ii) and 14-3-202(a)(vii).

(g) “Child care” is a service for families provided on behalf of children and their parents, and designed to supplement daily parental care, excluding facilities defined in the Certification of Providers of Substitute Care Services, 11-08-2017. <http://soswy.state.wy.us/Rules/default.aspx>

(h) “Child safety restraint system” means any device which is designed to protect, hold or restrain a child in a privately owned, leased or rented noncommercial passenger vehicle in such a way as to prevent or minimize injury to the child in the event of a motor vehicle accident or sudden stop.

(i) “Complaint” means a report to child care licensing that alleges a child care facility is in or has been in violation of applicable laws, statutes, or rules.

(j) “Constant air inflatable device” means a structure relying on a continuous supply of air pressure to maintain its shape, on or in which users play.

(k) “Denial” means the action taken when an application or a request for renewal has been submitted, but the content of the application or request does not demonstrate compliance with these rules and a license cannot be issued. Denial includes non-renewal.

(l) “Department” means the Department of Family Services.

(m) “Developmentally appropriate” means suitable to the chronological age range and developmental characteristics of a specific group of children.

(n) “Direct care” means providing and attending to any needs of the children in care, including but not limited, to diapering, serving and/or feeding meals, administering medication, or providing discipline or guidance, and may include direct supervision when required under

these rules.

(o) “Direct supervision” means the function of undistracted observing, overseeing, and directing a child or group of children, including an awareness of, and responsibility for, the ongoing activity of each child and being near enough to respond to a child’s needs to minimize harm or accidents.

(p) “Director” means any person who is employed to operate a Family Child Care Center or Child Care Center.

(q) “Discipline” means a process by which staff assists children to develop inner control necessary to manage their own behavior.

(r) “Employee” means any person, regardless of compensation, who works at the facility and may have the opportunity for unsupervised access to children.

(s) “Fall height” means the vertical distance between the highest designated play space on a piece of equipment and the protective surfacing beneath it.

(t) “Group size” means the maximum number of children allowed to occupy an individual classroom or well-defined space.

(u) “Household member” means a person who resides in a family home which may be evidenced by factors including, but not limited to: maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.

(v) “Infant” means any child in care from birth to 12 months of age.

(w) “Inspection” includes, but is not limited, to an examination and assessment of the entire facility, premises, equipment, required records, and measurement of the indoor and outdoor space.

(x) “Licensor” means the representative of the Department who performs inspections and enforces compliance of these rules.

(y) “Licensing authority” also known as Certifying Authority, means the Department operating as the department which issues licenses/certificates, makes inspections, enforces rules and handles all administrative details relating to enforcement of W.S. 14-4-101 through 117.

(z) “Medication” means any medication prescribed by a health care professional and commonly used non-prescription over-the-counter medications including, but not limited to: essential oils, ointments, repellents, lotions, creams or powders.

(aa) “Non-Compliance report” means any report of child care rules violation made to the Department in which it is determined after an investigation that a preponderance of evidence

of the violation exists.

(bb) “Owner” means any person at or above the age of majority, or any legal entity, who applies for and is issued a license.

(cc) “Premises” means the parts of the structures and tract of land used by the facility for child care activities.

(dd) “Resilient surface” means the surface under and around playground equipment that reduces the risk of serious injury from a fall. For specifics visit: <http://www.cpsc.gov/en/Safety-Education/Safety-Guides/Sports-Fitness-and-Recreation/Playground-Safety/>

(ee) “School age children” means children who are attending kindergarten or are six (6) years old or older.

(ff) “Staff” means any owner, director, employee, substitute, or volunteer providing direct care of children and/or used to meet staff:child ratio requirements. Minimum age of staff shall be 16 years.

(gg) “Staff:child ratio” means the maximum number of children permitted to be directly cared for per staff member.

(hh) “Start date” means the first day staff is used to care for children.

(ii) “Swaddling” means the act of wrapping a child with a material such as a cloth or a blanket that restricts the movement of a child’s body and limbs. Swaddling cloth is any material, product or device that restricts the movement of a child.

(jj) “Swimming pool” means any body of water containing more than 12 inches of water, which could be used for the purpose of swimming or any other recreational activity.

(kk) “Toddler” means any child in care from 12 to 36 months of age.

(ll) “Unfounded Non-Compliance report” means any report of child care rules violation for which it is determined after an investigation that a preponderance of evidence of the alleged violation does not exist.

(mm) “Use zone” means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.

(nn) “Visitor” means an individual, including an intern, who is present in a child care facility for no more than 24 hours in a month and who is present only for the purpose(s) of providing a program, service, conducting an inspection, investigation, observation or evaluation, and who is not counted in staff:child ratios, does not supervise children and is within sight and sound of a staff member at all times.

(oo) “Volunteer” means any person acting as staff without any form of payment or compensation. Minimum age for a volunteer is 16 years.

(pp) “Wading pool” means a basin filled with 12 or fewer inches of water, and designed for the purpose of wading.

(qq) “Weapon” means, but is not limited to, a firearm, explosive or incendiary material, or other device, instrument, material or substance, which in the manner it is ordinarily used, or is ordinarily intended to be used, is reasonably capable of producing death or serious bodily injury.

(rr) “Youth Trainee” means a youth age 13 to 16 who is not acting as staff and not receiving any form of payment or compensation.