

# DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

## DIVISION OF FAMILY SERVICES

### OFFICE OF CHILD CARE LICENSING

Statutory Authority: 31 Delaware Code, Chapter 3 (31 Del.C. Ch. 3)

9 DE Admin. Code 105

## PROPOSED

## PUBLIC NOTICE

### 105 Residential Child Care Facilities and Day Treatment Programs

#### Summary

The Office of Child Care Licensing (OCCL) proposes to amend the DELACARE: Requirements for Residential Child Care Facilities and Day Treatment Programs in response to public comments received after the publication of revised regulations in the June 2013, August 2013, January 2014, and May 2014 *Register of Regulations*.

#### Comments

Because of revisions made based on public comments recently received and internal review, the revised draft is again offered for another period of public comment. Interested parties wishing to offer comments on the proposed regulations or submit written suggestions, data, briefs, or other materials concerning the proposed regulations must submit same to Elizabeth Timm, Office of Child Care Licensing, 1825 Faulkland Road, Wilmington, Delaware 19805 or by fax to 302-633-5112 by the close of business on September 2, 2014.

#### Adoption of Proposed Regulations

The action concerning the determination of whether to adopt the proposed regulations will be based upon staff analysis and the consideration of the comments and written materials filed by other interested persons.

#### Changes Made Since Previous Publication

Three organizations (Delaware Developmental Disabilities Council, Governor's Advisory Council for Exceptional Citizens, and State Council for Persons with Disabilities) offered nearly identical written comments to the regulations posted in the May 2014 Register. These comments have been incorporated into the draft as shown or are responded to here.

1. The agencies question the exclusion of "psychiatric hospitals and foster homes" from the definition of "residential child care facility" and state that "the status of a pediatric skilled nursing facility is unclear." Psychiatric hospitals and facilities such as a pediatric skilled nursing facility that accept only medically fragile children are not regulated by the Office of Child Care Licensing. Foster homes are regulated under a different set of regulations (Child Placing Agency regulations). No change made to regulation.
- 2.. Definition of "Administrative Hearing" revised to remove "awkward language."
3. The agencies wish OCCL "to consider whether HRC [Human Rights Commission] review of psychotropic drugs excluded from the definition of 'chemical restraint' merit HRC review" and the jurisdiction of the HRC be assured. Regulation 17.3.2.1 states that the HRC is responsible to determine "that children in care are receiving human and proper treatment" which would include the review of the use of psychotropic medications, regardless of their possible use as a "restrictive procedure." No change made to regulation.
4. In the definition of "Consultant," use of a plural pronoun and singular antecedent has been corrected.
5. The agencies question the absence of an age limit in the definition of "Locked Isolation." "Locked Isolation" is defined as a "Restrictive Procedure." Regulation 17.1.2 states that a restrictive procedure may not be used "on any child below six years of age." However, the definition of "Restrictive Procedure" has been augmented to provide additional clarity.
6. The agencies state that the "definitions of 'exclusion' and 'time-out technique' are not well differentiated" and that the "placement of a child under age 6 in an unlocked room would be barred under the "exclusion" definition but allowed ...if characterized as "time-out." The agencies recommend that it be "clear that all children placed in "exclusion" and "time-out" must be observed by an appropriate adult at all times." As stated in its definition, "restrictive procedures" (which includes "exclusion" and "locked isolation") may only be applied "when the child has failed to respond to other less restrictive means of behavior management." Additional wording has been added to

regulation 3.12.9.3.3 to insure continuous monitoring of children under 6 years of age while in time-out and the time frame for monitoring of children over age six has been changed.

7. The agencies state that the continuous monitoring required for "exclusion" but not required for "time-out" might cause "a provider [who] wishes to avoid the continuous monitoring requirement ...[to] simply characterize placing a child in an unlocked room as "time-out." The regulation 3.12.9.3 has been amended and the monitoring time changed for time-out for both children over and under 6 years of age to provide additional clarity.
8. The agencies express concern over the possibility of sequential or "stacked" periods of restraint. Regulations 17.9.1.4, 17.9.2.4 have added text to place further limits on the use of restraints.
9. The agencies express concern regarding a discrepancy between the differences in release time found in regulations 3.12.10.1.3 and 17.5.1.1. Additional text has been added to regulation 17.5.1.1 to provide clarity.
10. Agencies suggest that OCCL consider reducing the employment age for a "direct care worker" from age 21 to 18 either universally or under specific circumstances. Because children in care could be 17 years of age (and in some circumstances older), OCCL maintains that requiring a direct care worker to be at least 21 years of age preserves a desirable age span difference between a direct care worker and children in care. No change made to regulation.
11. The agencies suggest adding in regulation 3.12.5.5, "a reference to referral to the Pathways to Employment program for qualifying adolescents." OCCL favors keeping the listing of services adolescent children receive non-specific, allowing the licensee to incorporate appropriate and available programs that may change over time. No change made to regulation.
12. The agencies questioned the authorized use of restraint when the destruction of property is involved. This authorization has been removed from the definitions of "Restrictive Procedure" and "Non-Violent Physical Intervention Strategies" and from Regulation 3.12.10.
13. The agencies question the clarity of Section 4.7.1 in regard to lead paint hazards and also ask that the term "severely emotionally disturbed" be changed. The verbiage regarding lead paint hazards has been clarified and the requested term replaced with "severe social-emotional disability."
14. The agencies suggest adding a provision to address the use of electronic cigarettes in section 7.0. Wording has been added.
15. Agencies state that standard 3.12.10.1.4 is unclear regarding the type of training and when it is required "regarding persons implementing physical intervention strategies to be 'specifically trained in its use and have current certification, if applicable.'" Text has been amended to improve clarity.
16. The following regulations contained duplicated or misplaced information. The text has been corrected and renumbered where needed. Subsections 3.12.1.1.1 through 3.12.1.4; 4.6.1.2; and 5.9.1.17.

## 105 Residential Child Care Facilities and Day Treatment Programs

### 4.0 Legal Authority, Purpose, and Definitions

#### 4.1 Legal Base

4.1.1 (Rule 1.01) The legal authority for these licensing Requirements is in 31 ~~Del.C.~~ §§341-344.

#### 4.2 Purpose

4.2.1 (Rule 1.02) ~~These provisions shall be known as the Delacare: Requirements for Residential Child Care Facilities and Day Treatment Programs. These Requirements are designed to protect the health, safety and well-being of children who are placed in residential child care facilities or are enrolled in day treatment programs.~~

#### 4.3 Definitions of Regulated Services

(Rule 1.03) ~~"Day Treatment Program" means any program that provides highly structured, intensive, non-residential services for fewer than 24 hours each day to children who have either:~~

~~Behavioral dysfunctions;~~

~~Developmental, emotional, mental or physical impairments; or~~

~~Chemical dependencies.~~

~~Licensed residential child care facilities operating an educational program for residents and day students shall be exempted from being a day treatment program when more than 50 percent of the students in that educational program are residents of the facility.~~

(Rule 1.04) ~~"Residential Child Care Facility" means any facility that provides out-of-home, 24-hour care, protection and supervision for children who have either: behavioral dysfunctions; developmental, emotional, mental or physical impairments; or chemical dependencies.~~

~~Residential Child Care Facility includes, but is not limited to, the following:~~

~~"Parenting Adolescent Facility" means a residential child care facility for adolescent parents caring for their own child(ren).~~

~~“Secure Residential Care Facility” means a residential child care facility that is authorized to use locked doors, both exterior and interior, as the means of preventing a child from leaving the building(s) without authorization.~~

~~“Shelter Care Facility” means a residential child care facility that provides temporary or emergency care for children for a period of time that does not exceed 30 consecutive calendar days, except as provided for in Requirement 6.4.1.~~

~~“Transitional Care Facility” means a residential child care facility that provides care for 12 or fewer adolescents for the purpose of preparing them to live as self-sufficient adults.~~

~~A Psychiatric hospital or a foster home in which children have been placed by a licensed or authorized child placing agency are not residential child care facilities.~~

#### 1.4 Definition of Terms

~~(Rule 1.05) “Adventure Activity Program” means a facility or program whose primary purpose is to engage the children in a course of activities of a hazardous or risk-laden nature. The activity may involve strenuous exercise or physical exertion. It includes high rope challenge courses, wilderness trekking, rock climbing and rappelling, as well as a travel camp of more than 120 consecutive hours’ duration involving traveling through more than one state.~~

~~(Rule 1.06) “Aversive Conditioning” means the involuntary, time-limited and reasonable use of a technique or procedure that applies an undesirable, noxious or painful stimulus to a child in order to suppress the specific behavior that is potentially harmful to the child or others, for the purpose of behavior management.~~

~~(Rule 1.07) “Behavior Management” means those principles and methods employed by a licensee:~~

~~To help a child achieve positive behavior; and~~

~~To address and correct a child’s inappropriate behavior in a constructive and safe manner, in accordance with written policies and procedures governing program expectations, treatment goals, child and staff safety and security and the child’s service plan.~~

~~(Rule 1.08) “Chemical Restraint” means the involuntary, unplanned and emergency application of a psychotropic drug to restrict the function or movement of a child for the purpose of behavior management. The planned and routine application of a prescribed psychotropic drug is not a chemical restraint.~~

~~(Rule 1.09) “Chief Administrator” means the person designated by the licensee, or by its governing body, as having day-to-day responsibility for the overall administration and operation of a facility or program and for assuring the care, treatment, safety, and protection of children.~~

~~(Rule 1.10) “Child” means any of the following:~~

~~A person who has not reached 18 years of age.~~

~~A person in a facility or program who becomes 18 years of age while residing in the facility or participating in the program, and who has not attained the age of 25.~~

~~(Rule 1.11) “Department” means the Delaware Department of Services for Children, Youth and Their Families.~~

~~(Rule 1.12) “Direct Care Supervisor” means a person who is assigned responsibility by a licensee for the supervision of one or more direct care workers.~~

~~(Rule 1.13) “Direct Care Worker” means a person designated by a licensee to provide direct care of children.~~

~~(Rule 1.14) “Division” means the Division of Family Services within the Department.~~

~~(Rule 1.15) “Employee” means any person who is employed by a licensee or any person under contract with a licensee, excluding vendors that do not provide direct services to children.~~

~~(Rule 1.16) “Exclusion” means the involuntary, time-limited removal of a child six years of age or older from his or her environment through the use of non-violent physical intervention and restricting that child in an unlocked room under continuous monitoring and preventing his or her egress, for the purpose of behavior management.~~

~~(Rule 1.17) “Facility” means a residential child care facility.~~

~~(Rule 1.18) “Governing Body” means the person or group of persons with ultimate responsibility for and authority over the operation of a facility or program.~~

~~(Rule 1.19) “Immediately” means an action that is or must be taken without any considerable loss of time.~~

~~(Rule 1.20) “Least Restrictive Treatment” means an intervention method that is the least intrusive into, and least disruptive of, the child’s life, and that represents the least departure from normal patterns of living that can be effective in meeting the child’s needs.~~

~~(Rule 1.21) “License” means the Division’s granting of authority through a written provisional or regular certification to a facility or a program to operate under applicable State law (s).~~

(Rule 1.22) **“Licensee”** means the legally responsible entity for a licensed facility or program.

(Rule 1.23) **“Living Unit”** means a designated area or space in which a group of children reside or receive care.

(Rule 1.24) **“Locked Isolation”** means the involuntary and time-limited confinement of a child in a locked room for the purpose of behavior management.

(Rule 1.25) **“Mechanical Restraint”** means the involuntary, time-limited and reasonable use of any device in order to restrict a child’s movement or functions or the ability to use his or her hands, arms, or legs, for the purpose of behavior management.

(Rule 1.26) **“Medical Consultant”** means a person licensed as a Registered Nurse or Physician in Delaware and assigned responsibility for overseeing the assistance with medication.

(Rule 1.27) **“Non-violent physical intervention strategies”** means the non-punitive, age-appropriate, time-limited and reasonable application of physical holding or other physical interventions that are required:

To restrict the movement or function of a child for the purpose of preventing harm to the child or to others; or,

To prevent the destruction of property when the child fails to respond to non-physical intervention techniques.

(Rule 1.28) **“Parent”** means a birth or adoptive parent, legal guardian or any other person having responsibility for, or legal custody of, a child.

(Rule 1.29) **“Placing Agency”** means an organization, either publicly or privately operated, that is legally authorized to place a child in a facility or to refer a child to a program.

(Rule 1.30) **“Positive Reinforcement”** means an action that, when systematically and regularly applied following the desired behavior of a child, makes it more likely that the desired behavior will recur.

(Rule 1.31) **“Program”** means a Day Treatment Program when it is used alone without an adjective.

(Rule 1.32) **“Psychotropic Drug”** means a drug or substance that alters the chemical balance of neurotransmitters in the central nervous system.

(Rule 1.33) **“Record”** means the individual file established and maintained for a child.

(Rule 1.34) **“Requirements”** means the Delaware Requirements for Residential Child Care Facilities and Day Treatment Programs or a portion thereof.

(Rule 1.35) **“Restrictive Procedure”** means the involuntary, non-punitive, age-appropriate, time-limited and reasonable use of any action, device, drug or technique that is designed to restrain or restrict a child’s movement, function or mobility for the purpose of:

Reducing serious maladaptive behavior of a child;

Preventing a child from harming either himself or herself, or others;

Preventing the destruction of property; or

Controlling maladaptive behavior when the child has failed to respond to other less restrictive means of behavior management.

Restrictive procedures are aversive conditioning, chemical restraint, exclusion, locked isolation, and mechanical restraint. Non-violent physical intervention strategies and time-out techniques are not restrictive procedures.

(Rule 1.36) **“Service Plan”** means a written, prescribed plan that specifies the basis for a child’s admission to a facility or program, the techniques to be used to address his or her treatment needs, or goals for family reunification and permanency planning. The plan shall identify the persons responsible for developing and implementing the plan, and the time frames for carrying out the plan while the child is residing in a facility or participating in a program.

(Rule 1.37) **“Service Supervisor”** means a person who is assigned responsibility by a licensee for the supervision of one or more service workers.

(Rule 1.38) **“Service Worker”** means a person designated by a licensee to coordinate, develop and implement the service plan for a child.

(Rule 1.39) **“Teacher”** means a person designated by the licensee to directly provide education services to children.

(Rule 1.40) **“Time-Out Technique”** means the time-limited removal of a child from his or her immediate environment or the time-limited prohibition of a child to participate in an activity, as specified in Requirements 3.3.11.1, 3.3.11.2 and 3.3.11.3.

(Rule 1.41) **“Treatment”** means the various services that are designed, developed, and implemented by a licensee to ameliorate the various educational, health care, medical, psychological, social or other needs of a child.

Rule 1.42) “**Volunteer**” means any person who provides an unpaid service or support to a facility or program for more than 40 hours in a calendar year, and whose primary role or function involves having direct contact with children. The term “volunteer” shall include student interns.

## **2.0 Licensing Process and Procedures**

### **2.1 License Required to Operate**

2.1.1 (Rule 2.01) An agency, corporation, partnership or individual shall not operate or maintain a residential child care facility or day treatment program unless issued a license to do so by the Division.

### **2.2 Authority to Inspect**

2.2.1 (Rule 2.02) An applicant or licensee shall allow access to the premises by any authorized representative of the Division, of another state agency, or any local building, fire or health agency for the purpose of determining compliance with applicable provisions of these requirements. On-site inspections may be conducted without prior notice.

2.2.2 (Rule 2.03) An applicant or licensee shall permit any authorized representative of the Division access to information, files and records relevant to determining compliance with applicable provisions of these requirements and to interview any employee, volunteer, and child.

### **2.3 Issuance of License**

2.3.1 (Rule 2.04) To qualify for a license, an applicant or licensee shall demonstrate to the satisfaction of the Division that it is in full or substantial compliance with applicable provisions of these requirements.

2.3.2 (Rule 2.05) A license shall be issued only to a facility or program for which application is made and for the address shown on the application. A license shall state the maximum number who may be served in a facility or program at any time.

### **2.4 Posting of License**

2.4.1 (Rule 2.06) A licensee shall post its current license to operate a facility or program in a place conspicuous to the public.

### **2.5 License for Each Separate Facility or Program**

2.5.1 Rule 2.07) A facility or program that operates in two or more buildings at the same site shall have the option of applying for a single license for all buildings at the site, or for a separate license for each building at the site.

2.5.2 (Rule 2.08) A license shall not be transferable, assignable or subject to sale.

### **2.6 Nullification of License**

2.6.1 (Rule 2.09) When a facility or program is sold, leased, or discontinued, or the operation has moved to a new location, or when the license has been revoked, the current license immediately shall become null and void.

### **2.7 Annual License**

2.7.1 (Rule 2.10) An annual license is issued when the Division determines that an applicant or licensee is in full compliance with applicable provisions of these requirements.

2.7.2 (Rule 2.11) An annual license is effective for one year from the date of issuance, unless it is:

2.7.2.1 Modified to a provisional license;

2.7.2.2 Is revoked; or

2.7.2.3 Surrendered prior to the expiration date.

### **2.8 Provisional License**

2.8.1 (Rule 2.12) A provisional license may be issued for a period of time not to exceed six months from the date of issuance when the Division determines that an applicant or licensee is in substantial, but not full, compliance with applicable provisions of these requirements, provided that:

2.8.1.1 There is no serious risk to the health, safety, or well-being of children; and

2.8.1.2 An applicant or licensee has submitted to the Division and the Division has approved a written corrective action plan.

2.8.2 (Rule 2.13) The Division may issue as many consecutive provisional licenses as it deems necessary. However, an applicant or licensee shall not operate pursuant to provisional licenses for more than 12 consecutive months.

### **2.9 Replacing a Provisional License with a Regular License**

2.9.1 (Rule 2.14) A provisional license may be replaced with an annual license when the Division determines that an applicant or licensee has corrected all violations in advance of the expiration date of the provisional license and has come into full compliance with applicable provisions of these requirements.

## 2.10 Procedures for Initial Licensure

- 2.10.1 (Rule 2.15) An applicant shall apply for an initial license on a form provided and in a manner prescribed by the Division.
- 2.10.2 (Rule 2.16) Upon receipt of a completed application, a Division representative shall:
  - 2.10.2.1 Provide assistance to aid the applicant in complying with applicable provisions of these requirements;
  - 2.10.2.2 Review the application, confer with the applicant, and inspect the facility or program to determine whether the applicant has fully complied with applicable provisions of these requirements;
  - 2.10.2.3 Make a recommendation to the Division regarding the issuance of a license. If a license is granted, the applicant shall initially be issued a provisional license for six months. An annual license shall be issued when the facility or program fully meets applicable provisions of these requirements; or
  - 2.10.2.4 If a license is denied, notify the applicant in writing of the reason(s) for denial and set forth the applicant's rights to an appeal from the decision.
- 2.10.3 (Rule 2.17) The expiration date of the first regular license and each subsequent renewal of an annual license shall be at one year intervals from the initial date of issuance.

## 2.11 Procedures for License Renewal

- 2.11.1 (Rule 2.18) A licensee shall submit a written request to the Division to seek a license renewal application form at least 90 calendar days before the expiration date of the facility's or program's license.
- 2.11.2 (Rule 2.19) A licensee shall submit a completed application for a license renewal to the Division at least 60 calendar days before expiration of its current license.
- 2.11.3 (Rule 2.20) When a licensee makes timely and sufficient application for renewal of a regular license, the existing license shall not expire until a decision on the renewal application is made by the Division.
- 2.11.4 (Rule 2.21) A provisional license may be renewed when the Division determines that a licensee has demonstrated good faith efforts to achieve compliance but requires additional time to achieve full compliance with applicable provisions of these requirements.

## 2.12 Terms of a License

- 2.12.1 (Rule 2.22) The license shall contain the following:
  - 2.12.1.1 Status of the license: annual, provisional or extension;
  - 2.12.1.2 Effective date of the license;
  - 2.12.1.3 Expiration date of the license;
  - 2.12.1.4 The maximum number of children who may be served at one time; and
  - 2.12.1.5 The applicable type of regulated service for which authorization to operate has been granted.
- 2.12.2 (Rule 2.23) A licensee shall operate a facility or program within the terms of its license.

## 2.13 Changes Affecting License

- 2.13.1 (Rule 2.24) The Division shall determine whether to modify a current license or to require the licensee to submit an application for a new license when any of the following changes occur:
  - 2.13.1.1 A change of ownership or sponsorship;
  - 2.13.1.2 A change of location;
  - 2.13.1.3 A change in the name of the facility or program;
  - 2.13.1.4 A change in the applicable type of regulated service authorized; or
  - 2.13.1.5 A change in child population capacity.

## 2.14 Denial, Revocation or Refusing to Renew a License

- 2.14.1 (Rule 2.25) The Division may deny, revoke or refuse to renew a license for good cause, including but not limited to the following:
  - 2.14.1.1 Substantial or willful failure to comply with applicable provisions of State law(s) or of these requirements;
  - 2.14.1.2 Violation of the terms or conditions of its license;
  - 2.14.1.3 Fraud or misrepresentation of facts in obtaining a license; or
  - 2.14.1.4 Engaging in any activity, policy, practice or employee conduct that adversely affects or is deemed by the Division to be detrimental to the education, health, safety, treatment needs or well-being of children, or that otherwise demonstrates unfitness by the chief administrator or by any employees to operate a facility or program.

## 2.15 Appeal

- 2.15.1 (Rule 2.26) If the Division denies, revokes, or refuses to renew a license, the Division shall notify the applicant or licensee in writing at least 10 working days prior to taking such action, and shall specify the applicant's or licensee's entitlement to appeal from the decision and to request an administrative hearing.
  - 2.15.2 (Rule 2.27) The Division shall notify the applicant or licensee in writing of the findings of its investigation and of the reasons for the denial, revocation or refusal to renew a license, before taking such action.
  - 2.15.3 (Rule 2.28) If a written or verbal request for a hearing is received by the Division within the 10 working days, the Division shall ensure that a hearing is held within 30 working days from the date the request is received.
  - 2.15.4 (Rule 2.29) The hearing officer shall have had no previous involvement in the matter prompting the hearing.
  - 2.15.5 (Rule 2.30) If a licensee files an appeal in a timely manner, its existing license shall remain in effect until an official written decision has been rendered subsequent to the hearing, except that the Division shall have the authority to suspend the license immediately whenever the health, safety or well-being of children in care is in imminent danger or jeopardy.
  - 2.15.6 (Rule 2.31) If an applicant or licensee does not file an appeal from the decision and does not request a hearing, the action to revoke, deny or refuse to renew a license shall take effect 30 working days after the receipt of the notice. However, if the health or safety of children in care is in jeopardy, revocation, denial or refusal to renew shall be effective immediately upon the issuance of a written notice by the Division.
- 2.16 Order to Suspend a License
- 2.16.1 (Rule 2.32) If the health, safety or well-being of children in care is in jeopardy or imminent danger, the Division may immediately suspend the license upon issuance of a written suspension order. The order shall state the reason(s) for the suspension. Within 10 working days of the issuance of the suspension order the Division Director, or his or her designee shall hold an informal hearing with the licensee or his or her representative(s).
- 2.17 Rule Variance
- 2.17.1 (Rule 2.33) Upon the written request of an applicant or a licensee, the Division may grant a variance from any of these requirements if the licensee has documented to the satisfaction of the Division that the intent of the specific requirement will be satisfactorily achieved in a manner other than that prescribed by the requirement.
  - 2.17.2 (Rule 2.34) The Division shall render its decision on the request in writing, including the conditions for which the variance is granted, and shall send a signed copy of the decision to the applicant or licensee. A copy of the decision shall be maintained on file by the Division and the licensee.
  - 2.17.3 (Rule 2.35) The variance may be time limited or may remain in effect for as long as the licensee continues to maintain the health, care, safety, protection, supervision, and needed services of children.
  - 2.17.4 (Rule 2.36) The Division shall monitor the licensee's compliance with the variance. If the licensee fails to comply with the variance, the Division shall initiate necessary enforcement action.

### **3.0 General Provisions**

#### **3.1 Administration**

##### **3.1.1 Notification of Division**

3.1.1.1 (Rule 3.01) A licensee shall notify the Division in writing at least 90 consecutive calendar days before any of the following changes occur:

3.1.1.1.1A change of ownership or sponsorship;

3.1.1.1.2A change of location;

3.1.1.1.3A change in the name of the facility or program;

3.1.1.1.4A change in the applicable type of regulated service being provided;

3.1.1.1.5A change in child population capacity; or

3.1.1.1.6The anticipated closing of the facility or program.

3.1.1.2 (Rule 3.02) A licensee shall notify the Division within one working day of any of the following occur:

3.1.1.2.1A fire requiring the services of a fire company;

3.1.1.2.2Death of a child;

3.1.1.2.3Injury of a child requiring either in-patient or out-patient treatment.

##### **3.1.2 Governing Body**

3.1.2.1 (Rule 3.03) A licensee shall have an identifiable functioning governing body. The governing body shall designate a person to function as the chief administrator of the facility or program.

### 3.1.3 Chief Administrator Responsibilities

- 3.1.3.1 ~~(Rule 3.04) A licensee shall delineate in writing the job responsibilities and functions of the chief administrator. The chief administrator shall adopt and implement a chain of command that ensures the proper and effective supervision and monitoring of employees and volunteers.~~

### 3.1.4 Facility or Program Description of Services

- 3.1.4.1 ~~(Rule 3.05) A licensee shall develop, adopt, follow and maintain on file a current written description of the facility's or program's:~~

3.1.4.1.1 ~~Admission policies governing the age, specific characteristics, and treatment or service needs of children accepted for care; and~~

3.1.4.1.2 ~~Services provided to children and their families, including those provided directly by the licensee or arranged through another source.~~

- 3.1.4.2 ~~(Rule 3.06) A licensee shall make available to the public a brochure or other generic written description of its mission, policies and the types of services offered by the facility or program.~~

### 3.1.5 Maintenance of Children's Records

- 3.1.5.1 ~~(Rule 3.07) A licensee shall develop, adopt, follow and maintain on file on the premises written procedures governing the maintenance and security of records of children in care. These procedures shall:~~

3.1.5.1.1 ~~Assure that records are stored in a secure manner; and~~

3.1.5.1.2 ~~Assure confidentiality of and prevent unauthorized access to such records.~~

### 3.1.6 Administrative Records

- 3.1.6.1 ~~(Rule 3.08) A licensee shall develop, adopt, follow and maintain on file on the premises up to date administrative records containing the following:~~

3.1.6.1.1 ~~Organizational chart;~~

3.1.6.1.2 ~~Name and position of persons authorized to sign agreements and to submit official documentation to the appropriate government agency; and~~

3.1.6.1.3 ~~Written standard operating procedures.~~

### 3.1.7 Insurance Coverage

- 3.1.7.1 ~~(Rule 3.09) A licensee shall secure and maintain on file written documentation of appropriate motor vehicle, fire and comprehensive general liability insurance, as required by State law(s).~~

### 3.1.8 Fund Raising and Publicity

- 3.1.8.1 ~~(Rule 3.10) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the use of children in fund raising or publicity activities. Such policies shall ensure that any involvement of a child in such activities respects the child's dignity, preserves his or her confidentiality and has been authorized by the child's parent(s) or legal guardian in a signed parental consent statement.~~

### 3.1.9 Research

- 3.1.9.1 ~~(Rule 3.11) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the participation of children in bona fide research projects, which shall embrace the following criteria:~~

3.1.9.1.1 ~~The goal(s) of the research are sound, achievable, and feasible;~~

3.1.9.1.2 ~~The research design is scientifically valid and appropriate to the goal(s) of the research; and~~

3.1.9.1.3 ~~The results of the proposed research will contribute significantly to the body of existing information on the subject.~~

- 3.1.9.2 ~~(Rule 3.12) The policies and procedures governing approved research projects shall:~~

3.1.9.2.1 ~~Safeguard the privacy and protect the identity of and confidential information about children participating in research or follow-up studies;~~

3.1.9.2.2 ~~Preserve the confidentiality of children and their families;~~

3.1.9.2.3 ~~Ensure that the child's participation in the approved research project is voluntary; and~~

3.1.9.2.4 ~~Ensure that the parent(s) or legal guardian of a child participating in the research project has signed an informed consent statement, which the licensee shall maintain on file.~~

## 3.2 Personnel

### 3.2.1 Personnel Policies and Procedures

- 3.2.1.1 ~~(Rule 3.13) A licensee shall develop, adopt, follow and maintain on file written personnel policies and procedures governing the recruitment, screening, hiring, supervision, training, evaluation, promotion, and disciplining of employees and volunteers.~~
- 3.2.2 ~~Personnel; Qualifications~~
  - 3.2.2.1 ~~(Rule 3.14) A licensee shall employ only those persons who:~~
    - 3.2.2.1.1 ~~Have an understanding of and respect for children and their needs and have an understanding of and respect for a child's family and culture; and~~
    - 3.2.2.1.2 ~~Are physically and emotionally capable of performing activities related to providing child care, which include the ability to supervise children's activities, to support children's physical, intellectual, social and emotional growth, to deal with emergencies in a calm manner, and to carry out methods of behavior management, as stipulated in these requirements.~~
  - 3.2.2.2 ~~(Rule 3.15) An employee who was approved in accordance with personnel qualification requirements in existence prior to the date on which these requirements became effective shall be deemed qualified for the same position at that facility or program.~~
- 3.2.3 ~~Chief Administrator Qualifications~~
  - 3.2.3.1 ~~(Rule 3.16) A chief administrator, at the time of appointment, shall be at least 21 years of age and shall possess one of the following:~~
    - 3.2.3.1.1 ~~A master's degree in social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, a human behavioral science, public administration or a related field, and three years of full-time work experience in child welfare, human services or a related field, at least two years of which shall have been in an administrative or supervisory capacity; or~~
    - 3.2.3.1.2 ~~A bachelor's degree in social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, a human behavioral science, public administration or a related field, and four years of post-bachelor's degree full-time work experience in child welfare, human services or a related field, at least two years of which shall have been in an administrative or supervisory capacity.~~
- 3.2.4 ~~Direct Care Supervisor Qualifications~~
  - 3.2.4.1 ~~(Rule 3.17) A direct care supervisor, at the time of appointment, shall be at least 21 years of age and shall possess at least one of the following:~~
    - 3.2.4.1.1 ~~A bachelor's degree from an accredited college and one year of full-time work experience in a child care facility or program;~~
    - 3.2.4.1.2 ~~An associate degree or a minimum of 48 credit hours from an accredited college and two years of full-time work experience in a child care facility or program; or~~
    - 3.2.4.1.3 ~~A high school diploma or equivalent and three years of full-time work experience in a child care facility or program.~~
- 3.2.5 ~~Direct Care Worker Qualifications~~
  - 3.2.5.1 ~~(Rule 3.18) A direct care worker, at the time of appointment, shall be at least 21 years of age and shall possess a high school diploma or an equivalent.~~
- 3.2.6 ~~Service Supervisor Qualifications~~
  - 3.2.6.1 ~~(Rule 3.19) A service supervisor, at the time of appointment, shall be at least 21 years of age and shall possess at least one of the following:~~
    - 3.2.6.1.1 ~~A master's degree in social work, sociology, psychology, criminal justice, education, guidance and counseling, human behavioral science or a related field and at least two years of full-time work experience in child welfare, social work, human services, teaching, counseling or a related field, at least one year of which shall have been in a supervisory capacity; or~~
    - 3.2.6.1.2 ~~A bachelor's degree in social work, sociology, psychology, criminal justice, education, guidance and counseling, human behavioral science or a related field and at least four years of full-time work experience in child welfare, social work, human services, teaching, counseling or a related field, at least two years of which shall have been in a supervisory capacity.~~
- 3.2.7 ~~Service Worker Qualifications~~
  - 3.2.7.1 ~~(Rule 3.20) A service worker, at the time of appointment, shall be at least 21 years of age and shall possess a bachelor's degree in social work, sociology, psychology, criminal justice, education, guidance and counseling, a human behavioral science or a related field and at least two years of full-time work experience in child welfare, human services, teaching, counseling or a related field.~~

### 3.2.8 Administrative Oversight and Supervisor to Staff Ratios

- 3.2.8.1 ~~(Rule 3.21) The chief administrator shall ensure that there are a sufficient number of administrative, supervisory, social service, educational, recreational, direct care, and support employees or volunteers to perform the functions prescribed by these requirements and to provide for the care, needs, protection and supervision of children. The ratio of direct care workers to children during off-grounds activities or excursions shall be the same as the ratios of direct care workers to children that are required during on-grounds activities.~~
- 3.2.8.2 ~~(Rule 3.22) A licensee shall have either:~~
- 3.2.8.2.1 ~~A full-time chief administrator; or~~
  - 3.2.8.2.2 ~~If its licensed capacity is fewer than 13 children, a part-time chief administrator and a full-time service supervisor.~~
- 3.2.8.3 ~~(Rule 3.23) A licensee shall ensure that a designated employee is in charge on the premises at all times when children are present.~~
- 3.2.8.4 ~~(Rule 3.24) A licensee shall have a ratio of one service supervisor for every ten service workers or fraction thereof. A full-time chief administrator may also serve as the service supervisor when there are three or fewer service workers.~~
- 3.2.8.5 ~~(Rule 3.25) A licensee shall have a ratio of one direct care supervisor for every ten direct care workers or fraction thereof. A full-time chief administrator may also serve as the direct care supervisor when there are three or fewer direct care workers.~~

### 3.2.9 Orientation and Training of Employees and Volunteers

- 3.2.9.1 ~~(Rule 3.26) A licensee shall ensure that all new employees and volunteers participate in an orientation that includes the purpose, policies and procedures of the facility or program, the employee's role and responsibilities and the requirements to report allegations of child abuse or neglect.~~
- 3.2.9.2 ~~(Rule 3.27) A licensee shall ensure that each new employee, volunteer, or any current employee or volunteer whose job function changes, and whose primary role or function requires interaction with children, receives at least 15 hours of planned training preceding the assumption of his or her work assignment on an independent basis. The training shall include instruction in:~~
- 3.2.9.2.1 ~~Carrying out job responsibilities;~~
  - 3.2.9.2.2 ~~The licensee's purpose, policies and procedures, including those governing behavior management, crisis management and safety;~~
  - 3.2.9.2.3 ~~Emergency procedures and the location of emergency exits and emergency equipment, including first aid kits;~~
  - 3.2.9.2.4 ~~The role of employees and volunteers in client service delivery and the protection of children;~~
  - 3.2.9.2.5 ~~The Delaware child abuse and neglect law(s) and regulations; and~~
  - 3.2.9.2.6 ~~The provisions of these licensing requirements.~~
- ~~This requirement shall not apply to licensed professionals under contract with the licensee.~~
- 3.2.9.3 ~~(Rule 3.28) A licensee shall ensure that each employee and volunteer whose primary role or function requires interaction with children and who works 24 or more hours a week receives at least 40 hours of training annually, including the 15 hours of training provided pursuant to rule 3.2.9.2. This training shall cover subject matters designed to maintain, improve or enhance the employee's knowledge of or skills in carrying out his or her job responsibilities, including:~~
- 3.2.9.3.1 ~~Instruction in administering cardiopulmonary resuscitation (CPR) and first aid, including the location of first aid kits. A licensee providing care to children below six years of age shall include training in pediatric first aid and pediatric CPR;~~
  - 3.2.9.3.2 ~~Cultural sensitivity; and~~
  - 3.2.9.3.3 ~~Behavior management policies and procedures.~~
- 3.2.9.4 ~~(Rule 3.29) A licensee shall ensure that any employee or volunteer whose primary role or function requires interaction with children and who works fewer than 24 hours a week receives at least 20 hours of training annually, including the 15 hours of training provided pursuant to Requirement 3.2.9.2. The five hours of training not related to Requirement 3.2.9.2 shall be in subject matters identified in Requirement 3.2.9.3.~~
- 3.2.9.5 ~~(Rule 3.30) The licensee shall permit licensed professional employees, including but not limited to physicians, psychologists, and nurses, to apply hours of continuing education units (CEUs) earned each year towards the hourly requirements specified in Requirements 3.2.9.3 and 3.2.9.4. A licensee shall maintain on file written documentation of compliance with this requirement.~~

~~3.2.9.6 (Rule 3.31) A licensee shall maintain on file written materials documenting the delivery of orientation and training for all employees and volunteers.~~

### ~~3.2.10 Personnel Records~~

~~3.2.10.1 (Rule 3.32) A licensee shall develop, adopt and maintain on file a personnel record for every employee and volunteer.~~

~~3.2.10.2 (Rule 3.33) The personnel record shall contain the following:~~

~~3.2.10.2.1 Employment application;~~

~~3.2.10.2.2 Name, current address and phone number of the employee;~~

~~3.2.10.2.3 Verification of education where specified by these requirements;~~

~~3.2.10.2.4 Documentation of training received prior to and during employment at the facility or program;~~

~~3.2.10.2.5 Work history;~~

~~3.2.10.2.6 Three references from persons who are unrelated to the employee or volunteer, one of which shall be from any previous employer;~~

~~3.2.10.2.7 For job applicants who have worked with an agency that provides care or services to children, one of the three references required in Requirement 3.2.10.2.6 shall be from the prior child care employer;~~

~~3.2.10.2.8 Any health verification, as specified in Requirements 3.5.1.1 and 3.5.1.2;~~

~~3.2.10.2.9 Verification of completed criminal history record information check and child abuse registry information check;~~

~~3.2.10.2.10 Verification of receipt by the employee or volunteer of his or her current job description;~~

~~3.2.10.2.11 An annual employee performance evaluation; and~~

~~3.2.10.2.12 Employee disciplinary actions and history.~~

### ~~3.2.11 Job Descriptions for Employees~~

~~3.2.11.1 (Rule 3.34) A licensee shall maintain on file a current written job description for every employee and for every volunteer who works more than 24 hours a week.~~

~~3.2.11.2 (Rule 3.35) A licensee shall ensure that an employee's and volunteer's permanent or temporary assignment and functions shall be consistent with his or her respective current written job description.~~

### ~~3.2.12 Use of Volunteers~~

~~3.2.12.1 (Rule 3.36) A licensee shall develop, adopt, follow and maintain on file policies and procedures governing the qualifications and use of volunteers. The qualifications shall be appropriate to the duties they perform.~~

~~3.2.12.2 (Rule 3.37) A licensee shall assign designated employees to supervise volunteers.~~

### ~~3.2.13 Child Abuse and Neglect~~

~~3.2.13.1 (Rule 3.38) A licensee shall provide each employee or volunteer who has contact with children written information governing the reporting provisions of the Delaware child abuse and neglect law(s) and regulations, and shall maintain on file written documentation of their receipt of this information.~~

~~3.2.13.2 (Rule 3.39) A licensee shall not discourage, inhibit, penalize or otherwise impede any employee or volunteer from reporting any suspected or alleged incident of child abuse or neglect.~~

~~3.2.13.3 (Rule 3.40) A licensee shall develop, adopt, follow and maintain on file written policies and procedures for handling any incident of suspected child abuse or neglect. The policies and procedures shall contain provisions specifying that:~~

~~3.2.13.3.1 The licensee immediately shall take appropriate remedial action to protect children from harm;~~

~~3.2.13.3.2 The licensee shall take appropriate long term corrective action to eliminate the factors or circumstances that may have caused or may have otherwise resulted in a continuing risk of abuse or neglect to children;~~

~~3.2.13.3.3 Any employee or volunteer involved in an incident of alleged child abuse or neglect shall be removed or suspended from having direct contact with any child, or shall be reassigned to other duties that do not involve having contact with children until the investigation of the incident has been completed;~~

~~3.2.13.3.4 The licensee shall take appropriate disciplinary action against any employee or volunteer who committed an act of child abuse or neglect.~~

## 3.3 Children Services and Activities

### 3.3.1 Admission

- 3.3.1.1 ~~(Rule 3.41) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing a child's admission to a facility or program. The policies and procedures shall be made available to those persons considering admission of a child to a facility or program and shall include:~~
- ~~3.3.1.1.1 Age range of children served;~~
  - ~~3.3.1.1.2 Gender of children served;~~
  - ~~3.3.1.1.3 Presenting problems and treatment needs of children served;~~
  - ~~3.3.1.1.4 Materials, documents and reports required, including a child's social, education, medical evaluation and histories;~~
  - ~~3.3.1.1.5 A description of the types of treatment services provided; and~~
  - ~~3.3.1.1.6 The identifying information about a child to be recorded at the time of admission or as a part of the pre-admission process. Such information shall include the child's name, birth date, gender, religious preferences, race or ethnicity, names, addresses, telephone numbers of parent(s) or legal guardian, other service workers or contact persons, the referring agency, if applicable, known medical history and allergies, date of admission, and a brief social history, including the presenting problems.~~
- 3.3.1.2 ~~(Rule 3.42) When a licensee refuses the admission of a child, the licensee shall provide the child's parent(s), legal guardian and the referring agency with a written explanation of the reasons for refusal, if requested.~~
- 3.3.1.3 ~~(Rule 3.43) A licensee shall ensure that the child, his or her parent(s), legal guardian, and the referring agency and any other appropriate party, are provided a reasonable opportunity to participate in the facility's or program's admission process.~~
- 3.3.1.4 ~~(Rule 3.44) Where involvement of the child's parent in the admission process is neither possible nor desirable, the licensee shall record the reasons for exclusion in the admission records.~~
- 3.3.1.5 ~~(Rule 3.45) A licensee shall not admit a child into care until an admission evaluation has been completed.~~
- 3.3.1.6 ~~(Rule 3.46) In an emergency admission, a licensee shall complete Requirements 3.3.1.3, 3.3.1.4 and 3.3.1.5 within five consecutive business days.~~
- 3.3.1.7 ~~(Rule 3.47) A licensee shall develop, adopt, follow and maintain on file a written admission agreement with the parent(s), legal guardian or the referring agency. The admission agreement shall be signed by all parties and include:-~~
- ~~3.3.1.7.1 The basis for admission;~~
  - ~~3.3.1.7.2 The service or treatment goals;~~
  - ~~3.3.1.7.3 The specific services or treatment to be provided;~~
  - ~~3.3.1.7.4 The religious orientation and practices of the child;~~
  - ~~3.3.1.7.5 The roles and responsibilities of the licensee and all persons and agencies involved with the child and his or her family;~~
  - ~~3.3.1.7.6 Authorization to provide services to the child;~~
  - ~~3.3.1.7.7 Authorization to provide or obtain routine medical care for the child;~~
  - ~~3.3.1.7.8 Authorization to provide emergency medical or surgical care for the child; and~~
  - ~~3.3.1.7.9 Authorization to enable the child to participate in recreational and out-of state activities.~~
- 3.3.2 ~~Information Provided to Children and Their Parents~~
- 3.3.2.1 ~~(Rule 3.48) A licensee shall provide to children and their parent(s) or legal guardian, or upon request to the referring agency the following:~~
- ~~3.3.2.1.1 Operational rules of the facility or program;~~
  - ~~3.3.2.1.2 Policies governing visiting, telephone use, and other forms of communication with family, friends, and other persons important to the child;~~
  - ~~3.3.2.1.3 Religious orientation and practices observed by the licensee;~~
  - ~~3.3.2.1.4 A description of services and activities provided;~~
  - ~~3.3.2.1.5 A description of the licensee's behavior management policies and procedures;~~
  - ~~3.3.2.1.6 Grievance policies and procedures;~~
  - ~~3.3.2.1.7 Name of the child's service worker;~~
  - ~~3.3.2.1.8 Information on how to obtain a copy of these requirements, and on reporting any suspected violations of these requirements; and~~

3.3.2.1.9 The child's service plan.

3.3.3 Service Plan

- 3.3.3.1 (Rule 3.49) A licensee shall develop, adopt, follow and maintain on file a written service plan for each child admitted into a facility or program.
- 3.3.3.2 (Rule 3.50) A licensee shall complete the service plan within 30 consecutive calendar days of a child's admission and shall update the plan at least every 90 consecutive calendar days thereafter.
- 3.3.3.3 (Rule 3.51) A licensee shall afford the child, his or her parent(s) or legal guardian, and the referring agency an opportunity to be involved in the development of the service plan unless there is written documentation justifying the non-participation of any such parties.

3.3.4 Permission to Have Contact with Designated Persons

- 3.3.4.1 (Rule 3.52) A licensee shall allow a child's parent(s) or legal guardian, attorney, clergy, authorized representative of the referring agency, or a Division representative, to be permitted to have telephone, mail and in-person contact and to confer in private with any child.

3.3.5 Education

- 3.3.5.1 (Rule 3.53) A licensee shall ensure that each school-age child receives an appropriate education, in accordance with applicable federal and State law(s) and regulations. Education shall be provided either in a public or private school, or in an approved on-grounds school operated by the licensee.
- 3.3.5.2 (Rule 3.54) A licensee shall ensure that every school-age child attends either an on-grounds or community-based educational program that has been approved by the appropriate Delaware authorities.
- 3.3.5.3 (Rule 3.55) If a licensee chooses to provide an educational program directly, the licensee shall ensure that such education programs comply with the following:
  - 3.3.5.3.1 One teacher for every 20 children or fraction thereof shall be responsible for implementing the educational program;
  - 3.3.5.3.2 Teachers shall be at least 21 years of age and shall possess a bachelor degree in the subject area of instruction or a bachelor degree in education appropriate to age and educational needs of the children in the program;
  - 3.3.5.3.3 Employees meeting at a minimum the qualifications of Direct Care Worker may assist in the on-grounds educational program provided that they work under the supervision of an employee meeting the qualifications for Teacher;
  - 3.3.5.3.4 The educational program operates on at least as many calendar days and clock hours as are required by State law(s) and regulations;
  - 3.3.5.3.5 A core curriculum that is appropriate to the population to be served is followed;
  - 3.3.5.3.6 Special education services are provided or arranged by the licensee for each child whose special education needs have been identified and as appropriate in collaboration with the child's school district; and
  - 3.3.5.3.7 Appropriate written records shall be maintained on file for each child that reflect the use of a uniform grading system and a process for transfer and release of these records to and from other schools or facilities.
- 3.3.5.4 (Rule 3.56) If a licensee chooses not to provide an educational program directly, the licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the assignment of any child to an educational program.
- 3.3.5.5 (Rule 3.57) A licensee shall provide appropriate space and supervision for quiet study after school hours.
- 3.3.5.6 (Rule 3.58) A licensee shall ensure the each child has access to necessary educational references and other resource materials.
- 3.3.5.7 (Rule 3.59) A licensee shall ensure that adolescent children receive career preparation services, life skills training, and employment counseling unless such services, training and counseling are being provided in their regular or special education school program. Such services, training and counseling shall be appropriate to the age and capabilities of the child.

3.3.6 Work and Employment

- 3.3.6.1 (Rule 3.60) A licensee shall not engage a child in any work assignment unless the assignment offers the child a constructive experience, in accordance with the child's age, capabilities and service plan.

- 3.3.6.2 (Rule 3.61) For any adolescent who is legally not obliged to attend school, a licensee shall ensure that the child is either gainfully employed or enrolled in a training program geared to the acquisition of suitable employment or necessary life skills appropriate to the child's level of functioning.
- 3.3.7 ~~Children's Recreation, Physical Exercise and Leisure Time Activities~~
- 3.3.7.1 (Rule 3.62) ~~A licensee shall develop, adopt, follow and maintain on file written policies and procedures ensuring developmentally appropriate recreation, physical exercise and leisure time activities both on and off the premises, including planned trips and excursions. The policies and procedures shall contain provisions requiring:~~
- 3.3.7.1.1 ~~A list of the types of activities to be offered to children both on and off the premises;~~
- 3.3.7.1.2 ~~A balanced mixture of planned recreation, physical exercise and leisure time activities, so that children have a reasonable choice of alternatives in which to participate;~~
- 3.3.7.1.3 ~~Opportunities for both individual and group activities; and~~
- 3.3.7.1.4 ~~A written schedule of monthly planned recreation, physical exercise and leisure time activities be developed and posted monthly in a conspicuous and readily accessible location on the premises, and be maintained on file for at least 90 consecutive calendar days.~~
- 3.3.7.2 (Rule 3.63) ~~A licensee shall ensure that reasonable precautions and safeguards are utilized to prevent or minimize the risk of serious injury or harm to children.~~
- 3.3.7.3 (Rule 3.64) ~~A licensee shall ensure that children utilize only bathing, biking, boating, camping, canoeing, hiking, kayaking, sailing, swimming, water skiing, white water rafting or other sporting or recreation areas or facilities that are in compliance with applicable provisions of federal, state, county and municipal law(s), regulations and ordinances.~~
- 3.3.7.4 (Rule 3.65) ~~A licensee shall not threaten, coerce or intimidate a child to participate or engage in any recreation, physical exercise or leisure time activity, but may require a child to attend while not participating in the activity.~~
- 3.3.7.5 (Rule 3.66) ~~A licensee shall ensure that staff provide adequate and appropriate supervision of children engaging in recreation, physical exercise or leisure time activities and shall offer instruction, guidance and support to assist a child in learning to do so in a safe manner.~~
- 3.3.7.6 (Rule 3.67) ~~A licensee shall not permit children to engage or participate in high-risk activities unless:~~
- 3.3.7.6.1 ~~the licensee complies with applicable provisions governing such activities, as specified in Chapter 10; or~~
- 3.3.7.6.2 ~~The licensee utilizes an existing high adventure activity provider that is certified or approved by an appropriate governmental or private accrediting agency and that assumes responsibility for safety precautions and risk reductions.~~
- 3.3.7.7 (Rule 3.68) ~~A licensee shall prohibit children from participating in bungee jumping, hang gliding, parachute jumping, parasailing, and riding in airborne gliders.~~
- 3.3.8 ~~Religion and Culture~~
- 3.3.8.1 (Rule 3.69) ~~A licensee shall respect the religious preference of the child and his or her parent(s) or legal guardian.~~
- 3.3.8.2 (Rule 3.70) ~~A licensee shall ensure that each child is afforded opportunities to attend religious services or activities in his or her religious faith of choice. A licensee shall directly arrange for or ensure that other reasonable means are provided for the transportation of a child to services or activities that are off site.~~
- 3.3.8.3 (Rule 3.71) ~~A licensee that has a particular religious or denominational orientation shall provide a written description of its orientation or beliefs to the child and to the child's parent(s) or legal guardian prior to the child's admission, or within seven consecutive calendar days following the admission of the child.~~
- 3.3.8.4 (Rule 3.72) ~~A licensee shall not require or coerce children to participate in religious services or activities, shall not discipline, discriminate against, or deny privileges to any child who chooses not to participate, and shall not reward any child who chooses to participate.~~
- 3.3.8.5 (Rule 3.73) ~~A licensee shall recognize and take into account the racial, cultural, ethnic and religious backgrounds of children when planning various activities or religious services.~~
- 3.3.9 ~~Behavior Management~~
- 3.3.9.1 (Rule 3.74) ~~A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the behavior management of children. The policies and procedures shall delineate the approved methods of behavior management techniques that are to be used to assist~~

children in developing self control, self direction, self esteem, and acceptable patterns of social behavior. The policies and procedures shall include the concepts and application of least restrictive effective treatment and positive reinforcements. The policies and procedures shall prohibit:

- 3.3.9.1.1 The delegation of responsibility for the control or supervision of children to other children;
  - 3.3.9.1.2 The use of corporal punishment or the threat of corporal punishment inflicted in any way on a child's body, including but not limited to shaking, biting, pinching, slapping, hitting or spanking;
  - 3.3.9.1.3 The use of any form of forced physical exercise or activity or work assignment that produces pain or discomfort;
  - 3.3.9.1.4 The use of verbal abuse, including humiliation, profanity, ridicule, or other forms of degradation;
  - 3.3.9.1.5 The withholding of any meal;
  - 3.3.9.1.6 The use of group punishments for misbehaviors of a child or a group of children unless the policies and procedures clearly prescribe the specific circumstances and safeguards under which such would be authorized;
  - 3.3.9.1.7 The denial of essential services, including medical or dental care;
  - 3.3.9.1.8 The denial of visits or communications with family;
  - 3.3.9.1.9 The denial of shelter, appropriate clothing, bedding, or any other essential personal needs;
  - 3.3.9.1.10 The denial of access to a toilet or bathing accommodations;
  - 3.3.9.1.11 The denial of access to a telephone to contact individuals defined in 3.3.4.1;
  - 3.3.9.1.12 The use of excessive force or inappropriate physical force;
  - 3.3.9.1.13 The use of restrictive procedures unless authorized by the Division and in compliance with the requirements of Chapter 9;
  - 3.3.9.1.14 The exploitation of a child; and
  - 3.3.9.1.15 The denial of sleep or needed rest.
- 3.3.9.2 (Rule 3.75) A licensee shall disseminate copies of the behavior management policies and procedures to all employees and children within 10 consecutive calendar days of employment or admission, respectively, and shall make copies available to the parent(s), legal guardian or the referring agency.
- 3.3.9.3 (Rule 3.76) A licensee shall ensure that all employees and volunteers who have regular contact with children receive a copy of the policies and procedures.
- 3.3.10 Documentation Requirements**
- 3.3.10.1 (Rule 3.77) A licensee shall develop, adopt, follow and maintain on written file policies and procedures governing the accurate and timely recording of each incident in which a time-out technique or a non-violent physical intervention strategy is used. Such policies and procedures shall ensure that the identity of the child, the date, time, place, and circumstances of, and the name of the employee or volunteer who administered the time-out technique or the non-violent physical intervention strategy is recorded. The nature of the technique or strategy and the elapsed time used shall also be recorded.
- 3.3.10.2 (Rule 3.78) A licensee shall ensure that the chief administrator or his or her designee reviews the documentation on a weekly basis.
- 3.3.11 Time-Out Techniques**
- 3.3.11.1 (Rule 3.79) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the use of appropriate time-out techniques. The policies and procedures shall require that appropriate time-out techniques may be used only:
- 3.3.11.1.1 For a child six years of age or older, except as noted in Requirement 3.3.11.3;
  - 3.3.11.1.2 When a child's behavior is judged by the employee to be disruptive to the child's ability to learn from the activity, to participate appropriately in the activity, or to function appropriately with other children engaged in an activity; and
  - 3.3.11.1.3 For a duration of time that shall not exceed 60 consecutive minutes. If there are more than 25 time-outs for an individual child or a cumulative total of four hours spent in time-out within any consecutive 24-hour period, a licensee shall ensure that:
    - 3.3.11.1.3.1 A review is conducted by the chief administrator or his or her designee to determine the suitability of the child to remain in placement in the facility or program, or whether modifications to the child's service plan are warranted; and

- 3.3.11.1.3.2 Appropriate action is taken in response to the findings of the review.
- 3.3.11.2 (Rule 3.80) A licensee shall ensure that:
  - 3.3.11.2.1 At least one employee has been designated to be responsible for making visual contact with the child no less frequently than every 30 minutes;
  - 3.3.11.2.2 The child does not spend the time-out period in a closet, a bathroom or an unfinished basement or attic; and
  - 3.3.11.2.3 The child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has re-gained control.
- 3.3.11.3 (Rule 3.81) A licensee shall ensure that any use of a Time-Out Technique for a child below six years of age is:
  - 3.3.11.3.1 Limited to a period of time not to exceed one minute for each year of the child's age; and
  - 3.3.11.3.2 Employed as a supplement to, not a substitute for, other developmentally appropriate, positive methods of behavior management.
- 3.3.12 Non-Violent Physical Intervention Strategies
  - 3.3.12.1 (Rule 3.82) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the appropriate use of non-violent physical intervention strategies. These policies and procedures shall require that non-violent physical intervention strategies may be used only:
    - 3.3.12.1.1 When a child is out of control and could physically harm himself or herself or others;
    - 3.3.12.1.2 To prevent the destruction of property when the child fails to respond to non-physical behavior management interventions;
    - 3.3.12.1.3 For a duration of time that shall not exceed 15 consecutive minutes, without written documentation on attempts made to release the child from the hold if more than 15 minutes is required. A licensee shall ensure that a child is released from a physical intervention strategy as soon as he or she gains control, or before 15 consecutive minutes have elapsed, whichever occurs first; and
    - 3.3.12.1.4 By employees or volunteers who have been specifically trained in its use and authorized to apply such strategies.
  - 3.3.12.2 (Rule 3.83) A licensee shall not permit the application of a non-violent physical intervention strategy if a child has a documented physical condition that would contraindicate its use, unless a licensed physician has previously and specifically authorized its use in writing. Such documentation shall be maintained on file.
  - 3.3.12.3 (Rule 3.84) Whenever the provisions of Requirement 3.3.12.1 have been exceeded, a licensee shall ensure that:
    - 3.3.12.3.1 A review is conducted by the chief administrator or his or her designee to determine the suitability of the child to remain in placement in the facility or program, or whether modifications to the child's service plan are warranted;
    - 3.3.12.3.2 Written documentation of the review is forwarded to the Division; and
    - 3.3.12.3.3 Appropriate action is taken in response to the findings of the review.
  - 3.3.12.4 (Rule 3.85) A licensee shall prohibit employees from intentionally utilizing any of the following practices:
    - 3.3.12.4.1 Pulling a child's hair;
    - 3.3.12.4.2 Pinching a child's skin;
    - 3.3.12.4.3 Twisting a child's arm or leg in a way that would cause pain or injury to the child;
    - 3.3.12.4.4 Kneeling or sitting on the chest of a child;
    - 3.3.12.4.5 Placing a choke hold on a child;
    - 3.3.12.4.6 Bending back a child's finger(s);
    - 3.3.12.4.7 Shoving or pushing a child into the wall, floor or other stationary object; or
    - 3.3.12.4.8 Allowing another child or other children to assist in the application of a physical intervention strategy.
- 3.3.13 Children's Grievance Procedure
  - 3.3.13.1 (Rule 3.86) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the handling of grievances by children. The policies and procedures shall:
    - 3.3.13.1.1 Be written in clear and simple language;
    - 3.3.13.1.2 Be communicated to children in an age or developmentally appropriate manner;

- 3.3.13.1.3 Be posted in an area easily accessible to children and their parent(s) and legal guardian;
  - 3.3.13.1.4 Ensure that any grievance shall be investigated by an objective employee who is not the subject of the grievance; and
  - 3.3.13.1.5 Require continuous monitoring by the licensee of any grievance to assure there is no retaliation against the child.
- 3.3.13.2 (Rule 3.87) A licensee shall not take or threaten to take any punitive or other retaliatory action against a child who utilizes the grievance procedure.

#### 3.4 Physical Plant

##### 3.4.1 Premises and Equipment

- 3.4.1.1.1 (Rule 3.88) A licensee shall ensure that the facility's or program's premises and equipment accessible to or used by children are free from any danger to their health, safety and well-being.
- 3.4.1.1.2 (Rule 3.89) A licensee shall maintain on file written documentation that the buildings and premises of the facility or program conform to all applicable State and local fire, health and construction laws, ordinances and regulations.
- 3.4.1.1.3 (Rule 3.90) A licensee shall ensure that porches, elevated walkways and elevated play areas of more than two feet in height shall have barriers to prevent falls.
- 3.4.1.1.4 (Rule 3.91) A licensee shall ensure that all indoor and outdoor areas, toilets, wash basins, tubs, sinks, and showers are maintained in an operable, safe and sanitary manner.
- 3.4.1.1.5 (Rule 3.92) A licensee shall utilize approved products and procedures in accordance with labeled instructions to ensure that the premises are protected from insect infestation.
- 3.4.1.1.6 (Rule 3.93) A licensee shall ensure that all premises used by children are rodent free.

##### 3.4.2 Kitchen and Food Storage

- 3.4.2.1 (Rule 3.94) A licensee shall ensure that kitchens are provided with the necessary operable equipment for the preparation, storage, serving and clean-up of all meals for all of the children and employees regularly served by such kitchens. A licensee that does not prepare food on the premises and that utilizes single-service (disposable) dishes, pots, pans and utensils shall not be governed by this Requirement and Requirements 3.4.2.2, 3.4.2.3, 3.4.2.6, 3.4.2.8 and 3.4.2.10.
- 3.4.2.2 (Rule 3.95) A licensee shall ensure that a kitchen or food preparation area has a hand washing sink within the food preparation area and separate from the sink used for food preparation and dish washing.
- 3.4.2.3 (Rule 3.96) A licensee with a licensed capacity of 12 or fewer children shall ensure that:
  - 3.4.2.3.1 A mechanical dishwasher is used for the cleaning and sanitizing of all dishes, pots, pans and utensils after each meal; or
  - 3.4.2.3.2 Dishes, pots, pans and utensils are manually washed and rinsed after each meal in a sanitary manner using a two-compartment sink. When dishes, pots, pans and utensils are manually washed, a chlorinated detergent is used; and dishes, pots, pans and utensils, are immersed in warm water for a duration of time that is at least one minute. The water is to contain a sanitizing solution that is self-made, consisting of one teaspoon of household bleach to one gallon of water, or an appropriate commercial sanitizing solution that is used in accordance with labeled instructions.
  - 3.4.2.3.3 All dishes, pots, pans and utensils are air dried.
- 3.4.2.4 (Rule 3.97) A licensee with a licensed capacity of 13 or more children shall ensure that:
  - 3.4.2.4.1 A mechanical dishwasher is used for the cleaning and sanitizing of all dishes, pots, pans and utensils after each meal; and
  - 3.4.2.4.2 The dishwasher is capable of sanitizing at the proper time, temperature and pressure ratio, and that dishes, pots, pans and utensils are washed in accordance with manufacturer's instructions.
- 3.4.2.5 (Rule 3.98) A licensee shall ensure that all food service equipment and utensils are constructed of material that is nontoxic, easily cleanable and maintained in good repair.
- 3.4.2.6 (Rule 3.99) A licensee shall ensure that all food services equipment, eating and drinking utensils, counter tops and other food contact areas are thoroughly cleaned and sanitized after each use.
- 3.4.2.7 (Rule 3.100) A licensee shall ensure that the floor, walls and counter top surfaces of the kitchen are made of cleanable materials and impervious to water to the level of splash.
- 3.4.2.8 (Rule 3.101) A licensee shall ensure that the kitchen has a cook stove and oven with an appropriately vented hood that is maintained in a safe and operable condition.

- 3.4.2.9 ~~(Rule 3.102) A licensee shall ensure that the kitchen is so constructed or supervised as to limit access by children when necessary.~~
- 3.4.2.10 ~~(Rule 3.103) A licensee shall ensure that food preparation areas and appliances, dishes, pots, pans, and utensils in which food was prepared or served are cleaned following each meal.~~
- 3.4.2.11 ~~(Rule 3.104) A licensee shall ensure that all foods subject to spoilage are stored at temperatures that will protect against spoilage. This means that:~~
  - 3.4.2.11.1 ~~All refrigerated foods are to be kept cold at 41 degrees Fahrenheit or below.~~
  - 3.4.2.11.2 ~~All frozen foods are to be kept at 0 degrees Fahrenheit or below.~~
  - 3.4.2.11.3 ~~All hot foods are to be kept at 140 degrees Fahrenheit or above, except during periods that are necessary for preparation and serving.~~
  - 3.4.2.11.4 ~~Refrigerators and freezers shall be equipped with accurate, easily readable thermometers located in the warmest part of the refrigerator or freezer.~~
- 3.4.2.12 ~~(Rule 3.105) A licensee shall ensure that:~~
  - 3.4.2.12.1 ~~All food storage areas are clean, dry and free of food particles, dust and dirt;~~
  - 3.4.2.12.2 ~~All packaged food items and can goods are stored at least six inches above the floor in sealed or closed containers that are labeled;~~
  - 3.4.2.12.3 ~~All dishes, pots, pans and utensils are stored in a clean and dry place; and~~
  - 3.4.2.12.4 ~~All paper goods are stored at least six inches above the floor.~~
- 3.4.3 ~~Water Supply and Sewage Disposal~~
  - 3.4.3.1 ~~(Rule 3.106) A licensee shall maintain on file written documentation that the building's water supply and sewage disposal system are in compliance with applicable State laws and regulations of the Delaware Division of Public Health and the Delaware Department of Natural Resources and Environmental Control, respectively.~~
  - 3.4.3.2 ~~(Rule 3.107) A licensee shall ensure that hot tap water does not exceed 120 degrees Fahrenheit at all outlets accessible to children, and that cold or tempered water are also provided.~~
- 3.4.4 ~~Garbage and Refuse~~
  - 3.4.4.1 ~~(Rule 3.108) A licensee shall ensure that:~~
    - 3.4.4.1.1 ~~Garbage is stored outside in watertight containers with tight-fitting covers that are insect and rodent proof;~~
    - 3.4.4.1.2 ~~Garbage and refuse are removed from the premises at intervals of at least once a week; and~~
    - 3.4.4.1.3 ~~Garbage and refuse are contained in an area that is separate from any outdoor recreation areas.~~
- 3.4.5 ~~Lighting~~
  - 3.4.5.1 ~~(Rule 3.109) A licensee shall ensure that kitchens and all rooms used by children, including bedrooms, dining rooms, recreation rooms and classrooms, are suitably lighted for safety and comfort, with a minimum of 30 foot candles of light. All other areas shall have a minimum of 10 foot candles of light.~~
  - 3.4.5.2 ~~(Rule 3.110) A licensee shall ensure that all lights located over, by or within food preparation, serving and storage areas shall have safety shields or light covers.~~
  - 3.4.5.3 ~~(Rule 3.111) A licensee shall ensure that all corridors are illuminated during night-time hours.~~
  - 3.4.5.4 ~~(Rule 3.112) During night-time hours, a licensee shall provide for exterior lighting of the building(s), parking areas, pedestrian walkways or other premises subject to use by children, employees and volunteers.~~
- 3.4.6 ~~Heating~~
  - 3.4.6.1 ~~(Rule 3.113) A licensee shall ensure that a minimum temperature of 68 degrees Fahrenheit is maintained at floor level in all rooms occupied by children.~~
  - 3.4.6.2 ~~(Rule 3.114) A licensee shall ensure that all working fireplaces, pipes, and electric space heaters accessible to children are protected by screens, guards, insulation or any other suitable, non-combustible protective device. All radiators accessible to children below six years of age shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.~~
  - 3.4.6.3 ~~(Rule 3.115) Portable fuel burning or wood burning heating appliance shall be prohibited.~~
- 3.4.7 ~~Lead Paint and Asbestos~~
  - 3.4.7.1 ~~(Rule 3.116) A licensee shall not use lead paint on the interior or exterior surfaces of any building used by children or on any furniture, toys or other equipment used by children.~~

3.4.7.2 (Rule 3.117) A licensee that accepts children who are under six years of age, mentally retarded or severely emotionally disturbed shall ensure that the premises are free of lead paint hazards and shall maintain on file documentation that the premises have been tested and found to be free from lead paint hazards.

3.4.7.3 (Rule 3.118) A licensee shall not use spray coatings containing asbestos on any interior or exterior portion of buildings or on any equipment used therein.

### 3.4.8 Toilet and Bathing

3.4.8.1 (Rule 3.119) A licensee shall ensure that toilets, showers, sinks, and bathing facilities and other toilet accessories are provided for children and:

3.4.8.1.1 Allow for individual privacy unless this privacy is in conflict with toilet training or needed supervision; and

3.4.8.1.2 Are maintained in a safe and sanitary manner.

3.4.8.2 (Rule 3.120) A licensee shall ensure that bathroom surfaces subject to splash shall be cleanable and impervious to water.

3.4.8.3 (Rule 3.121) A licensee shall ensure that bathroom floors, showers, and bathtubs have slip-proof surfaces. Glass shower doors shall be marked for safety.

3.4.8.4 (Rule 3.122) A licensee shall ensure that bathrooms are equipped with openable windows or mechanical ventilation systems to the outside.

### 3.4.9 Ventilation

3.4.9.1 (Rule 3.123) A licensee shall ensure that each habitable room has direct outside ventilation by means of windows, louvers, air conditioning or mechanical ventilation.

3.4.9.2 (Rule 3.124) A licensee shall ensure that:

3.4.9.2.1 Each door, operable window and other opening to the outside is equipped with insect screening in good repair and not less than 16 mesh to the inch, unless the facility is air conditioned and provided that it does not conflict with applicable fire safety requirements; and

3.4.9.2.2 This screening can be readily removed in emergencies.

3.4.9.3 (Rule 3.125) A licensee shall ensure that ventilation outlets are maintained in a clean and sanitary manner, and kept free from obstructions.

3.4.9.4 (Rule 3.126) A licensee shall ensure that all floor or window fans accessible to children have a protective grill, screen or other protective covering.

### 3.4.10 Storage

3.4.10.1 (Rule 3.127) A licensee shall provide areas with sufficient space for storing all supplies and equipment in a safe and sanitary manner.

3.4.10.2 (Rule 3.128) A licensee shall ensure that all poisonous and toxic materials are stored in accordance with the following:

3.4.10.2.1 All poisonous and toxic materials shall be prominently and distinctly labeled for easy identification as to contents;

3.4.10.2.2 All poisonous and toxic materials shall be stored so as to not contaminate food or constitute a hazard to children, employees and volunteers;

3.4.10.2.3 All poisonous and toxic materials shall be stored in a secure and locked room with access only by authorized employees, except those products that are required for routine cleaning and maintenance; and

3.4.10.2.4 All flammable liquids, gasoline, or kerosene shall not be stored on the premises except in a manner and place that has been authorized in writing by the Office of the Fire Marshal.

### 3.4.11 Furnishings and Maintenance

3.4.11.1 (Rule 3.129) A licensee shall ensure that buildings are furnished with comfortable, clean furniture in good repair and appropriate to the age, size and capabilities of children.

3.4.11.2 (Rule 3.130) A licensee shall ensure that the premises are maintained and cleaned in a scheduled or routine manner.

3.4.11.3 (Rule 3.131) A licensee shall ensure that all cleaning equipment, including mops and buckets, are cleaned and stored in an area separate and distinct from the kitchen and food preparation, serving and storage areas. Kitchen and bathroom sinks shall not be utilized for cleaning mops, emptying mop buckets, or for any other purpose not connected with food preparation or the cleaning of dishes, pots, pans and utensils.

3.4.11.4 (Rule 3.132) A facility licensed to care for 13 or more children shall have a service sink.

### 3.4.12 Outdoor Recreation Area

- 3.4.12.1 ~~(Rule 3.133) A licensee shall maintain or have with at least 50 square feet for each child for the maximum number of children who will use the outdoor recreation area at one time.~~
- 3.4.12.2 ~~(Rule 3.134) When a licensee is not able to comply with Requirement 3.4.12.1, the licensee shall provide a minimum of 700 square feet of open, accessible indoor play space suitable for large muscle activity, group and individual sports conducive to indoor facilities and other forms of recreation activities.~~
- 3.4.12.3 ~~(Rule 3.135) A licensee shall ensure that all outdoor recreation areas are free from hazards and have adequate drainage.~~
- 3.4.12.4 ~~(Rule 3.136) A licensee shall ensure that all areas determined to be unsafe including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads or highways shall be fenced off or have a natural barrier to protect children.~~
- 3.4.12.5 ~~(Rule 3.137) A licensee shall ensure that its outdoor recreation program area has age-appropriate equipment for vigorous play, large muscle activity, physical exercise and group sports. Such equipment shall be maintained in a clean, safe, and operable condition and shall be free of hazards.~~

### 3.4.13 Swimming

- 3.4.13.1 ~~(Rule 3.138) A licensee that operates and utilizes an above-ground or in-ground swimming pool on its premises for use by children shall ensure that:~~
  - 3.4.13.1.1 ~~The pool fully complies with applicable swimming pool construction, sanitation, water quality standards, water temperature, recreational bathing and life saving provisions of federal, state, county and municipal law(s), regulations and ordinances;~~
  - 3.4.13.1.2 ~~The pool is maintained in a clean, safe, and sanitary manner;~~
  - 3.4.13.1.3 ~~The pool water shall be sufficiently clear to allow that all areas of the pool including the drain and bottom markings are clearly visible.~~
  - 3.4.13.1.4 ~~At least one employee who has secured a valid lifesaving or life guard certificate issued by an appropriate governmental or private certifying agency is assigned to monitor the pool whenever children are present;~~
  - 3.4.13.1.5 ~~The employee(s) assigned to monitor bathers and swimmers using the pool is located in a position out of the water where he or she can clearly observe all bathers and swimmers; and~~
  - 3.4.13.1.6 ~~The pool is secured when not utilized by children.~~
- 3.4.13.2 ~~(Rule 3.139) A licensee shall ensure that the following lifesaving equipment is provided:~~
  - 3.4.13.2.1 ~~A whistle;~~
  - 3.4.13.2.2 ~~An assist pole or other appropriate reaching device~~
  - 3.4.13.2.3 ~~A ring buoy or other appropriate throwing assist device that has a rope attached to it;~~
  - 3.4.13.2.4 ~~A backboard that has appropriate rigid cervical collars and a minimum of six straps;~~
  - 3.4.13.2.5 ~~A first aid kit; and a rescue tube.~~

### 3.4.14 Access to Telephone

- 3.4.14.1 ~~(Rule 3.140) A licensee shall ensure that each building used by children has at least one working telephone that is directly available for immediate access or that is connected to an operating central telephone system.~~
- 3.4.14.2 ~~(Rule 3.141) A licensee shall ensure that the licensee's telephone number is clearly posted and available to children, their parent(s) or legal guardian, and the general public.~~
- 3.4.14.3 ~~(Rule 3.142) A licensee shall provide children reasonable access to a pay or free telephone.~~
- 3.4.14.4 ~~(Rule 3.143) A licensee shall provide children reasonable privacy for telephone use.~~
- 3.4.14.5 ~~(Rule 3.144) A licensee shall not charge children for telephone calls to their Division case manager or the Department rights representative.~~

### 3.4.15 Emergency Procedures

- 3.4.15.1 ~~(Rule 3.145) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the handling of emergencies, including:~~
  - 3.4.15.1.1 ~~Accident;~~
  - 3.4.15.1.2 ~~Bomb threat;~~
  - 3.4.15.1.3 ~~Fire;~~
  - 3.4.15.1.4 ~~Flooding;~~

- 3.4.15.1.5 Medical;
- 3.4.15.1.6 Missing child;
- 3.4.15.1.7 Power outage; or
- 3.4.15.1.8 Severe weather conditions.

3.4.15.2 (Rule 3.146) The policies and procedures shall include:

- 3.4.15.2.1 An emergency evacuation plan;
- 3.4.15.2.2 Instructions and telephone numbers for contacting ambulance, emergency medical response team, fire, hospital, poison control center, police, and other emergency services;
- 3.4.15.2.3 Location and use of first aid kits; and
- 3.4.15.2.4 Roster and telephone numbers of employees to be contacted during an emergency.

3.4.15.3 (Rule 3.147) A licensee shall post its emergency evacuation plan and diagram depicting all exits in a conspicuous location on each floor of a building.

3.4.15.4 (Rule 3.148) A licensee shall ensure that each newly admitted child is provided an orientation regarding emergency procedures and the location of all exits within 48 hours of admission.

#### 3.4.16 Emergency Evacuation Drills

3.4.16.1 (Rule 3.149) A licensee shall conduct at least four emergency evacuation drills annually and maintain on file a record of each drill. Two of these drills shall include evacuations, unless the Division, in writing, has determined that an evacuation is clinically contraindicated. Where a licensee utilizes two or more employee shifts, there shall be at least four emergency evacuation drills conducted annually for each shift.

3.4.16.2 (Rule 3.150) Emergency evacuation drills shall include all persons on the premises, including employees, volunteers, children and visitors.

#### 3.4.17 Firearms and Other Weapons

3.4.17.1 (Rule 3.151) A licensee shall prohibit the storage or use of any firearms or other weapons on the grounds of the facility or program or in any building used by children.

#### 3.4.18 Power Equipment

3.4.18.1 (Rule 3.152) A licensee shall ensure that power-driven equipment shall be appropriately shielded and maintained in good repair. Children shall be permitted to use such equipment only when it is age appropriate and only under the direct supervision of an employee.

### 3.5 Health

#### 3.5.1 Employee and Volunteer Health

3.5.1.1 (Rule 3.153) Prior to employing any person or accepting any volunteer, a licensee shall secure and maintain on file written documentation certifying and verifying that the prospective employee and volunteer has had a general physical examination within 12 months prior to the date of employment. The examination shall include a medically accepted procedure for screening for tuberculosis.

3.5.1.2 (Rule 3.154) To be eligible to work in the facility or program, an employee or volunteer shall be:

- 3.5.1.2.1 Free from tuberculosis; and
- 3.5.1.2.2 Verified every three years thereafter as being free from tuberculosis.

3.5.1.3 (Rule 3.155) If a licensee determines that the prospective employee or volunteer has not had a general physical examination within 12 consecutive calendar months prior to the anticipated date of employment or volunteer work, or if a licensee is unable to document that such an examination was completed, a licensee shall require the prospective employee or volunteer, as a condition of employment, to have such a general physical examination, as specified in Requirements 3.5.1.1 and 3.5.1.2, within three consecutive calendar months of the date of employment or volunteer work.

#### 3.5.2 Child Health

3.5.2.1 (Rule 3.156) A licensee shall secure from and maintain on file written documentation of each child's current immunizations, as required by the Delaware Division of Public Health.

3.5.2.2 (Rule 3.157) If a licensee cannot obtain written documentation of immunization for a child, the licensee shall:

- 3.5.2.2.1 Coordinate with the child's parent(s), legal guardian, or referring agency for the provision of required immunizations; and

3.5.2.2.2 Ensure that the child is immunized within 30 consecutive calendar days of admission, unless a statement from a physician indicating that immunizations are contraindicated is included in the child's health record.

### 3.5.3 Child's Health Records

3.5.3.1 (Rule 3.158) A licensee shall maintain on file a written health record for each child that includes information on:-

3.5.3.1.1 All available past medical history;

3.5.3.1.2 Inventory and assessment of medications in use at the time of admission;

3.5.3.1.3 All immunizations;

3.5.3.1.4 All medications dispensed;

3.5.3.1.5 Medical consents and releases of the child's parent(s) or legal guardian;

3.5.3.1.6 All medical, dental, psychological or psychiatric examinations; and

3.5.3.1.7 All medical treatment currently being provided.

3.5.3.2 (Rule 3.159) A licensee shall ensure that child health records are available to employees for emergency use.

### 3.5.4 Administration or Assistance With Self-Administration of Medication

3.5.4.1 (Rule 3.160) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the use, administration or assistance with the self-administration of medications, prescription and non-prescription, to children. The policies and procedures shall:

3.5.4.1.1 Identify those employees who may administer or assist with the self-administration of medications, in accordance with applicable State law(s) and regulations;

3.5.4.1.2 Prohibit the administration of psychotropic medications unless a physician determines that such medication is clinically indicated;

3.5.4.1.3 Prohibit the administration of psychotropic medications for disciplinary purposes, for the convenience of an employee, or as a substitute for appropriate treatment services;

3.5.4.1.4 Require that an informed, written consent of the child's parent(s) or legal guardian is secured and maintained on file prior to the administration of any psychotropic medication;

3.5.4.1.5 Provide for a means of recording in writing the administration of all medications. Such records shall include the identity of the child, the date and time the medication was administered, and the identity of the employee who administered or assisted in the self-administration of the medication; and

3.5.4.1.6 Ensure that any known prescribed medication previously taken by a child is not changed, altered or failed to be dispensed without first consulting with a physician.

3.5.4.2 (Rule 3.161) A licensee shall develop, adopt, follow and maintain on file a written schedule for each child receiving prescribed medications.

3.5.4.3 (Rule 3.162) A licensee shall ensure that all medications are contained in the original container, properly labeled and stored in a secure locked area or as needed, in a locked refrigerated area. Keys to the secure area shall be safeguarded and kept out of the reach of children.

3.5.4.4 (Rule 3.163) Effective one year following the adoption of these requirements, a licensee admitting children prescribed psychotropic medication and/or children prescribed medication for chronic illness, such as diabetes or asthma, shall ensure that each of these children receive a minimum of one hour per month of Medical Consultant services. The Medical Consultant services shall include:

3.5.4.4.1 Review of administration of the child's medication, including determination of problems in adherence or administration and development of corrective action plans.

3.5.4.4.2 Assessment and monitoring of the child with regard to the impact of their medication, including whether the medication is having its desired effects and whether the child is suffering from undesired side effects.

3.5.4.4.3 Provide liaison between the licensee and the child's physician(s).

3.5.4.4.4 Provide employees with instruction in the expected outcomes from each child's medication regime and the possible side effects of that medication regime.

### 3.5.5 Handwashing

3.5.5.1 (Rule 3.164) A licensee shall ensure that handwashing procedures follow the recommendations of the US Centers for Disease Control and Prevention to prevent the spread of illness. Hands shall be scrubbed for a minimum of 10 seconds using soap and warm running water.

3.5.5.2 (Rule 3.165) A licensee shall ensure that employees and children wash their hands at least at the following times and whenever hands are contaminated with body fluids:

3.5.5.2.1 ~~Before any food service activity including food preparation, food serving, table setting and tableware handling;~~

3.5.5.2.2 ~~After toileting;~~

3.5.5.2.3 ~~After changing diapers;~~

3.5.5.2.4 ~~After assisting a child with toileting or nose wiping, or after cleaning from a child's having vomited;~~

3.5.5.2.5 ~~Before eating meals or snacks; or~~

3.5.5.2.6 ~~After handling pets or other animals.~~

3.5.5.3 (Rule 3.166) ~~A licensee shall ensure that soap and toilet paper are available at all times. Paper towels or individual clean cloth towels shall be available for each child. If cloth towels are used, a licensee shall ensure that they are washed or replaced daily.~~

3.5.5.4 (Rule 3.167) ~~A licensee shall ensure that rest equipment, cribs, beds, mats and bedding are age-appropriate and assigned to one individual child for his or her exclusive use. All bedding shall be cleaned weekly or when soiled or wet, and shall not be assigned to another child until it has been cleaned and sanitized.~~

### 3.5.6 Universal Precautions

3.5.6.1 (Rule 3.168) ~~A licensee shall employ universal precautions for protection from disease and infection. Spills of body fluids (i.e., blood, eye discharge, feces, injury or tissue discharges, nasal discharge, saliva, or urine) shall be cleaned up immediately, as follows:~~

3.5.6.1.1 ~~Spills of vomit, urine, or feces on any surface including floors, walls, bathroom fixtures, table tops, furniture, diaper changing tables, the area shall be cleaned and disinfected;~~

3.5.6.1.2 ~~Spills of blood or blood-containing body fluids and injury and tissue discharges, the area shall be cleaned and disinfected. Nonporous disposable gloves shall be used in these situations unless the amount of blood or body fluids is so small that it can easily be contained by the material used for cleaning without coming into contact with the person doing the cleaning;~~

3.5.6.1.3 ~~Persons involved in cleaning contaminated surfaces shall avoid exposure of open skin sores or mucous membranes to blood or blood-containing body fluids and injury or tissue discharges by using nonporous disposable gloves to protect hands when cleaning contaminated surfaces;~~

3.5.6.1.4 ~~Blood-contaminated material and diapers shall be disposed of in a plastic bag with a secure tie; and~~

3.5.6.1.5 ~~Mops shall be cleaned, rinsed, disinfected, wrung dry and hung to dry.~~

### 3.5.7 Disinfectant Solution

3.5.7.1 (Rule 3.169) ~~A licensee shall use a disinfectant solution for disinfecting areas that have been contaminated by body fluids. The disinfectant solution shall be a commercially prepared spill kit or self-made consisting of one fourth cup of household bleach to each gallon of water, which shall be prepared daily, labeled, and placed in a bottle or a plastic container that is sealed with a cap and stored out of reach of children.~~

### 3.5.8 Diapering and Sanitation

3.5.8.1 (Rule 3.170) ~~A licensee shall ensure that a diaper changing area is:~~

3.5.8.1.1 ~~Separate from food preparation and serving areas;~~

3.5.8.1.2 ~~Easily accessible to a handwashing sink; and~~

3.5.8.1.3 ~~Surfaces used for diaper changing are non-absorbent and washable, and are disinfected between use by different children or protected by a disposable covering discarded after each use.~~

3.5.8.2 (Rule 3.171) ~~A licensee shall:~~

3.5.8.2.1 ~~Use cloth diapers or disposable diapers;~~

3.5.8.2.2 ~~Place non-disposable soiled diapers and training pants without rinsing into a separate leakproof plastic bag, labeled with the child's name, before transporting to a laundry or laundering;~~

3.5.8.2.3 ~~Place soiled disposable diapers into a cleanable, covered container with a leakproof liner;~~

3.5.8.2.4 ~~Use disposable towels, disposable wipes, or clean, reusable towels laundered between use for different children;~~

3.5.8.2.5 ~~Immediately wash his or her hands after diapering or helping a child with toileting; and~~

- 3.5.8.2.6 Immediately wash the hands of a child after toileting.
- 3.5.8.3 ~~(Rule 3.172) A licensee shall use toilet training chairs only in an area separate from food preparation areas and in an area that ensures a child's privacy while permitting supervision.~~
- 3.5.8.4 ~~(Rule 3.173) A licensee shall disinfect toilet training equipment after each use.~~
- 3.5.9 Infant Care
  - 3.5.9.1 ~~(Rule 3.174) A licensee shall ensure that feeding bottles, nipples, and pacifiers are cleaned and disinfected after each use or when dropped on the floor or ground.~~
  - 3.5.9.2 ~~(Rule 3.175) A licensee shall ensure that toys that are mouthed by infants or children are cleaned and disinfected after each use and stored between use in a clean container.~~
- 3.5.10 Emergency Medical Services
  - 3.5.10.1 ~~(Rule 3.176) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing medical emergencies. These policies and procedures shall require that at least:
    - 3.5.10.1.1 ~~One employee is on duty who is qualified to administer first aid and cardiopulmonary resuscitation; and~~
    - 3.5.10.1.2 ~~One fully equipped first aid kit is placed in each building used by children, and in any indoor recreation area.~~~~
- 3.5.11 First Aid Kit
  - 3.5.11.1 ~~(Rule 3.177) A licensee shall ensure that first aid kits are readily available and contain the following:
    - 3.5.11.1.1 ~~Nonporous disposable gloves;~~
    - 3.5.11.1.2 ~~Scissors;~~
    - 3.5.11.1.3 ~~Tweezers;~~
    - 3.5.11.1.4 ~~Safety pins;~~
    - 3.5.11.1.5 ~~Thermometer;~~
    - 3.5.11.1.6 ~~Current American Academy of Pediatrics or American Red Cross first aid book or an equivalent first aid guide;~~
    - 3.5.11.1.7 ~~Emergency telephone numbers;~~
    - 3.5.11.1.8 ~~Self-adhesive bandages of various sizes;~~
    - 3.5.11.1.9 ~~Bandage tape;~~
    - 3.5.11.1.10 ~~Sterile gauze pads;~~
    - 3.5.11.1.11 ~~Flexible roller gauze;~~
    - 3.5.11.1.12 ~~Triangular bandages; and~~
    - 3.5.11.1.13 ~~Antiseptic wipes.~~~~
- 3.5.12 Illness, Injury or Death
  - 3.5.12.1 ~~(Rule 3.178) A licensee shall notify the child's parent(s) or legal guardian and the referring agency of any serious illness incident involving serious bodily injury or any severe psychiatric episode of a child requiring either in or out patient hospitalization.~~
  - 3.5.12.2 ~~(Rule 3.179) A licensee shall immediately notify the child's parent(s) or legal guardian and the referring agency, the Division and the medical examiner in the event of the death of a child.~~
- 3.5.13 Nutrition
  - 3.5.13.1 ~~(Rule 3.180) A licensee shall ensure that all children are provided nutritionally balanced meals and snacks, and portions suitable to the size and age of the child in care, in accordance with the Recommended Dietary Allowances of the National Research Council or its equivalent.~~
  - 3.5.13.2 ~~(Rule 3.181) A licensee shall ensure that a written menu is posted on a daily basis in a conspicuous location on the premises. Any change or substitution to the menu shall be noted and considered as part of the original menu. Menus shall be maintained on file and made accessible for review for at least six months.~~
  - 3.5.13.3 ~~(Rule 3.182) A licensee shall ensure that meals and snacks are served in accordance with the following schedule based upon the number of hours that a child is present at the facility or program:
    - 3.5.13.3.1 ~~Two to four hours — — one snack;~~
    - 3.5.13.3.2 ~~Four to six hours — one meal and one snack;~~~~

~~3.5.13.3.3 Six to 10 hours two meals and one snack, or one meal and two snacks, based upon the arrival of the child; or~~

~~3.5.13.3.4 Ten hours or more three meals and two snacks.~~

~~3.5.13.4 (Rule 3.183) A licensee shall ensure that alternate meals and snacks are provided for children on special diets when prescribed by a physician or required by religious beliefs.~~

#### ~~3.5.14 Pets~~

~~3.5.14.1 (Rule 3.184) A licensee shall ensure that animals or household pets are free from disease and cared for in a safe and sanitary manner.~~

~~3.5.14.2 (Rule 3.185) A licensee shall secure and maintain on file written documentation of rabies and other vaccinations of pets, as required by State law(s), regulations or local ordinances.~~

#### ~~3.5.15 Use of Alcohol, Tobacco and Illegal Drugs~~

~~3.5.15.1 (Rule 3.186) A licensee shall prohibit the use of tobacco by children.~~

~~3.5.15.2 (Rule 3.187) A licensee shall prohibit all use of tobacco by employees, volunteers and visitors in any building used by children and in the presence of children.~~

~~3.5.15.3 (Rule 3.188) A licensee shall prohibit all use of alcohol and illegal drugs by employees, volunteers, children and visitors in any building or on the premises used by children and in the presence of children.~~

~~3.5.15.4 (Rule 3.189) A licensee shall prohibit all use of alcohol, tobacco and illegal drugs by employees, volunteers, children and visitors in any vehicle owned, leased or provided by the licensee and utilized for transporting children.~~

~~3.5.15.5 (Rule 3.190) In vehicles owned by employees or volunteers, a licensee shall prohibit all use of alcohol, tobacco and illegal drugs by employees, volunteers, children and visitors while transporting children.~~

~~3.5.15.6 (Rule 3.191) A licensee shall prohibit the purchase of alcohol, tobacco and illegal drugs for children by employees and volunteers.~~

#### ~~3.6 Transportation~~

~~3.6.1 (Rule 3.192) A licensee that chooses to provide for the transportation of children to or from the premises, or in connection with an authorized activity, shall ensure that transportation is provided, in accordance with the provisions of these requirements.~~

~~3.6.2 (Rule 3.193) A licensee shall maintain on file a photocopy or other written record of the following documents for every motor vehicle used by the licensee to transport children and every driver who transports children:~~

~~3.6.2.1 A valid motor vehicle license;~~

~~3.6.2.2 A current motor vehicle registration; and~~

~~3.6.2.3 A current motor vehicle insurance coverage contract.~~

~~3.6.3 (Rule 3.194) A licensee shall ensure that the driver of any motor vehicle used to transport children enrolled in a facility or program has a valid driver's license to operate the specific type of motor vehicle used to transport children.~~

~~3.6.4 (Rule 3.195) A licensee that chooses to transport non-ambulatory children with disabilities shall ensure that the following additional equipment is provided for all vehicles except automobiles used for transporting children:~~

~~3.6.4.1 A ramp device to permit entry and exit of a child;~~

~~3.6.4.2 A fastening system for wheelchairs that secures the chair to the vehicle floor; and~~

~~3.6.4.3 Adequate aisle space that does not impede access to the exit door.~~

~~3.6.5 (Rule 3.196) A licensee shall ensure that all vehicles used to transport children:~~

~~3.6.5.1 Are maintained in a clean and safe condition;~~

~~3.6.5.2 Are equipped with a triangular red portable reflector device;~~

~~3.6.5.3 Are equipped with a fully stocked first aid kit located on the inside of the vehicle;~~

~~3.6.5.4 Have seats and back rests that are securely fastened;~~

~~3.6.5.5 Have all seats facing sideways or backward securely locked in place; and~~

~~3.6.5.6 Have an operable heater capable of maintaining a temperature of 60 degrees Fahrenheit.~~

~~3.6.6 (Rule 3.197) A licensee shall ensure that the following safety procedures are followed:~~

~~3.6.6.1 An employee or volunteer is always present when a child is in the vehicle;~~

- 3.6.6.2 All children are secured in a car seat that is appropriate for their age and that complies with applicable provisions of federal and state law(s) or regulations;
- 3.6.6.3 Children who are not in a car seat are using individual seat belts; and
- 3.6.6.4 When transporting more than four children below six years of age, that there is one adult, in addition to the driver, in the vehicle.

#### **4.0 Residential Child Care Facility**

##### **4.1 Administration**

###### **4.1.1 Authorization to Operate a Facility**

- 4.1.1.1 (Rule 4.01) As a condition for being authorized by the Division to operate a facility, a licensee shall make application to and have been determined by the Division to be in full compliance with the Requirements of this Chapter, in addition to the Requirements of Chapters 1 through 3.

##### **4.2 Personnel**

###### **4.2.1 Staff to Child Ratios During Hours When Children are Awake**

- 4.2.1.1 (Rule 4.02) During hours when children are awake, a building with a licensed capacity of 12 or fewer children shall have no fewer than one direct care worker on duty on the premises when children are present. When no children are present, there shall be one employee who can be reached by telephone.
- 4.2.1.2 (Rule 4.03) During hours when children are awake, a building with a licensed capacity of 13 children or more, shall have one direct care worker on duty on the premises for every 10 children or fraction thereof when children are present. When no children are present, there shall be one employee who can be reached by telephone.

###### **4.2.2 Staff to Child Ratios During Hours When Children are Sleeping**

- 4.2.2.1 (Rule 4.04) During hours when children are sleeping, a building with a licensed capacity of 12 or fewer children, all of whom are of the same gender, shall have one direct care worker on duty on the premises when children are present. The direct care worker shall be in the area where children sleep or in any area within close proximity to the area(s) where children sleep. The direct care worker shall not be required to be awake. An additional employee shall be on call and available to reach the building, when called, within 30 consecutive minutes. If the building is co-educational, the direct care worker shall be on duty and awake.
- 4.2.2.2 (Rule 4.05) During hours when children are sleeping, a building with a licensed capacity of 13 children or more, shall have one direct care worker on duty on the premises and awake for each 16 children or fraction thereof, when children are present. The direct care worker shall be in the area where children sleep or in any area within close proximity to the area(s) where children sleep. An additional employee shall be on call and available to reach the facility, when called, within 30 consecutive minutes.

###### **4.2.3 Recreation**

- 4.2.3.1 (Rule 4.06) A facility with a licensed capacity of 13 children or more shall designate one full-time employee to plan, coordinate and lead recreational, physical exercise and leisure time activities for children.

##### **4.3 Children's Services and Activities**

###### **4.3.1 Visitation with Children**

- 4.3.1.1 (Rule 4.07) A facility shall develop, adopt, follow and maintain on file written policies and procedures governing visits between children and their parent(s), legal guardian, relatives and friends, both at the facility, at the children's own homes and at other suitable locations. These policies and procedures shall address the days and hours of visits, frequency of visits permitted, any exceptions governing whom the child may visit, and whom to contact to arrange for special accommodations in the event of hardship or emergencies and shall be consistent with applicable State law(s), regulations or court orders.
- 4.3.1.2 (Rule 4.08) A facility shall explain the policies and guidelines to the child and his or her parent(s) or legal guardian.
- 4.3.1.3 (Rule 4.09) A facility shall provide accommodations within the buildings to enable visits with children to be conducted in reasonable privacy, except where the service plan indicates that visits are to be directly supervised, or when the facility has reason to believe that a particular visitor would not be in the best interest of the child.

4.3.1.4 (Rule 4.10) A facility shall not deny or restrict children's visits in the facility with their parent(s), legal guardian, relatives or friends based upon a child's behavior or infraction of these requirements, unless specified in the child's service plan.

#### 4.3.2 Facility Visits or Tours

4.3.2.1 (Rule 4.11) A facility shall develop, adopt, follow and maintain on file written policies and procedures governing visits to or tours within the facility by volunteers, advisory committees or councils, public officials, the media and members of the public-at-large who are not related to children in care. The policies and procedures shall address:

4.3.2.1.1 The process by which such persons shall be required to seek and secure prior written approval to visit or tour the facility;

4.3.2.1.2 The purpose and extent of such visits or tours;

4.3.2.1.3 The days, hours, frequency and duration of any such visits or tours;

4.3.2.1.4 The circumstances and conditions under which such persons may visit or tour, including a requirement that such visits or tours be supervised by employees;

4.3.2.1.5 Precautions to protect the health, safety and well-being and to prevent risk or harm to children in care;

4.3.2.1.6 Requirements designed to protect the privacy rights of children in care; and

4.3.2.1.7 Conditions to ensure that such visits or tours do not:

4.3.2.1.7.1 Cause a major or serious disruption of services or treatment to children;

4.3.2.1.7.2 Interfere with the implementation of the child's service plan;

4.3.2.1.7.3 Intimidate or embarrass children or employees; or

4.3.2.1.7.4 Seriously interfere with or disrupt program operations.

#### 4.3.3 Overnight Visits Away from Facility

4.3.3.1 (Rule 4.12) A facility shall include in the visitation policies and procedures provisions for verifying the identity of any visitor(s) not known to the facility and for securing prior to the visit pertinent information about the location of the overnight visit and the adult(s) responsible for the child's care during the visit.

#### 4.3.4 Sending and Receiving Mail

4.3.4.1 (Rule 4.13) A facility shall not deny or restrict a child's right to send and receive mail without censorship and without limiting the amount of mail a child sends or receives, except when:

4.3.4.1.1 The facility has reason to believe that a child's mail may contain unauthorized, injurious or illegal materials;—

4.3.4.1.2 A court order restricts this right; or

4.3.4.1.3 A facility has reason to believe that a particular child's mail may present a security risk.

4.3.4.2 (Rule 4.14) A facility shall ensure that each child has reasonable access to writing materials and postage.

#### 4.3.5 Children's Money

4.3.5.1 (Rule 4.15) A facility shall develop, adopt, follow and maintain on file written policies and procedures governing the handling and management of children's money. These policies and procedures shall include provisions on:

4.3.5.1.1 The conditions under which a child may possess his or her own money;

4.3.5.1.2 The management of individual monetary accounts, ensuring that there is an accurate, individual accounting of all monies belonging to a child, including the receipting and disbursing of all monies;

4.3.5.1.3 Prohibiting a facility from requiring a child to assume responsibility for the cost of his or her own care and treatment, except for the reasonable reimbursement of costs required to pay for purposeful damage to the facility or to the property of another person by a child; and

4.3.5.1.4 Allowing or facilitating opportunities for a child to earn an allowance or to earn money through work assignments.

#### 4.3.6 Sleep

4.3.6.1 (Rule 4.16) A facility shall develop, adopt, follow and maintain on file written policies and procedures governing the time to be set aside for uninterrupted daily sleep for each child. The policies and procedures shall ensure that each child is given the opportunity for at least eight hours of uninterrupted rest on a daily basis, unless the service plan or health needs of the child indicate otherwise.

#### 4.3.7 Clothing and Other Personal Belongings

- 4.3.7.1 ~~(Rule 4.17) A facility shall ensure that each child has adequate, clean, and seasonally appropriate clothing.~~
- 4.3.7.2 ~~(Rule 4.18) A facility shall permit a child to bring clothing and other personal belongings to the facility, unless prohibited by the facility's policies and procedures.~~
- 4.3.7.3 ~~(Rule 4.19) A facility shall make adequate provisions for storing a child's clothing and other personal belongings while the child is enrolled, so that clothing used by a child does not come into contact with clothing used by another child.~~
- 4.3.7.4 ~~(Rule 4.20) A facility shall permit a child to take with him or her all clothing and other personal belongings identified as his or hers at the time of discharge.~~

#### 4.3.8 Nutrition

- 4.3.8.1 ~~(Rule 4.21) A facility shall provide at least three nutritiously balanced meals for each child on a daily basis at regular times, with not more than 14 hours between the evening meal and breakfast.~~

#### 4.3.9 Discharge and Aftercare Plans

- 4.3.9.1 ~~(Rule 4.22) A facility shall develop, adopt, follow and maintain on file written policies and procedures governing discharge and aftercare planning. The policies and procedures shall include:~~
  - 4.3.9.1.1 ~~The roles and responsibilities of the child's parent(s) or legal guardian, the referring agency, and the facility;~~
  - 4.3.9.1.2 ~~The handling of an emergency discharge of a child that ensures the immediate notification of his or her parent(s) or legal guardian, or the referring agency;~~
  - 4.3.9.1.3 ~~The involvement of the child in developing the discharge and aftercare plan, consistent with the child's ability to understand the plan and process; and~~
  - 4.3.9.1.4 ~~The contents of the discharge report, which shall include the name, address, telephone number of the person or agency to whom the child was discharged. In addition, the report shall include a summary of the services provided to the child while in care, goals specified within the service plan that have been achieved, service needs that remain to be addressed, and recommendations for appropriate follow-up services.~~
- ~~The discharge report shall be completed within 30 consecutive calendar days of the child's discharge.~~
- 4.3.9.2 ~~(Rule 4.23) A facility that discharges a child under circumstances that are not consistent with the child's service plan shall also document in writing the following in the discharge report:~~
  - 4.3.9.2.1 ~~The circumstances leading to the unplanned discharge;~~
  - 4.3.9.2.2 ~~The actions taken by the facility and other parties; and~~
  - 4.3.9.2.3 ~~The reason for the actions taken.~~

#### 4.4 Physical Plant

##### 4.4.1 Living Unit Space

- 4.4.1.1 ~~(Rule 4.24) A facility shall ensure that the living unit(s) have designated space for daily living activities, including dining, recreation, indoor activities and areas where children may visit with their parent(s), legal guardian, relatives and friends.~~
- 4.4.1.2 ~~(Rule 4.25) A facility shall ensure that a dining area is provided which shall be maintained in a clean manner, be well-lighted and ventilated. The licensee shall ensure that dining room tables and chairs or benches are sturdy and appropriate for the sizes and ages of the children in care.~~

##### 4.4.2 Toilet and Bathing

- 4.4.2.1 ~~(Rule 4.26) A facility shall ensure that there are toilet and bathing accommodations that meet the following specifications:~~
  - 4.4.2.1.1 ~~For every eight residents, there shall be at least one flush toilet, wash basin, and bathtub or shower;~~
  - 4.4.2.1.2 ~~These toileting and bathing facilities shall not be located more than one floor from any bedroom; and~~
  - 4.4.2.1.3 ~~Bathrooms shall have at least one mirror fastened to the wall at an age appropriate height.~~

##### 4.4.3 Bedroom Accommodations

- 4.4.3.1 ~~(Rule 4.27) A facility shall ensure that any bedroom used by children includes:~~
  - 4.4.3.1.1 ~~A designated area for sleeping;~~

- 4.4.3.1.2 A floor area of at least 70 square feet in a single-occupancy bedroom and at least 50 square feet in a multiple-occupancy bedroom, excluding closet space;
- 4.4.3.1.3 Sufficient space for beds to be at least three feet apart at the head, foot, and sides. Bunk beds shall be at least five feet apart at the head, foot and sides;
- 4.4.3.1.4 No more than four children for sleeping per room;
- 4.4.3.1.5 A door that may be closed;
- 4.4.3.1.6 A direct source of natural light;
- 4.4.3.1.7 A window covering to ensure privacy; and
- 4.4.3.1.8 Lights with safety covers or shields.
- 4.4.3.2 (Rule 4.28) A facility shall ensure that each child is provided with:
  - 4.4.3.2.1 A bed;
  - 4.4.3.2.2 A cleanable, fire retarding mattress;
  - 4.4.3.2.3 Clean bed linens on at least (a weekly basis) every seven calendar days, or more often if needed;
  - 4.4.3.2.4 A pillow; and
  - 4.4.3.2.5 Blanket(s) appropriate for season and weather.
- 4.4.3.3 (Rule 4.29) A facility shall use cots or portable beds in an emergency only and for no longer than a period of 72 hours.
- 4.4.3.4 (Rule 4.30) A facility shall ensure that there are no more than two tiers when bunk beds are used. In addition, the facility shall ensure that the distance between the top bunk mattress and ceiling is of sufficient height to enable the child to sit upright in bed without his or her head touching the ceiling.
- 4.4.3.5 (Rule 4.31) A facility shall provide and locate in the bedroom for each child a chest of drawers, a bureau, or other bedroom furniture for the storage of clothing and other personal belongings.
- 4.4.3.6 (Rule 4.32) A facility shall not permit a child to share the same bed with any other child.
- 4.4.3.7 (Rule 4.33) A facility shall ensure that a child of five years of age or older may occupy a bedroom only with members of the same sex.

## 4.5 Health

### 4.5.1 Personal Care and Hygiene

- 4.5.1.1 (Rule 4.34) A facility shall develop, adopt, follow and maintain on file written policies and procedures that ensure that:
  - 4.5.1.1.1 Children will receive guidance and instruction in personal care and hygiene appropriate to their age, gender, race and culture;
  - 4.5.1.1.2 Children follow personal care and good hygiene practices; and
  - 4.5.1.1.3 All necessary hygiene supplies, towels, washcloths and toiletries are provided to children in harmony with their age, gender, race and culture.
- 4.5.1.2 (Rule 4.35) A facility shall develop, adopt, follow and maintain on file written policies and procedures governing preventative, routine and emergency dental and medical care, including provisions for effective coordination of such dental and medical care with those responsible for the child's aftercare. The policies and procedures shall include:
  - 4.5.1.2.1 Periodic appraisal of the general health of each child;
  - 4.5.1.2.2 Initial and continuing health screening procedures;
  - 4.5.1.2.3 Emergency procedures;
  - 4.5.1.2.4 Maintenance of health records;
  - 4.5.1.2.5 Arrangements with a licensed physician(s) and dentist(s) to provide needed care; and
  - 4.5.1.2.6 Availability of medical care on a 24 hours a day, seven days a week basis.
- 4.5.1.3 (Rule 4.36) A facility shall ensure that children receive timely, competent care when they are ill and continue to receive necessary follow-up care.

### 4.5.2 Medical and Dental Care

- 4.5.2.1 (Rule 4.37) If a facility cannot document that each child has received a complete physical examination within 12 consecutive calendar months before admission to the facility, the facility shall arrange for the child to have a new physical examination, to be completed within 45 consecutive calendar days after admission.

- 4.5.2.2 ~~(Rule 4.38) A facility shall ensure that every child receives a physical examination no later than 12 consecutive calendar months after his or her previous physical examination and once a year thereafter.~~
- 4.5.2.3 ~~Rule 4.39) A facility shall ensure that, upon admission, a child is asked if he or she has any physical illnesses or injuries. If a child shows symptoms of illness or injury, the facility shall arrange for the child to be examined immediately by a licensed physician or by a licensed nurse practitioner. The facility shall document the results of this procedure in writing and maintain them on file in the child's record.~~
- 4.5.2.4 ~~(Rule 4.40) A facility shall ensure that a child receives necessary medical care throughout the year.~~
- 4.5.2.5 ~~(Rule 4.41) A facility shall ensure that every child over three years of age receives a dental examination annually.~~
- 4.5.2.6 ~~(Rule 4.42) A facility shall ensure that a child receives necessary, non-cosmetic dental care throughout the year.~~
- 4.5.2.7 ~~(Rule 4.43) A facility shall make provisions for a child to receive any needed eyeglasses, hearing aids, prosthetic devices or other corrective devices, as medically indicated by a licensed physician.~~

#### 4.5.3 Prenatal Care for Pregnant Adolescents

- 4.5.3.1 ~~(Rule 4.44) A facility caring for a pregnant adolescent shall ensure that:~~
  - 4.5.3.1.1 ~~All pregnant adolescents receive comprehensive prenatal care, including:~~
    - 4.5.3.1.1.1 ~~Monthly visits to an obstetrician or certified nurse mid-wife during the first 28 weeks of gestation;~~
    - 4.5.3.1.1.2 ~~Biweekly visits to an obstetrician or certified nurse mid-wife from the 29<sup>th</sup> to the 36<sup>th</sup> week of gestation;~~
    - 4.5.3.1.1.3 ~~Weekly visits to an obstetrician or certified nurse mid-wife from the 36<sup>th</sup> week of gestation until delivery; and~~
    - 4.5.3.1.1.4 ~~Participation in a child birth class provided by a registered nurse or child birth educator.~~
  - 4.5.3.1.2 ~~Arrangements for the delivery of the child are made by the end of the second trimester, or in situations wherein the adolescent is already pregnant beyond the second trimester upon admission to the facility, arrangements shall be made within 15 consecutive calendar days of the adolescent's admission to the facility;~~
  - 4.5.3.1.3 ~~A system is established to provide background medical information on the pregnant adolescent to the hospital identified for delivery or at the birthing center identified for delivery;~~
  - 4.5.3.1.4 ~~Delivery arrangements are clearly recorded in the adolescent's medical record to which employees are to have access in an emergency; and~~
  - 4.5.3.1.5 ~~Pregnant adolescents receive a dental examination within three consecutive calendar months of admission, and that needed non-cosmetic dental care is provided.~~

## 5.0 Secure Residential Child Care Facility

### 5.1 Authorization to Operate a Secure Residential Care Facility

- 5.1.1 ~~(Rule 5.01) As a condition for being authorized by the Division to operate a secure residential care facility, a licensee shall make application to and have been determined by the Division to be in full compliance with the Requirements of this Chapter, in addition to the Requirements of 1.0, 2.0, 3.0 and 4.0.~~

### 5.2 Admission

- 5.2.1 ~~(Rule 5.02) A facility shall only admit a child who has been adjudicated **delinquent** by a court of law or placed by the Delaware Division of Child Mental Health Services or any other in-state or out-of-state governmental agency.~~

### 5.3 Security Measures

- 5.3.1 ~~(Rule 5.03) A facility shall develop, adopt, follow and maintain on file a written statement identifying the specific security measures employed at the facility, and the basis for using these measures.~~

### 5.4 Definition

- 5.4.1 ~~(Rule 5.04) For purposes of this Chapter only, "automatic fail-safe system" means a combination of a mechanical and an electronic system that automatically unlocks all resident room doors and other doors required for building egress purposes in the event of either a power failure or a fire.~~

### 5.5 Staff to Child Ratios

- 5.5.1 ~~(Rule 5.05) A facility that is equipped with an automatic fail-safe system that allows full and free egress from all individual rooms and buildings in the event of a power failure or fire shall have at least one direct care worker on duty and on the premises for every five children or fraction thereof, during hours when children are awake, and shall have at least one direct care worker awake and on duty on the premises for every 10 children or fraction thereof during hours when children are sleeping. There shall always be a minimum of two direct care workers awake and on duty when children are present during night-time hours.~~
- 5.5.2 ~~(Rule 5.06) A facility that is not equipped with an automatic fail-safe system shall have at least one direct care worker on duty on the premises for every four children or fraction thereof, when children are present during hours when children are awake, and shall have at least one direct care worker awake and on duty on the premises for every six children or fraction thereof when children are present during hours when children are sleeping. There shall always be a minimum of two direct care workers awake and on duty when children are present during hours when children are sleeping.~~
- 5.5.3 ~~(Rule 5.07) A facility shall assign direct care workers to cover no more than one living unit at the same time.~~
- 5.5.4 ~~(Rule 5.08) A facility shall have at least one additional employee immediately available at all times to assist on-duty employees in an emergency.~~
- 5.6 ~~Outdoor Recreation Area~~
  - 5.6.1 ~~(Rule 5.09) A facility shall ensure that the outdoor recreation area is enclosed with a suitable security fence.~~
- 5.7 ~~Exemptions~~
  - 5.7.1 ~~(Rule 5.10) A secure residential care facility shall be exempt from the following requirements:~~
    - 5.7.1.1 ~~That portion of Requirement 3.3.8.2 regarding participation in off-site religious services or activities.~~
    - 5.7.1.2 ~~Requirements 4.2.1.1 through 4.2.2.2 regarding staff-to-child ratios.~~

## **6.0 Shelter Care Facility**

- 6.1 ~~Authorization to Operate a Shelter Care Facility~~
  - 6.1.1 ~~(Rule 6.01) As a condition for being authorized by the Division to operate a shelter care facility, a licensee shall make application to and have been determined by the Division to be in full compliance with the Requirements of this Chapter, in addition to the Requirements of Chapters 1.0, 2.0, 3.0 and 4.0.~~
- 6.2 ~~Staff-to-Child Ratios~~
  - 6.2.1 ~~(Rule 6.02) During hours when the children are awake, a facility shall provide at least one direct care worker on duty on the premises for every five children, or fraction thereof, when children are present. During hours when the children are sleeping, a facility shall provide at least one direct care worker awake and on duty on the premises for every 10 children, or fraction thereof, when children are present.~~
- 6.3 ~~Health Care~~
  - 6.3.1 ~~(Rule 6.03) A facility shall either:~~
    - 6.3.1.1 ~~Secure written documentation that a child has received a complete physical examination within the 12 consecutive calendar months prior to his or her admission to the shelter care facility; or~~
    - 6.3.1.2 ~~Provide or arrange for the provision of a complete physical examination within seven consecutive calendar days of a child's admission to the shelter care facility.~~
- 6.4 ~~Duration of Placement~~
  - 6.4.1 ~~(Rule 6.04) A facility shall provide care to children for a period of time that is not to exceed 30 consecutive calendar days, unless:~~
    - 6.4.1.1 ~~There is documentation in the child's service plan that clearly justifies a longer placement; or~~
    - 6.4.1.2 ~~There is evidence that a strict adherence to the 30-day limit would require the child's release to another short-term placement, in which case the child may remain in the shelter care facility until a more permanent or long-term placement has been identified, or not later than 60 consecutive calendar days, whichever occurs first.~~
- 6.5 ~~Exemptions~~
  - 6.5.1 ~~(Rule 6.05) A shelter care facility shall be exempt from the following requirements:~~
    - 6.5.1.1 ~~Requirement 3.5.2.1 regarding written documentation of a child's current immunizations;~~
    - 6.5.1.2 ~~Requirement 3.5.2.2 regarding obtaining necessary immunizations within 30 consecutive calendar days of admission; and~~

- 6.5.1.3 Requirement 3.5.3.1 regarding the essential health records to be maintained on file. If the items listed in Requirement 3.5.3.1 are available, they shall be kept on file by the facility.

## **7.0 Transitional Care Facility**

### **7.1 Authorization to Operate a Transitional Care Facility**

- 7.1.1 ~~(Rule 7.01) As a condition for being authorized by the Division to operate a transitional care facility, a licensee shall make application to and have been determined by the Division to be in full compliance with the Requirements of this Chapter, in addition to the Requirements of 1.0, 2.0, 3.0 and 4.0.~~

### **7.2 Admission**

#### **7.2.1 (Rule 7.02) A facility shall admit children who:**

- 7.2.1.1 Have reached the age of 16 or older;
- 7.2.1.2 Have demonstrated a level of maturity that will enable them to be involved in some community activities, including education or employment; and
- 7.2.1.3 Require minimum guidance or supervision.

- 7.2.2 ~~(Rule 7.03) A facility shall accept a child into care only after a current comprehensive admission evaluation has been completed in accordance with Requirement 3.3.1.1 and only when the evaluation indicates that preparation for self-sufficiency or independent living is the primary goal for the child.~~

- 7.2.3 ~~(Rule 7.04) At the time of admission, a facility shall enter into a written agreement with each child. The agreement shall include:~~

- 7.2.3.1 A delineation of the respective roles and responsibilities of the facility, the child, and other involved parties;
- 7.2.3.2 A description of the rules governing the conduct and consequences of inappropriate behavior of the child while in care;
- 7.2.3.3 A statement of any financial arrangements related to placement, in accordance with Requirement 4.3.5.1; and
- 7.2.3.4 The approval signature of the child and the signature of a representative of the facility.

### **7.3 Service Plan**

- 7.3.1 ~~(Rule 7.05) In addition to the provisions of Requirements 3.3.3.1, 3.3.3.2 and 3.3.3.3, a facility shall ensure that the service plan includes:~~

- 7.3.1.1 The type and frequency of supervision needed;
- 7.3.1.2 The respective roles and responsibilities of the facility, the child and other involved parties;
- 7.3.1.3 The time frames and methods to be used to gradually reduce dependency while appropriately increasing personal responsibility;
- 7.3.1.4 Identification of all persons responsible for the implementation of the plan;
- 7.3.1.5 The life skills the youth will need to acquire before discharge;
- 7.3.1.6 The criteria for achieving a successful discharge; and
- 7.3.1.7 The preliminary plan for discharge and aftercare, in accordance with Requirements 4.3.9.1 and 4.3.9.2.

### **7.4 Activity Schedule**

- 7.4.1 ~~(Rule 7.06) A facility shall assist each child to develop and follow a written activity schedule that includes:~~

- 7.4.1.1 Life skills training and practice appropriate to achieving independent living;
- 7.4.1.2 Household chores to be completed by children in care;
- 7.4.1.3 Employment, job skill training or educational activities;
- 7.4.1.4 Leisure time or recreational activities; and
- 7.4.1.5 Contacts with employees, volunteers or community people.

### **7.5 Staff Coverage**

- 7.5.1 ~~(Rule 7.07) A facility shall develop, adopt and follow written policies and procedures governing the type and frequency of employee supervision provided for each child. The policies and procedures shall:~~

- 7.5.1.1 Contain criteria for determining the type and frequency of employee supervision. The criteria shall be based on an assessment of each child's maturity, suitability and readiness for responsibly and safely handling various degrees of responsibility and independence; and
- 7.5.1.2 Delineate a mechanism by which a child can communicate with a facility for information, assistance or guidance, or to express a concern or need that the child cannot resolve alone.

### **7.6 Exemptions**

- 7.6.1 (Rule 7.08) A transitional care facility shall be exempt from the following requirements:
  - 7.6.1.1 Requirements 3.4.12.1 through 3.4.12.5 regarding the outdoor recreation area.
  - 7.6.1.2 Requirements 3.5.2.1 and 3.5.2.2 regarding child immunizations.
  - 7.6.1.3 Requirements 4.2.1.1 through 4.2.2.2 regarding staff to child ratios.
  - 7.6.1.4 Requirement 4.3.5.1.3, regarding the prohibition that a child pay for his or her own care and treatment.

**8.0 Day Treatment Programs**

8.1 Authorization to Operate a Day Treatment Program

- 8.1.1 (Rule 8.01) As a condition for being authorized by the Division to operate a day treatment program, a licensee shall make application to and have been determined by the Division to be in full compliance with the Requirements of this Chapter, in addition to the Requirements of 1.0, 2.0 and 3.0.
- 8.1.2 (Rule 8.02) If a day treatment program chooses to use any form of restrictive procedure as defined by Requirement (Rule) 1.35, the day treatment program shall secure prior written authorization from the Division and shall comply with the Requirements of Chapter 9.0.

8.2 Health Appraisal

- 8.2.1 (Rule 8.03) A program shall ensure that within one month following admission, there shall be on file an age appropriate health appraisal conducted within 12 consecutive calendar months prior to admission for each child enrolled. Health appraisals shall be certified by a licensed physician or nurse practitioner and shall be updated annually. The health appraisal shall include:
  - 8.2.1.1 A health history;
  - 8.2.1.2 A physician's examination;
  - 8.2.1.3 Recommendations regarding restrictions or modifications of the child's activities, diet or care;
  - 8.2.1.4 Prescriptions for medication or recommendations regarding medications; and
  - 8.2.1.5 Documentation of the immunization status.

8.3 Activities

- 8.3.1 (Rule 8.04) The program shall ensure that all children are provided activities and physical exercise or routines that are developmentally and age appropriate.
- 8.3.2 (Rule 8.05) The program shall ensure that children under six years of age are provided with opportunities for rest after the noon meal. The rest area shall be adequately lighted to allow for visual supervision at all times.

8.4 Indoor Space

- 8.4.1 (Rule 8.06) A program shall have at least 35 square feet of usable indoor space per child, exclusive of toilet rooms, kitchen areas, eating areas, isolation rooms, offices, storage spaces, hallways, closets and gymnasiums.

8.5 Sleeping Accommodations

- 8.5.1 (Rule 8.07) A program shall ensure that each child under six years of age who is present during scheduled rest time possesses age appropriate, clean rest equipment and bedding, and that equipment and bedding are safely maintained for the exclusive use of that child. Disposable bedding shall be acceptable as an alternative to maintaining rest equipment for the exclusive use of that child.

8.6 Toilet Facilities

- 8.6.1 (Rule 8.08) A program shall have enclosed toilet rooms inside the building on the same floor that houses the recreation or play areas.
- 8.6.2 (Rule 8.09) A program serving children between two and five years of age shall maintain a sink and toilet ratio in accordance with the following table:

**Table 1:**

No. of Children	Number of Toilets	Number of Sinks	Ratios
1-15	1	1	1/15
16-35	2	2	1/17.5
36-100	3-5	3-5	1/20
Over 100			1/25

8.6.3 (Rule 8.10) A program serving children between six and 18 years of age shall have one sink and toilet for every 25 children, or fraction thereof, based upon licensed capacity. A urinal shall be counted as one-half of a toilet, provided that the population served includes a significant number of males and that at least two flush toilets are available and accessible to both males and females.

8.7 Staff to Child Ratios

8.7.1 (Rule 8.11) A program shall maintain the following direct care worker to child ratios for each age group when children are present:

**Table 2:**

Age of Child	Minimum direct care worker to child ratio
0-5	1:4
6-12	1:6
13+	1:10

8.7.2 (Rule 8.12) A program shall ensure that at least two employees are present and on duty on the premises at all times when children are present, regardless of the number of children.

8.8 Day Treatment Agreement

8.8.1 (Rule 8.13) A program shall develop, adopt, follow and maintain on file a written day treatment agreement. The agreement shall be completed prior to the child's admission and shall be signed by the licensee or his or her designee, the child, if appropriate, the child's parent(s) or legal guardian and the referring agency and shall include:

- 8.8.1.1 A description of the respective expectations, roles and responsibilities of the program, child, family and other involved parties;
- 8.8.1.2 Specification of the hours of operation, arrangements for service of meals, equipment to be provided by the family, transportation arrangements and visitation policies;
- 8.8.1.3 Specification of the behavior management policy, the release policy and the procedures for handling child and parent complaints; and
- 8.8.1.4 Specification of grounds for termination of enrollment.

8.9 Release of Children

8.9.1 (Rule 8.14) A program shall develop, adopt, follow and maintain on file written policies and procedures governing the release of children. Such policies and procedures shall require that a copy is given to all parents, employees, volunteers and children and shall include provisions:

- 8.9.1.1 To ensure documentation of the release of the child to an authorized person, agency or public school bus service;
- 8.9.1.2 For the emergency release of children. When a parent calls the program requesting emergency release of the child, the program shall verify the identity of the parent prior to releasing the child;
- 8.9.1.3 Regarding the release of the child to a person not known to the licensee. A program shall verify the identity of any person not known to employees prior to the release of a child and shall retain verification for at least 24 hours;
- 8.9.1.4 To be followed when a person not authorized to receive a child requests release of a child. A program shall ensure that a child is released only to his or her parent(s), legal guardian or other person authorized by the parent(s) to receive a child; and
- 8.9.1.5 To be followed when a person showing clear signs of drug or alcohol impairment requests release of a child.

8.10 Handling of Sick Children

8.10.1 (Rule 8.15) A program shall have a separate area where children who are exhibiting symptoms of illness that require isolation from the group may be cared for until they can be released to their parent(s) or legal guardian or are diagnosed by a licensed physician or nurse as posing no risk to themselves or others. The area shall not be located in the kitchen or toilet areas.

8.11 Child Accident and Injury

- 8.11.1 (Rule 8.16) A licensee shall ensure that a child who is injured by an accident or fall is provided with necessary first aid treatment, or is taken to an emergency medical treatment center, and that the parent(s) or legal guardian is immediately notified.

## **9.0 Restrictive Procedures**

### **9.1 Authorization to Use Restrictive Procedures**

- 9.1.1 (Rule 9.01) As a condition for being authorized by the Division to implement restrictive procedures, a licensee shall make application to and have been determined by the Division to be in full compliance with the Requirements of this Chapter, in addition to the Requirements of Chapters 1.0, 2.0, and 3.0.
- 9.1.2 (Rule 9.02) A licensee shall not utilize or administer a restrictive procedure on any child below six years of age.

### **9.2 Policies and Procedures Governing the Appropriate Use of Restrictive Procedures**

- 9.2.1 (Rule 9.03) A licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the appropriate use of each type of restrictive procedure to be employed. The policies and procedures shall:
- 9.2.1.1 Identify the types of behavior or conditions for which restrictive procedures are to be permitted;
  - 9.2.1.2 Document that the licensee's use of restrictive procedures are in accordance with established, accepted clinical practice and is age appropriate;
  - 9.2.1.3 Delineate the name, position and qualifications of the employees who have direct responsibility for applying and for supervising the application of restrictive procedures;
  - 9.2.1.4 Restrict the use of these procedures only by designated and authorized employees who have been given prior training in how to administer and supervise the application of such procedures;
  - 9.2.1.5 Require that an application of a restrictive procedure is done in concert with the current service plan for that child, taking into account the child's developmental and medical needs;
  - 9.2.1.6 Require that a legal, informed written consent from the parent(s) or legal guardian of a child is obtained prior to the application of any restrictive procedure, except in emergency situations, in which case, the policies and procedures shall outline safeguards for the use of a restrictive procedure in such a circumstance;
  - 9.2.1.7 Require that these procedures may only be employed as ancillary techniques to accompany positive reinforcement techniques;
  - 9.2.1.8 Require that a technique may only be employed when its use outweighs the risk of harm accompanying its use;
  - 9.2.1.9 Indicate time limitations and other restrictions on the use of each form of restrictive procedure;
  - 9.2.1.10 Require that a technique may only be employed when it is the least restrictive means to address the behavior that necessitated its use;
  - 9.2.1.11 Require that the chief administrator or his or her designee provides administrative oversight of each use of a restrictive procedure to ensure that these procedures are humanely and appropriately applied; and
  - 9.2.1.12 Require that a written record of each application of a restrictive procedure be maintained. The record shall contain: the name of the child; the identity of the employee(s) who administered the procedure; the date, time and duration of the procedure; the circumstances surrounding the use of the procedure; and a description of the child's demeanor.

### **9.3 Human Rights Committee**

- 9.3.1 (Rule 9.04) A licensee shall establish a Human Rights Committee of at least five adult individuals of known reputation, two of whom shall be professionally knowledgeable or experienced in the theory and ethical application of various treatment techniques used to address behavioral problems. The Human Rights Committee shall include members from the licensee and external to the licensee or its parent organization. A majority of Committee members shall be external to the licensee or its parent organization, and one member of the Committee shall be either a licensed mental health professional, a licensed physician, a licensed clinical psychologist, or a clinical social worker. The Committee shall meet at least on a quarterly basis.
- 9.3.2 (Rule 9.05) The Human Rights Committee shall be responsible for:
- 9.3.2.1 Determining that children in care are receiving humane and proper treatment;
  - 9.3.2.2 Reviewing and making recommendations regarding the licensee's policies and procedures governing the use of restrictive procedures;
  - 9.3.2.3 Reviewing the restrictive procedures records and advising the Chief Administrator accordingly;

- 9.3.2.4 Recording and maintaining on file written minutes of all of its meetings, and providing the Chief Administrator with a copy of these minutes;
- 9.3.2.5 Making inquiries into any allegations of abusive techniques or the misuse of restrictive procedures. A report of the inquiry shall be provided by the Committee to the Chief Administrator and sent to the Division;
- 9.3.2.6 Monitoring the qualifications and training of employees who have been given responsibility for administering restrictive procedures and to make recommendations to the Chief Administrator accordingly; and
- 9.3.2.7 the application of some form of restrictive procedures.

9.3.3 (Rule 9.06) An emergency application of a restrictive procedure may occur for a specific child without the prior review of the Human Rights Committee, but only when the situation is deemed to be an emergency.

#### 9.3.4 Orientation and Training

9.3.4.1 (Rule 9.07) In addition to complying with Requirements 3.2.9.1 through 3.2.9.6, a licensee shall ensure that employees authorized to apply a restrictive procedure also receive orientation and training on:

- 9.3.4.1.1 The various types of restrictive procedures;
- 9.3.4.1.2 The acceptable way to administer and supervise the application of restrictive procedures;
- 9.3.4.1.3 The possible side effects of psychotropic medications; and
- 9.3.4.1.4 The policies and procedures governing the appropriate use of restrictive procedures.

#### 9.4 Application of Restrictive Procedures

9.4.1 (Rule 9.08) A child who is having a restrictive procedure applied shall be under continuous monitoring and observation to prevent the child from harming himself or herself, or others. A child shall be given an opportunity for a minimum of 10 consecutive minutes of release within each two consecutive hours of the application of a restrictive procedure for the purpose of moving about or exercising, and shall be permitted to go to a toilet, when requested, or be given the opportunity to go to a toilet at least once every two consecutive hours.

9.4.2 (Rule 9.09) A licensee shall not authorize or permit restrictive procedures to be used in a punitive, retributive, harsh or abusive manner, nor for the convenience of staff or as a substitute for other less restrictive, appropriate means of social treatment or intervention.

9.4.3 (Rule 9.10) A licensee shall ensure that any allegation(s) of an inappropriate or abusive application of a restrictive procedure is brought to the attention of the Human Rights Committee promptly.

9.4.4 (Rule 9.11) A licensee shall ensure that the Human Rights Committee initiates an investigation of any allegation(s) of an inappropriate or abusive application of a restrictive procedure within two consecutive business days of having received the allegation(s).

9.4.5 (Rule 9.12) A licensee shall use the least restrictive effective form of restrictive procedure necessary to control a child's dangerous, violent, or seriously disruptive behavior.

9.4.6 (Rule 9.13) A licensee shall ensure that employees immediately release a child from a prescribed restrictive procedure when the situation necessitating its need no longer exists or when the maximum time allowed for use of such a procedure has expired, whichever occurs first.

#### 9.5 Exclusion

9.5.1 (Rule 9.14) A licensee shall utilize exclusion only:

- 9.5.1.1 For a prescribed duration of time that shall not exceed 60 consecutive minutes; and
- 9.5.1.2 If there are more than 10 exclusions for an individual child or a cumulative total of six hours within any consecutive 24-hour period, a licensee shall ensure that:
  - 9.5.1.2.1 A review is conducted by the chief administrator, or his or her designee, to determine the suitability of the child to remain in placement, or whether modifications to the child's service plan are warranted; and
  - 9.5.1.2.2 Appropriate action is taken in response to the findings of the review.

9.5.2 (Rule 9.15) A licensee shall ensure that:

- 9.5.2.1 At least one employee is responsible for providing continuous monitoring of the child;
- 9.5.2.2 The child is not excluded in a closet, bathroom or unfinished basement or attic; and
- 9.5.2.3 The child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has re-gained control.

#### 9.6 Locked Isolation

9.6.1 (Rule 9.16) A licensee shall utilize locked isolation only:

- 9.6.1.1 When a child's behavior is so violent or disruptive as to present a high risk of physical or emotional harm to the child or others;
- 9.6.1.2 When other less restrictive and less punitive physical interventions have been applied without success; and
- 9.6.1.3 For a duration of time that does not exceed two consecutive hours or a total of six non-consecutive hours within any 24-hour period.

9.6.2 (Rule 9.17) A licensee shall ensure that:

- 9.6.2.1 There is a maximum length of time for placement when a child is isolated in a locked room;
- 9.6.2.2 The application of locked isolation is prohibited for non-violent or non-assaultive offenses or behaviors or for practices designed to prevent children from running away, to seclude a child who is ill, to punish a child for stealing, cursing or failing to comply with house rules, or to facilitate supervision for the convenience of employees; and
- 9.6.2.3 The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he or she has re-gained control.

9.6.3 (Rule 9.18) A licensee shall ensure that a child placed in locked isolation is not in possession of belts, matches, weapons or any other potentially harmful object or material that could present a risk of harm to a child.

9.6.4 (Rule 9.19) A licensee shall ensure that an employee who is assigned to monitor a child placed in locked isolation shall have no other immediate responsibility and shall:

- 9.6.4.1 Be in visual and auditory contact with the child at all times;
- 9.6.4.2 Ensure that all personal needs of the child are met;
- 9.6.4.3 Ensure that a child has access to toilet facilities, as needed; and
- 9.6.4.4 Ensure that the child receives the same number and frequency of meals and snacks provided to other children in the facility or program.

9.6.5 (Rule 9.20) A licensee shall utilize locked isolation only:

- 9.6.5.1 For a prescribed duration of time that shall not exceed 60 consecutive minutes unless authorized by the chief administrator, or his or her designee, and then the locked isolation shall not exceed 120 consecutive minutes; and
- 9.6.5.2 If a child is in locked isolation for a cumulative total of six cumulative hours within a 24-hour period, the licensee shall ensure that:

- 9.6.5.2.1 A review is conducted by the chief administrator or his or her designee to determine the suitability of the child to remain in placement, or whether modifications to the child's service plan are warranted; and

- 9.6.5.2.2 Appropriate action is taken in response to the finding of the review.

9.6.6 (Rule 9.21) A licensee shall ensure that the child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has regained control.

9.6.7 (Rule 9.22) A licensee shall ensure that any room to be used for locked isolation has:

- 9.6.7.1 At least 75 square feet and a ceiling height of at least eight feet;
- 9.6.7.2 A safety glass window, mirror or camera that allows for full observation of the locked isolation room;
- 9.6.7.3 No hardware or furnishings that obstruct observing the child at all times;
- 9.6.7.4 Installed hardware, equipment and furnishings that do not present a physical hazard or a suicide risk;
- 9.6.7.5 Installed either the means for natural or mechanical ventilation to provide ventilation at a level deemed appropriate to maintain the child's health and well-being;
- 9.6.7.6 The capacity to maintain a temperature of at least 68 degrees Fahrenheit; and
- 9.6.7.7 A minimum of 10 foot-candles of light in all areas of the room.

## 9.7 Chemical Restraint

9.7.1 (Rule 9.23) A licensee shall ensure that each administration of chemical restraint is prescribed by a licensed physician who has personally reviewed the child's health records and has examined the child at the time of the episode.

9.7.2 (Rule 9.24) A licensee shall not allow the use of a physician's standing order (ProReNata) for purposes of authorizing the application of a chemical restraint.

9.7.3 (Rule 9.25) A licensee shall ensure that any application of a chemical restraint, whether administered orally or by intramuscular injection, is administered only by a licensed nurse or by a licensed physician.

- 9.7.4 (Rule 9.26) When a child requires chemical restraint on more than six occasions in any 30 consecutive calendar day period, the chief administrator, or his or her designee, shall determine the appropriateness of the child's continued placement in the facility or program.
- 9.7.5 (Rule 9.27) A licensee shall not administer a chemical restraint as a punishment, for the convenience of employees, or as a substitute for a treatment program.
- 9.7.6 (Rule 9.28) A licensee shall ensure that:
  - 9.7.6.1 The initial administration of a chemical restraint does not exceed 24 consecutive hours in duration;
  - 9.7.6.2 Only a licensed physician who has reviewed the child's health records and who has examined the child may authorize the application of an additional chemical restraint and then only for an additional consecutive 24-hour period and only upon determining that the continuance of chemical restraint on an emergency basis is clinically necessary and appropriate;
  - 9.7.6.3 Employees regularly monitor the child under chemical restraint, observe the child's condition or state and immediately advise the prescribing physician of any observed side effects; and
  - 9.7.6.4 A written record of the child's receipt of a chemical restraint and his or her condition, including any observed side effects, is maintained in the child's health records.

## 9.8 Mechanical Restraint

- 9.8.1 (Rule 9.29) A licensee shall utilize a mechanical restraint only:
  - 9.8.1.1 When a child's behavior is so violent or disruptive as to present a high risk of physical harm to the child or others;
  - 9.8.1.2 Other less restrictive and less intrusive physical interventions have been applied without success;
  - 9.8.1.3 When transporting a child to or from a court hearing or other circumstances requiring that truancy prevention be exercised and that no other means of prevention is appropriate;
  - 9.8.1.4 For a duration of time that shall not exceed two consecutive hours or a total of four consecutive hours within any consecutive 24-hour period or that is utilized more than four times within a consecutive five-day period. An exception to this is allowed only for purposes of transporting a child to or from a court hearing or other off-premises location wherein truancy is required; and
  - 9.8.1.5 Employees utilizing the restraint have received training in properly applying it.
- 9.8.2 (Rule 9.30) A licensee shall ensure that:
  - 9.8.2.1 The child being mechanically restrained is protected and handled by an employee in a safe manner designed to avoid injury or pain in applying the restraint;
  - 9.8.2.2 Only one child is mechanically restrained in the same room or area at the same time, unless being transported in a vehicle to and from a court hearing;
  - 9.8.2.3 An employee maintains visual contact with the child at all times while the mechanical restraint is being applied;
  - 9.8.2.4 An employee inspects the child's wrists, arms, or legs every 15 consecutive minutes to prevent injury or circulation problems from occurring, and attempts to release each limb every 60 consecutive minutes for a duration of 10 consecutive minutes; and
  - 9.8.2.5 The restrained child has reasonable access to toilet facilities and to all scheduled meals while restraints are being applied.
- 9.8.3 (Rule 9.31) A licensee shall prohibit the use of the following mechanical restraints:
  - 9.8.3.1 Papeoose boards.
  - 9.8.3.2 Ropes.

## 10.0 Adventure Activity Program

- 10.1 Authorization To Provide Adventure Activity Program
  - 10.1.1 (Rule 10.01) As a condition for being authorized by the Division to involve children in an Adventure Activity Program, a licensee shall make application to and have been determined by the Division to be in full compliance with the Requirements of this Chapter, in addition to the Requirements of Chapters 1.0, 2.0, and 3.0.
- 10.2 Policies and Procedures
  - 10.2.1 (Rule 10.02) A licensee shall develop, adopt, follow and maintain on file written policies and procedures that contain:
    - 10.2.1.1 A comprehensive description of the various types of adventure activities in which the licensee plans to involve children, including the specific destinations for each day, routes to be followed whether by highway, trail or waterway, and the modes of transportation to be used;

- 10.2.1.2 Safety rules that are to be used by employees, volunteers and children when engaged in each of the types of adventure activities that are described in this Chapter;
- 10.2.1.3 Recognized standards of safety pertaining to each of the specified adventure activities to be utilized;
- 10.2.1.4 Criteria based on recognized standards for employees and volunteers who are responsible for leading, instructing and supervising children engaged in any of the adventure activities to be utilized;
- 10.2.1.5 Descriptions of appropriate safety equipment and clothing, such as safety glasses or goggles, helmets, gloves, special shoes and outdoor clothing that are required to be used for adventuractivities;
- 10.2.1.6 Procedures to be employed to ensure that the environment is protected and any waste materials or trash are appropriately disposed of;
- 10.2.1.7 Instructions for posting itineraries, preparing for emergency medical services, and notifying, at agreed upon times, the licensee's main office when the adventure activity takes place in a location or locations that are remote from the main premises of the licensee;
- 10.2.1.8 Guidelines to ensure that adventure activities include opportunities for problem-solving, developing a positive self-image, and developing an appreciation for the natural environment and conservation;
- 10.2.1.9 Guidelines to ensure that adventure activities are followed by opportunities for reflection and life application;
- 10.2.1.10 Guidelines to ensure that participation is conducted within the boundaries of the child's capabilities, dignity and respect for self-determination;
- 10.2.1.11 Procedures to ensure that necessary potable water, nutritious food, appropriate clothing, shelter, rest and other essentials are available and planned for;
- 10.2.1.12 Procedures for obtaining signed consent forms from a child's parent(s), legal guardian or referring agency; and
- 10.2.1.13 Procedures that ensure the reporting to the Division of any fatalities or any accidents resulting in the hospitalization of a child.

### 10.3 Safety/Risk Management Committee

- 10.3.1 (Rule 10.03) A licensee shall establish a Safety/Risk Management Committee consisting of representatives of management, employees, and individuals with experience and expertise in adventure activities. This Committee shall review the licensee's policies and procedures governing adventure activities and monitor risk management and safety practices employed in the various adventure activities, and advise the licensee's chief administrator of any revisions, omissions or additions that are deemed necessary and appropriate. The Committee shall review any accident that may occur and the circumstances surrounding the accident and send written findings and recommendations to the licensee's chief administrator and to the Division.

### 10.4 Staff Qualifications

- 10.4.1 (Rule 10.04) A licensee shall ensure that employees and volunteers who have responsibility for a particular adventure activity are qualified and experienced in the specific adventure activity. If certification is required, such as is for swimming and certain other aquatic activities, such employees or volunteers shall have current certification.
- 10.4.2 (Rule 10.05) An aquatic supervisor shall be an adult who has satisfactorily completed the training and certification requirements for a water safety instructor that are equivalent to those adopted by the American Red Cross for water safety.

### 10.5 Staff to-Child Ratios

- 10.5.1 (Rule 10.06) A licensee shall ensure that the ratio of employees and volunteers to children is in conformity with standards for the specified adventure activity being applied and that have been recognized by a national accrediting or other recognized organization.
- 10.5.2 (Rule 10.07) A licensee shall ensure that an aquatic supervisor or water safety instructor is on duty at each aquatic activity. The aquatic supervisor shall be responsible for the enforcement of the licensee's safety rules, policies and procedures governing aquatic activities, including swimming, boating, canoeing, kayaking, water skiing and white water rafting.

### 10.6 Away From Campus Adventure Activities

- 10.6.1 (Rule 10.08) A licensee shall maintain on file at the licensee's administrative office a list of all children, employees, and volunteers who participate in an adventure activity that occurs away from the premises of the licensee.
- 10.6.2 (Rule 10.09) A licensee shall ensure that a fully stocked First Aid kit that is adventure activity appropriate and readily available accompanies the employee who is the lead person for the away-from-campus adventure activity.
- 10.6.3 (Rule 10.10) A licensee shall develop, adopt, follow and maintain on file:
- 10.6.3.1 A written copy of its itinerary and pre-established check-in times; and
  - 10.6.3.2 The names of children, employees and volunteers participating in an adventure activity that involves out-of-state travel or within-state travel of more than 48 consecutive hours duration. The licensee shall send a copy of the itinerary to the Division at least 15 consecutive calendar days prior to departing on the adventure activity and shall provide the child's parent(s), legal guardian or referring agency with a copy of the itinerary.

#### 10.7 Equipment

- 10.7.1 (Rule 10.11) A licensee shall ensure that any equipment and gear that is to be used in connection with a specified adventure activity is appropriate to the activity, certified if required, in good repair, in operable condition, and age and body-size appropriate.
- 10.7.2 (Rule 10.12) A licensee shall ensure that all ropes and paraphernalia used in connection with rope rock climbing, rappelling, high and low ropes courses or other adventure activities in which ropes are used are approved by the Union of International Alpine Association (UIAA), or an equivalent certifying organization, and have been inspected by employees responsible for supervising the adventure activity before engaging children in the activity.
- 10.7.3 (Rule 10.13) A licensee shall ensure that all participants are appropriately equipped, clothed, and wearing safety gear, such as a helmet, goggles, safety belt, life jacket or a flotation device, that is appropriate to the adventure activity in which a child is engaged.

#### 10.8 Natural Swimming Area Life Saving Equipment

- 10.8.1 (Rule 10.14) A licensee shall clearly delineate the areas for swimmers and non-swimmers in any natural swimming area used by children, such as a lake, river, bay, ocean or gulf.
- 10.8.2 (Rule 10.15) A licensee shall ensure that lifesaving equipment is provided at each permanent swimming area and shall be placed so it is immediately available in case of an emergency. The following equipment shall be available:
- 10.8.2.1 A whistle or other audible signal device for each employee on duty;
  - 10.8.2.2 An assist pole or other appropriate reaching device;
  - 10.8.2.3 A ring buoy or other appropriate throwing assist device that has a rope attached to it which is of sufficient length for the area;
  - 10.8.2.4 A backboard that has appropriate rigid cervical collars and a minimum of six straps;
  - 10.8.2.5 A first aid kit; and
  - 10.8.2.6 A rescue tube.
- 10.8.3 (Rule 10.16) A licensee shall ensure that lifesaving equipment is provided for all other aquatic activities and is placed so that it is immediately available in case of an emergency. At a minimum, the equipment shall include:
- 10.8.3.1 A whistle or other audible signal device;
  - 10.8.3.2 A throwing assist device; and
  - 10.8.3.3 A first aid kit.

#### 10.9 Aquatic Procedures

- 10.9.1 (Rule 10.17) A licensee shall ensure that before engaging in any aquatic activity, each child shall be classified by the aquatic supervisor according to swimming ability in one of two classifications: swimmer and non-swimmer.
- 10.9.2 (Rule 10.18) A licensee shall not permit a child to participate in an aquatic activity that requires higher skills than the child's swimming classification, except during formal instruction.
- 10.9.3 (Rule 10.19) A licensee shall establish and enforce a method, such as the buddy system, for supervising children who are involved in an aquatic activity. The system used shall include procedures for check-in, check-out, and the periodic accounting for the whereabouts of each child by an employee of the licensee. A licensee shall ensure that an accounting of the number of swimmers is conducted at least once every 10 consecutive minutes.

- 10.9.4 (Rule 10.20) A licensee shall develop, adopt, follow and maintain on file a written aquatic emergency plan, for each aquatic activity. The plan shall include:
- 10.9.4.1 Rescue procedures and frequency of drills;
  - 10.9.4.2 Child accountability;
  - 10.9.4.3 Prompt evacuation; and
  - 10.9.4.4 Notification of outside emergency services.
- 10.9.5 (Rule 10.21) A licensee shall ensure that swimming at sites other than a waterfront or pool that is on the premises of the licensee is supervised by an aquatic supervisor who shall be assisted by one aquatic observer for every 10 children, or fraction thereof, in the water.
- 10.9.6 (Rule 10.22) A licensee shall ensure that the buddy system is used and that buddy checks are conducted every five minutes whenever swimming is permitted at non permanent sites.
- 10.9.7 (Rule 10.23) A licensee shall not conduct or permit swimming programs during periods of darkness. This provision does not prohibit the use of swimming pools that have underwater and deck lighting that provides unrestricted vision.
- 10.9.8 (Rule 10.24) A licensee shall ensure that headfirst diving occurs only in designated areas and only in water that is five feet deep or more.
- 10.9.9 (Rule 10.25) A licensee shall adhere to the following table to determine minimum diving area depths and distances from the end of the board or platform:

**Table 3:**

	Water Depth	Distance
Competitive Swim Classes	5 feet	40 feet
Platform less than two feet above water	8 feet	40 feet
Board two feet or less above water	10 feet	45 feet
Board more than two feet above water	15 feet	20 feet

**10.10 Watercraft and Water-Skiing Activities**

- 10.10.1 (Rule 10.26) A licensee shall conduct watercraft activities only during daylight hours.
- 10.10.2 (Rule 10.27) A licensee shall provide an appropriately sized, coast guard approved, personal flotation device for each occupant of a watercraft and ensure that such a device is worn by every occupant of a watercraft.
- 10.10.3 (Rule 10.28) A licensee shall ensure that an appropriately sized, coast guard approved, personal flotation device shall be worn by any water skier, by any participant in a sailing activity, or by any participant of a white water adventure activity.
- 10.10.4 (Rule 10.29) A licensee shall not use personal flotation devices of kapok construction.
- 10.10.5 (Rule 10.30) A licensee shall not permit a non-swimmer to board a sailboat unless accompanied by an adult swimmer.
- 10.10.6 (Rule 10.31) A licensee shall ensure that the aquatic supervisor or an adult aquatic observer has immediate access to a watercraft with which to provide emergency assistance on the permanent swimming site.
- 10.10.7 (Rule 10.32) A licensee shall ensure that a watercraft docking area is not adjacent to a swimming area, and that a swimming area is not used for the launching or dropping off of water skiers.
- 10.10.8 (Rule 10.33) A licensee shall ensure that, when a watercraft has a rated capacity, the capacity is observed and when a watercraft does not have a rated capacity, all occupants wear an appropriately sized, coast guard approved personal flotation device. This provision does not apply when the non-rated watercraft is a canoe being used by one or two advanced swimmers during formal instruction.

**11.0 Parenting Adolescent Facility**

**11.1 Authorization to Operate a Residential Facility for Parenting Adolescents**

- 11.1.1 (Rule 11.01) As a condition for being authorized by the Division to operate a residential facility for parenting adolescents, a licensee shall make application to and have been determined by the Division to

be in full compliance with the Requirements of this Chapter, in addition to the Requirements of Chapters 1, 2, 3 and 4.

## 11.2 Definition

11.2.1 (Rule 11.02) For purposes of this chapter only, "Adolescent" means a child who is parenting a child.

## 11.3 Direct Care Worker Qualifications for a Parenting Adolescent Facility

11.3.1 (Rule 11.03) A direct care worker, at the time of appointment, shall possess at least:

11.3.1.1 One year of work experience in a child care facility or program; and

11.3.1.2 Fifteen hours of training in early childhood development.

## 11.4 Staff-to-Child Ratios

11.4.1 (Rule 11.04) A facility shall maintain the following staff-to-child ratios when adolescents and their children are present:

11.4.1.1 During hours when children are awake, one direct care worker on duty and awake on the premises for a combined total of every eight adolescents and their children below three years of age, or fraction thereof;

11.4.1.2 During hours when children are sleeping, one direct care worker on duty on the premises for a combined total of every ten adolescents and their children below three years of age, or fraction thereof. The direct care worker shall not be required to be awake;

11.4.1.3 When two direct care workers are required by the ratios during hours when children are sleeping, at least one direct care worker shall be required to be awake; and

11.4.1.4 A facility shall not allow more than a combined total of 12 adolescents and their children below three years of age to reside in the facility at the same time.

## 11.5 One Adolescent Caring for another Adolescent's Child

11.5.1 (Rule 11.05) A facility may permit an adolescent in residence to care for the child of another adolescent in residence only if the following conditions are met:

11.5.1.1 The adolescent who is assuming the care of another adolescent's child cares for no more than one other child in addition to her own at any time;

11.5.1.2 The adolescents discuss the expectations of the caregiver, including duration of child care, the child's nutritional and toileting needs, and whether the mother will make arrangements for compensation or exchange of baby-sitting; and

11.5.1.3 The arrangement is reviewed and approved by the chief administrator or his or her designee.

## 11.6 Service Plan

11.6.1 (Rule 11.06) The service plan shall include:

11.6.1.1 An assessment of the child's health, nutritional, medical, and developmental needs;

11.6.1.2 An assessment of the interest of the child's father, and the role that he is to have with the child and with the child's mother;

11.6.1.3 An assessment of the interests of the grandparents and the role that they are to have with the child and with the child's mother; and

11.6.1.4 Self-sufficiency goals for the adolescent mother, including child care and level of understanding of her child's developmental needs, food preparation skills, budgeting and money management, and job readiness.

## 11.7 Adoption Counseling Services

11.7.1 (Rule 11.07) A facility shall provide adoption counseling if the adolescent expresses an interest in surrendering her child for adoption. The counseling shall include:

11.7.1.1 An explanation of adoption;

11.7.1.2 The types of adoptions available;

11.7.1.3 The processes involved in surrendering a child for adoption; and

11.7.1.4 The provision of a list of agencies licensed to provide these services.

## 11.8 Stimulation of Young Children

11.8.1 (Rule 11.08) A facility shall ensure that all infants are held and spoken to and placed in a position to observe activities when they are awake at some point during the day.

11.8.2 (Rule 11.09) A facility shall ensure that all infants under seven months of age are held throughout all bottle feedings, and older infants if they are incapable of holding a bottle on their own.

11.8.3 (Rule 11.10) A facility shall ensure that all infants have access to age-appropriate toys and are provided opportunity for visual and sound stimulation.

11.8.4 (Rule 11.11) A facility shall ensure that, when an adolescent mother is in school or is working, her infant is appropriately cared for, either in a licensed child care center or licensed family child care home, or in the facility.

11.8.5 (Rule 11.12) A facility shall ensure that all children under 18 months of age are engaged in at least four of the following activities with their mothers for at least a total of 45 cumulative minutes each day:

11.8.5.1 Sensory activities, such as the use of crib mobiles, teething toys, busy boxes, baby mirrors, rattles, melody chimes, squeeze toys, or other comparable toys or equipment;

11.8.5.2 Language activities, such as the use of picture books, toy telephones, audio equipment with age appropriate music or sounds, hand puppets, stuffed animals, soft washable dolls, photographs, or other comparable items;

11.8.5.3 Manipulative activities, such as the use of squeeze toys, grip toys, sorting and stacking toys, three or four piece inlay type puzzles, puzzle blocks, simple threading toys, mobile pull toys, balls, or other comparable age appropriate play equipment;

11.8.5.4 Building activities, such as the use of building blocks, toy cars, figures of animals and people, nesting toys, and other comparable toys or equipment;

11.8.5.5 Large muscle activities, such as the use of low climbers, slides, riding or rocking toys, foam or plastic balls, gym mats, play tunnels, or other comparable play equipment; and

11.8.5.6 Music activities such, as the use of rhythm instruments, record player and records, toys equipped with musical tones, musical mobiles, busy boxes, drums, xylophones, piano, or other comparable equipment or toys.

11.8.6 (Rule 11.13) A facility shall ensure that all children 18 months of age or older are engaged in at least four of the following activities with their mother for at least one cumulative hour each day:

11.8.6.1 Language activities, such as being read to from a book, playing with flannel boards and telling a story or having the child tell the story, pictures, identification or classification, puppets, audio-visual equipment, or other comparable equipment or toys;

11.8.6.2 Science and math related activities, such as planting or gardening, playing with sand or the use of a sand table, fish or small animal care, and other comparable activities;

11.8.6.3 Manipulative activities, such as the use of puzzles, pegs and a pegboard, lacing boards, table top building toys, dominoes, and other age appropriate comparable toys and equipment;

11.8.6.4 Building activities, such as the use of unit blocks, transportation toys, farm animals, play people, age appropriate, child size work bench or other household equipment;

11.8.6.5 Art activities, such as the use of crayons, tempera paint, large brushes and newsprint, finger paint, construction paper, past or glue, blunt scissors, collage materials, non-toxic felt tip markers, clay or playdough, or other comparable play equipment or toys; and

11.8.6.6 Music activities, such as the use of rhythm sticks, drums, cymbals, bells, tape recorder, piano, or other comparable equipment.

#### 11.9 Medical Care for Children of Parenting Adolescents

11.9.1 (Rule 11.14) A facility shall ensure adolescents use only prescription and non-prescription medication that is authorized by a licensed physician or a licensed nurse practitioner for themselves and for their children.

11.9.2 (Rule 11.15) A facility shall ensure that adolescents follow the advice of a licensed physician regarding the health care of the adolescent's child.

11.9.3 (Rule 11.16) A facility shall ensure that an adolescent obtains for her infant:—

11.9.3.1 A physical examination at the age of one month, and again by no later than the age of two and one-half months;

11.9.3.2 Immunizations as required by the Delaware Division of Public Health; and

11.9.3.3 Between three and one half and four months of age, a physical examination and periodically thereafter as recommended by the infant's attending physician or medical clinic.

#### 11.10 Discharge and Aftercare Plans

11.10.1 (Rule 11.17) A facility shall include in the discharge and aftercare plan specific information regarding the status of the adolescent's child and health care, immunization, and medical needs that the child may require; and an assessment of the adolescent's ability to parent the child and to follow up appropriately on the child's aftercare plan.

#### 11.11 Toys and Equipment

11.11.1 (Rule 11.18) A facility shall ensure that all toys and equipment to be used by children are sturdy, of safe construction, non-toxic and free of hazards.— A facility shall use a choker tube to ensure that all parts of all

toys used by children under three years of age are large enough so that they cannot be swallowed by the child.

~~11.11.2 (Rule 11.19) A facility shall provide an age-appropriate-sized crib for each infant or child, but may allow an infant to sleep in a playpen or on a mat during daytime hours. A facility shall ensure that:~~

~~11.11.2.1 Crib and playpen slats are no more than 2.3 inches apart;~~

~~11.11.2.2 The top rails of the crib or playpen are at least 19 inches above the mattress;~~

~~11.11.2.3 Any locks or latches on the dropside of a crib are safe from accidental release;~~

~~11.11.2.4 The mattresses used in all cribs and playpens fit snugly;~~

~~11.11.2.5 Each infant has sheets, blankets and other coverings for his or her exclusive use;~~

~~11.11.2.6 Wet or soiled or damaged sheets, mattress, blankets or other coverings are immediately replaced;~~

~~11.11.2.7 All sheets and blankets are laundered at least once a week, or if soiled, are laundered before next use;~~

~~11.11.2.8 Cribs and playpens are free of hazards and an excessive number of toys; and~~

~~11.11.2.9 Beds or cribs not used solely for a specific infant shall have linens and blankets replaced with clean linens and blankets before each use by a different infant.~~

#### 11.12 Premises

~~11.12.1 (Rule 11.20) A facility shall provide:~~

~~11.12.1.1 A separate bedroom with at least 100 square feet for the adolescent and her child, and an additional 50 square feet for each additional child;~~

~~11.12.1.2 Sufficient space to accommodate tables, high chairs, chairs for adolescents and their children, and on duty staff to eat meals together; and~~

~~11.12.1.3 A Sufficient locked or secure storage space that can accommodate the personal belongings of the adolescent and her child(ren) which is reasonably accessible to the adolescent.~~

~~11.12.2 (Rule 11.21) A facility shall ensure that all rooms used by children or infants are accessible to employees, including bedrooms.~~

~~11.12.3 (Rule 11.22) A facility shall ensure that all buildings and grounds are maintained in a safe and sanitary manner.~~

~~11.12.4 (Rule 11.23) A facility shall ensure that:~~

~~11.12.4.1 There are no poisonous plants accessible to children;~~

~~11.12.4.2 All corrosive agents, insecticides, bleach products, detergents, furniture polish, any products under pressure in an aerosol spray can, or any toxic substances are stored in a locked cabinet or closet and are not accessible to infants or young children;~~

~~11.12.4.3 All furniture and equipment used by the adolescents or their children, whether used indoors or outdoors, are of sturdy and safe construction; and~~

~~11.12.4.4 Non-permanent safety barriers, such as safety gates, are installed in a manner that will prevent infants and young children from falling down stairways, or ramps, or from gaining access to balconies or porches or elevated play areas.~~

## 1.0 **Legal Authority, Purpose, and Definitions**

1.1 Legal Base. The legal authority for these licensing Regulations is in 31 **Del.C.** §§341-344.

1.2 PURPOSE. These provisions shall be known as the DELACARE: Regulations for Residential Child Care Facilities and Day Treatment Programs. These Regulations are designed to protect the health, safety and well-being of children who are placed in residential child care facilities or are enrolled in day treatment programs.

1.3 Definitions Of Regulated Services

**“Day Treatment Program”** means any program that provides highly structured, intensive, non-residential services for fewer than 24 hours each day to children who have either behavioral dysfunctions; developmental, emotional, mental or physical impairments; or chemical dependencies. Licensed residential child care facilities operating an educational program for residents and day students shall be exempted from being a day treatment program when more than 50 percent of the students in that educational program are residents of the facility.

**“Residential Child Care Facility”** means any facility that provides out-of-home, 24-hour care, protection, and supervision for children who have either: behavioral dysfunctions; developmental, emotional, mental or physical impairments; or chemical dependencies. A psychiatric hospital or a foster home in which children have been placed by a licensed or authorized child placing agency are not residential child care facilities. A Residential Child Care Facility includes, but is not limited to, the following:

**“Parenting Adolescent Facility”** means a residential child care facility for adolescent parents caring for their own child(ren).

**“Secure Residential Care Facility”** means a residential child care facility that is authorized to use locked doors, both exterior and interior, as the means of preventing a child from leaving the building(s) without authorization.

**“Shelter Care Facility”** means a residential child care facility that provides temporary or emergency care for children for a period of time that does not exceed 30 consecutive calendar days, except as provided for in subsection 14.4.

**“Transitional Care Facility”** means a residential child care facility that provides care for 12 or fewer adolescents for the purpose of preparing them to live as self-sufficient adults. A psychiatric hospital or a foster home in which children have been placed by a licensed or authorized child placing agency are not residential child care facilities.

#### 1.4 Definition Of Terms

**“Administrative Hearing”** means the hearing provided to a Licensee or Applicant when the Licensee or Applicant requests an appeal of the Office of Child Care Licensing’s decision to place the facility on the enforcement actions of Warning of Probation, Probation, Suspension of a license, Revocation of a license, or Denial of a license application by presenting evidence to contest the action.

**“Adventure Activity Program”** means a facility or program whose primary purpose is to engage the children in a course of activities of a hazardous or risk-laden nature. The activity may involve strenuous exercise or physical exertion. It includes high rope challenge courses, wilderness trekking, rock climbing and rappelling, as well as a travel camp of more than 120 consecutive hours’ duration involving traveling through more than one state.

**“Aversive Conditioning”** means the involuntary, time-limited, and reasonable use of a technique or procedure that applies an undesirable, noxious or painful stimulus to a child in order to suppress the specific behavior that is potentially harmful to the child or others, for the purpose of behavior management.

**“Behavior Management”** means those principles and methods employed by a licensee to help a child achieve positive behavior; and to address and correct a child’s inappropriate behavior in a constructive and safe manner, in accordance with written policies and procedures governing program expectations, treatment goals, child and staff safety and security, and the child’s service plan.

**“Business Days”** means any weekday Monday through Friday but not including the weekend (Saturday and Sunday) nor a State of Delaware legal holiday that falls on a weekday.

**“Chemical Restraint”** means the involuntary, unplanned, and emergency application of a psychotropic drug to restrict the function or movement of a child for the purpose of behavior management. The planned and routine application of a prescribed psychotropic drug is not a chemical restraint.

**“Chief Administrator”** means the person designated by the licensee, or by its governing body, as having day-to-day responsibility for the overall administration and operation of a facility or program and for assuring the care, treatment, safety, and protection of children.

**“Child”** means a person who has not reached 18 years of age.

**“Child Abuse”** means any physical injury to a child by those responsible for the care, custody, and control of the child through unjustified force as defined in Delaware Code, Title 11, Chapter 4, Section 468 or through emotional abuse, torture, criminally negligent treatment, sexual abuse, exploitation, maltreatment, or mistreatment - as defined in Delaware Code, Title 16, Chapter 9, Subchapter I, Section 902.

**“Child Neglect”** means the failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary: education as required by law, nutrition, or medical, surgical or any other care necessary for the child’s well-being as defined in Delaware Code, Title 16, Chapter 9, Subchapter I, Section 902.

**“Child Sex Abuse”** means any act against a child that is described as a sex offense or child exploitation as defined in Delaware Code, Title 11, Chapter 85, Subchapter IV, Section 8550 and Chapter 5, Subchapter II (Subpart D) and Subchapter V or any other applicable code.

**“Complaint Investigation”** means the process followed by the Office of Child Care Licensing (OCCL) to investigate effectively accusations that a Licensee is not in compliance with these Regulations or any applicable law.

**“Consultant”** means an independent practitioner fully qualified and licensed to engage in the practitioner’s specialty practice in the State of Delaware, including consulting, training, program development, and implementation. Although consultants are not considered employees of the facility, and no full file is required, they are required to be fingerprinted for the facility if left alone with children.

**“Corrective Action Plan”** means a written document provided by the Office of Child Care Licensing (OCCL) listing non-compliances that must be corrected, how they must be corrected, and the date by which they must be corrected.

**“Denial”** means the process of refusing to grant a license after receipt of an original or renewal application. This constitutes refusal of official permission to operate.

**“Department”** means the Delaware Department of Services for Children, Youth and Their Families.

**“Direct Care Supervisor”** means a person who is assigned responsibility by a licensee for the supervision of one or more direct care workers.

**“Direct Care Worker”** means a person designated by a licensee to provide direct care of children.

**“Division”** means the Division of Family Services within the Department.

**“Employee”** means any person who is employed by a licensee or any person under contract with a licensee, excluding vendors that do not provide direct services to children.

**“Enforcement Action”** means an administrative action or group of actions taken to promote compliance, such as Warning of Probation, Probation, Suspension, Denial, and Revocation of a license.

**“Exclusion”** means the involuntary, time-limited removal of a child six years of age or older from his or her environment through the use of non-violent physical intervention and restricting that child in an unlocked room under continuous monitoring and preventing his or her egress, for the purpose of behavior management.

**“Facility”** means a residential child care facility.

**“Governing Body”** means the person or group of persons with ultimate responsibility for and authority over the operation of a facility or program.

**“Immediately”** means an action that is or must be taken without any considerable loss of time.

**“Infant”** means a child who is less than one (1) year old.

**“Least Restrictive Treatment”** means an intervention method that is the least intrusive into, and least disruptive of, the child’s life, and that represents the least departure from normal patterns of living that can be effective in meeting the child’s needs.

**“License”** means the Office of Child Care Licensing’s granting of authority through a written provisional or annual certification to a facility or a program to operate under applicable State law (s).

**“License Extension”** means the process by which the period of an annual License is lengthened by an additional month because all conditions to issue an annual license have not been met and are not in the control of the Licensee.

**“Licensee”** means the legally responsible entity for a licensed facility or program.

**“Living Unit”** means a designated area or space in which a group of children reside or receive care.

**“Locked Isolation”** means the involuntary and time-limited confinement of a child in a locked room for the purpose of behavior management.

**“Mechanical Restraint”** means the involuntary, time-limited, and reasonable use of any device in order to restrict a child’s movement or functions or the ability to use his or her hands, arms, or legs, for the purpose of behavior management.

**“Medical Consultant”** means a person licensed as a Registered Nurse or Physician in Delaware and assigned responsibility for overseeing the assistance with medication.

**“Non-violent physical intervention strategies”** means the unplanned and emergency non-punitive, age-appropriate, time-limited, and reasonable application of physical holding or other physical interventions that are required to restrict the movement or function of a child for the purpose of preventing harm to the child or to others when the child has failed to respond to non-physical intervention techniques.

**“Office of Child Care Licensing (OCCL)”** means the organization within the Department authorized under Delaware Code, Title 31, Chapter 3, Subchapter III, to promulgate and enforce regulations and standards for the conduct of child care, including the licensing thereof, and the development and implementation of policies and procedures.

**“Parent”** means a birth or adoptive parent, legal guardian or any other person having responsibility for, or legal custody of, a child.

**“Placing Agency”** means an organization, either publicly or privately operated, that is legally authorized to place a child in a facility or to refer a child to a program.

**“Positive Reinforcement”** means an action that, when systematically and regularly applied following the desired behavior of a child, makes it more likely that the desired behavior will recur.

**“Probation”** means a written notice of a specific enforcement action, approved by the Division Director, which directs the Licensee to correct all non-compliances and maintain compliance or face revocation or denial of the license.

**“Program”** means a Day Treatment Program when it is used alone without an adjective.

**“Provisional License”** means a license issued for a maximum period of 3 months when the Licensee is temporarily unable to comply with DELACARE Regulations and when there is no serious risk to the health, safety, and well-being of children and the Licensee has agreed to fulfill and operate under conditions as stated in a corrective action plan or an Agreement of Understanding. An extension beyond this time period requires the approval of the Administrator.

**“Psychotropic Drug”** means a drug or substance that alters the chemical balance of neurotransmitters in the central nervous system.

**“Record”** means the individual file established and maintained for a child

**“Regulations”** means the DELACARE: Regulations for Residential Child Care Facilities and Day Treatment Programs or a portion thereof.

**“Restrictive Procedure”** means the involuntary, non-punitive, age-appropriate, time-limited, and reasonable use of any action, device, drug or technique that is designed to restrain or restrict a child’s movement, function or mobility for the purpose of reducing serious maladaptive behavior of a child; preventing a child from harming either himself or herself, or others; or controlling maladaptive behavior when the child has failed to respond to other less restrictive means of behavior management. A facility must be authorized to implement restrictive procedures as described in Section 17.0, and the procedures must be ordered by appropriately trained personnel. Restrictive procedures include aversive conditioning, chemical restraint, exclusion, locked isolation, and mechanical restraint. Non-violent physical intervention strategies and time-out techniques are not restrictive procedures.

**“Revocation”** means the process of rescinding a license during the effective dates of a license withdrawing official permission to operate.

**“Service Plan”** means a written, prescribed plan that specifies the basis for a child’s admission to a facility or program, the techniques to be used to address his or her treatment needs, or goals for family reunification and permanency planning. The plan shall identify the persons responsible for developing and implementing the plan, and the time frames for carrying out the plan while the child is residing in a facility or participating in a program.

**“Service Supervisor”** means a person who is assigned responsibility by a licensee for the supervision of one or more service workers.

**“Service Worker”** means a person designated by a licensee to coordinate, develop, and implement the service plan for a child.

**“Suspension Order”** means a notice issued by the Office of Child Care Licensing directing that a Center’s services be discontinued as of a specified date with no services to children provided during the term of the Suspension Order, and that the license to operate a center has been suspended.

**“Teacher”** means a person designated by the licensee to directly provide education services to children.

**“Time-Out Technique”** means the time-limited removal of a child from his or her immediate environment or the time-limited prohibition of a child to participate in an activity, as specified in subsections 3.12.9.3, 3.12.9.3.1, 3.12.9.3.2, and 3.12.9.3.3.

**“Treatment”** means the various services that are designed, developed, and implemented by a licensee to improve the various educational, health care, medical, psychological, social or other needs of a child.

**“Volunteer”** means any person who provides an unpaid service or support to a facility or program for more than 40 hours in a calendar year, and whose primary role or function involves having direct contact with children. The term “volunteer” shall include student interns.

**“Warning of Probation”** means a written notice of a specific enforcement action, approved by the Administrator of Office of Child Care Licensing, intended to alert the facility that it has committed or accumulated sufficient serious violations of licensing regulations which, if not promptly corrected, could lead to a recommendation to place the facility on Probation or other enforcement action.

## **2.0 Licensing Process and Procedures**

**2.1 License Required to operate.** An agency, corporation, partnership or individual shall not operate or maintain a residential child care facility or day treatment program unless issued a license to do so by the Office of Child Care Licensing (OCCL).

**2.2 Authority to Inspect.**

- 2.2.1 An applicant or licensee shall allow access to the premises by any authorized representative of the Office of Child Care Licensing (OCCL), of another state agency, or any local building, fire or health agency for the purpose of determining compliance with applicable provisions of these regulations. On-site inspections may be conducted without prior notice.
- 2.2.2 An applicant or licensee shall permit any authorized representative of the Office of Child Care Licensing access to information, files, and records relevant to determining compliance with applicable provisions of these regulations and to interview any employee, volunteer, and child.
- 2.3 Issuance and Nullification of License.
- 2.3.1 To qualify for a license, an applicant or licensee shall demonstrate to the satisfaction of the Office of Child Care Licensing (OCCL) that it is in full or substantial compliance with applicable provisions of these regulations or other applicable codes or laws.
- 2.3.2 A license shall be issued only to a facility or program for which application is made and for the address shown on the application. A license shall state the maximum number of individuals who may be served in a facility or program at any time.
- 2.3.3 A separate application shall be made for each facility or program address. A separate license is not required for a facility or program that operates in two (2) or more buildings at the same address.
- 2.3.4 A license shall not be transferable, assignable or subject to sale.
- 2.3.5 When a facility or program is sold, leased, or discontinued, or the operation has moved to a new location, or when the license has been revoked, the current license immediately shall become null and void.
- 2.4 Posting of license. A licensee shall post its current license to operate a facility or program in a place conspicuous to the public.
- 2.5 Types of licenses.
- 2.5.1 Annual License. An annual license is issued when the Office of Child Care Licensing (OCCL) determines that an applicant or licensee is in full compliance with applicable provisions of these regulations and is effective for one year from the date of issuance, unless it is modified to or from a provisional license; suspended; revoked; or surrendered prior to the expiration date.
- 2.5.2 Provisional License. A single provisional license may be issued for a period of time not to exceed three (3) months from the date of issuance when the Office of Child Care Licensing (OCCL) determines that an applicant or licensee is in substantial, but not full, compliance with applicable provisions of these regulations and provided that there is no serious risk to the health, safety, or well-being of children and the applicant or licensee has an approved written corrective action plan issued by the Office of Child Care Licensing (OCCL).
- 2.5.2.1 A provisional license may be renewed as described in these regulations when the Office of Child Care Licensing (OCCL) determines that a licensee has demonstrated good faith efforts to achieve compliance but requires additional time to achieve full compliance with applicable provisions of these regulations. An applicant or licensee may not operate pursuant to provisional licenses for more than 12 consecutive months.
- 2.5.2.2 A provisional license may be replaced with an annual license when the Office of Child Care Licensing (OCCL) determines that an applicant or licensee has corrected all violations in advance of the expiration date of the provisional license and has come into full compliance with applicable provisions of these regulations.
- 2.6 Procedures for Initial Licensure.
- 2.6.1 An applicant shall apply for an initial license on a form provided and in a manner prescribed by the Office of Child Care Licensing (OCCL). Upon receipt of a completed application, the Office of Child Care Licensing (OCCL) shall review the application, confer with the applicant, provide assistance to aid the applicant in complying with applicable provisions of these regulations, inspect the facility or program to determine whether the applicant has fully complied with applicable provisions of these regulations, and make a recommendation regarding the issuance of a license.
- 2.6.2 If a license is granted, the applicant shall be issued an initial provisional license for six months. An annual license for the remaining six months of the first year of licensure shall be issued when the facility or program demonstrates compliance with these regulations and fully meets applicable provisions of these regulations; or
- 2.6.3 If a license is denied, the applicant shall be notified in writing of the reason(s) for denial and informed of their right to appeal the decision.
- 2.6.4 The expiration date of the first annual license and each subsequent renewal of an annual license shall be at one year intervals from the issuance date of the initial provisional license.
- 2.7 Procedures for Annual License Renewal.

- 2.7.1 The Office of Child Care Licensing (OCCL) shall send a license renewal application form at least 90 calendar days before the expiration date of the facility's or program's license. A licensee must submit a completed application for a license renewal to the Office of Child Care Licensing (OCCL) at least 60 calendar days before expiration of its current license.
- 2.7.2 When a licensee makes timely and sufficient application for license renewal, the existing license shall not expire until a decision on the renewal application is made by the Office of Child Care Licensing (OCCL)
- 2.8 Terms of a License. A licensee shall operate a facility or program within the terms of its license. The license shall contain the following information:
- 2.8.1 Status of the license: initial provisional, annual, provisional, or extension;
- 2.8.2 Effective date of the license;
- 2.8.3 Expiration date of the license;
- 2.8.4 The maximum number of children who may be served at one time; and
- 2.8.5 The applicable type of regulated service for which authorization to operate has been granted.
- 2.9 Changes affecting a license. The Office of Child Care Licensing (OCCL) shall determine whether to modify a current license or to require the licensee to submit an application for a new license when there is a change in the child population capacity. The licensee is required to submit an application to obtain a new license when any of the following occurs:
- A change of ownership or sponsorship;
  - A change of location;
  - A change in the name of the facility or program; or
  - A change in the applicable type of regulated service authorized;
- 2.10 Enforcement actions and fraud. The Office of Child Care Licensing (OCCL) may deny a license application (initial or renewal), suspend or revoke a license, or issue another enforcement action for good cause, including but not limited to the following:
- Substantial or willful failure to comply with applicable provisions of State law(s) or of these regulations;
  - Violation of the terms or conditions of its license;
  - Fraud or misrepresentation of facts in obtaining a license or in the operation of the facility;
  - Engaging in any activity, policy, practice or employee conduct that adversely affects or is deemed by the Office of Child Care Licensing (OCCL) to be detrimental to the education, health, safety, treatment needs or well-being of children, or that otherwise demonstrates unfitness by the Licensee or by any employee to operate a facility or program; or
  - Refusal to permit an authorized representative of the Department to gain admission to the facility during operating hours.
- 2.10.1 The licensee whose license has been revoked or applicant whose application has been denied may not apply for a license from the Office of Child Care Licensing within a three (3) year period from the date that the revocation or denial was upheld.
- 2.11 Appeal. If an enforcement action as defined in these regulations is issued, the Office of Child Care Licensing (OCCL) shall notify the applicant or licensee in writing and shall specify the applicant's or licensee's entitlement to appeal the decision and to request an administrative hearing. The appeal procedure shall include:
- 2.11.1 The Office of Child Care Licensing (OCCL) shall notify the applicant or licensee in writing of reasons for the application denial or license revocation before taking such action.
- 2.11.2 If a written or verbal request for a hearing is received by the Office of Child Care Licensing (OCCL) within 10 business days, OCCL shall ensure that a hearing is held within 30 business days from the date the request is received. The hearing officer shall have had no previous involvement in the matter prompting the hearing.
- 2.11.3 If a licensee files an appeal in a timely manner, its existing license shall remain in effect until an official written decision has been rendered subsequent to the hearing, except that the Office of Child Care Licensing (OCCL) shall have the authority to suspend the license immediately whenever the health, safety or well-being of children in care is in imminent danger or jeopardy.
- 2.11.4 If an applicant or licensee does not appeal the decision and does not request a hearing, the action to revoke the license or deny the application shall take effect 30 business days after the receipt of the notice. However, if the health or safety of children in care is in jeopardy, the license may be immediately suspended and the right to appeal the immediate suspension offered.
- 2.12 Order to suspend a license. If the health, safety or well-being of children in care is in jeopardy or imminent danger, the Office of Child Care Licensing (OCCL) may immediately suspend the license upon issuance of a written suspension order. The order shall state the reason(s) for the suspension. If a hearing is requested by

the licensee within 10 business days of the issuance of the suspension order, the Division Director, or his or her designee, shall hold an administrative hearing with the licensee or his or her representative(s).

#### 2.13 Rule variance.

2.13.1 Upon the written request of an applicant or a licensee, the Office of Child Care Licensing (OCCL) may grant a variance from any of these requirements if the licensee has documented to the satisfaction of OCCL that the intent of the specific requirement will be satisfactorily achieved in a manner other than that prescribed by the requirement.

2.13.2 The Office of Child Care Licensing (OCCL) shall render its decision on the request in writing, including the conditions for which the variance is granted, and shall send a signed copy of the decision to the applicant or licensee. A copy of the decision shall be maintained on file by OCCL and the licensee.

2.13.3 The variance may be time-limited or may remain in effect for as long as the licensee continues to maintain the health, care, safety, protection, supervision, and needed services of children.

2.13.4 The Office of Child Care Licensing (OCCL) shall monitor the licensee's compliance with the variance. If the licensee fails to comply with the variance, OCCL shall void the variance and require the facility to become compliant with the regulations(s).

### **3.0 Administration and General Provisions**

#### 3.1 Notification to the Office of Child Care Licensing (OCCL).

3.1.1 A Licensee shall immediately notify the Office of Child Care Licensing by direct voice contact during the Office of Child Care Licensing's working hours of the death of a child while in care. If a death occurs after such working hours, the Licensee shall immediately call the 24-Hour Child Abuse and Neglect hotline (currently listed as 1-800-292-9582).

3.1.2 A licensee shall notify the Office of Child Care Licensing (OCCL) within one business day by direct voice contact (followed by a written report within three (3) business days) if any of the following occur:

3.1.2.1 Any fire, flood, or any other damage due to any natural or man-made disaster(s) that impacts the ability to operate safely;

3.1.2.2 Injury of a child while in the care of a facility requiring inpatient or outpatient treatment;

3.1.2.3 Any child who is on or off the facility's premises without appropriate staff supervision while in the care of the facility;

3.1.2.4 Suspected abuse or neglect of a child while at the facility, after reporting the suspected abuse or neglect to the Child Abuse/Neglect Hotline (currently listed as 1-800-292-9582); or

3.1.2.5 Any known conviction(s) of a staff member including those which prohibit continued employment at the facility.

3.1.3 A licensee shall notify the Office of Child Care Licensing (OCCL) in writing at least 90 calendar days before any of the following changes occur:

3.1.3.1 A change of ownership or sponsorship;

3.1.3.2 A change of location;

3.1.3.3 A change in the name of the facility or program;

3.1.3.4 A change in the applicable type of regulated service being provided;

3.1.3.5 A change in child population capacity; or

3.1.3.6 The anticipated closing of the facility or program.

3.2 Governing body and chief administrator. A licensee shall have an identifiable functioning governing body which shall designate a person to function as the chief administrator of the facility or program. The job responsibilities and functions of the chief administrator shall be delineated in writing. The chief administrator shall adopt and implement a chain of command that ensures the proper and effective supervision and monitoring of employees and volunteers.

3.3 Facility or program description of services. A licensee shall develop, adopt, follow, and maintain on file a current written description of the facility's or program's admission policies governing the age, specific characteristics, and treatment or service needs of children accepted for care, and services provided to children and their families, including those provided directly by the licensee or arranged through another source. The licensee shall make this information available to the public in a brochure or other generic written description of its mission, policies, and the types of services offered by the facility or program.

3.4 Child and administrative records, insurance, fund raising, publicity, & research

- 3.4.1 A licensee shall develop, adopt, follow, and maintain on file on the premises written procedures governing the maintenance and security of records of children in care. These procedures shall assure that records are stored in a confidential and secure manner to prevent unauthorized access.
- 3.4.2 A licensee shall develop, adopt, follow, and maintain on file on the premises up-to-date administrative records containing an organizational chart, names and positions of persons authorized to sign agreements and to submit official documentation to the appropriate government agency, and written standard operating procedures.
- 3.4.3 A licensee shall secure and maintain on file written documentation of appropriate motor vehicle insurance (if applicable), comprehensive general liability insurance, and other insurance as required by State law(s).
- 3.4.4 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the use of children in fund raising or publicity activities. These policies shall ensure that any involvement of a child in such activities respects the child's dignity, preserves his or her confidentiality, and has been authorized by the child's parent(s) or legal guardian in a signed parental consent statement.
- 3.4.5 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the participation of children in bona fide research projects and ascertain that the goal(s) of the research are sound, achievable, and feasible; the research design is scientifically valid and appropriate to the goal(s) of the research; and the results of the proposed research will contribute significantly to the body of existing information on the subject.
  - 3.4.5.1 The policies and procedures governing approved research projects shall safeguard the privacy and protect the identity of and confidential information about children participating in research or follow-up studies; preserve the confidentiality of children and their families; ensure that the child's participation in the approved research project is voluntary; and ensure that the parent(s) or legal guardian of a child participating in the research project has signed an informed consent statement which the licensee shall maintain on file.

3.5 Personnel policies, procedures, and qualifications

- 3.5.1 A licensee shall develop, adopt, follow, and maintain on file written personnel policies and procedures governing the recruitment, screening, hiring, supervision, training, evaluation, promotion, and disciplining of employees and volunteers.
- 3.5.2 A licensee shall employ only those persons who have an understanding of and respect for children and their needs, have an understanding of and respect for a child's family and culture, and are physically and emotionally capable of performing activities related to providing child care. This includes the ability to supervise children's activities, to support children's physical, intellectual, social, and emotional growth, to deal with emergencies in a calm manner, and to carry out methods of behavior management, as stipulated in these regulations. Any person newly appointed to a position subsequent to the effective date of these regulations must meet the qualifications as stated in these regulations for that position.
- 3.5.3 A **Chief Administrator**, at the time of appointment, shall be at least 21 years of age and meet one of the following education and experience qualifications:

<u>Education</u>	<u>Area of Study/Major</u>	<u>Experience</u>
<u>Master's degree from a regionally accredited college or university</u>	<u>Social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, a human behavioral science, public administration, or a related field</u>	<u>Three (3) years of full-time work experience in child welfare, human services or a related field, at least two years of which shall have been in an administrative or supervisory capacity</u>
<u>Bachelor's degree from a regionally accredited college or university</u>	<u>Social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, a human behavioral science, public administration, or a related field</u>	<u>Four (4) years of post-bachelor's degree full-time work experience in child welfare, human services or a related field, at least two years of which shall have been in an administrative or supervisory capacity</u>

- 3.5.4 A **Direct Care Supervisor**, at the time of appointment, shall be at least 21 years of age and shall meet one of the following education and experience qualifications:

<u>Education</u>	<u>Area of Study/Major</u>	<u>Experience</u>
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<u>Bachelor's degree from a regionally accredited college or university</u>	<u>Any</u>	<u>One (1) year of full-time work experience in a child care facility or program</u>
<u>Associate degree from a regionally accredited college or university</u>	<u>Any</u>	<u>Two (2) years of full-time work experience in a child care facility or program</u>
<u>A minimum of 48 credit hours from a regionally accredited college or university</u>	<u>Any</u>	<u>Two (2) years of full-time work experience in a child care facility or program</u>
<u>A high school diploma (or equivalent) recognized by the Delaware Department of Education</u>	<u>Any</u>	<u>Three (3) years of full-time work experience in a child care facility or program</u>

3.5.5 A **Direct Care Worker**, at the time of appointment, shall be at least 21 years of age and shall meet the following education and experience qualification:

<u>Education</u>	<u>Area of Study/Major</u>	<u>Experience</u>
<u>A high school diploma (or equivalent) recognized by the Delaware Department of Education</u>	<u>Any</u>	<u>None required</u>

3.5.6 A **Service Supervisor**, at the time of appointment, shall be at least 21 years of age and shall meet one of the following education and experience qualifications:

<u>Education</u>	<u>Area of Study/Major</u>	<u>Experience</u>
<u>Master's degree from a regionally accredited college or university</u>	<u>Social work, sociology, psychology, criminal justice, education, guidance and counseling, a human behavioral science or a related field</u>	<u>Two (2) years of full-time work experience in child welfare, social work, human services, teaching, counseling or a related field, at least one year of which shall have been in a supervisory capacity</u>
<u>Bachelor's degree from a regionally accredited college or university</u>	<u>Social work, sociology, psychology, criminal justice, education, guidance and counseling, a human behavioral science or a related field</u>	<u>Four (4) years of full-time work experience in child welfare, social work, human services, teaching, counseling or a related field, at least two years of which shall have been in a supervisory capacity</u>

3.5.7 A **Service Worker**, at the time of appointment, shall be at least 21 years of age and shall meet the following education and experience qualification:

<u>Education</u>	<u>Area of Study/Major</u>	<u>Experience</u>
<u>Bachelor's degree from a regionally accredited college or university</u>	<u>Social work, sociology, psychology, criminal justice, education, guidance and counseling, a human behavioral science, or a related field</u>	<u>Two years of full-time work experience in child welfare, human services, teaching, counseling or a related field</u>

3.6 Administrative oversight, staff to child ratios, and staffing

3.6.1 The chief administrator shall ensure that there is a sufficient number of administrative, supervisory, social service, educational, recreational, direct care, and support employees or volunteers to perform the functions prescribed by these regulations and to provide for the care, needs, protection, and supervision of children.

3.6.1.1 The ratio of direct care workers to children during off-grounds activities or excursions shall be the same as the ratios of direct care workers to children that are required during on-grounds activities.

3.6.2 A licensee shall ensure that a designated employee is in charge on the premises at all times when children are present and shall also ensure that the following staffing requirements are met:

<u>REQUIRED STAFF</u>	
<u>Full-time chief administrator</u>	<u>Required when licensed capacity is 13 or more children</u>
<u>At least a part-time chief administrator, full time direct care supervisor, and full-time service supervisor</u>	<u>Required when licensed capacity is 12 or fewer children</u>
<u>One (1) Service Supervisor</u>	<u>Required for every ten (10) service workers or fraction thereof (A full-time chief administrator may also serve as the service supervisor when there are 3 or fewer services workers)</u>
<u>One (1) Direct Care Supervisor</u>	<u>Required for every ten (10) direct care workers or fraction thereof. (A full-time chief administrator may also serve as the direct care supervisor when there are 3 or fewer direct care workers)</u>

3.7 Orientation and training of employees and volunteers

3.7.1 A licensee shall maintain on file written materials documenting the delivery of orientation and training for all new employees and volunteers that includes the purpose, policies, and procedures of the facility or program, the employee's role and responsibilities, and the requirements to report allegations of child abuse or neglect.

3.7.2 A licensee shall ensure that each new employee, volunteer, or any current employee or volunteer whose job function changes, and whose primary role or function requires interaction with children, receives at least 20 hours of planned training prior to being alone with children. This requirement shall not apply to licensed professionals or consultants under contract with the licensee. This training shall include instruction in:

3.7.2.1 Carrying out job responsibilities;

3.7.2.2 The licensee's purpose, policies, and procedures, including those governing behavior management, crisis management, and safety;

3.7.2.3 Emergency procedures and the location of emergency exits and emergency equipment, including first aid kits;

3.7.2.4 The role of employees and volunteers in client service delivery and the protection of children;

3.7.2.5 The Delaware child abuse and neglect law(s), regulations, and reporting requirements; and

3.7.2.6 The provisions of these licensing regulations.

3.7.3 A licensee shall ensure that each employee and volunteer whose primary role or function requires interaction with children and who works 25 or more hours a week receives at least 30 hours of training annually, which may include the 20 hours of training provided prior to being alone with children. This training shall include instruction in:

3.7.3.1 Subject matters designed to maintain, improve or enhance the employee's knowledge of or skills in carrying out his or her job responsibilities;

3.7.3.2 Instruction in administering cardiopulmonary resuscitation (CPR) and first aid appropriate to the ages of the population served;

3.7.3.3 Location of first aid kits;

3.7.3.4 Cultural sensitivity; and

3.7.3.5 Behavior management policies and procedures.

3.7.4 A licensee shall ensure that each employee and volunteer whose primary role or function requires interaction with children and who works fewer than 25 hours a week receives at least 15 hours of training annually, which may include the 20 hours of training provided prior to being alone with children. Training not related to orientation shall be in subject matter identified in subsection 3.7.3.

3.7.5 A licensee shall permit licensed professional employees, including but not limited to physicians, psychologists, and nurses, to apply hours of continuing education units (CEUs) earned each year toward

the hourly training requirements specified in these regulations. A licensee shall maintain on file written documentation of compliance with this requirement.

### 3.8 Personnel records

3.8.1 A licensee shall develop, adopt, and maintain on file a personnel record for every employee and volunteer. Except as noted, all items contained in the personnel record are required at the start of employment. The record shall be maintained on site for at least three (3) months after employment/association terminates. The personnel record shall contain the following:

- 3.8.1.1 Employment application including employment start date and termination date, as applicable;
- 3.8.1.2 Name, current address, date of birth, and phone number of the employee;
- 3.8.1.3 Verification of education where specified by these regulations;
- 3.8.1.4 Documentation of training received prior to and during employment at the facility or program;
- 3.8.1.5 Release of employment history form, Service Letters obtained and/or pertinent documentation showing requests and follow-up for Service Letters have been made, or two (2) additional letters of reference or verbal references as described below if no previous employment;
- 3.8.1.6 Two (2) references from persons who are unrelated to the employee or volunteer or documentation of the reference's name, date of contact, contents of the conversation with a reference, and name of person receiving verbal reference;
- 3.8.1.7 For job applicants who have worked with an agency that provides care or services to children, one of the two (2) references required shall be from the prior child care employer;
- 3.8.1.8 Written records of required health appraisal that includes verification of the employee's ability to perform essential job functions and conducted within one (1) year prior to hire date and submitted within the first month of employment;
- 3.8.1.9 Written evidence on file within the first month of employment of freedom from communicable tuberculosis verified by test or medical professional risk assessment within one (1) year prior to the date of initial employment at the facility;
- 3.8.1.10 Verification of completed criminal history record check, adult abuse registry check, and child abuse registry check verifying suitability to work with children and adults;
- 3.8.1.11 Verification of receipt by the employee or volunteer of his or her current job description;
- 3.8.1.12 An annual employee performance evaluation;
- 3.8.1.13 Employee disciplinary actions and history;
- 3.8.1.14 Verification of receipt by the employee of the facility's policies and procedures including those on behavior management;
- 3.8.1.15 Documentation acknowledging that the use of alcohol or drug(s) that could adversely affect essential job functions, or possession of a controlled substance is prohibited in the work place;
- 3.8.1.16 Written proof that Safe Sleep procedures (for programs serving infants) and Child Abuse and Neglect recognition and reporting procedures have been reviewed with employee yearly; and
- 3.8.1.17 A statement signed by the staff member stating the staff member's status relative to conviction, current indictment or involvement in any criminal activity involving violence against a person, child abuse or neglect; possession, sale or distribution of illegal drugs; sexual misconduct; gross irresponsibility or disregard for the safety of others; or serious violations of accepted standards of honesty or ethical behavior; or any case of child abuse or neglect substantiated by the Division of Family Services or the respective responsible entity in any other state or country.

### 3.9 Job descriptions for employees

3.9.1 A licensee shall maintain on file a current written job description for every employee and for every volunteer who works more than 25 hours a week.

3.9.2 A licensee shall ensure that an employee's and volunteer's permanent or temporary assignment and functions shall be consistent with his or her respective current written job description.

### 3.10 Use of volunteers

3.10.1 A licensee shall develop, adopt, follow, and maintain on file policies and procedures governing the qualifications and use of volunteers. The qualifications shall be appropriate to the duties they perform.

3.10.2 A licensee shall assign designated employees to supervise volunteers.

### 3.11 Child abuse and neglect

3.11.1 A licensee shall provide each employee or volunteer who has contact with children written information governing the reporting provisions of the Delaware child abuse and neglect law(s) and regulations, and shall maintain on file written documentation of their receipt of this information.

3.11.2 A licensee shall not discourage, inhibit, penalize or otherwise impede any employee or volunteer from reporting any suspected or alleged incident of child abuse or neglect to the Child Abuse/Neglect Hot Line (currently listed as 1-800-292-9582) or from assisting with any investigation.

3.11.3 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures for handling any incident of suspected child abuse or neglect. The policies and procedures shall contain provisions specifying that:

3.11.3.1 The licensee immediately shall take appropriate remedial action to protect children from harm;

3.11.3.2 The licensee shall take appropriate long-term corrective action to eliminate the factors or circumstances that may have caused or may have otherwise resulted in a continuing risk of abuse or neglect to children;

3.11.3.3 Any employee or volunteer involved in an incident of alleged child abuse or neglect shall be removed or suspended from having direct contact with any child, or shall be reassigned to other duties that do not involve having contact with children until the investigation of the incident has been completed; and

3.11.3.4 The licensee shall take appropriate disciplinary action against any employee or volunteer who committed an act of child abuse or neglect

### 3.12 Children services and activities

#### 3.12.1 Admission

3.12.1.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing a child's admission to a facility or program. The policies and procedures shall be made available to those persons considering admission of a child to a facility or program and shall include:

3.12.1.1.1 Age range of children served;

3.12.1.1.2 Gender of children served;

3.12.1.1.3 Presenting problems and treatment needs of children served;

3.12.1.1.4 Materials, documents and reports required, including a child's social, education, medical evaluation and histories;

3.12.1.1.5 A description of the types of treatment services provided; and

3.12.1.1.6 The identifying information about a child to be recorded at the time of admission or as a part of the pre-admission process. Such information shall include the child's name, birth date, gender, religious preferences, race or ethnicity, names, addresses, telephone numbers of parent(s) or legal guardian, other service workers or contact persons, the referring agency, if applicable, known medical history and allergies, date of admission, and a brief social history, including the presenting problems.

3.12.1.2 When a licensee refuses the admission of a child, the licensee shall provide the child's parent(s), legal guardian, and the referring agency with a written explanation of the reasons for refusal, if requested.

3.12.1.3 A licensee shall ensure that the child, his or her parent(s), legal guardian, the referring agency, and any other appropriate party, are provided a reasonable opportunity to participate in the facility's or program's admission process.

3.12.1.4 Where involvement of the child's parent in the admission process is neither possible nor desirable, the licensee shall record the reasons for exclusion in the admission records.

3.12.1.5 A licensee shall not admit a child into care until an admission evaluation has been completed.

3.12.1.6 In an emergency admission, a licensee shall complete subsections 3.12.1.3, 3.12.1.4, and 3.12.1.5 within five (5) consecutive business days.

3.12.1.7 A licensee shall develop, adopt, follow, and maintain on file a written admission agreement with the parent(s), legal guardian or the referring agency. The admission agreement shall be signed by all parties and include:

3.12.1.7.1 The basis for admission;

3.12.1.7.2 The service or treatment goals;

3.12.1.7.3 The specific services or treatment to be provided;

3.12.1.7.4 The religious orientation and practices of the child;

3.12.1.7.5 The roles and responsibilities of the licensee and all persons and agencies involved with the child and his or her family;

3.12.1.7.6 Authorization to provide services to the child;

- 3.12.1.7.7 Authorization to provide or obtain routine medical care for the child;
- 3.12.1.7.8 Authorization to provide emergency medical or surgical care for the child; and
- 3.12.1.7.9 Authorization to enable the child to participate in recreational and, if applicable, out-of-state activities.
- 3.12.2 Information provided to children and their parents at admission
  - 3.12.2.1 A licensee shall provide to children and their parent(s) or legal guardian(s), and upon request to the referring agency the following:
    - 3.12.2.1.1 Operational rules of the facility or program;
    - 3.12.2.1.2 Policies governing visiting, telephone use, and other forms of communication with family, friends, and other persons important to the child;
    - 3.12.2.1.3 Religious orientation and practices observed by the licensee;
    - 3.12.2.1.4 A description of services and activities provided;
    - 3.12.2.1.5 A description of the licensee's behavior management policies and procedures;
    - 3.12.2.1.6 Grievance policies and procedures;
    - 3.12.2.1.7 Name of the child's service worker; and
    - 3.12.2.1.8 Information on how to obtain a copy of these regulations, and on reporting any suspected violations of these regulations.
  - 3.12.3 Service plan. A licensee shall develop, adopt, follow, and maintain on file a written service plan for each child admitted into a facility or within 30 calendar days of a child's admission and shall update the plan at least every 90 calendar days thereafter. A licensee shall afford the child, his or her parent(s) or legal guardian, and the referring agency an opportunity to be involved in the development of the service plan unless there is written documentation justifying the non-participation of any such parties. A copy shall be provided to the child (as appropriate), the child's parents/guardians, and referring agency.
  - 3.12.4 Permission to have contact with designated persons. A licensee shall allow a child's parent(s) or legal guardian, attorney, clergy, authorized representative of the referring agency, or a Division representative, to be permitted to have telephone, mail and in-person contact, and to confer in private with any child.
  - 3.12.5 Education
    - 3.12.5.1 A licensee shall ensure that each school-age child receives an appropriate education, in accordance with applicable federal and State law(s) and regulations. Each school-age child shall attend either a public or private school, or an approved on-grounds school operated by the licensee and approved by the appropriate Delaware authorities.
    - 3.12.5.2 If a licensee chooses to provide an educational program directly, the licensee shall ensure that such education programs comply with the following:
      - 3.12.5.2.1 One (1) teacher for every 20 children or fraction thereof shall be responsible for implementing the educational program;
      - 3.12.5.2.2 Teachers shall be at least 21 years of age and shall possess a bachelor degree from a regionally accredited college or university in the subject area of instruction or a bachelor degree from a regionally accredited college or university in education appropriate to age and educational needs of the children in the program;
      - 3.12.5.2.3 Employees meeting at a minimum the qualifications of Direct Care Worker may assist in the on-grounds educational program provided that they work under the supervision of an employee meeting the qualifications for Teacher;
      - 3.12.5.2.4 The educational program operates on at least as many calendar days and clock hours as are required by State law(s) and regulations;
      - 3.12.5.2.5 A core curriculum that is appropriate to the population to be served is followed;
      - 3.12.5.2.6 Special education services are provided or arranged by the licensee for each child whose special education needs have been identified and as appropriate in collaboration with the child's school district; and
      - 3.12.5.2.7 Appropriate written records shall be maintained on file for each child that reflect the use of a uniform grading system and a process for transfer and release of these records to and from other schools or facilities.
    - 3.12.5.3 If a licensee chooses not to provide an educational program directly, the licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the assignment of any child to an educational program.

3.12.5.4 A licensee shall provide appropriate space and supervision for quiet study after school hours and ensure that each child has access to necessary educational references and other resource materials.

3.12.5.5 A licensee shall ensure that adolescent children receive career preparation services, life skills training, and employment counseling unless such services, training, and counseling are being provided in their regular or special education school program. Such services, training, and counseling shall be appropriate to the age and capabilities of the child.

### 3.12.6 Work and employment

3.12.6.1 A licensee shall not engage a child in any work assignment unless the assignment offers the child a constructive experience, in accordance with the child's age, capabilities, and service plan.

3.12.6.2 For any adolescent who is legally not obliged to attend school, a licensee shall ensure that the child is either gainfully employed or enrolled in a training program geared to the acquisition of suitable employment or necessary life skills appropriate to the child's level of functioning.

### 3.12.7 Children's recreation, physical exercise, and leisure time activities

3.12.7.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures ensuring developmentally appropriate recreation, physical exercise, and leisure time activities both on and off the premises, including planned trips and excursions. The policies and procedures shall contain provisions requiring:

3.12.7.1.1 A list of the types of activities to be offered to children both on and off the premises;

3.12.7.1.2 A balanced mixture of planned recreation, physical exercise, and leisure time activities, so that children have a reasonable choice of alternatives in which to participate;

3.12.7.1.3 Opportunities for both individual and group activities; and

3.12.7.1.4 A written schedule of monthly planned recreation, physical exercise, and leisure time activities be developed and posted monthly in a conspicuous and readily accessible location on the premises, and be maintained on file for at least 90 calendar days.

3.12.7.2 A licensee shall ensure that reasonable precautions and safeguards are utilized to prevent or minimize the risk of serious injury or harm to children.

3.12.7.3 A licensee shall ensure that children utilize only bathing, biking, boating, camping, canoeing, hiking, kayaking, sailing, swimming, water skiing, white water rafting, or other sporting or recreation areas or facilities that are in compliance with applicable provisions of federal, state, county, and municipal law(s), regulations, and ordinances.

3.12.7.4 A licensee shall not threaten, coerce, or intimidate a child to participate or engage in any recreation, physical exercise, or leisure time activity, but may require a child to attend while not participating in the activity.

3.12.7.5 A licensee shall ensure that staff provide adequate and appropriate supervision of children engaging in recreation, physical exercise, or leisure time activities and shall offer instruction, guidance, and support to assist a child in learning to do so in a safe manner.

3.12.7.6 A licensee shall not permit children to engage or participate in high-risk activities unless the licensee complies with applicable provisions governing such activities as specified in Chapter 18 or the licensee utilizes an existing high adventure activity provider that is certified or approved by an appropriate governmental or private accrediting agency and that assumes responsibility for safety precautions and risk reductions.

3.12.7.7 A licensee shall prohibit children from participating in bungee jumping, hang gliding, parachute jumping, parasailing, and riding in airborne gliders.

### 3.12.8 Religion and culture

3.12.8.1 A licensee shall respect the religious preference of the child and his or her parent(s) or legal guardian.

3.12.8.2 A licensee shall ensure that each child is afforded opportunities to attend religious services or activities in his or her religious faith of choice. A licensee shall directly arrange for or ensure that other reasonable means are provided for the transportation of a child to services or activities that are off site.

3.12.8.3 A licensee that has a particular religious or denominational orientation shall provide a written description of its orientation or beliefs to the child and to the child's parent(s) or legal guardian prior to the child's admission, or within seven (7) calendar days following the admission of the child.

3.12.8.4 A licensee shall not require or coerce children to participate in religious services or activities, shall not discipline, discriminate against, or deny privileges to any child who chooses not to participate, and shall not reward any child who chooses to participate.

3.12.8.5 A licensee shall recognize and take into account the racial, cultural, ethnic, and religious backgrounds of children when planning various activities or religious services.

### 3.12.9 Behavior management

3.12.9.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the behavior management of children. The policies and procedures shall delineate the approved methods of behavior management techniques that are to be used to assist children in developing self-control, self-direction, self-esteem, and acceptable patterns of social behavior. The policies and procedures shall include the concepts and application of least restrictive effective treatment and positive reinforcements. The policies and procedures shall prohibit:

3.12.9.1.1 The delegation of responsibility for the control or supervision of children to other children;

3.12.9.1.2 The use of corporal punishment or the threat of corporal punishment inflicted in any way on a child's body, including but not limited to shaking, biting, pinching, slapping, hitting, or spanking;

3.12.9.1.3 The use of any form of forced physical exercise or activity or work assignment that produces pain or discomfort;

3.12.9.1.4 The use of verbal abuse, including humiliation, profanity, ridicule, or other forms of degradation;

3.12.9.1.5 The withholding of any meal;

3.12.9.1.6 The use of group punishments for misbehaviors of a child or a group of children unless the policies and procedures clearly prescribe the specific circumstances and safeguards under which such would be authorized;

3.12.9.1.7 The denial of essential services, including medical or dental care;

3.12.9.1.8 The denial of visits or communications with family;

3.12.9.1.9 The denial of shelter, appropriate clothing, bedding, or any other essential personal needs;

3.12.9.1.10 The denial of access to a toilet or bathing accommodations;

3.12.9.1.11 The denial of access to a telephone to contact individuals defined in subsection 3.12.4;

3.12.9.1.12 The use of excessive force or inappropriate physical force;

3.12.9.1.13 The use of restrictive procedures unless authorized by the Office of Child Care Licensing (OCCL) and in compliance with Section 17.0;

3.12.9.1.14 The exploitation of a child; and

3.12.9.1.15 The denial of sleep or needed rest.

3.12.9.2 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the accurate and timely recording of each incident in which a time-out technique or a non-violent physical intervention strategy is used. The chief administrator or his/her designee shall review this documentation on a weekly basis. Such policies and procedures shall ensure that the following are recorded for each use:

3.12.9.2.1 Identity of the child;

3.12.9.2.2 Date, time, and place;

3.12.9.2.3 Circumstances of the incident;

3.12.9.2.4 Name of the employee or volunteer who administered the time-out technique/non-violent physical intervention strategy;

3.12.9.2.5 The nature of the technique or strategy; and

3.12.9.2.6 Elapsed time used.

3.12.9.3 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the use of appropriate time-out techniques. The policies and procedures shall require that appropriate time-out techniques may be used only for a child six years of age or older, except as noted in subsection 3.12.9.3.3 and when a child's behavior is judged by the employee to be disruptive to the child's ability to learn from the activity, to participate appropriately in the activity, or to function appropriately with other children engaged in an activity. Time-outs may be brief if the child's behavior becomes compliant or may take longer (but not exceed 60 consecutive minutes) if the child refuses to cooperate within the time-out.

3.12.9.3.1 For children over six years of age, if there are more than 25 time-outs for an individual child or a cumulative total of four hours spent in time-out within any consecutive 24-hour period, a

licensee shall ensure that review is conducted by the chief administrator or his/her designee to determine the suitability of the child to remain in placement in the facility or program, or whether modifications to the child's service plan are warranted. A licensee shall ensure that appropriate action is taken in response to the findings of the review.

3.12.9.3.2 If time out is used, at least one employee shall be designated to be responsible for making visual contact with the child no less frequently than every 15 minutes and the child shall be reintroduced to the group in a sensitive and non-punitive manner as soon as he/she has regained control. Time-out may not occur in a closet, a bathroom, or an unfinished basement or attic.

3.12.9.3.3 A licensee shall ensure that any use of a Time-Out Technique for a child below six years of age is limited to a period of time not to exceed one minute for each year of the child's age and employed as a supplement to, not a substitute for, other developmentally appropriate, positive methods of behavior management. Children under the age of 6 years shall be provided with continuous monitoring while in time-out.

### 3.12.10 Non-violent physical intervention strategies

3.12.10.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the appropriate use of non-violent physical intervention strategies. These policies and procedures shall require that non-violent physical intervention strategies may be used only:

3.12.10.1.1 When a child is out of control and could physically harm himself or herself or others;

3.12.10.1.2 For a period of time that shall not exceed 15 consecutive minutes, without written documentation on attempts made to release the child from the hold if more than 15 minutes is required. A licensee shall ensure that a child is released from a physical intervention strategy as soon as he or she gains control, or before 15 consecutive minutes have elapsed, whichever occurs first; and

3.12.10.1.3 By employees or volunteers who have been specifically trained in its use, authorized to apply such strategies, and have current certification, if applicable.

3.12.10.2 A licensee shall not permit the application of a non-violent physical intervention strategy if a child has a documented physical condition that would contraindicate its use, unless a licensed physician has previously and specifically authorized its use in writing. Such documentation shall be maintained on file.

3.12.10.3 Whenever the provisions of subsection 3.12.10.1 have been exceeded, a licensee shall ensure that:

3.12.10.3.1 A review is conducted by the chief administrator or his or her designee to determine the suitability of the child to remain in placement in the facility or program, or whether modifications to the child's service plan are warranted;

3.12.10.3.2 Written documentation of the review is forwarded to the Office of Child Care Licensing (OCCL); and

3.12.10.3.3 Appropriate action is taken in response to the findings of the review.

3.12.10.4 A licensee shall prohibit employees from intentionally utilizing any of the following practices:

3.12.10.4.1 Pulling a child's hair;

3.12.10.4.2 Pinching a child's skin;

3.12.10.4.3 Twisting a child's arm or leg in a way that would cause pain or injury to the child;

3.12.10.4.4 Kneeling or sitting on the chest of a child;

3.12.10.4.5 Placing a choke hold on a child;

3.12.10.4.6 Bending back a child's finger(s);

3.12.10.4.7 Shoving or pushing a child into the wall, floor or other stationary object; or

3.12.10.4.8 Allowing another child or other children to assist in the application of a physical intervention strategy.

### 3.12.11 Children's grievance procedure

3.12.11.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the handling of grievances by children. The policies and procedures shall:

3.12.11.1.1 Be written in clear and simple language;

3.12.11.1.2 Be communicated to children in an age or developmentally appropriate manner;

3.12.11.1.3 Be posted in an area easily accessible to children and their parent(s) and legal guardian;

- 3.12.11.1.4 Ensure that any grievance is investigated by an objective employee who is not the subject of the grievance; and
- 3.12.11.1.5 Require continuous monitoring by the licensee of any grievance to assure there is no retaliation against the child.
- 3.12.11.2 A licensee shall not take or threaten to take any punitive or other retaliatory action against a child who utilizes the grievance procedure.

#### **4.0 Physical Plant**

##### **4.1 Premises and equipment**

- 4.1.1 A licensee shall ensure that the facility's or program's premises and equipment accessible to or used by children are free from any danger to their health, safety, and well-being. Glass door panels and windows within thirty-six (36) inches of the floor shall have safety guards such as rails or mesh or be of safety-grade glass or polymer and equipped with a vision strip at child's eye level.
- 4.1.2 A licensee shall maintain on file written documentation that the buildings and premises of the facility or program conform to all applicable State and local fire, health, and construction laws, ordinances, and regulations.
- 4.1.3 A licensee shall ensure that porches, elevated walkways and elevated play areas of more than two feet in height shall have barriers to prevent falls.
- 4.1.4 A licensee shall ensure that all indoor and outdoor areas, toilets, wash basins, tubs, sinks, and showers are maintained in an operable, safe, and sanitary manner.
- 4.1.5 A licensee shall utilize approved products and procedures in accordance with labeled instructions to ensure that the premises are protected from insect infestation.
- 4.1.6 A licensee shall ensure that all premises used by children are rodent-free.

##### **4.2 Kitchen and food storage**

- 4.2.1 A licensee shall ensure that kitchens are provided with the necessary operable equipment for the preparation, storage, serving, and clean-up of all meals for all of the children and employees regularly served by such kitchens. A licensee that does not prepare food on the premises and that utilizes single-service (disposable) dishes, pots, pans, and utensils shall not be governed by subsections 4.2.2, 4.2.3, 4.2.6, 4.2.8, and 4.2.10.
- 4.2.2 A licensee shall ensure that a kitchen or food preparation area has a hand-washing sink within the food preparation area that is separate from the sink used for food preparation and dish-washing.
- 4.2.3 A licensee with a licensed capacity of 12 or fewer children shall ensure that:
  - 4.2.3.1 A mechanical dishwasher is used for the cleaning and sanitizing of all dishes, pots, pans and utensils after each meal; or
  - 4.2.3.2 Dishes, pots, pans, and utensils are manually washed and rinsed after each meal in a sanitary manner using a two-compartment sink; when dishes, pots, pans, and utensils are manually washed, a chlorinated detergent is used; and dishes, pots, pans, and utensils are immersed in warm water for a duration of time that is at least one minute. The water is to contain a sanitizing solution that is self-made consisting of household bleach and water, or an appropriate commercial sanitizing solution that is used in accordance with labeled instructions. All dishes, pots, pans and utensils are to be air dried.
    - 4.2.3.2.1 Because of the variety of products and strengths available, providing a generic bleach dilution ratio for sanitizing and disinfecting is no longer possible. If using an EPA-registered bleach product, the licensee shall follow the manufacturer's instructions for diluting the product for sanitizing or disinfecting, as well as for the contact time. If not using an EPA-registered bleach product for sanitizing and disinfecting, the licensee shall follow the guidelines provided by an agency approved by the Office of Child Care Licensing, such as the Delaware Department of Public Health. These products and their instructions for use shall be available for review.
- 4.2.4 A licensee with a licensed capacity of 13 or more children shall ensure that:
  - 4.2.4.1 A mechanical dishwasher is used for the cleaning and sanitizing of all dishes, pots, pans, and utensils after each meal; and
  - 4.2.4.2 The dishwasher is capable of sanitizing at the proper time, temperature, and pressure ratio, and that dishes, pots, pans, and utensils are washed in accordance with manufacturer's instructions.
- 4.2.5 A licensee shall ensure that all food service equipment and utensils are constructed of material that is nontoxic, easily cleanable, and maintained in good repair.

- 4.2.6 A licensee shall ensure that all food services equipment, eating and drinking utensils, counter-tops, and other food contact areas are thoroughly cleaned and sanitized after each use.
- 4.2.7 A licensee shall ensure that the floor, walls, and counter-top surfaces of the kitchen are made of cleanable materials and impervious to water to the level of splash.
- 4.2.8 A licensee shall ensure that the kitchen has a cook stove and oven with an appropriately vented hood that is maintained in a safe and operable condition.
- 4.2.9 A licensee shall ensure that the kitchen is so constructed or supervised as to limit access by children when necessary.
- 4.2.10 A licensee shall ensure that food preparation areas and appliances, dishes, pots, pans, and utensils in which food was prepared or served are cleaned following each meal.
- 4.2.11 A licensee shall ensure that all foods subject to spoilage are stored at temperatures that will protect against spoilage. This means that:
  - 4.2.11.1 All refrigerated foods are to be kept cold at 40 degrees Fahrenheit or below;
  - 4.2.11.2 All frozen foods are to be kept at 0 degrees Fahrenheit or below;
  - 4.2.11.3 All hot foods are to be kept at 140 degrees Fahrenheit or above, except during periods that are necessary for preparation and serving; and
  - 4.2.11.4 Refrigerators and freezers shall be equipped with accurate, easily readable thermometers located in the warmest part of the refrigerator or freezer.
- 4.2.12 A licensee shall ensure that:
  - 4.2.12.1 All food storage areas are clean, dry, and free of food particles, dust, and dirt;
  - 4.2.12.2 All packaged food items and can goods are stored at least six inches above the floor in sealed or closed containers that are labeled;
  - 4.2.12.3 All dishes, pots, pans, and utensils are stored in a clean and dry place; and
  - 4.2.12.4 All paper goods are stored at least six inches above the floor.
- 4.3 Water supply and sewage disposal
  - 4.3.1 A licensee shall maintain on file written documentation that the building's water supply and sewage disposal system are in compliance with applicable State laws and regulations of the Delaware Division of Public Health and the Delaware Department of Natural Resources and Environmental Control, respectively.
  - 4.3.2 A licensee shall ensure that hot tap water does not exceed 120 degrees Fahrenheit at all outlets accessible to children, and that cold or tempered water are also provided.
- 4.4 Garbage and refuse
  - 4.4.1 A licensee shall ensure that garbage and refuse are stored and removed in a sanitary manner including:
    - 4.4.1.1 Garbage is stored outside in watertight containers with tight-fitting covers that are both insect and rodent-proof;
    - 4.4.1.2 Garbage and refuse are removed from the premises at intervals of at least once a week; and
    - 4.4.1.3 Garbage and refuse are contained in an area that is separate from any outdoor recreation area.
- 4.5 Lighting
  - 4.5.1 A licensee shall ensure that all areas are lighted adequately and safely including:
    - 4.5.1.1 Kitchens and all rooms used by children, including bedrooms, dining rooms, recreation rooms, and classrooms, are suitably lighted for safety and comfort, with a minimum of 30 foot candles of light. All other areas shall have a minimum of 10 foot candles of light;
    - 4.5.1.2 All lights located over, by, or within food preparation, serving, and storage areas shall have safety shields or light covers;
    - 4.5.1.3 All corridors are illuminated during night-time hours; and
    - 4.5.1.4 During night-time hours, exterior areas of the building(s) such as parking areas, pedestrian walkways, or other premises subject to use by children, employees, and volunteers are illuminated.
- 4.6 Heating
  - 4.6.1 A licensee shall ensure that a facility is safely and comfortably heated which includes:
    - 4.6.1.1 A licensee shall ensure that a minimum temperature of 68 degrees Fahrenheit is maintained at floor level in all rooms occupied by children; and
    - 4.6.1.2 A licensee shall ensure that all working fireplaces, pipes, and electric space heaters accessible to children are protected by screens, guards, insulation or any other suitable, non-combustible

protective device. All radiators accessible to children below six years of age shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.

4.6.1.3 Portable fuel-burning or wood-burning heating appliance is prohibited.

#### 4.7 Lead paint and asbestos

4.7.1 A licensee shall not use lead paint on the interior or exterior surfaces of any building used by children or on any furniture, toys, or other equipment used by children. A licensee that accepts children who are under six years of age or with an intellectual disability, or severe social-emotional disability shall ensure that the premises are free of lead paint hazards and shall maintain on file documentation that the premises have been tested and found to be free from lead paint hazards.

4.7.1.1 A licensee shall not use spray coatings containing asbestos on any interior or exterior portion of buildings or on any equipment used therein.

#### 4.8 Toileting and bathing

4.8.1 A licensee shall ensure that safe toileting and bathing procedures are followed including:

4.8.1.1 Toilets, showers, sinks, and bathing facilities and other toilet accessories are provided for children, maintained in a safe and sanitary manner, and allow for individual privacy unless this privacy is in conflict with toilet training or needed supervision;

4.8.1.2 Bathroom surfaces subject to splash are cleanable and impervious to water;

4.8.1.3 Bathroom floors, showers, and bathtubs have slip-proof surfaces;

4.8.1.4 Clear glass shower doors shall be marked for safety with a vision strip or decal; and

4.8.1.5 Bathrooms are equipped with windows that open to the outside or have mechanical ventilation systems.

#### 4.9 Ventilation

4.9.1 A licensee shall ensure that:

4.9.1.1 Each habitable room has direct outside ventilation by means of windows, louvers, air conditioning, or mechanical ventilation;

4.9.1.2 A maximum temperature of eighty-two (82) degrees Fahrenheit is maintained in all rooms occupied by children measured three (3) feet above floor level unless there is a conflict with Federal and State energy laws;

4.9.1.3 Each door, operable window, and other opening to the outside is equipped with insect screening that can be readily removed in emergencies, is in good repair, and is not less than 16 mesh to the inch, unless the facility is air conditioned and provided that it does not conflict with applicable fire safety regulations;

4.9.1.4 A licensee shall ensure that ventilation outlets are maintained in a clean and sanitary manner, and kept free from obstructions; and

4.9.1.5 A licensee shall ensure that all floor or window fans accessible to children have a protective grill, screen or other protective covering.

#### 4.10 Storage

4.10.1 A licensee shall provide areas with sufficient space for storing all supplies and equipment in a safe and sanitary manner.

4.10.2 A licensee shall ensure that all poisonous and toxic materials are stored in accordance with the following procedures:

4.10.2.1 All poisonous and toxic materials shall be prominently and distinctly labeled for easy identification as to contents;

4.10.2.2 All poisonous and toxic materials shall be stored separately from food so as to not contaminate food or constitute a hazard to children, employees and volunteers;

4.10.2.3 All poisonous and toxic materials shall be stored in a secure and locked room with access only by authorized employees, except those products that are required for routine cleaning and maintenance; and

4.10.2.4 All flammable liquids, gasoline, or kerosene shall not be stored on the premises except in a manner and place that has been authorized in writing by the Office of the Fire Marshal.

#### 4.11 Furnishings and maintenance

4.11.1 A licensee shall ensure that a facility maintains a safe, clean environment including:

4.11.1.1 Buildings are furnished with comfortable, clean furniture in good repair and appropriate to the age, size, and capabilities of children;

4.11.1.2 The premises are maintained and cleaned in a scheduled or routine manner;

- 4.11.1.3 All cleaning equipment, including mops and buckets, are cleaned and stored in an area separate and distinct from the kitchen and food preparation, serving, and storage areas;
- 4.11.1.4 Kitchen and bathroom sinks are not utilized for cleaning mops or emptying mop buckets;
- 4.11.1.5 Kitchen sinks are used only for purposes connected with food preparation or the cleaning of dishes, pots, pans, and utensils; and
- 4.11.1.6 A facility licensed to care for 13 or more children has a service sink.

#### 4.12 Outdoor recreation area

4.12.1 A licensee shall maintain or have access to an outdoor recreation area with at least 50 square feet for each child for the maximum number of children who will use the outdoor recreation area at one time.

4.12.1.1 When a licensee is not able to comply with subsection 4.12.1 the licensee shall provide a minimum of 700 square feet of open, accessible indoor play space suitable for large muscle activity, group and individual sports conducive to indoor facilities, and other forms of recreation activities.

4.12.2 A licensee shall ensure that outdoor areas are safe including:

4.12.2.1 All outdoor recreation areas are free from hazards and have adequate drainage;

4.12.2.2 All areas determined to be unsafe including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads or highways are fenced off or have a natural barrier to protect children; and

4.12.2.3 Its outdoor recreation program area has age-appropriate equipment for vigorous play, large muscle activity, physical exercise, and group sports. Such equipment shall be maintained in a clean, safe, and operable condition and shall be free of hazards.

#### 4.13 Swimming

4.13.1 A licensee that operates and utilizes an above-ground or in-ground swimming pool on its premises for use by children shall ensure that:

4.13.1.1 The pool fully complies with applicable swimming pool construction, sanitation, water quality standards, water temperature, recreational bathing, and lifesaving provisions of federal, state, county, and municipal law(s), regulations, and ordinances;

4.13.1.2 The pool is maintained in a clean, safe, and sanitary manner;

4.13.1.3 The pool water shall be sufficiently clear to allow that all areas of the pool including the drain and bottom markings are clearly visible;

4.13.1.4 At least one employee who has secured a valid lifesaving or life-guard certificate issued by an appropriate governmental or private certifying agency is assigned to monitor the pool whenever children are present;

4.13.1.5 The employee(s) assigned to monitor bathers and swimmers using the pool is located in a position out of the water where he or she can clearly observe all bathers and swimmers; and

4.13.1.6 The pool is secured when not utilized by children.

4.13.2 A licensee shall ensure that the following lifesaving equipment is provided:

4.13.2.1 A whistle;

4.13.2.2 A ring buoy or other appropriate throwing assist device that has a rope attached to it;

4.13.2.3 A backboard that has appropriate rigid cervical collars and a minimum of six straps;

4.13.2.4 A rescue tube;

4.13.2.5 An assist pole or other appropriate reaching device; and

4.13.2.6 A first aid kit.

#### 4.14 Access to telephone

4.14.1 A licensee shall ensure that these provisions are adhered to for child telephone usage:

4.14.1.1 Each building used by children has at least one working telephone that is directly available for immediate access or that is connected to an operating central telephone system;

4.14.1.2 The licensee's telephone number is clearly posted and available to children, their parent(s) or legal guardian, and the general public;

4.14.1.3 The licensee provides a child with reasonable access to a pay or free telephone;

4.14.1.4 The licensee provides children with reasonable privacy for telephone use; and

4.14.1.5 The licensee does not charge children for telephone calls to their Division case manager or the Department rights representative

#### 4.15 Emergency procedures and emergency evacuation drills

4.15.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the handling of emergencies, including:

4.15.1.1 An accident;

4.15.1.2 A bomb threat;

4.15.1.3 A fire;

4.15.1.4 Flooding;

4.15.1.5 Medical emergency;

4.15.1.6 A missing child;

4.15.1.7 A power outage; and

4.15.1.8 Severe weather conditions.

4.15.2 The policies and procedures governing the handling of emergencies shall include:

4.15.2.1 An emergency evacuation plan with a diagram depicting all exits posted in a conspicuous location on each floor of a building;

4.15.2.2 Instructions and telephone numbers for contacting ambulance, emergency medical response team, fire, hospital, poison control center, police, and other emergency services; these numbers shall be posted

4.15.2.3 Location and use of first aid kits; and

4.15.2.4 Roster and telephone numbers of employees to be contacted during an emergency.

4.15.3 A licensee shall ensure that each newly admitted child is provided an orientation regarding emergency procedures and the location of all exits within 48 hours of admission.

4.15.4 A licensee shall conduct at least four quarterly emergency evacuation drills for each shift conducted and maintain on file a record of each drill. Two of these drills shall include evacuations, unless the Office of Child Care Licensing (OCCL) has determined in writing that an evacuation is clinically contraindicated. These drills shall include all persons on the premises, including employees, volunteers, children, and visitors.

4.16 Firearms and other weapons. A Licensee shall ensure that firearms and/or ammunition not be within or on the facility's premises during the hours of operation or while children are in care. This regulation shall not apply to law enforcement officers in the performance of their official duties.

4.17 Power equipment. A licensee shall ensure that power-driven equipment shall be appropriately shielded and maintained in good repair. Children shall be permitted to use such equipment only when it is age appropriate and only under the direct supervision of an employee.

## **5.0 Employee, Volunteer, and Child Health**

### **5.1 Health documentation**

5.1.1 Within 30 days of the start of employing any person or accepting any volunteer, a licensee shall secure and maintain on file written documentation certifying and verifying that the prospective employee and volunteer has had a general physical examination within 12 months prior to the date of employment. The examination shall include a medically accepted procedure for screening for tuberculosis.

5.1.1.1 To be eligible to work in the facility or program, an employee or volunteer shall be free from tuberculosis. Further tuberculin testing shall occur if there is a reasonable belief by a health care provider that the employee/volunteer poses a direct threat due to a medical condition or in accordance with current guidelines of the Delaware Division of Public Health.

5.1.2 A licensee shall secure from and maintain on file written documentation of each child's current immunizations, as required by the Delaware Division of Public Health.

5.1.2.1 If a licensee cannot obtain written documentation of immunization for a child, the licensee shall:

5.1.2.1.1 Coordinate with the child's parent(s), legal guardian, or referring agency for the provision of required immunizations; and

5.1.2.1.2 Ensure that the child is immunized within 30 calendar days of admission, unless a statement from a physician indicating that immunizations are contraindicated is included in the child's health record.

5.1.3 A licensee shall have a written health record for each child on site and available to employees for emergency use that includes information on:

5.1.3.1 All available past medical history;

5.1.3.2 Inventory and assessment of medications in use at the time of admission;

5.1.3.3 All immunizations;

- 5.1.3.4 All medications dispensed;
- 5.1.3.5 Medical consents and releases of the child's parent(s) or legal guardian;
- 5.1.3.6 All medical, dental, psychological or psychiatric examinations; and
- 5.1.3.7 All medical treatment currently being provided.

**5.2 Assistance with self-administration of medication**

**5.2.1** A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the use and administration or assistance with the administration of medication. These policies and procedures shall:

- 5.2.1.1 Identify those employees who may assist with the self-administration of medications, in accordance with applicable State law(s) and regulations;
- 5.2.1.2 Prohibit the assistance with self-administration of psychotropic medications unless a physician determines that such medication is clinically indicated;
- 5.2.1.3 Prohibit the administration of medications for the convenience of an employee or as a substitute for appropriate treatment services;
- 5.2.1.4 Require that an informed, written consent of the child's parent(s) or legal guardian is secured and maintained on file prior to the administration of any psychotropic medication;
- 5.2.1.5 Provide for a means of recording in writing the administration of all medications entered into a Medication Administration Record (MAR). Such records shall include the identity of the child, the date and time the medication was administered, and the identity of the employee who assisted in the self-administration of the medication;
- 5.2.1.6 Errors in the administration of medication or adverse reactions observed must be documented and retained for 6 months; and
- 5.2.1.7 Ensure that any known prescribed medication previously taken by a child is not changed, altered, or failed to be dispensed without first consulting with a physician and obtaining written documentation of the change by a health care provider within 24 hours.

**5.2.2** A licensee shall develop, adopt, follow, and maintain on file a written schedule for each child receiving prescribed medications.

**5.2.3** A licensee shall ensure that all medications are contained in the original container, properly labeled, and stored in a secure locked area or as needed, in a locked refrigerated area. Keys to the secure area shall be safeguarded and kept out of the reach of children.

**5.2.4** A licensee admitting children with prescribed psychotropic medication and/or children with prescribed medication for chronic illness, such as diabetes or asthma, shall ensure that each of these children receive at least monthly documented medical consultant services. These services shall include:

- 5.2.4.1 Review of administration of the child's medication, including determination of problems in adherence or administration and development of corrective action plans.
- 5.2.4.2 Assessment and monitoring of the child with regard to the impact of their medication, including whether the medication is having its desired effects and whether the child is experiencing undesired side-effects.
- 5.2.4.3 Provide liaison between facility staff and the child's physician(s).
- 5.2.4.4 Provide employees with instruction in the expected outcomes from each child's medication regime and the possible side-effects of that medication regime.

**5.3 Hand washing, cleanliness, and sanitation**

**5.3.1** A licensee shall ensure that cleanliness procedures include but are not limited to:

- : Hand washing procedures follow the recommendations of the U.S. Centers for Disease Control and Prevention or other recognized entity to prevent the spread of illness;
- : Hands are scrubbed for a minimum of 10 seconds using soap and warm running water;
- : Soap and toilet paper are available at all times. Paper towels or individual clean cloth towels shall be available for each child. If cloth towels are used, a licensee shall ensure that they are washed or replaced daily; and
- : Rest equipment, cribs, beds, mats, and bedding are age-appropriate and assigned to one individual child for his or her exclusive use. All bedding shall be cleaned weekly or when soiled or wet, and shall not be assigned to another child until it has been cleaned and sanitized.

**5.3.2** A licensee shall ensure that employees and children wash their hands regardless of glove usage at least at the following times and whenever hands are contaminated with body fluids:

Before and After	After
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<u>Eating or handling food</u>	<u>Toileting or diapering</u>
<u>Assisting with administering medications</u>	<u>Coming into contact with blood, fecal matter, urine, vomit, nasal secretions, or other body secretions</u>
<u>Caring for a child who may be sick</u>	<u>Handling animals or their equipment or after coming into contact with an animal's body secretions</u>
	<u>Outdoor play</u>
	<u>Cleaning</u>
	<u>Taking out the garbage</u>

#### 5.4 Standard precautions

5.4.1 A licensee shall employ standard precautions for protection from disease and infection. Spills of body fluids (i.e., blood, eye discharge, feces, injury or tissue discharges, nasal discharge, saliva, or urine) shall be cleaned up immediately, as follows:

5.4.1.1 Areas with spills of vomit, urine, or feces on any surface including floors, walls, bathroom fixtures, table tops, furniture, and diaper-changing tables shall be cleaned and disinfected;

5.4.1.2 Areas with spills of blood or blood-containing body fluids and injury and tissue discharges shall be cleaned and disinfected. Nonporous disposable gloves shall be used in these situations;

5.4.1.3 Persons involved in cleaning contaminated surfaces shall avoid exposure of open skin sores or mucous membranes to body fluids or tissue discharges by using nonporous disposable gloves to protect hands when cleaning contaminated surfaces;

5.4.1.4 Blood-contaminated material and diapers shall be disposed of in a plastic bag with a secure tie; and

5.4.1.5 Mops shall be cleaned, rinsed, disinfected, wrung dry, and hung to dry.

5.5 Disinfectant solution. A licensee shall use a disinfectant solution such as a bleach and water solution prepared daily for disinfecting areas that have been contaminated by body fluids. Because of the variety of strengths of products available, providing a generic bleach recipe for sanitizing and disinfecting is no longer possible. If using an EPA-registered bleach product, the manufacturer's instructions for diluting the product for sanitizing or disinfecting, as well as the contact time, shall be followed. If not using an EPA-registered bleach product for sanitizing and disinfecting, the guidelines provided by an agency approved by the Office of Child Care Licensing, such as the Delaware Department of Public Health, shall be followed. These products and their instructions for use shall be available for review.

#### 5.6 Diapering, toilet training, and sanitation

5.6.1 A licensee shall ensure that a diaper-changing area:

5.6.1.1 Is separate from food preparation and serving areas;

5.6.1.2 Is easily accessible to a hand-washing sink; and

5.6.1.3 Has surfaces that are non-absorbent and washable, and are cleaned and disinfected after each use.

5.6.2 A licensee shall observe the following diapering and toileting procedures:

5.6.2.1 Use cloth diapers or disposable diapers;

5.6.2.2 Place non-disposable soiled diapers and training pants without rinsing into a separate leak-proof plastic bag, labeled with the child's name, before transporting to a laundry or laundering;

5.6.2.3 Place soiled disposable diapers into a cleanable, foot-activated covered container with a leak-proof liner;

5.6.2.4 Use disposable towels, disposable wipes, or clean, reusable towels laundered between use for different children;

5.6.2.5 Immediately wash his or her hands after diapering or helping a child with toileting;

5.6.2.6 Immediately wash the hands of a child after toileting and diapering;

5.6.2.7 Use toilet training chairs only in an area separate from food preparation areas and in an area that ensures a child's privacy while permitting supervision; and

5.6.2.8 Clean and disinfect toilet training equipment after each use.

#### 5.7 Infant care

5.7.1 When caring for infants, a licensee shall ensure that:

5.7.1.1 Bottles, nipples, and pacifiers are cleaned and disinfected after each use or when dropped on the floor or ground; and

5.7.1.2 Toys that are mouthed by infants or children are cleaned and disinfected after each use and stored between uses in a clean container.

5.8 Emergency medical services

5.8.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing medical emergencies. These policies and procedures shall require that at least:

5.8.1.1 One employee is on duty who is qualified to administer first aid and cardiopulmonary resuscitation; and

5.8.1.2 One fully equipped first aid kit is placed in each building used by children, and in any indoor recreation area.

5.9 First aid kit

5.9.1 Licensee shall ensure that first aid kits are readily available and contain the following:

5.9.1.1 Nonporous disposable gloves;

5.9.1.2 Scissors;

5.9.1.3 Tweezers;

5.9.1.4 Safety pins;

5.9.1.5 Bandage tape;

5.9.1.6 Emergency telephone numbers;

5.9.1.7 Antiseptic wipes;

5.9.1.8 Eye patch or dressing;

5.9.1.9 Non-medicated self-adhesive bandages of various sizes;

5.9.1.10 Small plastic bags for cloths, gauze, and other materials used in handling blood;

5.9.1.11 Small plastic or metal finger splints;

5.9.1.12 Pen/Pencil and note pad;

5.9.1.13 Instant cold pack;

5.9.1.14 Sterile gauze pads;

5.9.1.15 Flexible roller gauze;

5.9.1.16 Triangular bandages or sling;

5.9.1.17 Non-glass thermometer to measure a child's temperature; and

5.9.1.18 Current American Academy of Pediatrics or American Red Cross first aid book or an equivalent first aid guide.

5.10 Illness, injury or death notifications

5.10.1 A licensee shall notify the child's parent(s) or legal guardian and the referring agency of any serious illness, incident involving serious bodily injury, or any severe psychiatric episode of a child requiring either in- or out-patient hospitalization within 1 business day.

5.10.2 A licensee shall immediately notify the child's parent(s) or legal guardian and the referring agency, the Office of Child Care Licensing (OCCL) as specified Regulation 3.1.1, and the medical examiner in the event of the death of a child.

5.11 Nutrition

5.11.1 A licensee shall ensure that:

5.11.1.1 All children are provided nutritionally balanced meals and snacks, and portions suitable to the size and age of the child in care, in accordance with the recommended dietary allowances of the U.S. Department of Agriculture (USDA) or its equivalent. (See Appendix)

5.11.1.2 A written menu is posted on a daily basis in a conspicuous location on the premises;

5.11.1.3 Any change or substitution to the menu is noted and considered as part of the original menu;

5.11.1.4 Menus are maintained on file and made accessible for review for at least three (3) months; and

5.11.1.5 Alternate meals and snacks are provided for children on special diets when prescribed by a physician or required by religious beliefs.

5.11.2 A licensee shall ensure that meals and snacks are served in accordance with the following schedule based upon the number of hours that a child is present at the facility or program:

<u>Length of Time</u>	<u>Meal or Snack</u>
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<u>2 to 4 hours</u>	<u>1 snack;</u>
<u>4 to 6 hours</u>	<u>1 meal and 1 snack;</u>
<u>6 to 10 hours</u>	<u>2 meals and 1 snack OR 1 meal and 2 snacks (based upon arrival of the child); or</u>
<u>10 hours or more</u>	<u>3 meals and 2 snacks.</u>

## **6.0 Pets**

- 6.1 A licensee shall ensure that animals are cared for safely and in a sanitary manner including:
- 6.1.1 Ensure that animals or household pets are free from disease; and
  - 6.1.2 Secure and maintain on file written documentation of rabies and other vaccinations of pets, as required by State law(s), regulations or local ordinances.

## **7.0 Use of Alcohol, Tobacco and Illegal Drugs**

- 7.1 A licensee shall develop, adopt, follow, and maintain on file procedures that:
- 7.1.1 Prohibit the use of tobacco by children;
  - 7.1.2 Prohibit all use of tobacco by employees, volunteers and visitors in any building used by children and in the presence of children;
  - 7.1.3 Prohibit all use of alcohol and illegal drugs by employees, volunteers, children, and visitors in any building or on the premises used by children and in the presence of children.
  - 7.1.4 Prohibit all use of alcohol, tobacco, and illegal drugs by employees, volunteers, children, and visitors in any vehicle owned, leased or provided by the licensee and utilized for transporting children;
  - 7.1.5 Prohibit all use of alcohol, tobacco, and illegal drugs by employees, volunteers, children, and visitors in vehicles owned by employees or volunteers while transporting children;
  - 7.1.6 Prohibit the purchase of alcohol, tobacco, electronic cigarettes and illegal drugs for children by employees and volunteers;
  - 7.1.7 Document that staff members have been informed that alcohol or other drug use that adversely affects essential job functions is unacceptable and that the unlawful use, possession, manufacture, or distribution of controlled substances or alcoholic beverages in the workplace is prohibited; and
  - 7.1.8 Prohibit the use of electronic cigarettes by children, employees, volunteers, and visitors in any building or vehicle used by children and in the presence of children.

## **8.0 Transportation**

- 8.1 A licensee that chooses to provide for the transportation of children to or from the premises, or in connection with an authorized activity, shall ensure that transportation is provided in accordance with the provisions of these regulations.
- 8.2 A licensee shall maintain on file a photocopy or other written record of the following documents for every motor vehicle used by the licensee to transport children and every driver who transports children:
- 8.2.1 A valid motor vehicle license to operate the specific type of motor vehicle used to transport children;
  - 8.2.2 A current motor vehicle registration; and
  - 8.2.3 A current motor vehicle insurance coverage contract.
- 8.3 A licensee that chooses to transport non-ambulatory children with disabilities shall ensure that the following additional equipment is provided for all vehicles except automobiles used for transporting children:
- 8.3.1 A ramp device to permit entry and exit of a child;
  - 8.3.2 A fastening system for wheelchairs that secures the chair to the vehicle floor; and
  - 8.3.3 Adequate aisle space that does not impede access to the exit door.
- 8.4 A licensee shall ensure that all vehicles used to transport children:
- 8.4.1 Are maintained in a clean and safe condition;
  - 8.4.2 Are equipped with a triangular red portable reflector device;
  - 8.4.3 Are equipped with a fully stocked first aid kit located on the inside of the vehicle;
  - 8.4.4 Have seats and back rests that are securely fastened;
  - 8.4.5 Have all seats facing sideways or backward securely locked in place; and
  - 8.4.6 Have an operable heater capable of maintaining a temperature of 60 degrees Fahrenheit measured three (3) feet above floor level unless there is a conflict with Federal and State energy laws;

8.5 A licensee shall ensure that the following safety procedures are followed:

- 8.5.1 At least one (1) adult authorized to be alone with children is always present when a child is in the vehicle;
- 8.5.2 All children are secured in a car seat that is appropriate for their age and that complies with applicable provisions of federal and state law(s) or regulations;
- 8.5.3 Children who are not in a car seat are using individual seat belts; and
- 8.5.4 When transporting more than four children below six years of age, that there is one adult, in addition to the driver, in the vehicle.

**9.0 Residential Child Care Facility**

9.1 Authorization to operate a facility

9.1.1 As a condition for being authorized by the Office of Child Care Licensing (OCCL) to operate a facility, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with the requirements of this section, in addition to the requirements of Sections 1.0 through 8.0.

9.2 Personnel

9.2.1 A facility with a licensed capacity of 13 children or more shall designate one full-time employee to plan, coordinate and lead recreational, physical exercise and leisure time activities for children.

9.2.2 A facility shall observe the following staff to child ratios:

<b>STAFF TO CHILD RATIOS DURING HOURS WHEN CHILDREN ARE AWAKE</b>		
<u>Building Licensed Capacity</u>	<u>Number of Workers</u>	<u>Number of Children</u>
<u>12 or fewer children</u>	<u>At least one (1) direct care worker on duty on the premises when children are present. When no children are present, there shall be one (1) employee who can be reached by telephone.</u>	<u>Licensed capacity of 12 or fewer children</u>
<u>13 or more children</u>	<u>At least one direct care worker on duty on the premises when children are present. When no children are present, there shall be one (1) employee who can be reached by telephone.</u>	<u>For every ten (10) children or fraction thereof</u>

<b>STAFF TO CHILD RATIOS DURING HOURS WHEN CHILDREN ARE SLEEPING</b>		
<u>Building Licensed Capacity</u>	<u>Number of Workers</u>	<u>Number of Children</u>
<u>12 or fewer children, all of whom are the same gender</u>	<u>At least one (1) direct care worker in the area where children sleep or in any area within close proximity to the area(s) where children sleep. The direct care worker is not required to be awake. When only one employee is present, an additional employee shall be on call and available to reach the building, when called, within 30 consecutive minutes.</u>	<u>Licensed capacity is 12 or fewer children of the same gender</u>

<u>12 or fewer children in a co-educational building</u>	<u>At least one (1) direct care worker in the area where children sleep or in any area within close proximity to the area(s) where children sleep. The direct care worker shall be on duty and awake. When only one employee is present, an additional employee shall be on call and available to reach the building, when called, within 30 consecutive minutes.</u>	<u>Licensed capacity is 12 or fewer children in a co-educational building</u>
<u>13 or more children</u>	<u>One direct care worker on duty on the premises and awake when children are present. The direct care worker shall be in the area where children sleep in or any area within close proximity to the area(s) where children sleep. An additional employee shall be on call and available to reach the facility, when called, within 30 consecutive minutes.</u>	<u>For each 16 children or fraction thereof</u>

9.3 Visitation with children

9.3.1 A facility shall develop, adopt, follow, and maintain on file written policies and procedures governing visits between children and their parent(s), legal guardian, relatives, and friends, at the facility, at the children's own homes, and at other suitable locations. These policies and procedures shall be consistent with applicable State law(s), regulations, or court orders and address:

9.3.1.1 The days and hours of visits;

9.3.1.2 Frequency of visits permitted;

9.3.1.3 Any exceptions governing whom the child may visit; and

9.3.1.4 Whom to contact to arrange for special accommodations in the event of hardship or emergencies.

9.3.2 A facility shall:

9.3.2.1 Explain the visitation policies and guidelines to the child and his or her parent(s) or legal guardian;

9.3.2.2 Provide accommodations within the buildings to enable visits with children to be conducted in reasonable privacy, except where the service plan indicates that visits are to be directly supervised, or when the facility has reason to believe that a particular visitor would not be in the best interest of the child; and

9.3.2.3 Not deny or restrict children's visits in the facility with their parent(s), legal guardian, relatives, or friends based upon a child's behavior or infraction of these regulations, unless specified in the child's service plan.

9.4 Facility visits or tours

9.4.1 A facility shall develop, adopt, follow, and maintain on file written policies and procedures governing visits to or tours within the facility by volunteers, advisory committees or councils, public officials, the media, and members of the public-at-large who are not related to children in care. The policies and procedures shall address:

- 9.4.1.1 The process by which such persons shall be required to seek and secure prior written approval to visit or tour the facility;
- 9.4.1.2 The purpose and extent of such visits or tours;
- 9.4.1.3 The days, hours, frequency, and duration of any such visits or tours;
- 9.4.1.4 The circumstances and conditions under which such persons may visit or tour, including a requirement that such visits or tours be supervised by employees;
- 9.4.1.5 Precautions to protect the health, safety, and well-being and to prevent risk or harm to children in care;
- 9.4.1.6 Regulations designed to protect the privacy rights of children in care; and
- 9.4.1.7 Conditions to ensure that such visits or tours do not:
  - Cause a major or serious disruption of services or treatment to children;
  - Interfere with the implementation of the child's service plan;
  - Intimidate or embarrass children or employees; or
  - Seriously interfere with or disrupt program operations.
- 9.5 Overnight visits away from facility. A facility shall verify the identity of any visitor(s) not known to the facility and secure any pertinent information about the location of the overnight visit and the adult(s) responsible for the child's care during the visit prior to releasing the child.
- 9.6 Sending and receiving mail.
  - 9.6.1 A facility shall ensure that each child has reasonable access to writing materials and postage. A facility shall not deny or restrict a child's right to send and receive mail without censorship and without limiting the amount of mail a child sends or receives, except when:
    - 9.6.1.1 The facility has reason to believe that a child's mail may contain unauthorized, injurious or illegal materials;
    - 9.6.1.2 A court order restricts this right; or
    - 9.6.1.3 A facility has reason to believe that a particular child's mail may present a security risk.
- 9.7 Children's money
  - 9.7.1 A facility shall develop, adopt, follow, and maintain on file written policies and procedures governing the handling and management of children's money. These policies and procedures shall include provisions on:
    - 9.7.1.1 The conditions under which a child may possess his or her own money;
    - 9.7.1.2 The management of individual monetary accounts, ensuring that there is an accurate, individual accounting of all monies belonging to a child, including the receipting and disbursing of all monies; and
    - 9.7.1.3 Allowing or facilitating opportunities for a child to earn an allowance or to earn money through work assignments.
  - 9.7.2 A facility shall develop, adopt, follow, and maintain on file written policies and procedures prohibiting a facility from requiring a child to assume responsibility for the cost of his or her own care and treatment, except for the reasonable reimbursement of costs required to pay for purposeful damage to the facility or to the property of another person by a child; and
- 9.8 Sleep. A facility shall develop, adopt, follow, and maintain on file written policies and procedures governing the time to be set aside for uninterrupted daily sleep for each child. The policies and procedures shall ensure that each child is given the opportunity for at least eight hours of uninterrupted rest on a daily basis, unless the service plan or health needs of the child indicate otherwise.
- 9.9 Clothing and other personal belongings
  - 9.9.1 A facility shall develop, adopt, follow, and maintain on file procedures that:
    - Ensure that each child has adequate, clean, and seasonally appropriate clothing;
    - Permit a child to bring clothing and other personal belongings to the facility, unless prohibited by the facility's policies and procedures;
    - Make adequate provisions for storing a child's clothing and other personal belongings while the child is enrolled, so that clothing used by a child does not come into contact with clothing used by another child; and
    - Permit a child to take with him or her all clothing and other personal belongings identified as his or hers at the time of discharge.
- 9.10 Nutrition. A facility shall provide at least three nutritiously balanced meals for each child on a daily basis at regular times, with not more than 14 hours between the evening meal and breakfast.
- 9.11 Discharge and aftercare plans

9.11.1 A facility shall develop, adopt, follow, and maintain on file written policies and procedures governing discharge and aftercare planning. The policies and procedures shall include:

9.11.1.1 The roles and responsibilities of the child's parent(s) or legal guardian, the referring agency, and the facility;

9.11.1.2 The handling of an emergency discharge of a child that ensures the immediate notification of his or her parent(s) or legal guardian, or the referring agency;

9.11.1.3 The involvement of the child in developing the discharge and aftercare plan, consistent with the child's ability to understand the plan and process; and

9.11.1.4 The contents of the discharge report which shall include the name, address, telephone number of the person or agency to whom the child was discharged, a summary of the services provided to the child while in care, goals specified within the service plan that have been achieved, service needs that remain to be addressed, and recommendations for appropriate follow-up services. The discharge report shall be dated, completed within 30 calendar days of the child's discharge, and a copy sent to the person or agency to whom the child was discharged.

9.11.2 A facility that discharges a child under circumstances that are not consistent with the child's service plan shall also document in writing the following in the discharge report:

9.11.2.1 The circumstances leading to the unplanned discharge;

9.11.2.2 The actions taken by the facility and other parties; and

9.11.2.3 The reason for the actions taken.

## 9.12 Physical plant

### 9.12.1 Living unit space and dining

9.12.1.1 A facility shall ensure that the living unit(s) have designated space for daily living activities, including dining, recreation, indoor activities and areas where children may visit with their parent(s), legal guardian, relatives and friends.

9.12.1.2 A facility shall ensure that a dining area is provided which shall be maintained in a clean manner, be well-lighted and ventilated. The licensee shall ensure that dining room tables and chairs or benches are sturdy and appropriate for the sizes and ages of the children in care.

## 9.13 Toilet and bathing

9.13.1 A facility shall ensure that there are toilet and bathing accommodations that meet the following specifications:

9.13.1.1 For every eight residents, there shall be at least one flush toilet, wash basin, and bathtub or shower;

9.13.1.2 These toileting and bathing facilities shall not be located more than one floor from any bedroom; and

9.13.1.3 Bathrooms shall have at least one mirror fastened to the wall at an age appropriate height.

## 9.14 Bedroom accommodations

9.14.1 A facility shall ensure that any bedroom used by children includes:

9.14.1.1 A designated area for sleeping;

9.14.1.2 A floor area of at least 70 square feet in a single-occupancy bedroom and at least 50 square feet in a multiple-occupancy bedroom, excluding closet space;

9.14.1.3 Sufficient space for beds to be at least three feet apart at the head, foot, and sides. Bunk beds shall be at least five feet apart at the head, foot, and sides;

9.14.1.4 No more than four children for sleeping per room;

9.14.1.5 A door that may be closed;

9.14.1.6 A direct source of natural light;

9.14.1.7 A window covering to ensure privacy; and

9.14.1.8 Lights with safety covers or shields.

9.14.2 A facility shall ensure that each child is provided with:

9.14.2.1 A bed;

9.14.2.2 A cleanable, fire-retarding mattress;

9.14.2.3 Clean bed linens on at least (a weekly basis) every seven calendar days, or more often if needed;

9.14.2.4 A pillow; and

9.14.2.5 Blanket(s) appropriate for season and weather.

9.14.3 A facility shall:

- 9.14.3.1 Use cots or portable beds in an emergency only and for no longer than a period of 72 hours;
- 9.14.3.2 Ensure that there are no more than two tiers when bunk beds are used;
- 9.14.3.3 Ensure that the distance between the top bunk mattress and ceiling is of sufficient height to enable the child to sit upright in bed without his or her head touching the ceiling;
- 9.14.3.4 Provide and locate in the bedroom for each child a chest of drawers, a bureau, or other bedroom furniture for the storage of clothing and other personal belongings;
- 9.14.3.5 Not permit a child to share the same bed with any other child; and
- 9.14.3.6 Ensure that a child of five years of age or older may occupy a bedroom only with members of the same sex.

## **10.0 Personal Care and Hygiene**

- 10.1 A facility shall develop, adopt, follow, and maintain on file written policies and procedures that ensure that:
  - 10.1.1 Children will receive guidance and instruction in personal care and hygiene appropriate to their age, gender, race, and culture;
  - 10.1.2 Children follow personal care and good hygiene practices;
  - 10.1.3 All necessary hygiene supplies, towels, washcloths, and toiletries are provided to children in harmony with their age, gender, race, and culture; and
  - 10.1.4 Children receive timely, competent care when they are ill and continue to receive necessary follow-up care.
- 10.2 A facility shall develop, adopt, follow, and maintain on file written policies and procedures governing preventative, routine, and emergency dental and medical care, including provisions for effective coordination of such dental and medical care with those responsible for the child's aftercare. The policies and procedures shall include:
  - 10.2.1 Periodic appraisal of the general health of each child;
  - 10.2.2 Initial and continuing health screening procedures;
  - 10.2.3 Emergency procedures;
  - 10.2.4 Maintenance of health records;
  - 10.2.5 Arrangements with a licensed physician(s) and dentist(s) to provide needed care; and
  - 10.2.6 Availability of medical care on a 24-hours-a-day, seven-days-a-week basis.

## **11.0 Medical and Dental Care**

- 11.1 If a facility cannot document that each child has received a complete physical examination within 13 consecutive calendar months before admission to the facility, the facility shall arrange for the child to have a new physical examination, to be completed within 45 calendar days after admission.
- 11.2 A facility shall:
  - 11.2.1 Ensure that every child receives a physical examination no later than 12 consecutive calendar months after his or her previous physical examination and once a year thereafter;
  - 11.2.2 Ensure that, upon admission, a child is asked if he or she has any physical illnesses or injuries. If a child shows symptoms of illness or injury, the facility shall arrange for the child to be examined immediately by a licensed physician or by a licensed nurse practitioner. The facility shall document the results of this procedure in writing and maintain them on file in the child's record;
  - 11.2.3 Ensure that a child receives necessary medical care throughout the year;
  - 11.2.4 Ensure that every child over three years of age receives a dental examination annually;
  - 11.2.5 Ensure that a child receives necessary, non-cosmetic dental care throughout the year; and
  - 11.2.6 Make provisions for a child to receive any needed eyeglasses, hearing aids, prosthetic devices, or other corrective devices, as medically indicated by a licensed physician.

## **12.0 Prenatal Care for Pregnant Adolescents**

- 12.1 A facility caring for a pregnant adolescent shall ensure that all pregnant adolescents receive comprehensive prenatal care, including:
  - 12.1.1 Monthly visits to an obstetrician or certified nurse mid-wife during the first 28 weeks of gestation;
  - 12.1.2 Biweekly visits to an obstetrician or certified nurse mid-wife from the 29<sup>th</sup> to the 36<sup>th</sup> week of gestation;

12.1.3 Weekly visits to an obstetrician or certified nurse mid-wife from the 36<sup>th</sup> week of gestation until delivery; and

12.1.4 Participation in a child birth class provided by a registered nurse or child birth educator.

12.2 A facility caring for a pregnant adolescent shall ensure that:

12.2.1 Arrangements for the delivery of the child are made by the end of the second trimester, or in situations wherein the adolescent is already pregnant beyond the second trimester upon admission to the facility, arrangements shall be made within 15 calendar days of the adolescent's admission to the facility;

12.2.2 A system is established to provide background medical information on the pregnant adolescent to the hospital identified for delivery or at the birthing center identified for delivery;

12.2.3 Delivery arrangements are clearly recorded in the adolescent's medical record to which employees are to have access in an emergency; and

12.2.4 Pregnant adolescents receive a dental examination within three consecutive calendar months of admission, and that needed non-cosmetic dental care is provided.

### **13.0 Secure Residential Child Care Facility**

13.1 Authorization to operate a secure residential care facility. As a condition for being authorized by the Office of Child Care Licensing (OCCL) to operate a secure residential care facility, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with the requirements of this section, in addition to the requirements of Sections 1.0 through 12.0, of these regulations.

13.2 Admission. A facility shall only admit a child who has been adjudicated delinquent by a court of law or placed by the Delaware Division of Prevention and Behavioral Health Services or any other in-state or out-of-state governmental agency.

13.3 Security measures. A facility shall develop, adopt, follow, and maintain on file a written statement identifying the specific security measures employed at the facility, and the basis for using these measures.

13.4 Definition. For purposes of this Section only, "automatic fail-safe system" means a combination of a mechanical and an electronic system that automatically unlocks all resident room doors and other doors required for building egress purposes in the event of either a power failure or a fire.

13.5 Staff to child ratios.

13.5.1 A facility that is equipped with an automatic fail-safe system that allows full and free egress from all individual rooms and buildings in the event of a power failure or fire shall have the following staff present and working with children:

<u>Status of Children Present</u>	<u>Number of Workers</u>	<u>Number of children</u>
<u>During hours when children are awake</u>	<u>At least one (1) direct care worker on duty and on the premises</u>	<u>For every five (5) children or fraction thereof</u>
<u>During hours when children are asleep</u>	<u>At least one (1) direct care worker awake and on duty on the premises; a minimum of two direct care workers awake and on duty during night-time hours</u>	<u>For every ten (10) children or fraction thereof</u>

13.5.2 A facility that is not equipped with an automatic fail-safe system shall have the following staff present and working with children:

<u>Status of Children Present</u>	<u>Number of Workers</u>	<u>Number of children</u>
<u>During hours when children are awake</u>	<u>At least one (1) direct care worker on duty and on the premises</u>	<u>For every four (4) children or fraction thereof</u>
<u>During hours when children are asleep</u>	<u>At least one (1) direct care worker awake and on duty on the premises; a minimum of two direct care workers awake and on duty during night-time hours</u>	<u>For every six (6) children or fraction thereof</u>

13.5.3 A facility shall assign direct care workers to cover no more than one living unit at the same time.

13.5.4 A facility shall have at least one additional employee immediately available at all times to assist on-duty employees in an emergency.

13.6 Outdoor recreation area. A facility shall ensure that the outdoor recreation area is enclosed with a suitable security fence.

13.7 Exemptions. A secure residential child care facility shall be exempt from that portion of subsection 3.12.8.2 regarding participation in off-site religious services or activities and subsection 9.2.2 regarding staff-to-child ratios.

#### **14.0 Shelter Care Facility**

14.1 Authorization to operate a shelter care facility. As a condition for being authorized by the Office of Child Care Licensing (OCCL) to operate a shelter care facility, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with this section, in addition to the requirements of Sections 1.0 through 12.0 of these regulations.

14.2 Staff-to-child ratios.

14.2.1 A Shelter Care Facility shall have the following staff present and working with children:

<u>Status of Children Present</u>	<u>Number of Workers</u>	<u>Number of children</u>
<u>During hours when children are awake</u>	<u>At least one (1) direct care worker on duty and on the premises</u>	<u>For every five (5) children or fraction thereof</u>
<u>During hours when children are asleep</u>	<u>At least one (1) direct care worker awake and on duty on the premises</u>	<u>For every ten (10) children or fraction thereof</u>

14.3 Health care

14.3.1 A facility shall either:

14.3.1.1 Secure written documentation that a child has received a complete physical examination within the 12 consecutive calendar months prior to his or her admission to the shelter care facility; or

14.3.1.2 Provide or arrange for the provision of a complete physical examination within seven calendar days of a child's admission to the shelter care facility.

14.4 Duration of placement

14.4.1 A facility shall provide care to children for a period of time that is not to exceed 30 calendar days, unless:

14.4.1.1 There is documentation in the child's service plan that clearly justifies a longer placement; or

14.4.1.2 There is evidence that a strict adherence to the 30-day limit would require the child's release to another short-term placement, in which case the child may remain in the shelter care facility until a more permanent or long-term placement has been identified, or not later than 60 calendar days, whichever occurs first.

14.5 Exemptions. A shelter care facility shall be exempt from the following regulations:

14.5.1 Subsection 5.1.2 regarding written documentation of a child's current immunizations;

14.5.2 Subsection 5.1.2.1 regarding obtaining necessary immunizations within 30 calendar days of admission; and

14.5.3 Subsection 5.1.3 regarding the essential health records to be maintained on file. If the items listed in subsection 5.1.3 are available, they shall be kept on file by the facility.

#### **15.0 Transitional Care Facility**

15.1 Authorization to operate a transitional care facility

15.1.1 As a condition for being authorized by the Office of Child Care Licensing (OCCL) to operate a transitional care facility, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with the requirements of this section, in addition to the requirements of Sections 1.0 through 12.0 of these regulations.

15.2 Admission

15.2.1 A facility shall admit children who:

15.2.1.1 Have reached the age of 16 or older;

15.2.1.2 Have demonstrated a level of maturity that will enable them to be involved in some community activities, including education or employment; and

15.2.1.3 Require minimum guidance or supervision.

15.2.2 A facility shall accept a child into care only after a current comprehensive admission evaluation has been completed in accordance with subsection 3.12.1.1 and only when the evaluation indicates that preparation for self-sufficiency or independent living is the primary goal for the child.

15.2.3 At the time of admission, a facility shall enter into a written agreement with each child that includes:

15.2.3.1 A delineation of the respective roles and responsibilities of the facility, the child, and other involved parties;

15.2.3.2 A description of the rules governing the conduct and consequences of inappropriate behavior of the child while in care;

15.2.3.3 A statement of any financial arrangements related to placement, in accordance with subsection 9.7; and

15.2.3.4 The approval signature of the child and the signature of a representative of the facility.

### 15.3 Service plan

15.3.1 In addition to the provisions of subsection 3.12.3, a facility shall ensure that the service plan includes:

15.3.1.1 The type and frequency of supervision needed;

15.3.1.2 The respective roles and responsibilities of the facility, the child, and other involved parties;

15.3.1.3 The time-frames and methods to be used to gradually reduce dependency while appropriately increasing personal responsibility;

15.3.1.4 Identification of all persons responsible for the implementation of the plan;

15.3.1.5 The life skills the youth will need to acquire before discharge;

15.3.1.6 The criteria for achieving a successful discharge; and

15.3.1.7 The preliminary plan for discharge and aftercare, in accordance with subsections 9.10 and 9.11.1.

### 15.4 Activity schedule

15.4.1 A facility shall assist each child to develop and follow a written activity schedule that includes:

15.4.1.1 Life skills training and practice appropriate to achieving independent living;

15.4.1.2 Household chores to be completed by children in care;

15.4.1.3 Employment, job skill training, or educational activities;

15.4.1.4 Leisure-time or recreational activities; and

15.4.1.5 Contacts with employees, volunteers, or community people.

### 15.5 Staff coverage

15.5.1 A facility shall develop, adopt, and follow written policies and procedures governing the type and frequency of employee supervision provided for each child. The policies and procedures shall:

15.5.1.1 Contain criteria for determining the type and frequency of employee supervision. The criteria shall be based on an assessment of each child's maturity, suitability, and readiness for responsibly and safely handling various degrees of responsibility and independence; and

15.5.1.2 Delineate a mechanism by which a child can communicate with a facility for information, assistance, or guidance, or to express a concern or need that the child cannot resolve alone.

### 15.6 Exemptions

15.6.1 A transitional care facility shall be exempt from the following requirements:

15.6.1.1 Subsections 4.12.1, 4.12.1.1 and 4.12.2;

15.6.1.2 Subsection 5.1.2 regarding child immunizations;

15.6.1.3 Subsection 9.2.2 regarding staff-to-child ratios; and

15.6.1.4 Subsection 9.7.2 regarding the prohibition that a child pays for his or her own care and treatment.

## **16.0** Day Treatment Programs

### 16.1 Authorization to operate a day treatment program

16.1.1 As a condition for being authorized by the Office of Child Care Licensing (OCCL) to operate a day treatment program, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with the requirements of this section, in addition to the requirements of Sections 1.0 through 8.0, and of these regulations and subsection 9.2.2.

16.1.2 If a day treatment program chooses to use any form of restrictive procedure as defined in subsection 1.4, the day treatment program shall secure prior written authorization from the Office of Child Care Licensing (OCCL) and shall comply with the requirements of Section 17.0.

**16.2 Health appraisal**

**16.2.1** A program shall ensure that within 45 calendar days following admission, there shall be on file an age-appropriate health appraisal conducted within 12 consecutive calendar months prior to admission for each child enrolled. Health appraisals shall be certified by a licensed physician or nurse practitioner and shall be updated annually. The health appraisal shall include:

**16.2.1.1** A health history;

**16.2.1.2** A physician's examination;

**16.2.1.3** Recommendations regarding restrictions or modifications of the child's activities, diet, or care;

**16.2.1.4** Prescriptions for medication or recommendations regarding medications; and

**16.2.1.5** Documentation of the immunization status.

**16.3 Activities and rest**

**16.3.1** The program shall ensure that:

**16.3.1.1** All children are provided activities and physical exercise or routines that are developmentally and age-appropriate; and

**16.3.1.2** Children under six years of age are provided with opportunities for rest after the noon meal. The rest area shall be adequately lighted to allow for visual supervision at all times.

**16.4** Indoor space. A program shall have at least 35 square feet of usable indoor space per child, exclusive of toilet rooms, kitchen areas, eating areas, isolation rooms, offices, storage spaces, hallways, closets and gymnasiums.

**16.5** Sleeping accommodations. A program shall ensure that each child under six years of age who is present during scheduled rest time possesses age-appropriate, clean rest equipment and bedding, and that equipment and bedding are safely maintained for the exclusive use of that child.

**16.6 Toilet facilities**

**16.6.1** A program shall have enclosed toilet rooms inside the building on the same floor that houses the recreation or play areas.

**16.6.2** Based upon licensed capacity, a program serving children between two and five years of age shall maintain a sink and toilet ratio in accordance with the following table:

Programs serving children between 2 - 5 years			
Number of Children	Number of Toilets	Number of Sinks	Toilet and Sink to Child Ratios
1 - 15	1	1	1:15
16 - 35	2	2	1:17.5
36 - 100	3 - 5	3 - 5	1:20
Over 100	----	----	1:25

**16.6.3** Based upon licensed capacity, a program serving children between six and 18 years of age shall maintain a sink and toilet ratio in accordance with the following table:

Programs serving children between 6 - 18 years			
Number of Children	Number of Toilets <sup>1</sup>	Number of Sinks	Toilet and Sink to Child Ratio
1 - 25	1	1	1:25

<sup>1</sup>A urinal shall be counted as one-half of a toilet provided that the population served includes a significant number of males and that at least two flush toilets are available and accessible to both males and females

**16.7 Staff-to-child ratios**

**16.7.1** A program shall maintain the following direct care worker to child ratios for each age group when children are present:

Age of Child	Minimum direct care worker to child ratio <sup>2</sup>
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0 - 5	1:4
6 - 12	1:6
13+	1:10
<sup>2</sup> A program shall ensure that at least two employees are present and on duty on the premises at all times when children are present, regardless of the number of children.	

**16.8 Day treatment agreement**

**16.8.1** A program shall develop, adopt, follow, and maintain on file a written day treatment agreement. The agreement shall be completed prior to the child's admission and shall be signed by the licensee or his or her designee, the child, if appropriate, the child's parent(s) or legal guardian and the referring agency and shall include:

- 16.8.1.1 A description of the respective expectations, roles, and responsibilities of the program, child, family, and other involved parties;
- 16.8.1.2 Specification of the hours of operation, arrangements for service of meals, equipment to be provided by the family, transportation arrangements and visitation policies;
- 16.8.1.3 Specification of the behavior management policy, the release policy and the procedures for handling child and parent complaints; and
- 16.8.1.4 Specification of grounds for termination of enrollment.

**16.9 Release of children**

**16.9.1** A program shall develop, adopt, follow, and maintain on file written policies and procedures governing the release of children. Such policies and procedures shall require that a copy is given to all parents, employees, volunteers, and children and shall include provisions:

- 16.9.1.1 To ensure documentation of the release of the child to an authorized person, agency or public school bus service;
- 16.9.1.2 For the emergency release of children. When a parent calls the program requesting emergency release of the child, the program shall verify the identity of the parent prior to releasing the child;
- 16.9.1.3 Regarding the release of the child to a person not known to the licensee. A program shall verify the identity of any person not known to employees prior to the release of a child and shall retain verification for at least 24 hours;
- 16.9.1.4 To be followed when a person not authorized to receive a child requests release of a child. A program shall ensure that a child is released only to his or her parent(s), legal guardian, or other person authorized by the parent(s) to receive a child; and
- 16.9.1.5 To be followed when a person showing clear signs of drug or alcohol impairment requests release of a child.

**16.10** Handling of sick children. A program shall have a separate area where children who are exhibiting symptoms of illness that require isolation from the group may be cared for until they can be released to their parent(s) or legal guardian or are diagnosed by a licensed physician or nurse as posing no risk to themselves or others. The area shall not be located in the kitchen or toilet areas.

**16.11** Child accident and injury. A licensee shall ensure that a child who is injured by an accident or fall is provided with necessary first aid treatment, or is taken to an emergency medical treatment center, and that the parent(s) or legal guardian is immediately notified.

**17.0 Restrictive Procedures**

**17.1 Authorization to use restrictive procedures**

**17.1.1** As a condition for being authorized by the Department to implement restrictive procedures, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with the requirements of this section, in addition to the requirements of Sections 1.0 through 8.0.

**17.1.2** A licensee shall not utilize or administer a restrictive procedure on any child below six years of age.

**17.2 Policies and procedures governing the appropriate use of restrictive procedures**

**17.2.1** A licensee shall develop, adopt, follow, and maintain on file written policies and procedures governing the appropriate use of each type of restrictive procedure to be employed. The policies and procedures shall:

- 17.2.1.1 Identify the types of behavior or conditions for which restrictive procedures are to be permitted;

- 17.2.1.2 Document that the licensee's use of restrictive procedures are in accordance with established, accepted clinical practice and is age-appropriate;
- 17.2.1.3 Delineate the name, position, and qualifications of the employees who have direct responsibility for applying and for supervising the application of restrictive procedures;
- 17.2.1.4 Restrict the use of these procedures only by designated and authorized employees who have been given prior training in how to administer and supervise the application of such procedures and have current certification, if applicable;
- 17.2.1.5 Require that an application of a restrictive procedure is done in concert with the current service plan for that child, taking into account the child's developmental and medical needs;
- 17.2.1.6 Require that a legal, informed written consent from the parent(s) or legal guardian of a child is obtained prior to the application of any restrictive procedure, except in emergency situations, in which case, the policies and procedures shall outline safeguards for the use of a restrictive procedure in such a circumstance;
- 17.2.1.7 Require that these procedures may only be employed as ancillary techniques to accompany positive reinforcement techniques;
- 17.2.1.8 Require that a technique may only be employed when its use outweighs the risk of harm accompanying its use;
- 17.2.1.9 Indicate time limitations and other restrictions on the use of each form of restrictive procedure;
- 17.2.1.10 Require that a technique may only be employed when it is the least restrictive means to address the behavior that necessitated its use;
- 17.2.1.11 Require that the chief administrator or his or her designee provides administrative oversight of each use of a restrictive procedure to ensure that these procedures are humanely and appropriately applied; and
- 17.2.1.12 Require that a written record of each application of a restrictive procedure be maintained. The record shall contain: the name of the child; the identity of the employee(s) who administered the procedure; the date, time, and duration of the procedure; the circumstances surrounding the use of the procedure; and a description of the child's demeanor.

### 17.3 Human rights committee

- 17.3.1 A licensee shall establish a Human Rights Committee of at least five (5) adult individuals of known reputation, two (2) of whom shall be professionally knowledgeable or experienced in the theory and ethical application of various treatment techniques used to address behavioral problems. The Human Rights Committee shall include members from the licensee and external to the licensee or its parent organization. A majority of Committee members shall be external to the licensee or its parent organization, and one (1) member of the Committee shall be a licensed mental health professional, a licensed physician, a licensed clinical psychologist, or a clinical social worker. The Committee shall meet at least on a quarterly basis.
- 17.3.2 The Human Rights Committee shall be responsible for:
  - 17.3.2.1 Determining that children in care are receiving humane and proper treatment;
  - 17.3.2.2 Reviewing and making recommendations regarding the licensee's policies and procedures governing the use of restrictive procedures;
  - 17.3.2.3 Reviewing the restrictive procedures records and advising the Chief Administrator accordingly;
  - 17.3.2.4 Recording and maintaining on file written minutes of all of its meetings, and providing the Chief Administrator with a copy of these minutes;
  - 17.3.2.5 Making inquiries into any allegations of abusive techniques or the misuse of restrictive procedures. A report of the inquiry shall be provided by the Committee to the Chief Administrator and sent to the Office of Child Care Licensing (OCCL);
  - 17.3.2.6 Monitoring the qualifications and training of employees who have been given responsibility for administering restrictive procedures and to make recommendations to the Chief Administrator accordingly; and
  - 17.3.2.7 The application of some form of restrictive procedures.
- 17.3.3 An emergency application of a restrictive procedure may occur for a specific child without the prior review of the Human Rights Committee, but only when the situation is deemed to be an emergency.

### 17.4 Orientation and training

- 17.4.1 In addition to complying with subsections 3.7.1, 3.7.2, 3.7.3, 3.7.4, and 3.7.5, a licensee shall ensure that employees authorized to apply a restrictive procedure also receive orientation and training on:
  - 17.4.1.1 The various types of restrictive procedures;
  - 17.4.1.2 The acceptable way to administer and supervise the application of restrictive procedures;

17.4.1.3 The possible side effects of psychotropic medications; and

17.4.1.4 The policies and procedures governing the appropriate use of restrictive procedures.

## 17.5 Application of restrictive procedures

### 17.5.1 A licensee shall ensure that:

17.5.1.1 A child who is having a restrictive procedure applied shall be under continuous monitoring and observation to prevent the child from harming himself or herself, or others. A child shall be given an opportunity for a minimum of 10 consecutive minutes of release within each one hour of the application of a restrictive procedure for the purpose of moving about or exercising, shall be permitted to use a toilet whenever requested and be given the opportunity to use a toilet at least once every hour.

17.5.1.2 Restrictive procedures are not authorized or permitted to be used in a punitive, retributive, harsh, or abusive manner, nor for the convenience of staff or as a substitute for other less restrictive, appropriate means of social treatment or intervention.

17.5.1.3 Any allegation(s) of an inappropriate or abusive application of a restrictive procedure is brought to the attention of the Human Rights Committee promptly.

17.5.1.4 The Human Rights Committee initiates an investigation of any allegation(s) of an inappropriate or abusive application of a restrictive procedure within two (2) consecutive business days of having received the allegation(s).

17.5.1.5 The least restrictive effective form of restrictive procedure necessary to control a child's dangerous, violent, or seriously disruptive behavior is used.

17.5.1.6 Employees immediately release a child from a prescribed restrictive procedure when the situation necessitating its need no longer exists or when the maximum time allowed for use of such a procedure has expired, whichever occurs first.

## 17.6 Exclusion

17.6.1 A licensee shall utilize exclusion only for a prescribed duration of time that shall not exceed 60 consecutive minutes.

17.6.2 If there are more than 10 exclusions for an individual child or a cumulative total of six hours within any consecutive 24-hour period, a licensee shall ensure that:

17.6.2.1 A review is conducted by the chief administrator, or his or her designee, to determine the suitability of the child to remain in placement, or whether modifications to the child's service plan are warranted; and

17.6.2.2 Appropriate action is taken in response to the findings of the review.

17.6.3 A licensee shall ensure that:

17.6.3.1 At least one employee is responsible for providing continuous monitoring of the child;

17.6.3.2 The child is not excluded in a closet, bathroom, or unfinished basement or attic; and

17.6.3.3 The child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has re-gained control.

## 17.7 Locked isolation

17.7.1 A licensee shall utilize locked isolation only:

17.7.1.1 When a child's behavior is so violent or disruptive as to present a high risk of physical or emotional harm to the child or others;

17.7.1.2 When other less restrictive and less punitive physical interventions have been applied without success; and

17.7.1.3 For a period of time that does not exceed two consecutive hours or a total of six non-consecutive hours within any 24-hour period.

17.7.2 A licensee shall ensure that:

17.7.2.1 There is a maximum length of time for placement when a child is isolated in a locked room;

17.7.2.2 The application of locked isolation is prohibited for non-violent or non-assaultive offenses or behaviors or for practices designed to prevent children from running away, to seclude a child who is ill, to punish a child for stealing, cursing, or failing to comply with house rules, or to facilitate supervision for the convenience of employees; and

17.7.2.3 The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he or she has re-gained control.

17.7.3 A licensee shall ensure that a child placed in locked isolation is not in possession of belts, matches, weapons or any other potentially harmful object or material that could present a risk of harm to a child.

17.7.4 A licensee shall ensure that an employee who is assigned to monitor a child placed in locked isolation shall have no other immediate responsibility and shall:

17.7.4.1 Be in visual and auditory contact with the child at all times;

17.7.4.2 Ensure that all personal needs of the child are met;

17.7.4.3 Ensure that a child has access to toilet facilities, as needed; and

17.7.4.4 Ensure that the child receives the same number and frequency of meals and snacks provided to other children in the facility or program.

17.7.5 A licensee shall utilize locked isolation only for a prescribed duration of time that shall not exceed 60 consecutive minutes unless authorized by the chief administrator, or his or her designee, and then the locked isolation shall not exceed 120 consecutive minutes.

17.7.6 If a child is in locked isolation for a total of six cumulative hours within a 24-hour period, the licensee shall ensure that:

17.7.6.1 A review is conducted by the chief administrator or his or her designee to determine the suitability of the child to remain in placement, or whether modifications to the child's service plan are warranted; and

17.7.6.2 Appropriate action is taken in response to the finding of the review.

17.7.7 A licensee shall ensure that any room to be used for locked isolation has:

17.7.7.1 At least 75 square feet and a ceiling height of at least eight feet;

17.7.7.2 A safety glass window or mirror or camera that allows for full observation of the locked isolation room;

17.7.7.3 No hardware or furnishings that obstruct observing the child at all times;

17.7.7.4 Installed hardware, equipment, and furnishings that do not present a physical hazard or a suicide risk;

17.7.7.5 Installed natural or mechanical ventilation to provide ventilation at a level deemed appropriate to maintain the child's health and well-being;

17.7.7.6 The capacity to maintain a temperature of at least 68 degrees Fahrenheit; and

17.7.7.7 A minimum of 10 foot-candles of light in all areas of the room.

## 17.8 Chemical restraint

17.8.1 A licensee shall ensure that each administration of chemical restraint is prescribed by a licensed physician who has personally reviewed the child's health records and has examined the child at the time of the episode and administered, whether orally or by intramuscular injection, only by a licensed nurse or by a licensed physician.

17.8.2 A licensee shall not allow the use of a physician's standing order (ProReNata) for purposes of authorizing the application of a chemical restraint.

17.8.3 When a child requires chemical restraint on more than six occasions in any 30 consecutive calendar-day period, the chief administrator, or his or her designee, shall determine the appropriateness of the child's continued placement in the facility or program.

17.8.4 A licensee shall not administer a chemical restraint as a punishment, for the convenience of employees, or as a substitute for a treatment program.

17.8.5 A licensee shall ensure that:

17.8.5.1 The initial administration of a chemical restraint does not exceed 24 consecutive hours in duration;

17.8.5.2 Only a licensed physician who has reviewed the child's health records and who has examined the child may authorize the application of an additional chemical restraint and then only for an additional consecutive 24-hour period and only upon determining that the continuance of chemical restraint on an emergency basis is clinically necessary and appropriate;

17.8.5.3 Employees regularly monitor the child under chemical restraint, observe the child's condition or state and immediately advise the prescribing physician of any observed side effects; and

17.8.5.4 A written record of the child's receipt of a chemical restraint and his or her condition, including any observed side effects, is maintained in the child's health records

## 17.9 Mechanical restraint

17.9.1 A licensee shall utilize a mechanical restraint only:

17.9.1.1 When a child's behavior is so violent or disruptive as to present a high risk of physical harm to the child or others;

17.9.1.2 When other less restrictive and less intrusive physical interventions have been applied without success;

17.9.1.3 When transporting a child to or from a court hearing or other circumstances requiring that truancy prevention be exercised and that no other means of prevention is appropriate;

17.9.1.4 For a period of time that shall not exceed one consecutive hour or a total of four hours within any 24-hour period or that is utilized more than four times within a consecutive five-day period. An exception to this is allowed only for purposes of transporting a child to or from a court hearing or other off-premises location wherein truancy prevention is required; and

17.9.1.5 When employees utilizing the restraint have received training in properly applying it.

17.9.2 A licensee shall ensure that:

17.9.2.1 The child being mechanically restrained is protected and handled by an employee in a safe manner designed to avoid injury or pain in applying the restraint;

17.9.2.2 Only one child is mechanically restrained in the same room or area at the same time, unless being transported in a vehicle to and from a court hearing;

17.9.2.3 An employee maintains visual contact with the child at all times while the mechanical restraint is being applied;

17.9.2.4 An employee inspects the child's wrists, arms, or legs and monitors vital signs every 15 consecutive minutes to prevent injury or circulation problems from occurring, and attempts to release each limb every 30 consecutive minutes for a duration of 10 consecutive minutes; and

17.9.2.5 The restrained child has reasonable access to toilet facilities and to all scheduled meals while restraints are being applied.

17.9.3 A licensee shall prohibit the use of the following mechanical restraints: papoose boards and ropes.

## **18.0 Adventure Activity Program**

18.1 Authorization to provide Adventure Activity Program

18.1.1 As a condition for being authorized by the Office of Child Care Licensing (OCCL) to involve children in an Adventure Activity Program, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with the requirements of this section, in addition to the requirements of Sections 1.0 through 8.0.

18.2 Policies and procedures

18.2.1 A licensee shall develop, adopt, follow, and maintain on file written policies and procedures that contain:

18.2.1.1 A comprehensive description of the various types of adventure activities in which the licensee plans to involve children, including the specific destinations for each day, routes to be followed whether by highway, trail or waterway, and the modes of transportation to be used;

18.2.1.2 Safety rules that are to be used by employees, volunteers, and children when engaged in each of the types of adventure activities that are described in this Chapter;

18.2.1.3 Recognized standards of safety pertaining to each of the specified adventure activities to be utilized;

18.2.1.4 Criteria based on recognized standards for employees and volunteers who are responsible for leading, instructing, and supervising children engaged in any of the adventure activities to be utilized;

18.2.1.5 Descriptions of appropriate safety equipment and clothing, such as safety glasses or goggles, helmets, gloves, special shoes, and outdoor clothing that are required to be used for adventure activities;

18.2.1.6 Procedures to be employed to ensure that the environment is protected and any waste materials or trash are appropriately disposed of;

18.2.1.7 Instructions for posting itineraries, preparing for emergency medical services, and notifying, at agreed upon times, the licensee's main office when the adventure activity takes place in a location or locations that are remote from the main premises of the licensee;

18.2.1.8 Guidelines to ensure that adventure activities include opportunities for problem-solving, developing a positive self-image, and developing an appreciation for the natural environment and conservation;

18.2.1.9 Guidelines to ensure that adventure activities are followed by opportunities for reflection and life application;

18.2.1.10 Guidelines to ensure that participation is conducted within the boundaries of the child's capabilities, dignity, and respect for self-determination;

- 18.2.1.11 Procedures to ensure that necessary potable water, nutritious food, appropriate clothing, shelter, rest, and other essentials are available and planned for;
  - 18.2.1.12 Procedures for obtaining signed consent forms from a child's parent(s), legal guardian, or referring agency; and
  - 18.2.1.13 Procedures that ensure the reporting to the Office of Child Care Licensing (OCCL) of any fatalities or any accidents resulting in the hospitalization of a child.
- 18.3 Safety/risk management committee. A licensee shall establish a Safety/Risk Management Committee consisting of representatives of management, employees, and individuals with experience and expertise in adventure activities. This Committee shall review the licensee's policies and procedures governing adventure activities and monitor risk management and safety practices employed in the various adventure activities, and advise the licensee's chief administrator of any revisions, omissions, or additions that are deemed necessary and appropriate. The Committee shall review any accident that may occur and the circumstances surrounding the accident and send written findings and recommendations to the licensee's chief administrator and to the Office of Child Care Licensing (OCCL).
- 18.4 Staff qualifications
  - 18.4.1 A licensee shall ensure that employees and volunteers who have responsibility for a particular adventure activity are qualified and experienced in the specific adventure activity. If certification is required, such as is for swimming and certain other aquatic activities, such employees or volunteers shall have current certification.
  - 18.4.2 An aquatic supervisor shall be an adult who has satisfactorily completed the training and certification requirements for a water safety instructor that are equivalent to those adopted by the American Red Cross for water safety.
- 18.5 Staff-to-child ratios
  - 18.5.1 A licensee shall ensure that the ratio of employees and volunteers to children conforms with standards for the specified adventure activity being applied and are recognized by a national accrediting or other recognized organization.
  - 18.5.2 A licensee shall ensure that an aquatic supervisor or water safety instructor is on duty at each aquatic activity. The aquatic supervisor shall be responsible for the enforcement of the licensee's safety rules, policies, and procedures governing aquatic activities, including swimming, boating, canoeing, kayaking, water skiing, and white water rafting.
- 18.6 Away from campus adventure activities
  - 18.6.1 A licensee shall maintain on file at the licensee's administrative office a list of all children, employees, and volunteers who participate in an adventure activity that occurs away from the premises of the licensee.
  - 18.6.2 A licensee shall ensure that a fully stocked first aid kit that is adventure activity appropriate and readily available accompanies the employee who is the lead person for the away-from-campus adventure activity.
  - 18.6.3 A licensee shall develop, adopt, follow, and maintain on file:
    - 18.6.3.1 A written copy of its itinerary and pre-established check-in times. The licensee shall send a copy of the itinerary to the Office of Child Care Licensing (OCCL) at least 15 calendar days prior to departing on the adventure activity and shall provide the child's parent(s), legal guardian or referring agency with a copy of the itinerary; and
    - 18.6.3.2 The names of children, employees, and volunteers participating in an adventure activity that involves out-of-state travel or within-state travel of more than 48 consecutive hours duration.
- 18.7 Equipment
  - 18.7.1 A licensee shall ensure that:
    - 18.7.1.1 Any equipment and gear that is to be used in connection with a specified adventure activity is appropriate to the activity, certified if required, in good repair, in operable condition, and age-and body-size appropriate;
    - 18.7.1.2 A licensee shall ensure that all ropes and paraphernalia used in connection with rope rock climbing, rappelling, high and low ropes courses, or other adventure activities in which ropes are used are approved by the Union of International Alpine Association (UIAA), or an equivalent certifying organization, and have been inspected by employees responsible for supervising the adventure activity before engaging children in the activity; and
    - 18.7.1.3 A licensee shall ensure that all participants are appropriately equipped, clothed, and wearing safety gear, such as a helmet, goggles, safety belt, life jacket or a flotation device that is appropriate to the adventure activity in which a child is engaged.
- 18.8 Natural swimming area life saving equipment

18.8.1 A licensee shall clearly delineate the areas for swimmers and non-swimmers in any natural swimming area used by children, such as a lake, river, bay, ocean or gulf.

18.8.2 A licensee shall ensure that lifesaving equipment is provided at each permanent swimming area and shall be placed so it is immediately available in case of an emergency. The following equipment shall be available:

18.8.2.1 A whistle or other audible signal device for each employee on duty;

18.8.2.2 An assist pole or other appropriate reaching device;

18.8.2.3 A ring buoy or other appropriate throwing assist device that has a rope attached to it which is of sufficient length for the area;

18.8.2.4 A backboard that has appropriate rigid cervical collars and a minimum of six straps;

18.8.2.5 A first aid kit; and

18.8.2.6 A rescue tube.

18.8.3 A licensee shall ensure that lifesaving equipment is provided for all other aquatic activities and is placed so that it is immediately available in case of an emergency. At a minimum, the equipment shall include:

18.8.3.1 A whistle or other audible signal device;

18.8.3.2 A throwing assist device; and

18.8.3.3 A first aid kit.

#### 18.9 Aquatic procedures

18.9.1 A licensee shall ensure that before engaging in any aquatic activity, each child shall be classified by the aquatic supervisor according to swimming ability in one of two classifications: swimmer and non-swimmer.

18.9.2 A licensee shall not permit a child to participate in an aquatic activity that requires higher skills than the child's swimming classification, except during formal instruction.

18.9.3 A licensee shall establish and enforce a method, such as the buddy system, for supervising children who are involved in an aquatic activity. The system used shall include procedures for check-in, check-out, and the periodic accounting for the whereabouts of each child by an employee of the licensee. A licensee shall ensure that an accounting of the number of swimmers is conducted at least once every 10 consecutive minutes.

18.9.3.1 A licensee shall ensure that the buddy system is used and that buddy checks are conducted every five minutes whenever swimming is permitted at non-permanent sites.

18.9.4 A licensee shall develop, adopt, follow, and maintain on file a written aquatic emergency plan, for each aquatic activity. The plan shall include:

18.9.4.1 Rescue procedures and frequency of drills;

18.9.4.2 Child accountability;

18.9.4.3 Prompt evacuation; and

18.9.4.4 Notification of outside emergency services.

18.9.5 A licensee shall ensure that swimming at sites other than a waterfront or pool that is on the premises of the licensee is supervised by an aquatic supervisor who shall be assisted by one aquatic observer for every 10 children, or fraction thereof, in the water.

18.9.6 A licensee shall not conduct or permit swimming programs during periods of darkness. This provision does not prohibit the use of swimming pools that have underwater and deck lighting that provides unrestricted vision.

18.9.7 A licensee shall ensure that headfirst diving occurs only in designated areas and only in water that is five feet deep or more. A licensee shall adhere to the following table to determine minimum diving area depths and distances from the end of the board or platform:

	<u>Water Depth</u>	<u>Distance</u>
<u>Competitive Swim Classes</u>	<u>5 Feet</u>	<u>10 Feet</u>
<u>Platform less than two feet above water</u>	<u>8 Feet</u>	<u>10 Feet</u>
<u>Board two feet or less above water</u>	<u>10 Feet</u>	<u>15 Feet</u>
<u>Board more than two feet above water</u>	<u>15 Feet</u>	<u>20 Feet</u>

#### 18.10 Watercraft and water-skiing activities

18.10.1 A licensee shall conduct watercraft activities only during daylight hours.

18.10.2 In conducting watercraft activities, a licensee shall:

- 18.10.2.1 Provide an appropriately sized, coast guard-approved, personal flotation device for each occupant of a watercraft and ensure that such a device is worn by every occupant of a watercraft;
- 18.10.2.2 Ensure that an appropriately sized, coast guard-approved, personal flotation device shall be worn by any water-skier, by any participant in a sailing activity, or by any participant of a white-water adventure activity;
- 18.10.2.3 Ensure that the aquatic supervisor or an adult aquatic observer has immediate access to a watercraft with which to provide emergency assistance on the permanent swimming site;
- 18.10.2.4 Ensure that a watercraft docking area is not adjacent to a swimming area, and that a swimming area is not used for the launching or dropping off of water-skiers;
- 18.10.2.5 Ensure that when a watercraft has a rated capacity, the capacity is observed. When a watercraft does not have a rated capacity, all occupants shall wear an appropriately sized, coast guard-approved personal flotation device. This provision does not apply when the non-rated watercraft is a canoe being used by one or two advanced swimmers during formal instruction;
- 18.10.2.6 Not use personal flotation devices of kapok construction; and
- 18.10.2.7 Not permit a non-swimmer to board a sailboat unless accompanied by an adult swimmer.

**19.0 Parenting Adolescent Facility**

19.1 Authorization to operate a residential facility for parenting adolescents

- 19.1.1 As a condition for being authorized by the Office of Child Care Licensing (OCCL) to operate a residential facility for parenting adolescents, a licensee shall make application to and have been determined by the Office of Child Care Licensing (OCCL) to be in full compliance with the requirements of this section, in addition to the requirements of Sections 1.0 through 12.0.

19.2 Definition. For purposes of this Section only, "Adolescent" means a child who is parenting a child.

19.3 Direct care worker qualifications for a parenting adolescent facility

- 19.3.1 A direct care worker, at the time of appointment, shall possess at least:
  - 19.3.1.1 One year of work experience in a child care facility or program; and
  - 19.3.1.2 Fifteen hours of training in early childhood development.

19.4 Staff-to-child ratios

19.4.1 A facility shall maintain the following staff-to-child ratios when adolescents and their children are present:

<u>Status of Children</u>	<u>Number of Workers<sup>1</sup></u>	<u>Number of Children<sup>2</sup></u>
<u>During hours when children are awake</u>	<u>At least one (1) direct care worker on duty and awake on the premises</u>	<u>For a combined total of every eight (8) adolescents and their children below three (3) years of age, or fraction thereof</u>
<u>During hours when children are sleeping</u>	<u>At least one (1) direct care worker on the premises who shall not be required to be awake.</u>	<u>For a combined total of every ten (10) adolescents and their children below three (3) years of age, or fraction thereof</u>
<u><sup>1</sup>When two direct care workers are required by the ratios during hours when children are sleeping, at least one direct care worker shall be required to be awake.</u>		
<u><sup>2</sup>A facility shall not allow more than a combined total of 12 adolescents and their children below three years of age to reside in the facility at the same time.</u>		

19.5 One adolescent caring for another adolescent's child

19.5.1 A facility may permit an adolescent in residence to care for the child of another adolescent in residence only if the following conditions are met:

- 19.5.1.1 The adolescent who is assuming the care of another adolescent's child cares for no more than one other child in addition to her own at any time;
- 19.5.1.2 The adolescents discuss the expectations of the caregiver, including duration of child care, the child's nutritional and toileting needs, and whether the mother will make arrangements for compensation or exchange of baby-sitting; and
- 19.5.1.3 The arrangement is reviewed and approved by the chief administrator or his or her designee.

## 19.6 Service plan

### 19.6.1 The service plan shall include:

- 19.6.1.1 An assessment of the child's health, nutritional, medical, and developmental needs;
- 19.6.1.2 An assessment of the interest of the child's father, and the role that he is to have with the child and with the child's mother;
- 19.6.1.3 An assessment of the interests of the grandparents and the role that they are to have with the child and with the child's mother; and
- 19.6.1.4 Self-sufficiency goals for the adolescent mother, including child care and level of understanding of her child's developmental needs, food preparation skills, budgeting and money management, and job readiness.

## 19.7 Adoption counseling services

### 19.7.1 A facility shall provide adoption counseling if the adolescent expresses an interest in surrendering her child for adoption. The counseling shall include:

- 19.7.1.1 An explanation of adoption;
- 19.7.1.2 The types of adoptions available;
- 19.7.1.3 The processes involved in surrendering a child for adoption; and
- 19.7.1.4 The provision of a list of agencies licensed to provide these services.

## 19.8 Stimulation of young children

### 19.8.1 A facility shall ensure that the following infant care standards are observed:

- 19.8.1.1 All infants are held and spoken to and placed in a position to observe activities when they are awake at some point during the day;
- 19.8.1.2 All infants under seven months of age are held throughout all bottle feedings, and older infants if they are incapable of holding a bottle on their own;
- 19.8.1.3 All infants have access to age-appropriate toys and are provided opportunity for visual and sound stimulation; and
- 19.8.1.4 When an adolescent mother is in school or is working, her infant is appropriately cared for, either in a licensed child care center or licensed family child care home, or in the facility.

### 19.8.2 A facility shall ensure that all children under 18 months of age are engaged in at least four of the following activities with their mothers for at least a total of 45 cumulative minutes each day:

- 19.8.2.1 Sensory activities, such as the use of crib mobiles, teething toys, busy boxes, baby mirrors, rattles, melody chimes, squeeze toys, or other comparable toys or equipment;
- 19.8.2.2 Language activities, such as the use of picture books, toy telephones, audio equipment with age appropriate music or sounds, hand puppets, stuffed animals, soft washable dolls, photographs, or other comparable items;
- 19.8.2.3 Manipulative activities, such as the use of squeeze toys, grip toys, sorting and stacking toys, three- or four-piece inlay-type puzzles, puzzle blocks, simple threading toys, mobile pull toys, balls, or other comparable age appropriate play equipment;
- 19.8.2.4 Building activities, such as the use of building blocks, toy cars, figures of animals and people, nesting toys, or other comparable toys or equipment;
- 19.8.2.5 Large muscle activities, such as the use of low climbers, slides, riding or rocking toys, foam or plastic balls, gym mats, play tunnels, or other comparable play equipment; and
- 19.8.2.6 Music activities, such as the use of rhythm instruments, record player and records, toys equipped with musical tones, musical mobiles, busy boxes, drums, xylophones, piano, or other comparable equipment or toys.

### 19.8.3 A facility shall ensure that all children 18 months of age or older are engaged in at least four of the following activities with their mother for at least one cumulative hour each day:

- 19.8.3.1 Language activities, such as being read to from a book, playing with flannel boards and telling a story or having the child tell the story, pictures, identification or classification, puppets, audio-visual equipment, or other comparable equipment or toys;
- 19.8.3.2 Science and math related activities, such as planting or gardening, playing with sand or the use of a sand table, fish or small animal care, or other comparable activities;
- 19.8.3.3 Manipulative activities, such as the use of puzzles, pegs and a pegboard, lacing boards, table-top building toys, dominoes, or other age appropriate comparable toys and equipment;
- 19.8.3.4 Building activities, such as the use of unit blocks, transportation toys, farm animals, play people, age-appropriate child size work bench, or other household equipment;

19.8.3.5 Art activities, such as the use of crayons, tempera paint, large brushes and newsprint, finger paint, construction paper, paste or glue, blunt scissors, collage materials, non-toxic felt-tip markers, clay or play dough, or other comparable play equipment or toys; and

19.8.3.6 Music activities, such as the use of rhythm sticks, drums, cymbals, bells, tape recorder, piano, or other comparable equipment.

19.9 Medical care for children of parenting adolescents

19.9.1 A facility shall ensure adolescents use only prescription and non-prescription medication that is authorized by a licensed physician or a licensed nurse practitioner for themselves and for their children.

19.9.2 A facility shall ensure that adolescents follow the advice of a licensed physician regarding the health care of the adolescent's child.

19.9.3 A facility shall ensure that an adolescent obtains for her infant:

19.9.3.1 A physical examination at the age of one month, and again by no later than the age of two-and-one-half months;

19.9.3.2 Immunizations as required by the Delaware Division of Public Health; and

19.9.3.3 Between three-and-one-half and four months of age, a physical examination and periodically thereafter as recommended by the infant's attending physician or medical clinic.

19.10 Discharge and aftercare plans. A facility shall include in the discharge and aftercare plan specific information regarding the status of the adolescent's child and health care, immunization, and medical needs that the child may require; and an assessment of the adolescent's ability to parent the child and to follow-up appropriately on the child's aftercare plan.

19.11 Toys and equipment

19.11.1 A facility shall ensure that all toys and equipment to be used by children are sturdy, of safe construction, non-toxic and free of hazards. A facility shall use a choker tube to ensure that all parts of all toys used by children under three years of age are large enough so that they cannot be swallowed by the child.

19.11.2 A facility shall provide an age-appropriate-sized crib for each infant or child, but may allow an infant to sleep in a playpen or on a mat during daytime hours. A facility shall ensure that:

19.11.2.1 Crib and playpen slats are no more than 2.3 inches apart;

19.11.2.2 The top rails of the crib or playpen are at least 19 inches above the mattress;

19.11.2.3 Any locks or latches on a crib are safe and cribs meet standards that comply with current standards of the U.S. Consumer Product Safety Commission for crib safety;

19.11.2.4 The mattresses used in all cribs and playpens fit snugly;

19.11.2.5 Each infant has sheets for his or her exclusive use; use of blankets is prohibited with infants;

19.11.2.6 Wet or soiled or damaged sheets, mattress, or other coverings are immediately replaced;

19.11.2.7 All sheets and blankets are laundered at least once a week, or if soiled or wet, are laundered before next use;

19.11.2.8 Cribs and playpens are free of hazards and toys when an infant is sleeping;

19.11.2.9 Beds or cribs not used solely for a specific infant shall have linens and blankets replaced with clean linens and blankets before each use by a different infant.

19.12 Premises

19.12.1 A facility shall provide:

19.12.1.1 A separate bedroom with at least 100 square feet for the adolescent and her child, and an additional 50 square feet for each additional child;

19.12.1.2 Sufficient space to accommodate tables, high chairs, chairs for adolescents and their children, and on duty staff to eat meals together; and

19.12.1.3 Sufficient locked or secure storage space that can accommodate the personal belongings of the adolescent and her child(ren) which is reasonably accessible to the adolescent.

19.12.2 A facility shall ensure that all rooms used by children or infants are accessible to employees, including bedrooms.

19.12.3 A facility shall ensure that all buildings and grounds are maintained in a safe and sanitary manner.

19.12.4 A facility shall ensure the safety of all furniture, equipment, and premises including:

19.12.4.1 There are no poisonous plants accessible to children;

19.12.4.2 All corrosive agents, insecticides, bleach products, detergents, furniture polish, any products under pressure in an aerosol spray can, or any toxic substances are stored in a locked cabinet or closet and are not accessible to infants or young children;

- 19.12.4.3 All furniture and equipment used by the adolescents or their children, whether used indoors or outdoors, are of sturdy and safe construction; and
- 19.12.4.4 Non-permanent safety barriers, such as safety gates, are installed in a manner that will prevent infants and young children from falling down stairways or ramps, or from gaining access to balconies, porches, or elevated play areas.

**APPENDIX 1**

<b><u>OCCL REQUIRED MEAL COMPONENTS FOR RESIDENTIAL CHILD CARE FACILITIES AND</u></b>			
<b><u>DAY TREATMENT FACILITIES PROVIDING FOOD TO CHILDREN</u></b>			
<b><u>MEAL COMPONENT</u></b>	<b><u>Ages 1 through 2</u></b>	<b><u>Ages 3 through 5</u></b>	<b><u>Ages 6 through 12</u></b>
<b><u>BREAKFAST – Serve all 3 components (meat/meat alternate is optional).</u></b>			
1. Milk, fluid	<u>1/2 Cup</u>	<u>3/4 Cup</u>	<u>1 Cup</u>
2. Fruit or Vegetable	<u>1/4 Cup</u>	<u>1/2 Cup</u>	<u>1/2 Cup</u>
3. Grain or Bread			
Bread	<u>1/2 Slice</u>	<u>1/2 Slice</u>	<u>1 Slice</u>
Cereal – Dry	<u>1/4 Cup</u>	<u>1/3 Cup</u>	<u>3/4 Cup</u>
Cereal – Hot	<u>1/4 Cup</u>	<u>1/4 Cup</u>	<u>1/2 Cup</u>
4. Meat or Meat Alternative ( <b><u>Optional</u></b> )			
Lean Meat, poultry or Fish	<u>1/2 Ounce</u>	<u>1/2 Ounce</u>	<u>1 Ounce</u>
Cheese	<u>1/2 Ounce</u>	<u>1/2 Ounce</u>	<u>1 Ounce</u>
Cottage Cheese	<u>2 Tablespoons</u>	<u>2 Tablespoons</u>	<u>2 Tablespoons</u>
Large Egg	<u>1/2 Egg</u>	<u>1/2 Egg</u>	<u>1/2 Egg</u>
Peanut Butter or other nut/seed Butters	<u>1 Tablespoon</u>	<u>1 Tablespoon</u>	<u>2 Tablespoons</u>
Nuts or Seeds	<u>1/2 Ounce</u>	<u>1/2 Ounce</u>	<u>1 Ounce</u>
Yogurt, Plain or Flavored	<u>1/4 Cup</u>	<u>1/4 Cup</u>	<u>1/2 Cup</u>
<b><u>LUNCH or SUPPER – Serve all 5 components.</u></b>			
1. Milk, fluid	<u>1/2 Cup</u>	<u>3/4 Cup</u>	<u>1 Cup</u>
2. Fruit or Vegetable *	<u>1/4 Cup total</u>	<u>1/2 Cup total</u>	<u>3/4 Cup total</u>
3. Fruit or Vegetable *			
4. Grain or Bread			
Bread	<u>1/2 Slice</u>	<u>1/2 Slice</u>	<u>1 Slice</u>
Grain or Pasta	<u>1/4 Cup</u>	<u>1/4 Cup</u>	<u>1/2 Cup</u>
Cereal – Dry	<u>1/4 Cup</u>	<u>1/3 Cup</u>	<u>3/4 Cup</u>
Cereal – Hot	<u>1/4 Cup</u>	<u>1/4 Cup</u>	<u>1/2 Cup</u>
5. Meat or Meat Alternate			
Lean meat, poultry or fish	<u>1 Ounce</u>	<u>1 – 1/2 Ounce</u>	<u>2 Ounces</u>

<u>Cheese (No Cheese Food)<sup>1</sup></u>	<u>1 Ounce</u>	<u>1 – 1/2 Ounce</u>	<u>2 Ounces</u>
<u>Cottage Cheese</u>	<u>1/4 Cup</u>	<u>3/8 Cup</u>	<u>1/2 Cup</u>
<u>Large Egg</u>	<u>1/2 Egg</u>	<u>3/4 Egg</u>	<u>1 Egg</u>
<u>Cooked Dry Beans/ Peas</u>	<u>1/4 Cup</u>	<u>3/8 Cup</u>	<u>1/2 Cup</u>
<u>Peanut Butter or other nut/seed Butters</u>	<u>2 Tablespoons</u>	<u>3 Tablespoons</u>	<u>4 Tablespoons</u>
<u>Nuts or Seeds</u>	<u>1/2 Ounce</u>	<u>3/4 Ounce</u>	<u>1 Ounce</u>
<u>Yogurt, plain or flavored</u>	<u>1/2 Cup</u>	<u>3/4 Cup</u>	<u>1 Cup</u>
<b>SNACK – Select 2 of the 4 components.</b>			
<u>1. Milk, fluid</u>	<u>1/2 Cup</u>	<u>1/2 Cup</u>	<u>1 Cup</u>
<u>2. Fruit or Vegetable</u>	<u>1/2 Cup</u>	<u>1/2 Cup</u>	<u>3/4 Cup</u>
<u>3. Grain or Bread</u>			
<u>Bread</u>	<u>1/2 Slice</u>	<u>1/2 Slice</u>	<u>1 Slice</u>
<u>Grain or Pasta</u>	<u>1/4 Cup</u>	<u>1/4 Cup</u>	<u>1/2 Cup</u>
<u>Cereal – Dry</u>	<u>1/4 Cup</u>	<u>1/3 Cup</u>	<u>3/4 Cup</u>
<u>Cereal – Hot</u>	<u>1/4 Cup</u>	<u>1/4 Cup</u>	<u>1/2 Cup</u>
<b>SNACK – Select 2 of the 4 components.</b>			
<u>Lean meat, poultry, or fish</u>	<u>1/2 Ounce</u>	<u>1/2 Ounce</u>	<u>1 Ounce</u>
<u>Cheese</u>	<u>1/2 Ounce</u>	<u>1/2 Ounce</u>	<u>1 Ounce</u>
<u>Cottage Cheese</u>	<u>2 Tablespoons</u>	<u>2 Tablespoons</u>	<u>2 Tablespoons</u>
<u>Large Egg</u>	<u>1/2 Egg</u>	<u>1/2 Egg</u>	<u>1/2 Egg</u>
<u>Cooked Dry Beans/ Peas</u>	<u>1/8 Cup or 2 Tablespoons</u>	<u>1/2 Cup or 2 Tablespoons</u>	<u>1/4 Cup or 4 Tablespoons</u>
<u>Peanut Butter or other nut/seed butters</u>	<u>1 Tablespoon</u>	<u>1 Tablespoon</u>	<u>2 Tablespoons</u>
<u>Nuts or Seeds</u>	<u>1/2 Ounce</u>	<u>1/2 Ounce</u>	<u>1 Ounce</u>
<u>Yogurt, Plain or Flavored</u>	<u>1/4 Cup</u>	<u>1/4 Cup</u>	<u>1/2 Cup</u>

<sup>1</sup>**Cheese Food** — A processed cheese prepared by mixing one or more cheese ingredients with one or more dairy ingredients into a homogeneous plastic mass, which reduces the amount of cheese in the finished product. It must contain at least 51% of the cheese ingredient by weight, have moisture content less than 44%, and contain at least 23% milk fat.

Juice — Only 100% fruit or vegetable juice may be served.

## **APPENDIX 2**

<b>OCCL REQUIRED MEAL COMPONENTS FOR RESIDENTIAL CHILD CARE FACILITIES AND DAY TREATMENT FACILITIES PROVIDING FOOD TO INFANTS</b>
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<u>Meal Component</u>	<u>Birth through 3 Months</u>	<u>4 through 7 months</u>	<u>8 through 11 months</u>
<b><u>BREAKFAST – Serve the following 3 components:</u></b>			
<u>1. Breast Milk or Formula</u>	<u>4 – 6 fluid ounces</u>	<u>4 – 8 fluid ounces</u>	<u>6 – 8 fluid ounces</u>
<u>2. Infant Cereal</u>	<u>None</u>	<u>0 – 3 Tablespoons</u>	<u>2 – 4 Tablespoons</u>
<u>3. Fruit or Vegetable or both</u>	<u>None</u>	<u>None</u>	<u>1 – 4 Tablespoons</u>
<b><u>LUNCH OR SUPPER – Serve the following 4 components:</u></b>			
<u>1. Breast Milk or Formula</u>	<u>4 – 6 fluid ounces</u>	<u>4 – 8 fluid ounces</u>	<u>6 – 8 fluid ounces</u>
<u>2. Infant Cereal</u>	<u>None</u>	<u>0 – 3 Tablespoons</u>	<u>2 – 4 Tablespoons</u>
<u>3. Fruit or Vegetable</u>	<u>None</u>	<u>0 – 3 Tablespoons</u>	<u>1 – 4 Tablespoons</u>
<u>4. Meat or Meat Alternate</u>			
<u>Lean meat, poultry, fish, egg yolk, cooked beans or peas</u>	<u>None</u>	<u>None</u>	<u>1 – 4 Tablespoons</u>
<u>Cheese</u>	<u>None</u>	<u>None</u>	<u>1/2 – 2 ounces</u>
<u>Cottage Cheese</u>	<u>None</u>	<u>None</u>	<u>1 – 4 ounces</u>
<b><u>SNACK – Serve the following 2 components:</u></b>			
<u>1. Breast Milk or Formula</u>	<u>4 – 6 fluid ounces</u>	<u>4 – 6 fluid ounces</u>	<u>2 – 4 fluid ounces</u>
<u>2. Grain or Bread</u>			
<u>Bread</u>	<u>None</u>	<u>None</u>	<u>0 – 1/2 Slice</u>
<u>Crackers</u>	<u>None</u>	<u>None</u>	<u>0 – 2 Crackers</u>

**Fruit and/or Vegetable Juice may not be served to infants.**

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