

payments made by the State Plan or private plan. For purposes of determining the legal interest rate, such payments shall be deemed to be unsecured loans made by the plan pursuant to a written agreement.]

CHAPTER 29  
LANDLORD-TENANT RELATIONS

SUBCHAPTER 1. LANDLORD IDENTITY REGISTRATION FORMS

- 5:29-1.2 One and two-unit dwelling registration form
  - (a) (No change.)
  - (b) Copies of this form may be obtained from private sources or from:
    - Office of Landlord Tenant Information
    - Division of Codes and Standards
    - Department of Community Affairs
    - PO Box 805
    - Trenton, NJ 08625-0805]

**CHILDREN AND FAMILIES**

**(a)**

**OFFICE OF LICENSING**

**Manual of Requirements for Child Care Centers  
Proposed Redoption with Amendments: N.J.A.C. 10:122**

**Proposed New Rule: N.J.A.C. 10:122-5.1**

Authorized By: Allison Blake, Ph.D., L.S.W, Commissioner,  
Department of Children and Families.

Authority: N.J.S.A. 30:5B-1 through 15.1.

Calendar Reference: See Summary below for explanation of  
exception to calendar requirement.

Proposal Number: PRN 2016-150.

Submit comments in writing by November 18, 2016, to:

Pamela Wentworth, M.S.W., L.S.W.  
Office of Policy and Regulatory Development  
Department of Children and Families  
PO Box 717  
Trenton, New Jersey 08625-0717  
[rules@dcf.state.nj.us](mailto:rules@dcf.state.nj.us)

The agency proposal follows:

**Summary**

As the Office of Licensing (Office) has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10:122 was scheduled to expire on August 6, 2016. As the Office of Licensing has filed this notice with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to February 2, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

The chapter is described as follows:

- N.J.A.C. 10:122-1.1 states the legal authority for the chapter.
- N.J.A.C. 10:122-1.2 states the definition of “child care center.”
- N.J.A.C. 10:122-1.3 states the programs that are exempt from licensure.
- N.J.A.C. 10:122-1.4 states the definitions of other terms used in the chapter.
- N.J.A.C. 10:122-1.5 states the hours of care that a center can provide a child.
- N.J.A.C. 10:122-2.1 states how to apply for a license.
- N.J.A.C. 10:122-2.2 states the process for issuing a license.

- N.J.A.C. 10:122-2.3 states requirements related to the location of a child care center.
- N.J.A.C. 10:122-2.4 states the procedures for denying, suspending, revoking, or refusing to renew a license or Certificate of Life/Safety Approval.
- N.J.A.C. 10:122-2.5 states information about administrative hearings.
- N.J.A.C. 10:122-6 states the process for handling complaints about a child care center.
- N.J.A.C. 10:122-2.7 states information about the public’s access to the Office of Licensing’s records.
- N.J.A.C. 10:122-2.8 states the procedures for securing a Certificate of Life/Safety Approval.
- N.J.A.C. 10:122-3.1 states the responsibilities of the sponsor or sponsor representative.
- N.J.A.C. 10:122-3.2 states the center’s reporting requirements.
- N.J.A.C. 10:122-3.3 states the requirements for access to the center’s records by Department of Children and Families’ staff and for the maintenance of records.
- N.J.A.C. 10:122-3.4 states the requirement for having comprehensive general liability insurance.
- N.J.A.C. 10:122-3.5 states communication requirements.
- N.J.A.C. 10:122-3.6 states the requirements for an Information to Parents document.
- N.J.A.C. 10:122-4.1 states the general requirements for the sponsor, sponsor representative, director, and staff members.
- N.J.A.C. 10:122-4.2 states the staffing requirements for centers.
- N.J.A.C. 10:122-4.3 states the staff/child ratios and supervision requirements.
- N.J.A.C. 10:122-4.4 states the requirements for grouping children.
- N.J.A.C. 10:122-4.5 states the responsibilities of staff.
- N.J.A.C. 10:122-4.6 states the required staff qualifications.
- N.J.A.C. 10:122-4.7 states the requirements for staff orientation and development.
- N.J.A.C. 10:122-4.9 states special requirements to prevent child abuse and neglect.
- N.J.A.C. 10:122-4.10 states the Child Abuse Record Information background check procedures.
- N.J.A.C. 10:122-4.11 states the Criminal History Record Information background check procedures.
- N.J.A.C. 10:122-5.1 states the State, county, and municipal government physical facility requirements.
- N.J.A.C. 10:122-5.2 states the physical plant requirements for all centers.
- N.J.A.C. 10:122-5.3 states additional physical plant requirements for early childhood programs.
- N.J.A.C. 10:122-5.4 states additional physical plant requirements for school-age child care programs.
- N.J.A.C. 10:122-5.5 states special physical facility and monitoring requirements to prevent child abuse or neglect.
- N.J.A.C. 10:122-6.1 states the activities to be provided by a child care center.
- N.J.A.C. 10:122-6.2 states the program equipment to be used for children’s daily activities.
- N.J.A.C. 10:122-6.3 states the food and nutrition requirements.
- N.J.A.C. 10:122-6.4 states the rest and sleep requirements for early childhood programs.
- N.J.A.C. 10:122-6.5 states that the center shall have a written policy on the release of children.
- N.J.A.C. 10:122-6.6 states requirements pertaining to the discipline of children.
- N.J.A.C. 10:122-6.7 states the special requirements to prevent child abuse or neglect and inappropriate staff behaviors toward children.
- N.J.A.C. 10:122-6.8 states requirements for parent and community participation.
- N.J.A.C. 10:122-7.1 states requirements regarding the illnesses and communicable diseases of children and staff members.
- N.J.A.C. 10:122-7.2 states recommendations about the attendance by children or staff members infected with Human Immunodeficiency Virus.
- N.J.A.C. 10:122-7.3 states the health and immunization requirements for children.

N.J.A.C. 10:122-7.4 states the health requirements for staff members.

N.J.A.C. 10:122-7.5 states the procedures for the administration and control of prescription and non-prescription medications and other health care procedures.

N.J.A.C. 10:122-7.6 states procedures to follow when there is an injury to a child while in the center's care.

N.J.A.C. 10:122-7.7 states the environmental and sanitation requirements.

N.J.A.C. 10:122-7.8 states the personal hygiene requirements.

N.J.A.C. 10:122-7.9 states the requirements regarding an illness log for early childhood programs.

N.J.A.C. 10:122-7.10 states the requirements for reporting illnesses, injuries, and reportable diseases.

N.J.A.C. 10:122-7.11 states the information given to parents regarding the management of communicable diseases.

N.J.A.C. 10:122-8.1 states requirements for centers serving sick children.

N.J.A.C. 10:122-8.2 states the admission criteria for a center serving sick children.

N.J.A.C. 10:122-8.3 states the requirements for additional staff for centers serving sick children.

N.J.A.C. 10:122-8.4 states the requirements for additional physical facilities for centers serving sick children.

N.J.A.C. 10:122-8.5 states the program requirements for centers serving sick children.

N.J.A.C. 10:122-8.6 states the sanitation and infection control procedures for centers serving sick children.

N.J.A.C. 10:122-8.7 states the requirements for additional records for centers serving sick children.

N.J.A.C. 10:122-9.1 states the scope of the subchapter.

N.J.A.C. 10:122-9.2 states definitions of vehicles.

N.J.A.C. 10:122-9.3 states vehicle requirements.

N.J.A.C. 10:122-9.4 states driver licensing requirements.

N.J.A.C. 10:122-9.5 states vehicle-related safety practices.

N.J.A.C. 10:122-9.6 states vehicle insurance requirements.

N.J.A.C. 10:122-9.7 states the transportation records that the center shall maintain.

N.J.A.C. 10:122-9.8 states the vehicle staff requirements.

The Office proposes to replace the term "manual" throughout the chapter with the term "chapter," as it is the accurate reference. The Office proposes to remove slashes throughout the chapter combining terms, in order to clarify the meaning of the terms.

The Office proposes to amend N.J.A.C. 10:122-1.1(a) to correct the title of the Child Care Center Licensing Act and to cite N.J.S.A. 30:5B-1 et seq. This keeps the statutory citation accurate without the need to amend the rule each time the statute is amended.

The Office proposes to amend N.J.A.C. 10:122-1.1(b)2 to allow inspection of areas that are not approved for use by children and to inspect these areas, as well as the program, without delay or an escort. This ensures that there are no hazards in the building and that children are not in unapproved areas of the building.

The Office proposes new N.J.A.C. 10:122-1.1(i) to require that at least six children are present during an initial program inspection. This amendment allows the inspector to observe the staff and children as part of the assessment of the program. Observation of staff and children are critical when assessing compliance for the program requirements.

The Office proposes to relocate N.J.A.C. 10:122-1.2(a)2 as 5.1. That paragraph, which discusses the inapplicability of the provisions of Subchapter 5 to child care centers operating in public school buildings is not a definition, and more appropriately placed with the provisions it addresses. The Office proposes that the requirements of recodified N.J.A.C. 10:122-5.3(i)5 do apply to child care centers in public school buildings. This is necessary to make sure that the water supply is safe for children to drink. In addition, the Office proposes to eliminate from the existing regulation, the limitation to centers operated by non-profit organizations. The exemption of school-based centers from physical plant requirements was intended to prevent redundancy in achieving physical plant compliance in buildings already hosting children on a regular basis. The corporate structure of the operating entity has no relevance to its applicability. New requirements for water testing proposed at recodified

N.J.A.C. 10:122-5.3(i)5 are made applicable to all centers, including those in public schools, because the testing standard for child care centers exceeds that imposed on public schools.

The Office proposes to amend N.J.A.C. 10:122-1.2(b) to include pre-kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth in the definition of child care center. This clarifies that certain pre-kindergartens are child care centers. The Office is also removing seventh and eighth grades from this subsection, as well as from recodified N.J.A.C. 10:122-1.3(a)2 as they are unnecessary.

The Office proposes to separate subsection (d) from N.J.A.C. 10:122-1.2 and make it N.J.A.C. 10:122-1.3, Programs exempt from licensure. It is more appropriate as its own section, rather than being included with definitions.

The Office is also proposing new N.J.A.C. 10:122-1.3(a)5 to add documentation requirements for tutorial and homework programs. This documentation is required for the Office to determine if licensure is required or if the program is exempt.

The Office proposes to amend recodified N.J.A.C. 10:122-1.3(a)7 to remove the second sentence as it is redundant of the first. This paragraph addresses the exemption of the Department of Children and Families' regional schools from the child care center licensing rules.

The Office proposes to amend N.J.A.C. 10:122-1.2(d)2, proposed for readoption as N.J.A.C. 10:122-1.3(a)2, to state the parameters for determining whether a program is integral to a private school and, therefore, exempt from licensure. The proposed new language retains an existing requirement that the staff of such centers be paid by the operating school or education system, and adds criteria for determining that a program is integral to the operating education system, which includes geographic proximity and commonality of enrollment.

The Office is amending N.J.A.C. 10:122-2.1(d) to correct an error in the cross-reference to 42 U.S.C. §§ 9831 et seq. (from 9381).

The Office proposes to amend N.J.A.C. 10:122-2.1(e) to revise the grammar from "will" to "shall."

The Office proposes new N.J.A.C. 10:122-2.2(i), which states that centers that do not have children in attendance for six months or more are considered closed. This new paragraph clarifies the length of time a center can maintain a license without children and the action taken by the Office at the end of the time.

The Office proposes new N.J.A.C. 10:122-2.3(d)3iv and v to add requirements during operating hours preventing the sharing of common areas and to have a schedule for outdoor time if the play area is shared when there are multiple programs in the same building. These requirements allow the center's staff to adequately track and supervise the children when they are in common areas.

Proposed new N.J.A.C. 10:122-2.3(e) prohibits a child care center from opening in a building that was formerly a dry cleaner or funeral home, due to ongoing concerns regarding indoor air quality. The Office is also proposing new N.J.A.C. 10:122-5.3(i)4 to state that paragraphs (i)1 through 3 do not apply to any center covered by N.J.A.C. 10:122-2.3(e).

The Office proposes new N.J.A.C. 10:122-2.4(a)1i to prohibit a sponsor from obtaining a license for an additional center when the sponsor fails to comply with requirements for a currently-licensed center. This prevents further problems with a sponsor.

The Office proposes to amend N.J.A.C. 10:122-2.4(a)8 to add specificity to the cross-reference to N.J.A.C. 10:122-4.1(b)3.

The Office proposes to amend N.J.A.C. 10:122-2.4(f)2iii and iv to change the term Unified Child Care Agency to the current term, Child Care Resource and Referral agency, in accordance with N.J.A.C. 10:15-1.2.

The Office proposes new N.J.A.C. 10:122-2.4(g), to allow the Office to require a center to submit a corrective action plan to comply with the provisions of the chapter. The Office plans to use this plan if enforcement action is taken against the center.

The Office proposes to remove the term "State Child Abuse and Neglect Law" from N.J.A.C. 10:122-2.6(b), as there is no New Jersey law with that title. The relevant statute, N.J.S.A. 9:6-8.10a, is cited.

The Office proposes to amend N.J.A.C. 10:122-3.3(b)2i to remove "unless otherwise specified in this manual." This amendment requires

that criminal history and child abuse records for staff members are always available on site for the Office's inspectors to review.

The proposed amendment to N.J.A.C. 10:122-3.5(b) requires that the center have a telephone number for the center that a parent may use to reach the center during business hours. This amendment allows a parent to speak with the actual location of his or her child, rather than an administrative office in a different location. The Office is further proposing to amend this section to require that programs have access to e-mail, and that they promptly notify the Office of changes to their phone number or e-mail address. The latter changes are necessary to ensure that the Office is able to quickly deliver information to licensed centers in emergency situations, including natural disasters.

The Office proposes to amend N.J.A.C. 10:122-3.6(a)15 to remove examples of child abuse and neglect and replace them with the term "child abuse and neglect." The Office also proposes to remove the term "State law" and replace it with the statutory citation, N.J.S.A. 9:6-8.10.

The Office is amending N.J.A.C. 10:122-3.6(b) to combine the provisions of existing N.J.A.C. 10:122-3.6(b) and (b)1.

The Office is adding the term "prospective" to N.J.A.C. 10:122-4.1(f) to clarify that it also applies to prospective sponsor representatives.

The Office proposes a clarification to N.J.A.C. 10:122-4.2(a)4ii that if a center has fewer than six children in each program (early childhood and school-age), the center shall meet the staffing requirements for either program.

The Office is replacing the term "for" with "as" in the footnote to the table in N.J.A.C. 10:122-4.2(b)1.

The Office is amending N.J.A.C. 10:122-4.3(a) to state that children shall be supervised directly by a staff member at all times in order to make sure that staff are available when a child needs attention. The Office is removing conditions requiring staff supervision in order to require staff supervision at all times. The Office also proposes to allow toileting to be supervised as appropriate for the age and development of the child in order to afford privacy to older children.

The Office is amending N.J.A.C. 10:122-4.3(a)2 to require that staff know how many children are in their care at all times. This will improve the safety of children in an emergency as the children's whereabouts will be known.

The Office is amending N.J.A.C. 10:122-4.3(d) to revise the nap time staff to child ratios. The ratio of 1:10 will apply to children under 18 (rather than 30) months. A new ratio of 1:12 will apply to children from 18 months to 2 ½ years, which allows for more children to be supervised by a staff member. This change coordinates with N.J.A.C. 10:122-4.3(d)3, which is amended to allow that children above 18 months are either resting or sleeping and all children 18 months or younger are sleeping. This requirement clarifies the staff-to-child ratios necessary when children are resting or sleeping.

N.J.A.C. 10:122-4.3(d)2 is amended to state that staff is available to meet the staff-to-awake child ratios. This amendment ensures that the center is able to meet the required ratios whenever a child wakes from napping.

The Office proposes to amend N.J.A.C. 10:122-4.5(c)1 and 2 to require that the director be at the center at least 50 percent of the daily operating hours. The director's designee must be at the center whenever the director is not there and will be required to have 20 hours of staff development each year. These amendments will allow for more consistent communication with families and staff.

The Office proposes to add new N.J.A.C. 10:122-4.5(e)8 to require that all staff who work with children under 2 ½ years of age will begin training specific to this age group within 90 days of being hired and complete the training within one year. This training will better prepare staff to make informed decisions regarding the children within their care.

The Office proposes to amend N.J.A.C. 10:122-4.7(a) to reorganize the information and to add new paragraphs (a)1, 2, and 3, which require that new staff members are trained within two weeks of being hired, that new staff are not alone with children until the orientation training is completed, and that current staff members are retrained in the training topics yearly and sign a statement to that effect. This reflects the requirements of the Child Care and Development Block Grant, 42 U.S.C. § 9858e(b)(1). These provisions protect the safety of the children by requiring that staff members are trained before being in charge of

children and that all staff have taken the basic orientation courses within the last year, so that the information is fresh in their minds.

The Office is amending N.J.A.C. 10:122-4.7(a) to relocate existing paragraphs (a)1 through 8 into new N.J.A.C. 10:122-4.8(a)1 through 8. The Office proposes to specify the types of health practices to be covered in N.J.A.C. 10:122-4.8(a)8 in order to protect the children's health. The Office also proposes new paragraphs (a)9 through 12 to comply with Federal requirements at 42 U.S.C. § 9858c(c)(2)(G) and (I) to improve the health and safety of children cared for by child care providers. The training shall include the prevention of sudden infant death syndrome, safe sleeping practices, the prevention and response to emergencies due to food and allergic reactions, and the prevention of shaken baby syndrome and abusive head trauma. References to N.J.A.C. 10:122-4.7 have been amended to include N.J.A.C. 10:122-4.8 throughout the chapter.

The Office proposes to delete N.J.A.C. 10:122-4.7(c). The information that orientation training may be included as part of the required training hours is now codified at new N.J.A.C. 10:122-4.8(b). The six-hour limit ensures that staff will complete training hours in other areas in addition to those outlined in the orientation training when fulfilling the required 12 hours of staff development training.

The Office proposes to amend recodified N.J.A.C. 10:122-4.8(c) to increase the required hours of continuing staff development from 10 to 12 hours per year. The specific training topics are proposed for deletion from the rule, as they are unnecessary. Adding two hours of training allows time to cover additional topics not included in the orientation training. This requirement will apply to all staff members no matter how many hours per week they work. This removes the requirement that staff must work 20 percent of the center's hours or more in order to receive yearly training. The Office proposes this amendment because of a correlation between properly-trained center staff and child safety.

The Office proposes to amend recodified N.J.A.C. 10:122-4.8(d) to recommended topics of training for certain staff, rather than requiring training in a range of specific topics. As many of the former training requirements are covered in the topics for the annual orientation training, they do not need to be addressed further in the yearly training. The addition of social-emotional and behavioral development for young children at paragraph (d)3 is proposed based on the recommendation of the U.S. Department of Health and Human Service's Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings.

The Office proposes to delete existing N.J.A.C. 10:122-4.8(b), as the same information is available in recodified N.J.A.C. 10:122-4.9(a).

Recodified N.J.A.C. 10:122-4.9(e) contains an internal reference that the Office proposes to correct from paragraphs (e)1 and 2 to paragraphs (d)1 and 2.

Recodified N.J.A.C. 10:122-4.10 is amended to include a new paragraph (a)4. New paragraph (a)4 states that any person not required to have a Child Abuse Record Information (CARI) check can only work with children when being supervised by a staff member and cannot be left alone with any child. This provides for the safety of children while at the child care center.

The Office is proposing to amend recodified N.J.A.C. 10:122-4.10(b)2 to require staff oversight of a new staff member by another staff member and to ensure that the new staff member is not left alone with children until the results of the CARI background check are received to provide for the safety of children in the child care center.

Recodified N.J.A.C. 10:122-4.10(h) is proposed for deletion because it is redundant. This material is found at N.J.A.C. 10:122-2.4(a)12.

Recodified N.J.A.C. 10:122-4.10(h) is proposed for amendment to add that the results of the CARI background checks are stored confidentially "at the center." This allows the licensing inspector to have prompt access to the records during an inspection.

Recodified N.J.A.C. 10:122-4.11(a)5 and (b)2 are amended to ensure that a person who is not required to have a CHRI background check or a new staff member whose CHRI results are not yet available is not left alone with children. Recodified N.J.A.C. 10:122-4.11(b)2 is also amended to require that a new staff member must have oversight by another staff member until the results of the CHRI background check become available. These requirements are to protect children.

The Office proposes to remove the reference to a center's first renewal after January 26, 2001, at recodified N.J.A.C. 10:122-4.11(b). All centers licensed before that date have completed their first subsequent renewal.

The Office proposes to amend recodified N.J.A.C. 10:122-4.11(b)2 to indicate that the center receives the CHRI background check for a new staff member from the Department of Human Services rather than from the Department of Children and Families.

The Office proposes to add new paragraph N.J.A.C. 10:122-5.2(a)8 to require that a center obtain and post a Life Hazard Use Registration certificate pursuant to the Uniform Fire Safety Act. The Office anticipates that obtaining this certificate will improve the safety of children in centers by ensuring that the center is registered appropriately.

The Office proposes to clarify recodified N.J.A.C. 10:122-5.3(a)20 to state that this requirement applies only to centers that use private wells and other non-public water sources for water. The Department of Environmental Protection, Bureau of Safe Drinking Water, does not require that reports of tests of drinking water from public water sources be posted.

The Office is proposing new paragraph N.J.A.C. 10:122-5.3(a)21 to require that guardrails are no more than four inches apart or otherwise cannot entrap a child's head. This requirement is a standard to keep children safe.

Recodified N.J.A.C. 10:122-5.3(b)6 is amended to remove the use of natural or man-made barriers or enclosures to protect outdoor play space. Using fencing will improve the safety of children when playing outdoors.

The Office proposes to amend recodified N.J.A.C. 10:122-5.3(b)7 and 7i and ii to remove information that is stated in the Uniform Construction Code and which is cited. The Office is proposing to amend recodified N.J.A.C. 10:122-5.3(d)1 to require a minimum temperature of 68 degrees Fahrenheit in all "areas" used by children, rather than in all "rooms." The Office believes that adequate heat is necessary throughout the building where children are present.

The Office proposes to amend recodified N.J.A.C. 10:122-5.3(i)3i to correct the name of the Environmental Guidance for All Child Care Facilities and Education Institutions document on the Department of Environmental Protection's website.

The Office proposes to amend recodified N.J.A.C. 10:122-5.3(i)3ii to add the abbreviation "DEP" after "Department of Environmental Protection" in order to use the abbreviation throughout the section.

Proposed new N.J.A.C. 10:122-5.3(i)5i and ii are added to require that water from a public water system be tested for lead and copper and to require that if the results of the test pose a risk of harm to children, the center must discontinue use of the water for drinking and food preparation and notify the parents. The purpose of these amendments is to protect children from harmful amounts of lead and copper.

The Office proposes to amend recodified N.J.A.C. 10:122-5.3(i)6 to correct a citation from paragraph (a)14 above to paragraph (a)19 above.

Proposed new N.J.A.C. 10:122-5.3(k)5 prohibits the use of portable wading pools that are 24 inches or less in accordance with N.J.A.C. 8:26-1.3.

Proposed new N.J.A.C. 10:122-5.3(l)1iii requires that the center have an alternate indoor location that operates during the same operating hours as the center and is within a safe walking distance or a written procedure for obtaining emergency transportation during an emergency. This is to prevent a center from evacuating to an alternate location that is closed.

Recodified N.J.A.C. 10:122-5.3(l)1vii is proposed to require an evacuation diagram from each classroom and outdoor play area. This requirement will assist centers to prepare for emergency evacuations from the outdoor play area, as well as from the building.

The Office proposes to amend recodified N.J.A.C. 10:122-5.3(l)2 to state that the emergency procedures shall be readily accessible in a designated location, rather than on every floor. This permits the center to post the emergency procedures in accordance with the local Office of Emergency Management.

The Office proposes new N.J.A.C. 10:122-5.3(l)4 to require two lockdown drills per year during each session provided at the center. This amendment is pursuant to the new Federal requirement at 42 U.S.C. § 9858c(c)(2)(U).

The Office proposes new N.J.A.C. 10:122-5.3(l)5 and 6 to require that locking devices are acceptable to fire officials, do not pose a risk of harm

to children, and that staff are trained in their use. These requirements are proposed to ensure the safety of children.

The Office is proposing new N.J.A.C. 10:122-5.3(m)3 to require one evacuation crib for every four non-ambulatory children within one year of the effective date of this chapter to enhance child safety during an evacuation of the building.

The Office proposes to add that one fire drill per year is conducted at nap time at recodified N.J.A.C. 10:122-5.3(n) to improve the safety of children during a fire. This practice is required by many local fire officials.

The Office is proposing to add new N.J.A.C. 10:122-5.3(o)2 to require that first aid and CPR (cardiopulmonary resuscitation) training include hands-on training.

Recodified N.J.A.C. 10:122-5.3(p) is proposed for amendment to require that equipment and furniture is used in accordance with the manufacturer's instructions and that outdoor play equipment may not be used indoors. The Office believes that this will improve the safety of children in centers.

The Office proposes the following amendments to recodified N.J.A.C. 10:122-5.3(q). The Office substitutes "the licensed capacity as" at subparagraph (q)2i for "the number." The Office is adding new subparagraphs (q)2ii and iii to prohibit more children than the licensed room capacity and operating in violation of its license or Certificate of Life/Safety Approval. These amendments clarify that centers must operate within the requirements of their licenses. The Office also proposes a definition of "licensed capacity" for clarification at recodified N.J.A.C. 10:122-1.4.

The Office proposes new N.J.A.C. 10:122-5.4(a)5iii regarding sinks. A sink will be required in each classroom used by children under 2 ½ years for new construction and expansions at the adoption of this amendment. Using sinks will prevent the spread of contaminants and disease. Paragraph (a)5 is also amended to reference sinks.

The Office proposes to amend N.J.A.C. 10:122-6.1(b)2 to add that there are enough materials accessible to ensure a variety of choice. Opportunities for active learning are important to a child's development.

The Office is proposing an amendment to N.J.A.C. 10:122-6.1(b)7i to prohibit the use of television, computers, and video equipment for children under two. The American Academy of Pediatrics discourages television viewing for children under two. The Office believes that young children need human interaction, rather than screen time, which this amendment encourages.

The Office proposes to add new N.J.A.C. 10:122-6.1(e), regulating the use of pacifiers by children when walking or crawling. The Office believes that this a safety measure.

The Office proposes to amend N.J.A.C. 10:122-6.1(g)2 to delete the subparagraph codifications and to add that the types of daily activities listed are "including, but not limited to" the list of activities. The Office also proposes to delete N.J.A.C. 10:122-6.1(g)2ii(1) through (6). These examples of appropriate activities are not necessary in regulation. The Office is clarifying the language to make recodified N.J.A.C. 10:122-6.1(g)2i apply to non-ambulatory children, rather than the less clear children who are awake and in cribs or playpens. Recodified N.J.A.C. 10:122-6.1(g)2ii is rewritten to ensure that infants have supervised tummy time at least twice per day. The amount of tummy time is determined by what is considered age appropriate. This prevents extended periods of being in restrictive equipment and prepares infants for crawling, as recommended by the New Jersey Department of Health in Shaping New Jersey.

The Office proposes to add new N.J.A.C. 10:122-6.1(g)2iv, which is proposed to limit the use of certain infant equipment to periods of 30 minutes at a time. This follows the recommendation of the National Health and Safety Performance Standards, Preventing Childhood Obesity in Early Care and Education Programs.

Similarly, the Office proposes to amend recodified N.J.A.C. 10:122-6.1(g)3 to merge the subparagraphs into paragraph (g)3 and to delete subparagraphs (g)3ii(1) through (8). The Office is also adding for clarification that the daily activities are "including, but not limited to" the five types of activities listed. Examples of activities are not necessary in regulation.

The Office proposes new N.J.A.C. 10:122-6.3(a)12ii to require that sippy cups are labeled with the child's name to promote sanitary use and prevent the spread of germs. Recodified N.J.A.C. 10:122-6.3(a)12v is amended to require that unconsumed food be discarded by the end of the day, rather than after 24 hours, to insure sanitary food.

The Office proposes to reorganize N.J.A.C. 10:122-6.3(b)3iv, separating the subparagraph into new sub-subparagraphs (b)3iv(1) and (2) and adding new lead-in text for (b)3iv to introduce the subparagraph's subject of bottles to correct a grammatical error.

The Office proposes to amend N.J.A.C. 10:122-6.3(b)3viii to remove "or sleeping" to clarify that the bottle is removed from the child when the child falls asleep. The child is not feeding when asleep.

The Office is correcting a typographical error at recodified N.J.A.C. 10:122-6.3(b)4v. The cross-reference in this subparagraph should be to N.J.A.C. 10:122-6.3(b)4iv, which lists foods for lunches and dinners.

The Office proposes to amend N.J.A.C. 10:122-6.4(a)1 and 2 to clarify that blankets or pillows cannot be used during rest and sleep. For children 12 months of age and younger, no blankets or pillows can be used, while for children above 12 months of age to 18 months of age, blankets and pillows can be used, as long as they do not cover the child's face. These rules protect the child.

The Office proposes to add new N.J.A.C. 10:122-6.4(a)3, which will prohibit swaddling children during rest and sleep. The American Academy of Pediatrics does not recommend swaddling in child care centers. It can increase the risk of serious health outcomes.

Recodified N.J.A.C. 10:122-6.4(a)4 is amended to require daily rest or sleep for children under the age of four, rather than under the age of five. Many parents have complained to the Office about this requirement, which may disrupt the child's night time sleep.

The Office proposes to remove the date of December 28, 2012 from N.J.A.C. 10:122-6.4(b)1 and 2, as the date for compliance with crib rules has passed.

The Office proposes to delete other coverings or blankets from N.J.A.C. 10:122-6.4(b)1i(2) for children under 12 months who are in a crib or playpen. This is considered to be the best practice for infant sleeping. The Office also proposes to delete subparagraph (b)1ii to prevent the use of cribs with locks and latches, which are not considered to be safe. Likewise, the Office proposes to delete bumper pads from recodified N.J.A.C. 10:122-6.4(b)1ii as bumper pads are not recommended.

The Office proposes to delete N.J.A.C. 10:122-6.4(c)1, as it no longer applies to the requirements for centers open after 7:00 P.M.

The Office is proposing new N.J.A.C. 10:122-6.4(i) to regulate the safe use of pacifiers.

The Office proposes to add new N.J.A.C. 10:122-6.5(b) to clarify the center's release policy to the parent and staff. The Office has received complaints from parents regarding the release of children. The Office intends to address the issue by having the center give a copy of its policy to the parent and staff members and having them sign that they have received it.

The Office proposes new N.J.A.C. 10:122-6.7(f) to allow staff members to make good-faith reports of suspected child abuse or neglect and to take photographs of children to document injuries to support good-faith reports to the Division of Child Protection and Permanency. This section also prohibits a center from disciplining a staff member for making reports or taking photographs. The Office is clarifying that staff members have a statutory duty to report suspected child abuse or neglect which a child care center cannot abrogate.

The Office proposes amendments to N.J.A.C. 10:122-6.8(d) to provide parents with the name and telephone number of the bus company used for the field trip. Informing the parents of the bus company gives parents the information they need to contact the company with complaints or to report an allegation of child abuse to the Division of Child Protection and Permanency or a crime to the police department.

The Office proposes combining the provisions of N.J.A.C. 10:122-6.8(j)3 and 4 to provide consistency throughout the chapter.

The Office is proposing new N.J.A.C. 10:122-6.8(k) and (l) to require that the center develop a written policy on the use of social media, which shall be distributed to the parents and staff. These amendments will assist in protecting the child's safety and privacy.

The Office proposes to remove outdated terminology regarding HIV from N.J.A.C. 10:122-7.2(a).

The Office proposes to amend N.J.A.C. 10:122-7.3(a)2 to reorganize the paragraph and to add that the center has a 30-day grace period to obtain a Universal Child Health Record and immunization record for children who are in foster care or are homeless. This is a requirement of the Child Care and Development Block Grant, 42 U.S.C. § 9858c(c)(2)(I)(I).

The Office proposes to amend N.J.A.C. 10:122-7.4(f) and (g) to clarify that the referenced "necessary action" is stated in (d) above.

The Office proposes to add new N.J.A.C. 10:122-7.5(b)10, to address the storage care plan for the use of epinephrine pens. The Office believes that this is an area that needs to be regulated to protect the health and safety of children. The Office is proposing that all child care centers store pens as outlined in N.J.S.A. 18A:40-12.5e.(1). This method of storage allows for safe storage and quick access to the pens.

The Office proposes to amend N.J.A.C. 10:122-7.6(a)2 to clarify that a parent is notified when a child sustains a head or facial injury, including a bump on the head. These amendments bring more specificity to the concept of "head injury."

The Office is amending N.J.A.C. 10:122-7.6(b) to add that the center shall keep written records of all incidents resulting in injuries that occur while in the center's care. This is an expansion of the rule to include injuries. This should facilitate communication about child injuries between the parent and the center staff.

The Office proposes to add new N.J.A.C. 10:122-7.6(e) to require each center that chooses not to notify parents by telephone, to develop a written policy for parental notification if a child is injured and to require verification that each parent received the policy. The Office also proposes to remove "verbally" from N.J.A.C. 10:122-7.6(a), since the notice may not be oral. The center will determine the form of parental notification and state it in the policy. This policy allows the center to determine how to communicate with each parent when his or her child is injured.

The Office has amended N.J.A.C. 10:122-7.7(d) to remove vehicles, as smoking in vehicles is regulated at N.J.A.C. 10:122-9.5(l).

N.J.A.C. 10:122-7.7(d)1 is amended to be merged into subsection (a). The Office proposes to add the relevant statutory citation regarding smoking and to delete paragraphs (d)2 through 5, as they are redundant with the added statute.

The Office proposes to expand the rules regarding hand washing at N.J.A.C. 10:122-7.8(a). The Office proposes that only children three months of age and over wash their hands at paragraph (a)1 and that children wash their hands immediately after outdoor play at new subparagraph (a)1v. The Office also proposes alternatives to hand washing for children under three months of age or for older children when hand washing is not developmentally appropriate at new paragraph (a)2. Requiring children to wash their hands after outdoor play improves their health and cleanliness. Separating very young infants from a general requirement for all children allows the infants to be cleaned in a developmentally appropriate way.

The Office proposes to amend N.J.A.C. 10:122-7.10(b) to include that the center must report to the Office when a child is taken to the emergency room due to an injury or illness that occurred when under the center's supervision and when an injury or illness results in a call to 911, on-site medical or transported emergency care or urgent care. The Office is also amending N.J.A.C. 10:122-7.10(b) to require that the center submit written documentation to the Office within one week when a child visited the emergency room, was admitted to the hospital, or died under the center's supervision. The Office believes that they need to be notified of injuries serious enough to require emergency room treatment, as well as hospital admittance and death, as they require further investigation by the Office.

The Office proposes to amend N.J.A.C. 10:122-7.11(b) to require that a center get each parent's signature attesting to the receipt of the policy on management of communicable diseases. The Office believes that this information will assist the parents in knowing when it is safe to return a child to the center. This can protect the health of the sick child, as well as other children at the center.

The Office proposes to delete N.J.A.C. 10:122-8.3(a)3v, as there is no reason to prohibit sick children from being admitted to a sick care component of a child care center.

The Office proposes to amend N.J.A.C. 10:122-9.5(d) to include the relevant statutes for seat belts and other child restraint systems on school buses.

The Office proposes to amend N.J.A.C. 10:122-9.5(e) and (g) to use the defined term, Type S School Vehicle, for consistency. The Office also proposes to further amend subsection (g) to add that each additional adult, along with the driver, shall ensure the listed safety requirements are followed. This clarifies that both the driver and each additional adult are responsible for the safety requirements necessary to protect the children passengers.

The Office proposes new N.J.A.C. 10:122-9.5(n) to prohibit a child from remaining in a vehicle for more than one hour at any given time on a daily basis. This does not apply to field trips. This is in response to complaints from parents about the length of time that their children were in transit.

The Office proposes to reorganize N.J.A.C. 10:122-9.8 by deleting the information in subsection (a), recodifying the information in paragraph (a)1 as subsection (a), deleting paragraph (a)2, and recodifying paragraph (a)3 as subsection (b). In addition, the age limit in recodified subsection (a) is deleted, so that this provision applies to all age groups. These amendments require that each vehicle have two adults; a driver and another adult to supervise the children. This will increase the safety of children while in vehicles.

The Office is proposing a new N.J.A.C. 10:122-9.8(c) to require that a center have a written policy on the safe transportation of children and that regularly scheduled drivers and additional adults on the vehicle are trained in the policy. These amendments will improve the safety of children being transported.

#### **Social Impact**

The Office believes that the rules proposed for re adoption with amendments and a new rule will have a positive impact on the children placed in child care centers and their parents. On May 13, 2016, there were 3,939 licensed centers with a capacity to serve 350,902 children. On June 3, 2016, there were 3,932 licensed centers and 234 pending applications. Some of these applications are more than one year old and may no longer be planning to open. As discussed in the Summary above, centers will continue to be required to comply with rules specifying licensing procedures, center administration, staff requirements, physical facility requirements, program requirements, health requirements, care of sick children, and transportation.

The proposed amendments increase the measures taken to care for each child's health, safety, well-being, and development. The proposed amendments increase the information that the center is required to give the parents. This increase of information exchanged benefits both the parent and the child.

The amendments proposed to increase staff training and supervision of new staff will also benefit the children by promoting their safety and development.

#### **Economic Impact**

The Office anticipates that some of the rules proposed for re adoption with amendments and a new rule will have an economic impact on the licensed child care centers and those that apply to be licensed. Amendments related to the training of new and ongoing staff, the prohibition of certain staff from being alone with children, and the increase in annual training hours may cost the centers additional funds. The proposed amendments to the chapter regarding fencing around the playground, heating all areas of the building, testing water from public water supplies, and requiring sinks in rooms serving children under two and ½ years of age in new construction may also cause additional expenses for the centers. While the Office acknowledges the potential for additional expenses, the Office believes that these amendments improve the health and safety of the children cared for in the centers.

The rules proposed for re adoption with amendments and a new rule do not impose any additional expenses for parents who are purchasing child care. Centers will be obligated to make the necessary expenditures to comply with rules specifying licensing procedures, center administration,

staff requirements, physical facility requirements, program requirements, health requirements, care of sick children, and transportation.

The rules proposed for adoption with amendments and a new rule are in agreement with the Child Care Development and Block Grant, 42 U.S.C. §§ 9857 et seq., which provides Federal financial participation in certain State child care expenses.

#### **Federal Standards Statement**

The rules proposed for re adoption with amendments and a new rule do not exceed Federal requirements. They assist the State to meet the requirement of the Child Care Development and Block Grant, 42 U.S.C. §§ 9857 et seq.

#### **Jobs Impact**

The Office anticipates that the rules proposed for re adoption with amendments and a new rule will not result in the generation or loss of any jobs.

#### **Agriculture Industry Impact**

The rules proposed for re adoption with amendments and a new rule do not have an impact on the agriculture industry in New Jersey.

#### **Regulatory Flexibility Analysis**

Most, if not all, child care centers are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are 3,932 licensed centers in New Jersey, as of June 3, 2016. The rules proposed for re adoption with amendments and a new rule require reporting, recordkeeping, and other compliance requirements on all child care centers. Reporting requirements are stated at N.J.A.C. 10:122-3.2 and record requirements are stated at N.J.A.C. 10:122-3.3. The Office is proposing additional reporting and recordkeeping requirements, for example, the center shall have keep a copy of each staff member's signature that he or she received a copy of the release policy, the center shall keep a copy of each parent's and each staff member's signature that he or she received a copy of the social media policy, that the center shall notify the Office if a child is taken to the emergency room, if 911 is called for a child, and if the child receives emergency care.

The Office cannot estimate the cost of either initial or ongoing compliance with the proposed amendments to this chapter. Different centers will need to do different things in order to meet the requirement of this chapter. For example, some centers will need to install fencing around part of their playground, while others already have fencing around the playground. Centers that use a public water supply will need to have it tested, while those with private wells are already having the water tested.

Most of the reporting, recordkeeping, and compliance requirements can be completed by the center's staff. Requirements for water testing must be completed by a professional.

The Office believes that the reporting, recordkeeping, and compliance requirements set forth in this chapter are necessary to protect the health, safety, well-being, and development of children. The Office does not propose that any child care centers, as defined, are exempt from these rules.

#### **Housing Affordability Impact Analysis**

The Office does not anticipate that the rules proposed for re adoption with amendments and a new rule will have any impact on the affordability of housing or on the average costs of housing because the rules pertain to the licensing of child care centers.

#### **Smart Growth Development Impact Analysis**

The rules proposed for re adoption with amendments and a new rule have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the licensing of child care centers.

**Full text** of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:122.

**Full text** of the proposed amendments and a new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## SUBCHAPTER 1. GENERAL PROVISIONS

## 10:122-1.1 Legal authority

(a) This [manual] **chapter** is promulgated pursuant to the Child Care Center Licensing [Law] **Act**, N.J.S.A. 30:5B-1 [to 15, supplemented by P.L.1992, c. 95] **et seq.**

(b) Under the laws specified in (a) above, the Department of Children and Families is authorized to:

1. (No change.)

2. Inspect and examine the physical plant or facilities, **including, but not limited to, storage areas, additional floor levels, and rooms that are not approved for use and that are adjacent to the child care center**, and program of a child care center **without delay or an escort**, and inspect all documents, records, files, or other data maintained pursuant to the above-referenced law during the center's normal operating hours and without prior notice; and

3. (No change.)

(c) (No change.)

(d) Centers specified in (c)1 and 2 above are required to comply with the physical facility; life/safety; administration and control of medication; environmental sanitation; supervision, minimum staffing, and discipline requirements; and communicable disease reporting provisions of this [manual of requirements] **chapter**. Centers with Certificates of Life/Safety Approval may secure regular licenses on a voluntary basis, as long as they comply with all provisions of this [manual of requirements] **chapter**.

(e) To be eligible for a license, a center shall demonstrate to the satisfaction of the Department of Children and Families, or the duly authorized agency, that the center complies with all applicable provisions of this [manual] **chapter**.

(f) (No change.)

(g) Responsibility for ensuring that centers comply with the provisions of the laws cited in (a) above and with provisions of this [manual] **chapter** is hereby delegated by the Department of Children and Families to the Office of Licensing.

(h) When a person intends to care for six or more children under 13 years of age, he or she shall apply for and secure from the Office of Licensing a license to operate a child care center. Once licensed, the center is subject to all applicable provisions of this [manual] **chapter**, even if the number [and/or] **or** ages of the children attending the center at a particular time should fall outside the definition of a center, as specified in N.J.A.C. 10:122-1.2(a).

**(i) The Office cannot complete initial program inspections unless six or more children are present at the center.**

## 10:122-1.2 Definition of child care center

(a) "Child care center" or "center" means any home or facility, by whatever name known, which is maintained for the care, development, or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

1. For a facility that is located in a [sponsor/sponsor] **sponsor's or sponsor** representative's home, the Office of Licensing shall not count the children residing in the [sponsor/sponsor] **sponsor's or sponsor** representative's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

2. For a child care center operated by a nonprofit organization in a public school building used as a public school, the center shall not be required to meet the requirements in this manual governing the safety and adequacy of the physical plant or facilities, in keeping with P.L. 2000, c.122 (N.J.S.A. 30:5B-5).

(b) The term[,] "child care center[.]" shall include, but not be limited to, day care centers; drop-in centers; night-time centers; recreation-type centers sponsored and operated by a county or municipal government recreation [and/or] **or** park department or agency; day nurseries; nursery and play schools; cooperative child centers; centers for children with special needs; centers serving sick children; infant-toddler programs; school-age child care programs; employment-related centers; centers that had been licensed by the Department of Human Services prior to the enactment of the Child Care Center Licensing Act of 1984; and kindergartens **and pre-kindergartens** that are not an integral part of a

private educational institution or system offering elementary education in grades kindergarten through sixth[, seventh or eighth].

(c) The term[,] "child care center[.]" shall not include the following programs, since they do not meet the definition of a child care center:

1.-2. (No change.)

3. A child care program operating within a geographic area, enclave, or facility that is owned [and/or] **or** operated by the Federal government;

4.-5. (No change.)

6. A program offering child care on an ad hoc, sporadic, and isolated basis in order to meet an emergency or special need, such as during emergency school closings, conferences, or training sessions.

## 10:122-1.3 Programs exempt from licensure

[(d)] (a) The following programs are exempt from licensure pursuant to the laws specified in N.J.A.C. 10:122-1.1(a):

1. (No change.)

2. [Programs] **Kindergartens, pre-kindergarten programs, or child care centers that are operated by, and [whose employees are paid by, a private school, which is run solely for educational purposes. Such programs shall include kindergartens, pre-kindergarten programs, or child care centers that] are an integral part of, a private educational institution or system providing elementary education in grades kindergarten through sixth[, seventh, or eighth];**

**i. For purposes of this paragraph, operation of a program by a private educational institution or system shall require direct operation and payment of staff by the operating institution or system.**

**ii. For purposes of this paragraph, a program is an integral part of a private educational institution or system if the program and the institution or system can reasonably demonstrate integration of the program based on geographic proximity, commonality of enrollment, and continuation of enrollment between the program and the institution or system, commonality of staffing, cohesion of an academic curriculum between programs, or some combination of the above.**

3. Centers or special classes operated:

i. Primarily for religious instruction. To qualify for an exemption from licensing under this [provision] **paragraph**, a center or special class must:

(1)-(2) (No change.)

(3) Provide a program that is composed primarily of religious instruction in which the curriculum is related to religious themes, stories, [and/or] **or** teachings; and

(4) (No change.)

ii. (No change.)

4. Programs of specialized activities or instruction for children that are not designed or intended for child care purposes, including, but not limited to: Boy Scouts, Girl Scouts, 4-H Clubs, Junior Achievement, and commercial indoor [playground/sports] **playground or sports** centers where parents remain with pre-school children; and single activity programs, such as: athletics, gymnastics, hobbies, art, music, dance, and craft instruction, which are supervised by an adult, agency, or institution. To qualify for an exemption from licensing under this [provision] **paragraph**, a program must:

i.-ii. (No change.)

**5. Homework or tutorial programs that submit documentation demonstrating that:**

**i. Time frames are developmentally appropriate for the age group served and children under six years of age do not attend the program for more than two hours;**

**ii. The tutorial or homework instruction is not designed for child care purposes;**

**iii. The tutorial or homework program is supervised on a full-time basis by an adult;**

**iv. There is no agreement, written or implied, between the tutorial or homework program and the parent to assume responsibility for the care of the child; and**

**v. There is no agreement, written or implied, between the tutorial or homework program that transportation is provided by the program.**

[5.] 6. (No change in text.)

[6.] 7. Regional schools operated by, or under contract with, the Department of Children and Families. To qualify for an exemption from licensing under this provision, a center must be operated and funded as a regional school by the Department of Children and Families, pursuant to N.J.S.A. 18A:7B-12]; and

[7.] 8. (No change in text.)

#### 10:122-[1.3]1.4 Definitions of other terms

The following words and terms, when used in this [manual] chapter, shall have the following meanings:

["Chapter" means the rules contained in the Manual of Requirements for Child Care Centers, as specified in N.J.A.C. 10:122, which reflect provisions that constitute minimum baseline requirements below which no center that is subject to the authority of N.J.S.A. 30:5B-1 to 15 is legally permitted to operate.]

... "Health care provider" means a physician, nurse practitioner, physician's assistant, or other health care professional who is licensed or otherwise authorized by the state in which he or she practices to perform the applicable health care services specified in this [manual] chapter.

"Licensed capacity" means the maximum number of children a center can serve in the rooms approved as licensed space by the Office of Licensing.

... "Regular Certificate of Life/Safety Approval" or "Regular Certificate" means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in full compliance with [the provisions of this manual specified in] N.J.A.C. 10:122-1.1(c).

"Regular license" means a document issued by the Office of Licensing to a center indicating that the center is in full compliance with all applicable provisions of this [manual] chapter.

... "School-age child care program" means a supervised group program serving six or more children under 13 years of age who are enrolled in a public or private school, when their classes are not in session. The term, school-age child care program, may also include programs that serve: kindergarten children before [and/or] or after their regular school session; and pre-kindergarten children before [and/or] or after their regular school session if the pre-kindergarten children attend the program for no more than three and a half hours.

... "Temporary Certificate of Life/Safety Approval" or "Temporary Certificate" means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in substantial compliance with [the provisions of this manual specified in] N.J.A.C. 10:122-1.1(c), provided that no serious or imminent hazard affecting the children exists in the center.

"Temporary license" means a document issued by the Office of Licensing to a center that is in substantial compliance with the applicable provisions of this [manual] chapter, provided that no serious or imminent hazard affecting the children exists in the center.

10:122-[1.4]1.5 (No change in text.)

## SUBCHAPTER 2. LICENSING PROCEDURES

### 10:122-2.1 Application for a license

(a)-(c) (No change.)

(d) In lieu of the fees specified in (c) above, an applicant for an initial or renewal license who operates a Head Start Center, pursuant to 42 U.S.C. §§ [9381] 9831 et seq., or a school-age child care program that does not charge a fee or require other compensation or services from parents, shall submit with the completed application form a \$110.00 licensing fee, in the form of a check or money order made payable to the "Treasurer, State of New Jersey."

(e) If the application is denied, or the center does not open, the Office of Licensing [will] shall refund the licensing fee to the applicant.

(f) (No change.)

### 10:122-2.2 Issuance of a license

(a) The Office of Licensing shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this [manual] chapter.

(b) If the Office of Licensing determines that a center is in substantial compliance with, but does not meet all applicable provisions of this manual, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Office of Licensing shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license. When a center applies for its first license, a temporary license shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 10:122-[5.1]5.2 through [5.5] 5.6.

(c)-(h) (No change.)

**(i) For those centers that do not have children in attendance for a period of six months or more, the centers shall be deemed as closed and a new license shall be issued should the center decide to serve children in the future.**

### 10:122-2.3 Location of a center

(a) The license shall be issued to a specific center [sponsor/sponsor] sponsor or sponsor representative at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same [sponsor/sponsor] sponsor or sponsor representative, the [sponsor/sponsor] sponsor or sponsor representative shall apply to the Office of Licensing for either:

1.-2. (No change.)

(c) (No change.)

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The [sponsor/sponsor] sponsor or sponsor representative of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.

2. (No change.)

3. [The] **During operating hours, the** Office of Licensing may require the center to:

i. Operate in a separate room, floor, [and/or] or section of the building;

ii. Have or use a separate entrance [and/or] or toilet facility; [and/or]

iii. Meet any other physical plant, staffing, program, or other operational requirements that are deemed necessary to protect the children from serious risk of harm stemming from the co-location[.];

**iv. Not share common areas, such as hallways, gyms, or bathrooms; and**

**v. Have a schedule for outdoor time, if the outdoor play area is shared.**

4. The [sponsor/sponsor] sponsor or sponsor representative of a center that has been approved to be located in a multi-use building shall notify the Office of Licensing of any change in use by other occupants of the building, as specified in N.J.A.C. 10:122-3.2(a).

**(e) All new or relocating centers, by (one year after the effective date of this amendment), shall not be located in a building that was formerly a dry cleaner or funeral home.**

### 10:122-2.4 Denying, suspending, revoking, or refusing to renew a license or a Certificate of Life/Safety Approval

(a) The Office of Licensing may deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval for good cause, including the following, as applicable:

1. Failure or refusal to comply with all applicable provisions of the laws specified in [N.J.A.C. 10:122-1.1(a) and of] this [manual] chapter;

**i. Failure to comply with the provisions of this chapter shall also prevent a sponsor from obtaining a license for an additional child care center;**

2.-3. (No change.)

4. Refusal to furnish the Department with files, reports, or records, as required by this [manual] chapter;

5. Refusal to permit an authorized representative of the Department to gain admission to the center [and/or] or to conduct an inspection or investigation during the center's operating hours;



6. Any activity, policy, or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being, or development of a child attending a center, or that otherwise demonstrates unfitness by a [sponsor/sponsor] **sponsor, sponsor** representative, or staff member(s) to operate a center;

7. (No change.)

8. Failure by the [sponsor/sponsor] **sponsor or sponsor** representative to secure and maintain on file conviction disclosures, as specified in N.J.A.C. 10:122-4.1(b)3, Child Abuse Record Information (CARI) background checks, as specified in N.J.A.C. 10:122-[4.9]4.10, or Criminal History Record Information (CHRI) fingerprint background checks, as specified in N.J.A.C. 10:122-[4.10]4.11;

9. (No change.)

10. Refusal by the [sponsor/sponsor] **sponsor or sponsor** representative to consent to a Child Abuse Record Information background check for himself or herself, or to terminate the employment of a staff member who refuses to consent to a Child Abuse Record Information background check;

11. Refusal by the [sponsor/sponsor] **sponsor or sponsor** representative to terminate the employment of a staff member when a Child Abuse Record Information background check reveals that an incident of child abuse or neglect has been substantiated against the staff member;

12. A Child Abuse Record Information background check that reveals that an incident of child abuse or neglect has been substantiated against the [sponsor/sponsor] **sponsor or sponsor** representative; or

13. Failure to comply with the provisions of P.L. 1998,[c.35] c. 35, which prohibit smoking in child care centers, as specified in N.J.A.C. 10:122-7.7(d).

(b) The Office of Licensing shall provide written notice to the [sponsor/sponsor] **sponsor or sponsor** representative if it intends to deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval. The notice shall specify the Office of Licensing's reasons for such action.

(c) If the Office of Licensing suspends a center's license or Certificate of Life/Safety Approval to prevent the imminent risk of harm to children served by the center, the Office of Licensing may reinstate the suspended license or Certificate of Life/Safety Approval upon the center's compliance with all applicable provisions of this [manual] **chapter**.

(d) If the Office of Licensing denies an application or revokes or refuses to renew a center's license or Certificate of Life/Safety Approval, as specified in (a) above, the [sponsor/sponsor] **sponsor or sponsor** representative of the center shall be prohibited from reapplying for a license or a Certificate of Life/Safety Approval for one year from the date of the denial, revocation, or refusal to renew. After the one-year period has elapsed, the [sponsor/sponsor] **sponsor or sponsor** representative may submit to the Office of Licensing a new application for a license or a Certificate of Life/Safety Approval.

(e) (No change.)

(f) If the Office of Licensing determines to suspend, revoke, or refuse to renew the center's license or Certificate of Life/Safety Approval, the Office of Licensing shall notify the parent of each enrolled child of the action.

1. (No change.)

2. Within 20 days after notifying the center of the action, the Office of Licensing shall:

i.–ii. (No change.)

iii. Inform parents of the name, address, and telephone number of the resource and referral services offered by the appropriate State-contracted [Unified Child Care Agency] **Child Care Resource and Referral agency** for assistance in finding alternative child care arrangements, if necessary; and

iv. Notify the appropriate State-contracted [Unified Child Care Agency] **Child Care Resource and Referral agency** of the action.

(g) **The Office may require the center to submit in writing a corrective action plan indicating the time frame and the actions the center shall take to comply with all applicable provisions of this chapter.**

#### 10:122-2.6 Complaints

(a) Whenever the Office of Licensing receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this [manual] **chapter**, the Office of Licensing shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Office of Licensing shall notify the [sponsor/sponsor] **sponsor or sponsor** representative in writing of the results of the investigation, pursuant to the State Open Public Records Law, N.J.S.A. 47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to [the State Child Abuse and Neglect Law,] N.J.S.A. 9:6-8.10a.

(c) Whenever the Department, through its Office of Licensing, Institutional Abuse Investigation Unit, or [district] **local** offices, conducts complaint investigations, the center shall cooperate with all Department investigators.

#### 10:122-2.8 Procedures for securing a Certificate of Life/Safety Approval

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 10:122-1.1(c), may apply for and secure such a Certificate from the Office of Licensing by complying with all provisions of N.J.A.C. 10:122-2.1 through 2.8, except for 10:122-2.1(c) and (d); and with all provisions of N.J.A.C. 10:122-4.3, [4.9, 4.10, 5.1] **4.10, 4.11, 5.2** through [5.5] **5.6, 6.6, 7.5, 7.7, 7.8, 7.10, and 9.1** through 9.8.

(b) (No change.)

(c) When an applicant is the [sponsor/sponsor] **sponsor or sponsor** representative of a licensed child care center and seeks to operate a seasonal or short-term program, as specified in N.J.A.C. 10:122-1.1(c)1, at the same site, the applicant shall submit an application for a Certificate of Life/Safety Approval with no additional fee required. The [sponsor/sponsor] **sponsor or sponsor** representative shall receive a Certificate of Life/Safety Approval in addition to a license.

(d) The Office of Licensing shall review the application and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all applicable provisions of this [manual] **chapter** as specified in (a) above.

1.–2. (No change.)

3. When a center applies for its first Certificate of Life/Safety Approval, a Temporary Certificate of Life/Safety Approval shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 10:122-[5.1] **5.2** through [5.5] **5.6**.

### SUBCHAPTER 3. CENTER ADMINISTRATION

#### 10:122-3.1 Administrative responsibility

(a) The [sponsor/sponsor] **sponsor or sponsor** representative shall be legally responsible and held accountable by the Office of Licensing for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this [manual] **chapter**.

(b) (No change.)

#### 10:122-3.2 Reporting requirements

(a) The center shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1.–4. (No change.)

5. Proposed use of emergency space, including relocation or use of rooms not approved by local municipal officials or by the Office of Licensing, as specified in N.J.A.C. 10:122-[5.2(q)] **5.3(q)**; and

6. Any conviction(s) or guilty plea(s) of the [sponsor/sponsor] **sponsor or sponsor** representative, director, or any staff member, as specified in N.J.A.C. 10:122-4.1(b)3, (c)2, and (d)2.

(b) The center shall notify the Office of Licensing verbally at least three working days in advance of any proposed change to the licensing information previously submitted to the Office of Licensing on the completed application, including, but not limited to, changes in location and in keeping with the requirements specified in N.J.A.C. 10:122-[5.2(i)] **5.3(i)**. The center shall notify the Office of Licensing in writing within 30 calendar days of any such change(s).

## 10:122-3.3 Center records

(a) Requirements for access to center records are as follows:

1. (No change.)

2. The center's records shall be open for inspection by authorized representatives of the Department's Institutional Abuse Investigation Unit (IAIU) [and], provided that they may only secure information about children under the Department's supervision.

(b) Requirements for maintenance of center records are as follows:

1. Children's records shall be maintained on file for one year after the child is no longer enrolled at the center.

i. Records for children currently enrolled at the center shall be maintained on file at the center, unless otherwise specified in this [manual] **chapter**.

ii. (No change.)

2. Staff records shall be maintained on file for one year after the staff member is no longer working at the center.

i. Records for staff members currently working at the center shall be maintained on file at the center[, unless otherwise specified in this manual].

ii. (No change.)

3. All other records shall be maintained on file at the center for one year after the record is made or received, unless otherwise specified in this [manual] **chapter**.

## 10:122-3.4 Comprehensive general liability insurance

The [sponsor/sponsor] **sponsor or sponsor** representative shall secure comprehensive general liability insurance coverage for the center and shall maintain on file a copy of the insurance policy or documentation of current insurance coverage.

10:122-3.5 [Telephone] **Communication** requirements

(a) The center shall have:

1. Its own telephone; [or] **and**

[2. Access to a telephone located in the same building. Under this option a person shall be available to receive incoming calls to the center, transmit telephone messages to center personnel immediately and make outgoing calls for the center, as necessary.]

**2. An e-mail account and address checked regularly by the Director. E-mail access need not be available on-site.**

(b) The center shall provide parents of all enrolled children with its telephone number, either in writing or by e-mail. **This telephone number shall provide parents direct on-site contact during operating hours.**

**(c) The center shall promptly inform the Office of Licensing of changes to its e-mail address or telephone number.**

## 10:122-3.6 Information to Parents document

(a) The center shall give to the parent(s) of every enrolled child and to every staff member, a written Information to Parents document designated by the Office of Licensing and indicating that the center is required to:

1. (No change.)

2. Comply with all applicable provisions of [the Manual of Requirements for Child Care Centers] **this chapter**;

3. (No change.)

4. Retain a current copy of [the manual] **this chapter** and make it available for parents' review;

5. Indicate how parents can secure a copy of [the manual] **this chapter** and obtain information about the licensing process from the Office of Licensing;

6. (No change.)

7. Post a listing or diagram of those rooms [and/or] **and** areas that have been approved by the Office of Licensing for children's use;

8. Comply with the [inspection/investigation] **inspection and investigation** functions of the Department, including the interviewing of staff members and children;

9. Afford parents the opportunity and time to review and discuss with the center director, [or sponsor/sponsor] **sponsor, or sponsor** representative any questions or concerns about the policies and procedures of the center or whether the center is in compliance with all applicable provisions of [the manual] **this chapter**;

10. Advise parents that if they believe or suspect that the center is violating any requirement of [the manual] **this chapter**, they may report such alleged violations to the center [sponsor/sponsor] **sponsor, sponsor** representative, or director or to the Office of Licensing;

11.-14. (No change.)

15. Indicate, through this document, that any person who has reasonable cause to believe that a child has been or is being subjected to [any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating, or frightening treatment, or any other kind of] child abuse[,] **or** neglect [, or exploitation by any adult,] is required by [State law] **N.J.S.A. 9:6-8.10** to report such allegations to the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately, and indicate that such reports may be made anonymously;

16. Indicate through this document how parents and staff members may secure information about child abuse [and/or] **and** neglect from the Department;

17.-20. (No change.)

21. Inform parents that the center is required to provide reasonable accommodations for children [and/or] **and** parents with disabilities and to comply with the New Jersey Law Against Discrimination (LAD), P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.), and the Americans with Disabilities Act (ADA), P.L. 101-336 (42 U.S.C. §§ 12101 et seq.), and indicate that anyone who believes the center is not in compliance with these laws may contact the Division on Civil Rights in the New Jersey Department of Law and Public Safety for information about filing an LAD claim at (609) 292-4605 (TTY users may dial 711 to reach the New Jersey Relay Operator and ask for (609) 292-7701), or may contact the United States Department of Justice for information about filing an ADA claim at (800) 514-0301 or (800) 514-0383 (TTY); and

22. Inform parents that the center is required to maintain and update, at least annually, a list from the Consumer Product Safety Commission (CPSC) regarding unsafe products and make the list available to staff and parents [and/or] **or** provide parents with the CPSC website at <http://www.cpsc.gov/cpscpub/prerel/prerel.html>.

(b) The center shall [provide] **distribute a copy of** the Information to Parents document to each child's parent(s) upon enrollment[,] and to every person upon becoming a staff member **and secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the document.**

[1. The center shall secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the document.]

[2.] 1. (No change in text.)

## SUBCHAPTER 4. STAFF REQUIREMENTS

10:122-4.1 General requirements for [sponsor/sponsor] **sponsor, sponsor** representative, director, and all staff members

(a) The [sponsor/sponsor] **sponsor, sponsor** representative, director, and every staff member shall:

1.-3. (No change.)

(b) Prior to hiring or utilizing a director or a staff member who will be working at the center on a regularly scheduled basis, the [sponsor/sponsor] **sponsor, sponsor** representative, or director shall complete and maintain on file for each individual a Staff Records Checklist, signed by the [sponsor/sponsor] **sponsor, sponsor** representative, or director and designated by the Office of Licensing, indicating that the center has obtained documentation of the following:

1.-3. (No change.)

4. Completion of a Child Abuse Record Information background check, as specified in N.J.A.C. 10:122-[4.9]**4.10**, and a Criminal History Record Information fingerprint background check, as specified in N.J.A.C. 10:122-[4.10]**4.11**;

5.-7. (No change.)

8. Two written [and/or] **or** verbal references on each individual.

i. The references shall be secured from former employers or other persons who have knowledge of the individual's work experience [and/or] **or** education and who can attest to the individual's suitability to work with children.

ii. The verbal references shall be documented in writing by the [sponsor/sponsor] **sponsor, sponsor** representative, or director.

(c) The [sponsor/sponsor] **sponsor or sponsor** representative shall:

1. (No change.)

2. Disclose to the Office of Licensing, in writing, the following:

i. The [sponsor/sponsor] **sponsor or sponsor** representative's name, address, and telephone number;

ii. The [sponsor/sponsor] **sponsor or sponsor** representative's signed statement of the presence or absence of conviction(s) for crimes or disorderly persons offenses; and

iii. (No change.)

(d) (No change.)

(e) Failure by a [sponsor/sponsor] **sponsor, sponsor** representative, director, or other staff member to comply with the requirements specified in (a) through (c) above [and/or] **or** any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner shall constitute grounds for one or more of the following actions:

1. Removal of the [sponsor/sponsor] **sponsor, sponsor** representative, director, or other staff member from his or her position;

2. (No change.)

3. Termination from the center; [and/or] **or**

4. (No change.)

(f) Evidence of a previous denial, suspension, revocation, or non-renewal of a license, as specified in (c)2iii above, shall not in and of itself result in an automatic disqualification of the [sponsor/sponsor] **sponsor, sponsor** representative, [or] prospective [sponsor/sponsor] **sponsor, or prospective sponsor** representative to secure a license for another or the same center, but shall constitute grounds for the Office of Licensing to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

10:122-4.2 Staffing requirements

(a) Each center shall have the following staff members:

1. A [sponsor/sponsor] **sponsor or sponsor** representative, who may also serve as the director [and/or] **and** as one of the staff members specified in (a)3 below;

2.-3. (No change.)

4. Additional staff members, as necessary, to meet staff/child ratio requirements, as specified in N.J.A.C. 10:122-4.3.

i. (No change.)

ii. If the center offers an early childhood program and a school-age child care program, and has fewer than six children in [both] **each** program[s], the center shall meet the staffing requirements in either (b) or (c) below.

(b) For early childhood programs, the following shall apply:

1. Based on the center's licensed capacity, the center shall have one or more head teachers, group teachers, and/or consulting head teachers, as specified in the chart below:

TYPES OF STAFF REQUIRED AT EARLY CHILDHOOD PROGRAMS

Licensed [Capacity]	Head [Teacher(s)]	†Group [Teacher(s)]	Consulting Head [Teacher]
<u>Capacity</u>	<u>Teacher(s)</u>	<u>Teacher(s)</u>	<u>Teacher</u>
...			

† A staff member who meets the head teacher qualifications, as specified in N.J.A.C. 10:122-4.6(c), may be utilized [for] **as** a required group teacher.

i. (No change.)

(c) For school-age child care programs, the following shall apply:

1. Based on center size, the center shall have one or more program supervisors at each site as specified in the chart below:

TYPES OF STAFF MEMBERS REQUIRED AT SCHOOL-AGE CHILD CARE PROGRAMS

Licensed [Capacity]	Program [Supervisor(s)]
<u>Capacity</u>	<u>Supervisor(s)</u>
...	

(d) (No change.)

10:122-4.3 Staff/child ratios and supervision

(a) The children shall be supervised **directly** by a staff member at all times, including during outdoor activities, rest and sleep, [toileting procedures,] and walking through hallways[.]. **Toileting procedures shall be supervised by a staff member** as appropriate for [their] the ages and developmental needs[, the physical setting and the nature] of the [activity] **children**.

1. The center shall develop and implement [a] **an** Office of Licensing-approved method to keep track of the location and ensure the safety of all children at all times when under the center's supervision, including the transfer of supervision from and to parents during arrival and departure and the utilization of off-site locations, including playgrounds and field trips.

2. The center shall ensure that all staff members are trained in the method of keeping track of children **and know how many children are in their care at all times**.

(b)-(c) (No change.)

(d) The following staff/child ratios shall apply during rest or sleep, when the criteria listed in (d)1, 2, and 3 below are met:

Age	Staff/Child Ratio
<u>Age</u>	<u>Staff/Child Ratio</u>
Under [2½ years] <b>18 months</b>	1:10
<b>18 months to 2½ years</b>	<b>1:12</b>
2½ years and above	1:20

1. (No change.)

2. A sufficient number of staff members shall be in the facility and readily accessible to ensure compliance with the **awake** staff/child ratios specified in (c) above.

3. Naptime preparations shall have been completed and all children **18 months or** above [12 months of age shall be] **are** resting or sleeping, while all children [12] **18** months of age or below [shall be] **are** sleeping.

(e)-(j) (No change.)

(k) For early childhood programs, the following shall apply:

1. A minimum of two staff members, one of whom shall be at least 18 years of age, shall be present and involved in the care of children when:

i. (No change.)

ii. Fewer than six children are present but applicable staff/child ratios, governing children below 18 months of age [and/or] **or** children with special needs, require two staff members.

2. (No change.)

(l) (No change.)

10:122-4.4 Grouping of children

(a) For early childhood programs, the following shall apply for infants (under 18 months of age) and toddlers (18 months to 2½ years of age):

1.-2. (No change.)

3. The primary caregiver shall ensure that the needs of each child in the group are met, including:

i.-iii. (No change.)

iv. Recording any unusual incidents involving the child and ensuring that the child's parents are informed of them, as specified in N.J.A.C. 10:122-[4.8(c)]**4.9(b)**.

4. If more than 12 infants or 20 toddlers occupy an individual room or a specific area within a large room, areas for up to 12 infants or 20 toddlers shall be defined by visible barriers, partitions, or any other room dividers or separations having a height above the eye level of the children who [will] use those areas.

(b) For early childhood programs, the following shall apply for children 2 1/2 years of age and older:

- 1. A group shall consist of the number of children:
  - i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition, or any other room divider or separation having a height above the eye level of the children who [will] use that area; or
  - ii. (No change.)

- 2. (No change.)

(c) For school-age child care programs, the following shall apply:

- 1. A group shall consist of the number of children:
  - i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition, or any other room divider or separation having a height above the eye level of the children who [will] use that area; or
  - ii. (No change.)

2. Each group shall be limited to a maximum of 30 children, except during meals, outdoor activities, and specially scheduled events.

10:122-4.5 Staff responsibilities

- (a) The [sponsor/sponsor] **sponsor or sponsor** representative shall:
  - 1. (No change.)
  - 2. Ensure that the center complies with all applicable provisions of this [manual] **chapter**; and
  - 3. Designate individuals with the authority and responsibility to:
    - i.-ii. (No change.)
    - iii. Ensure that all staff members complete staff orientation and development, as specified in N.J.A.C. 10:122-4.7 **and 4.8**;
    - iv.-v. (No change.)

(b) The director shall have the authority and responsibility for:

- 1. The observation of all groups of children, including:
  - i. (No change.)
  - ii. For centers with an audio or visual monitoring system, as specified in N.J.A.C. 10:122-[5.5(c)1i]**5.6(c)1i**, observation of such a system, on a random daily time schedule, by the director;

2.-3. (No change.)

(c) When the director is absent from the center for any length of time, he or she shall designate a responsible person to assume and carry out all responsibilities of the director, as specified in (b) above.

1. The director [or his or her designee(s)] shall be [on the premises at all times when the] **scheduled to work at the center [is] at least 50 percent of the center's daily operating hours.**

2. The director **or his or her designee(s)** shall be [scheduled to work at the center at least 50 percent of the center's operating hours.] **on the premises at all times when the center is operating and the following shall apply:**

- i. **The designee shall not have full-time classroom responsibilities during the times when the director is not present at the center.**
- ii. **The designee shall complete staff development in understanding licensing rules as provided by the Office.**
- iii. **The designee shall complete 20 hours of continuing staff development each year.**

(d) When the director or any head teacher or required group teacher or required program supervisor is away from the center for six or more weeks, the [sponsor/sponsor] **sponsor, sponsor** representative, or director shall hire [and/or] **or** designate a staff member(s) who possesses the applicable staff qualifications for the position, as specified in N.J.A.C. 10:122-4.6, to assume the applicable responsibilities of the position, as specified in this section.

- (e) For early childhood programs, the following shall apply:
  - 1. (No change.)
  - 2. The head teacher shall be scheduled to:
    - i. Work at the center for at least 75 percent of the center's daily operating hours[,] or at least six hours a day, whichever is less; and
    - ii. (No change.)
  - 3. (No change.)
  - 4. The group teacher(s) shall be scheduled and have the authority and responsibility to:
    - i. Work at the center for at least 75 percent of the center's daily operating hours[,] or at least six hours a day, whichever is less;

- ii.-iii. (No change.)
- 5.-6. (No change.)
- 7. For centers using a consulting head teacher, the following shall apply:

- i. (No change.)
- ii. The consulting head teacher shall have the authority and responsibility to observe and evaluate the group teacher, conditional head teacher, or other staff member in charge of the center's program during each on-site visit.

iii. (No change.)

**8. All staff that work with children under 2 1/2 years of age shall have training specific to this age group including, but not limited to, the New Jersey Infant/Toddler Credential administered through Professional Impact NJ, the Infant-Toddler Child Development Associate (CDA) Credential, or other trainings specifically related to the care of infants and toddlers. Each employee shall initiate this training within 90 days and complete it within one year.**

(f) (No change.)

10:122-4.6 Staff qualifications

- (a) (No change.)
- (b) The director shall meet the following qualification requirements:
  - 1. For early childhood programs licensed to serve more than 30 children, the director shall meet the qualification requirements specified in one of the options set forth in the chart below for education and experience:

OPTIONS FOR MEETING THE DIRECTOR QUALIFICATIONS

[Option	Educational Credentials	and	Experience Requirements]
<b>Option</b>	<b>Educational Credentials</b>	<b>and</b>	<b>Experience Requirements</b>

...

- 2.-3. (No change.)
- (c) For early childhood programs, the following shall apply:
  - 1. For all centers, the head teacher or consulting head teacher shall meet the qualification requirements specified in one of the seven options set forth in the chart below for education and experience:

OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATIONS

[Option	Educational Credentials	and	College Credits and Experience]
<b>Option</b>	<b>Educational Credentials</b>	<b>and</b>	<b>College Credits and Experience</b>

...

- i. The credits specified in the chart above shall be college credits in early childhood education [and/or] **or** child development. These credits may be part of the bachelor's or master's degree or constitute additional credits beyond the degree(s).
- ii. The years of experience specified in the chart above shall be [full time] **full-time** experience in a group program for children under six years of age. This experience may include supervised practice teaching [and/or] **or** student teaching.
- iii. (No change.)
- 2. For recreation-type centers sponsored by a county or municipal government recreation [and/or] **department**, park department, or agency, the head teacher or consulting head teacher shall have:
  - i.-iii. (No change.)
  - 3. (No change.)
  - 4. For recreation-type centers sponsored by a county or municipal government recreation [and/or] **department**, park department, or agency, the group teacher may substitute:
    - i. One year of recreation experience for the experience specified in (c)3i above; and
    - ii. Certification as a Recreation Technician from the NRPA for the educational credentials specified in (c)3ii above.
  - 5. For conditional approval, the group teacher shall meet the qualification requirements specified in one of the options set forth in the

chart below. The center shall obtain and maintain on file documentation that the staff member has acquired the remaining college credits in the areas specified in Option B in (c)3ii above within the time period specified below:

(No change in table)

(d) For school-age child care programs, the following shall apply:

1. The program supervisor shall meet the qualification requirements specified in one of the applicable options set forth in the chart below for education, training, and experience, based on the center's licensed capacity:

REQUIREMENTS FOR PROGRAM SUPERVISOR  
QUALIFICATIONS

<u>Requirement</u>	<u>Licensed Capacity</u>	<u>Educational Credentials</u>	<u>and Training and Experience</u>
...			

2.-5. (No change.)

10:122-4.7 Staff orientation and development

(a) The center shall [ensure that all newly hired staff members receive orientation upon being hired and complete all of the following areas within two weeks of his or her date of hire and prior to working without direct supervision by an approved staff person 18 years or older] **meet the following requirements for orientation training:**

1. **The center shall ensure that all newly-hired staff receive orientation training within two weeks of hire and that no individual is left alone to supervise a child or group of children until orientation training is completed.**

2. **The center shall ensure that all current staff members are retrained in the training topics listed in N.J.A.C. 10:122-4.8(a) each year.**

3. **The center shall secure and maintain on file each staff member's signature attesting to the review of the orientation training upon hire and annually.**

10:122-4.8 Orientation training

(a) **Topics of orientation training shall include all of the following:**

1.-3. (No change.)

4. Recognizing and reporting child abuse [and/or] **or** neglect, as specified in N.J.A.C. 10:122-[4.8]4.9;

5. Evacuating the center and using the fire alarms, as specified in N.J.A.C. 10:122-[5.2(l)]5.3(l);

6. (No change.)

7. Implementing the center's statement of policy on the disciplining of children, as specified in N.J.A.C. 10:122-6.6; [and]

8. Implementing health practices, **including medication administration and responding to symptoms of illness**, as specified in N.J.A.C. 10:122-7.1 through 7.11[.];

9. **Implementing safe sleep practices to prevent Sudden Infant Death Syndrome;**

10. **Preventing Shaken Baby Syndrome and Abusive Head Trauma;**

11. **Recognizing and responding to injuries and emergencies, including the prevention of and response to emergencies due to food-related allergies and other allergic reactions; and**

12. **Including children with special needs in the center's program.**

(b) **Orientation training as specified in (a) above may be included for six of the required hours of staff development specified in (c) and (d) below.**

[(b)] (c) The center shall ensure that all staff members who work at the center [for at least 20 percent of the center's weekly operating hours] complete [10] **12** hours of continuing staff development each year[, except as specified in (d) below. Each staff member shall complete at least two hours of staff development each year in each of the three following areas:

1. Child growth and development, including, but not limited to:

i. Understanding the stages of child development;

- ii. Planning for and providing age appropriate activities;
  - iii. Creating a classroom environment;
  - iv. Including children with special needs in the center's program; and
  - v. Other Office of Licensing-approved areas;
2. Positive guidance and discipline, including, but not limited to:
- i. Using positive methods of guidance and discipline;
  - ii. Promoting positive staff/child interactions;
  - iii. Promoting family involvement and communication with families;
  - iv. Recognizing, reporting and preventing child abuse and neglect; and
  - v. Other Office of Licensing-approved areas; and
3. Health and safety procedures, including, but not limited to:
- i. Understanding New Jersey's child care center licensing regulations;
  - ii. Understanding the nutritional needs of children;
  - iii. Implementing infection control techniques;
  - iv. Recognizing and responding to symptoms of illness and disease;
  - v. Recognizing and responding to injuries and emergencies;
  - vi. Preventing Shaken Baby Syndrome;
  - vii. Placing infants in the appropriate sleep position;
  - viii. Administering medication and health care procedures; and
  - ix. Other Office of Licensing-approved areas.

(c) For newly hired staff members, the orientation specified in (a) above may be included in the required 10 hours of staff development specified in (b) above].

(d) In lieu of the child care staff development specified in (b) above, the director, head teacher(s), group teacher(s), and program supervisor(s) shall each complete 20 hours of staff development each year [in one or more of the following:]. **Recommended topics of training for these staff include:**

[1. Professional development related to the New Jersey Administrators' Credential approved by Professional Impact New Jersey, or the National Administrator Credential offered by the National Child Care Association;

2. The National Administrator Credential offered by the National Child Care Association or Professional Impact New Jersey-approved professional development related to the New Jersey Infant/Toddler Credential; or

3. Equivalent staff development in three or more of the following areas:

- i. Planning and evaluation;
  - ii. Staff management and professional development;]
  - [iii.] **1. Educational[, and physical activity[, and special];**
  - 2. Special needs programming and program development;**
  - [iv. Fiscal management;]
  - 3. Social-emotional and behavioral development for young children;**
  - [v.] **4. Legal issues, including ADA guidelines; and**
  - [vi. Facilities management;
  - vii. Family support and community resources;
  - viii. Marketing and public relations; and]
  - [ix.] **5. (No change in text.)**
- (e)-(g) (No change.)

10:122-[4.8]4.9 Special requirements to prevent child abuse and neglect

(a) The [sponsor/sponsor] **sponsor, sponsor** representative, director, or any staff member shall verbally notify the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been subjected to abuse [and/or] **or** neglect by a staff member(s)], or any other adult, pursuant to [the Child Abuse and Neglect Law (see) N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14)].

[(b)] For centers serving children under the Department's supervision, the sponsor/sponsor representative, director, or any staff member shall report any suspected abuse or neglect of the child by his or her parent(s) or other family members to the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873).]

[(c)] (b) In addition to the reporting requirements specified in (a) above, the [sponsor/sponsor] **sponsor, sponsor** representative, director, or any staff member shall advise the parent(s) of the occurrence of any unusual incident(s) that occurred at the center and that might indicate possible abuse [and/or] **or** neglect involving the child. Such notification

shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to, unusual sexual activity; violent or destructive behavior; withdrawal or passivity; or significant change(s) in the child's personality, behavior or habits. The center shall maintain on file a record of such incidents and documentation that parents have been informed of them.

[(d)] (c) The Department, during the course of investigating an allegation of child abuse [and/or] **or** neglect, may determine that corrective action is necessary to protect the children whenever:

1. The [sponsor/sponsor] **sponsor, sponsor** representative, director, or staff member has been found by the Department's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children; [and/or]

2. The [sponsor/sponsor] **sponsor, sponsor** representative, director, or staff member has committed an act of child abuse [and/or] **or** neglect, as substantiated by the IAIU; [and/or] **or**

3. The [sponsor/sponsor] **sponsor, sponsor** representative, director, or staff member has been convicted of such acts.

[(e)] (d) Whenever the Department makes a determination that corrective action is necessary to protect the children, the [sponsor/sponsor] **sponsor or sponsor** representative shall carry out the Department's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected [sponsor/sponsor] **sponsor, sponsor** representative, director, or staff member(s) from the center or reassignment to other duties that do not involve contact with the children; or

2. When the [sponsor/sponsor] **sponsor, sponsor** representative, director, or staff member resides at the facility where the center is located, removal of the affected employee from the premises for a period of time extending from one hour prior to the arrival of the children until one hour after the children have left.

[(f)] (e) Such suspension, removal, or reassignment, as specified in [(e)1] (d)1 and 2 above, shall remain in effect until the results of the Department's investigation have been determined[,] and a final decision in the matter has been rendered by the Office of Licensing.

[(g)] (f) If an allegation of child abuse [and/or] **or** neglect is substantiated against a staff member, the [sponsor/sponsor] **sponsor or sponsor** representative shall immediately terminate the staff member's employment at the center. If an allegation of child abuse [and/or] **or** neglect is substantiated against the [sponsor/sponsor] **sponsor or sponsor** representative, the Department [will] **shall** revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

#### 10:122-[4.9]4.10 Child Abuse Record Information background check procedures

(a) As a condition of securing a new or renewal license or Certificate of Life/Safety Approval, the [sponsor/sponsor] **sponsor or sponsor** representative shall provide for himself or herself, and shall obtain from all staff members who are or will be working at the center on a regularly scheduled basis, written consent for the Department to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse [and/or] **or** neglect has been substantiated against any such person.

1. The [sponsor/sponsor] **sponsor, sponsor** representative, and each staff member shall complete a signed consent form provided by the Department that indicates the identifying information necessary to conduct a CARI background check, including the person's name, address, date of birth, sex, race, and Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the Department [will] **shall** advise each such person that the disclosure of his or her Social Security number is voluntary, and that the Social Security number will only be used for the purpose of conducting a CARI background check.

2. If a staff member refuses to consent to a CARI background check, the [sponsor/sponsor] **sponsor or sponsor** representative shall immediately terminate the staff member's employment at the center.

3. If the [sponsor/sponsor] **sponsor or sponsor** representative refuses to consent to a CARI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the License or Certificate of Life/Safety Approval, as applicable. The [sponsor/sponsor] **sponsor or sponsor** representative may appeal the denial, suspension,

revocation, or refusal to renew to the Department, as specified in N.J.A.C. 10:122-2.5.

**4. When a person who is not required to complete a CARI background check is working with children at the center, the center shall ensure oversight of that person by another staff member and ensure that person is not left alone to supervise a child or group of children.**

(b) When the center applies for a new or renewal license or Certificate of Life/Safety Approval, the [sponsor/sponsor] **sponsor or sponsor** representative shall submit to the Department the completed CARI consent forms for all staff members who are or will be working at the center on a regularly scheduled basis.

1. Within two weeks after a new staff member begins working at the center, the [sponsor/sponsor] **sponsor or sponsor** representative shall submit to the Department a completed CARI consent form for the new staff member.

2. Until the results of the CARI background check for a new staff member have been received from the Department, the center shall ensure [that a current staff member is present whenever the new staff member is caring for children at the center] **oversight of the new staff member by another staff member, and ensure that person is not left alone to supervise a child or group of children.**

(c) When the [sponsor/sponsor] **sponsor or sponsor** representative submits the CARI consent forms to the Department, the [sponsor/sponsor] **sponsor or sponsor** representative shall enclose payment of \$10.00 for each CARI background check, in the form of a check or money order from the center made payable to "Treasurer, State of New Jersey." The center may use its own discretion in offering to pay or reimburse the staff member for the cost of the CARI background check.

(d) Upon receipt of the completed CARI consent forms and payment from the center, the Department [will] **shall** conduct a search of its records for substantiated incidents of child abuse [and/or] **or** neglect. The Department will consider incidents of child abuse [and/or] **or** neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse [and/or] **or** neglect; except that the Department may consider substantiated incidents prior to that date if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a child care center.

(e) Within 45 working days of receipt of the completed CARI consent forms and payment from the center, the Department [will] **shall** inform the [sponsor/sponsor] **sponsor or sponsor** representative in writing as to whether a substantiated incident of child abuse [and/or] **or** neglect by the [sponsor/sponsor] **sponsor, sponsor** representative, or a staff member has been found. If such an incident has been found, the Department [will] **shall** inform the [sponsor/sponsor] **sponsor or sponsor** representative in writing of the name of the perpetrator.

(f) If the CARI background check does not reveal any substantiated incident of child abuse [and/or] **or** neglect by the [sponsor/sponsor] **sponsor, sponsor** representative, or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this chapter have been met.

(g) If the CARI background check reveals that an incident of child abuse [and/or] **or** neglect has been substantiated against a staff member, the [sponsor/sponsor] **sponsor or sponsor** representative shall immediately terminate the staff member's employment at the center.

1. The [sponsor/sponsor] **sponsor or sponsor** representative shall notify the staff member in writing that the termination of employment is based on a substantiated incident of child abuse [and/or] **or** neglect.

2. If the incident was substantiated prior to June 29, 1995, the [sponsor/sponsor] **sponsor or sponsor** representative shall notify the staff member in writing that the staff member may appeal the termination of employment to the Department.

[(h)] (f) If the CARI background check reveals that an incident of child abuse and/or neglect has been substantiated against the sponsor/sponsor representative, the Department will deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor/sponsor representative may appeal the denial,

revocation, or non-renewal to the Department, as specified in N.J.A.C. 10:122-2.5.]

(i) (h) In keeping with the confidentiality provisions of [the State Child Abuse and Neglect Law,] N.J.S.A. 9:6-8.10a, the [sponsor/sponsor] **sponsor, sponsor** representative, and all staff members shall keep all completed CARI consent forms and related correspondence confidential.

1. The center shall maintain the results of the CARI background checks and related correspondence on file in a confidential manner **at the center**.

2. When a substantiated incident of child abuse [and/or] **or** neglect by the [sponsor/sponsor] **sponsor, sponsor** representative, or a staff member has been found by the Department, the [sponsor/sponsor] **sponsor, sponsor** representative, and the staff member shall not disclose to any other person the identity of the perpetrator or any other information concerning the incident.

#### 10:122-[4.10]4.11 Criminal History Record Information background check procedures

(a) As a condition of securing a license or Certificate of Life/Safety Approval, the [sponsor/sponsor] **sponsor or sponsor** representative shall ensure that a Criminal History Record Information (CHRI) fingerprint background check is completed for himself or herself, and for all staff members at least 18 years of age who are or will be working at the center on a regularly-scheduled basis, to determine whether any such person has been convicted of a crime, as specified in P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.10 to 6.17).

1. The [sponsor/sponsor] **sponsor or sponsor** representative and each staff member shall complete the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

2. The [sponsor/sponsor] **sponsor or sponsor** representative and each staff member shall provide the identifying information and documentation to the State-authorized vendor as necessary to conduct a CHRI background check, including the individual's name, address, date of birth, place of birth, citizenship, sex, race, height, weight, hair color, eye color, Social Security number, and the center's license number.

3. If a staff member refuses to consent to a CHRI background check, the [sponsor/sponsor] **sponsor or sponsor** representative shall immediately terminate the staff member's employment at the center.

4. If the [sponsor/sponsor] **sponsor or sponsor** representative refuses to consent to a CHRI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The [sponsor/sponsor] **sponsor or sponsor** representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 10:122-2.5.

5. When a person who is not required to complete a CHRI background check is working with children at the center, the center shall ensure oversight of that person by another staff member **and ensure that the person is not left alone to supervise a child or group of children**.

(b) When the center applies for a new license or Certificate of Life/Safety Approval, [or its first renewal license or Certificate of Life/Safety Approval subsequent to January 26, 2001 (the effective date of P.L. 2000, c. 77),] the [sponsor/sponsor] **sponsor or sponsor** representative shall ensure that each staff member at least 18 years of age who is or will be working at the center on a regularly scheduled basis completes the CHRI fingerprinting process specified in (a) above.

1. Within two weeks after a new staff member begins working at the center, the [sponsor/sponsor] **sponsor or sponsor** representative shall ensure that the new staff member completes the CHRI fingerprinting process specified in (a) above.

2. Until the center receives the results of the CHRI background check **for a new staff member** from the Department [for a new staff member] **of Human Services**, the center shall ensure [that a current] **oversight of that person by another staff member** [is present whenever the new staff member is caring for] **and ensure that the person is not alone to supervise a child or group of children** [at the center].

(c) (No change.)

(d) Upon receipt of the results of the CHRI background check from the Division of State Police and the Federal Bureau of Investigation, the Department shall inform the [sponsor/sponsor] **sponsor or sponsor** representative and the staff member in writing as to whether any record of conviction by the [sponsor/sponsor] **sponsor, sponsor** representative, or staff member has been found.

(e) If the CHRI background check does not reveal any record of conviction by the [sponsor/sponsor] **sponsor, sponsor** representative, or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this [manual] **chapter** have been met.

(f) If the CHRI background check reveals a record of conviction by the [sponsor/sponsor] **sponsor, sponsor** representative, or a staff member, the Department shall inform the convicted individual of the opportunity to challenge the accuracy of the CHRI.

(g) If the CHRI background check reveals a record of conviction by a staff member for a crime or offense specified in (c) above, the [sponsor/sponsor] **sponsor or sponsor** representative shall immediately terminate the staff member's employment at the center.

(h) If the CHRI background check reveals a record of conviction by the [sponsor/sponsor] **sponsor or sponsor** representative for a crime or offense specified in (c) above, the Department shall deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

(i) If the CHRI background check reveals a record of conviction by the [sponsor/sponsor] **sponsor, sponsor** representative, or a staff member for a crime or offense other than those specified in (c) above, the [sponsor/sponsor] **sponsor, sponsor** representative, or staff member may be eligible for employment at, or ownership, or sponsorship of, a child care center if the Department determines that the person has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether a person has affirmatively demonstrated rehabilitation, the Department shall consider the following factors:

i.-vi. (No change.)

vii. Any social conditions [which] **that** may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those **individuals** who have had the person under their supervision.

2. The Department shall make the final determination regarding the employment of a [sponsor/sponsor] **sponsor, sponsor** representative, or staff member with a criminal conviction.

(j) If the [sponsor/sponsor] **sponsor or sponsor** representative has knowledge that criminal charges are pending against a staff member, the [sponsor/sponsor] **sponsor or sponsor** representative shall promptly notify the Office of Licensing to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

(k)-(l) (No change.)

## SUBCHAPTER 5. PHYSICAL FACILITY REQUIREMENTS

### 10:122-5.1 Applicability of requirements to programs operating in public school buildings

**A child care center operating in a public school building concurrently used as a public school shall not be required to meet the requirements of this subchapter, other than N.J.A.C. 10:122-5.3(i)5, unless otherwise required by law.**

#### 10:122-[5.1]5.2 State, county, and municipal government physical facility requirements

(a) A person seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 (hereinafter referred to as the "NJUCC").

1. For newly constructed buildings, for existing buildings whose construction code group classification would change from that which it

had been, or for existing buildings that require major alteration or renovation, the center shall obtain a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the center's compliance with the provisions of the NJUCC, and submit a copy of the CO to the Office of Licensing, for one of the following group classifications:

i. E (Educational) for buildings accommodating children 2 ½ years of age [and/or] **and** older and having a total occupancy of six or more children;

ii.-iii. (No change.)

2. Plan reviews for centers to be located in newly constructed buildings shall be submitted as follows:

i. In addition to submitting preliminary and final architectural drawings to the local construction official, a [sponsor/sponsor] **sponsor or sponsor** representative that plans to construct a new or renovate an existing building for use as a center shall submit preliminary [and/or] **or** final architectural drawings to the Office of Licensing for review and approval prior to beginning construction.

ii. The [sponsor/sponsor] **sponsor or sponsor** representative shall submit to the Office of Licensing revised final architectural drawings containing all Office of Licensing-required items listed in the plan review, if any, and secure final approval from the Office of Licensing prior to beginning construction.

3.-6. (No change.)

7. Whenever a municipality grants to a center a written variation(s) from any of the requirements of the NJUCC, the Office of Licensing may accept such variation(s) as meeting the applicable requirement(s) of this [manual] **chapter**.

i. If the Office of Licensing does not accept the variation, the non-acceptance shall be based on the best interests of the children in the center, and shall include consideration for their health and safety. The non-acceptance shall be based on the requirements of this [manual] **chapter** only, and shall not preclude the municipality from continuing to grant the variation.

ii. (No change.)

**8. The center shall obtain a Life Hazard Use Registration certificate applicable to the center's licensed capacity and ages served pursuant to the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq. The center shall post this document in a prominent location within the center.**

(b)-(e) (No change.)

10:122-[5.2]5.3 Physical plant requirements for all centers

(a) Indoor maintenance and sanitation requirements are as follows:

1.-7. (No change.)

8. Pesticides for indoor and outdoor use shall be used in accordance with the manufacturer's directions and in keeping with the applicable provisions specified in N.J.A.C. 7:30-10, Pesticide Control Code.

i. (No change.)

ii. Before applying pesticides, all toys and non-permanent play equipment shall be removed from outdoor [play areas and/or] **and** indoor play areas.

9.-12. (No change.)

13. [Ensure] **The center shall ensure** that window blind cords and other [cord/rope items] **cords and ropes** that present risk of harm are inaccessible to children.

14. All balconies, rooftops, verandas, [and/or] **and** all floor levels used by children that are above the first floor and subject the children to an open drop or atrium shall be protected by barriers consisting of safety glass, Plexiglas, or any other materials approved by the Office of Licensing. Such barriers shall extend at least five feet above the floor level.

15.-19. (No change.)

20. The center shall comply with the provisions specified in P.L. 1999, c. 362 (N.J.S.A. 30:5B-5.5) requiring reports of drinking water tests to be posted in all buildings at the center when received from a water supply company or prepared by the center, [if applicable] **for private wells and other non-public water sources**.

**21. The center shall ensure all guardrails accessible to children are no more than four inches apart or are otherwise protected to prevent head entrapment.**

(b) Outdoor maintenance and sanitation requirements are as follows:

1.-5. (No change.)

6. Centers that provide outdoor space shall maintain **all fencing** in proper condition [all fencing or other natural or man-made barriers or enclosures].

7. The center shall comply with the Playground Safety Subcode of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23-11[, which requires playgrounds operated by any governmental entity, nonprofit entity, or private for-profit entity to meet the specifications for resilient surfacing and all other elements set forth in the Handbook for Public Playground Safety of the United States Consumer Product Safety Commission (CPSC)].

[i. Each center operated by a nonprofit entity shall ensure that all playground elements other than surfacing comply with the Playground Safety Subcode by October 18, 2014.

ii. The center shall ensure that all newly-constructed playgrounds and all new and replacement playground equipment comply with the Playground Safety Subcode upon installation.]

[iii.] i. Centers that take children to a community playground shall ensure that the playground surfacing and all other elements comply with the Playground Safety Subcode [within the applicable time limits] before being used by the children.

(c) (No change.)

(d) Heating requirements are as follows:

1. A minimum temperature of 68 degrees Fahrenheit shall be maintained in all [rooms] **areas** used by the children **including, but not limited to, classrooms and bathrooms**.

2.-3. (No change.)

(e) (No change.)

(f) Toilet facility requirements are as follows:

1.-2. (No change.)

3. Platforms shall be available as appropriate for use by the children when adult size toilets, [and/or] sinks, [and/or] **or** urinals are used by the children.

(g) A center utilizing a kitchen facility [and/or] **or** food preparation area shall ensure that the cooking equipment and kitchen facility are kept in clean and sanitary condition and are operated in compliance with applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24.

(h) (No change.)

(i) Environmental condition precautions are as follows:

1. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the [applicant/facility] **applicant or facility** operator shall submit a written certification to the Office of Licensing indicating whether the building has ever housed a use that was classified under the Uniform Construction Code, N.J.A.C. 5:23, as any of the following:

i.-vi. (No change.)

2. (No change.)

3. In the event that the building housed a use that was or would have been classified as any of those uses listed in (i)1 above, the facility operator shall certify in writing to the Office of Licensing that [the site of the center]:

i. [Complies] **The site of the center complies** with the Madden legislation (P.L. 2007 c. 1), the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the Department of Environmental Protection's Guidance Document for Environmental Guidance for [all Childcare] **All Child Care** Facilities and [Educational] **Education** Institutions, incorporated by reference, as amended and supplemented, which can be found at <http://nj.gov/dep/srp/guidance>;

ii. [That the] **The** facility operator has contacted the Department of Environmental Protection (**DEP**) to determine what further steps, if any, are necessary to address the risks posed by the prior historical use, and the facility operator has complied with all recommended corrective actions;



iii. [Has] **He or she has** conducted an Indoor Environmental Health Assessment (IEHA) that has been performed by a Licensed Indoor Environmental Consultant in accordance with the Department of Health rules (N.J.A.C. 8:50); and

iv. [Has] **He or she has** submitted the IEHA to the Department of Health for review and evaluation of the indoor environmental conditions in the building where the center is located.

**4. Paragraphs (i)1 through 3 above shall not apply to any centers covered by N.J.A.C. 10:122-2.3(e).**

[4.] **5.** At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the **applicant or facility** [applicant/facility] operator shall certify in writing that the center provides a potable water supply provided by a public community water system.

**i. If the facility is supplied by a public community water system, the applicant or facility operator shall provide documentation of water testing conducted by an authorized source for water testing for lead and copper from all drinking water fountains and at least 50 percent of all indoor water faucets utilized by the center.**

**ii. If the results reveal elevated levels of lead or copper as defined by the New Jersey Department of Environmental Protection, Bureau of Safe Drinking Water, which pose risk of harm to children, the center shall:**

**(1) Immediately discontinue use of all drinking water sources in the building;**

**(2) Provide bottled water for drinking;**

**(3) Provide bottled water for food preparation with approval from the local health official; and**

**(4) Notify parents of the children in attendance at the center.**

**iii.** If the facility or site is not provided a potable water supply by a public community water system, the applicant shall provide potable water sampling results demonstrating compliance with maximum contaminant levels for all contaminants required to be tested pursuant to N.J.A.C. 7:10-5 for public non-transient, non-community (NTNC) water systems, including radiological contaminants, regardless of whether they meet the definition of NTNC systems as defined at N.J.A.C. 7:10-1.3. This sampling shall have been conducted within three years of the date of application submission, except nitrates and coliform, for which the sampling shall have been conducted within 90 days of submitting the application.

[5.] **6.** At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the [applicant/facility] **applicant or facility** operator shall certify in writing that the center complies with all existing Department of Children and Families regulatory requirements for child care centers with respect to radon, asbestos, and lead listed in [(a)14] **(a)19** and (h) above and (j) below.

Recodify existing 6.-8. as 7.-9. (No change in text.)

(j) Asbestos precautions are as follows:

1. (No change.)

2. An inspection for asbestos containing materials shall be conducted as part of the Indoor Environmental Health Assessment. If the New Jersey Department of Health determines that corrective action must be taken to minimize exposure potential, the [sponsor/sponsor] **sponsor or sponsor** representative shall follow the recommendation of that [Department] **department** for enclosure, removal, or other appropriate action to remove the threat or risk of asbestos contamination, as specified in N.J.A.C. 5:23-8.

(k) Swimming pool requirements are as follows:

1.-4. (No change.)

**5. Wading pools that are 24 inches or less, are filled as needed, are portable, and do not have a filtration system are prohibited.**

(l) Emergency procedure requirements are as follows:

1. The center shall prepare written emergency procedures delineating:

i.-ii. (No change.)

**iii. An alternate indoor location that operates during the same operating hours as the center. The center shall:**

**(1) Select an alternate indoor location within safe walking distance; or**

**[iii.] (2) [The] Develop a written procedure for obtaining emergency transportation to the alternate location;**

iv. The hospital [and/or] **or** clinic to which injured or ill children will be taken;

v.-vi. (No change.)

vii. A diagram showing how the center is to be evacuated in case of emergency **from each classroom and the outdoor play area;**

viii.-ix. (No change.)

2. The emergency procedures shall be [posted in a prominent location on every floor within the center] **readily accessible in a designated location within the center.**

3. (No change.)

**4. The center shall conduct two lockdown drills per year and maintain on file a record of each lockdown drill. The center shall ensure that lockdown drills are conducted during each session provided at the center.**

**5. Ensure all locking devices, including those used for lockdown procedures:**

**i. Are acceptable for use by the local fire official; and**

**ii. Do not pose a risk of harm to the children; and**

**6. All staff shall be trained on the use of these devices.**

(m) Supplemental evacuation requirements are as follows:

1.-2. (No change.)

**3. All centers providing care for non-ambulatory infants and toddlers shall have one evacuation crib for every four non-ambulatory children by (12 months after the effective date of this amendment).**

[3.] **4.** (No change in text.)

(n) Fire prevention requirements are as follows:

1. The center shall conduct fire drills at least once a month, as specified in the NJUFC. The center shall ensure that fire drills are conducted during each session provided at the center **and that one fire drill per year is conducted during nap time, if applicable.**

2.-4. (No change.)

(o) First aid requirements are as follows:

1. (No change.)

**2. The first aid and CPR training shall include a hands-on training component in addition to any online training coursework.**

[2.] **3.** (No change in text.)

(p) Play equipment, materials, and furniture for indoor and outdoor use shall be of sturdy and safe construction, non-toxic, [and] free of hazards, **and used in accordance with the manufacturer's instructions. The center may not use play equipment intended for outdoor use indoors.**

(q) Space and room requirements are as follows:

1. (No change.)

2. At no time shall a center [allow]:

**i. Allow more children in attendance than the [number] licensed capacity as specified on [its] the license or the Certificate of Life/Safety Approval[.];**

**ii. Allow more children in attendance than the licensed room capacity; or**

**iii. Operate in violation of the written conditions on its license or Certificate of Life/Safety Approval including, but not limited to, capacity or age restrictions for specific classrooms.**

3. Indoor space requirements for play rooms [and/or] **and** sleep rooms are as follows:

i.-v. (No change.)

4. (No change.)

(r) (No change.)

10:122-[5.3]5.4 Additional physical plant requirements for early childhood programs

(a) For early childhood programs, the following shall apply:

1.-4. (No change.)

5. Toilet **and** sink facility requirements are as follows:

i. (No change.)

ii. At least one toilet facility and sink shall be located on each floor level used by children in centers that [begin] **began** operating after March 21, 2005.

**iii. For each classroom used by children under 2 1/2 years of age, a minimum of one sink shall be located in the classroom for newly-constructed centers and expansions.**

6. Kitchen facility requirements are as follows:

i. The kitchen facility [and/or] or food preparation area shall be separated from other areas of the center by a door, gate, screen, or other barrier to prevent accidental access by children.

ii. (No change.)

7. (No change.)

10:122-[5.4]5.5 (No change in text.)

10:122-[5.5]5.6 Special physical facility and monitoring requirements to prevent child abuse [and/or] or neglect

(a)-(b) (No change.)

(c) For rooms [and/or] and areas used by children, except as specified in (e) below, the following monitoring requirements shall apply:

1. The center shall equip every room or area designated for use by children, except for kitchen and toilet facilities, with one of the following options in order to promote maximum visibility [and/or] and audibility:

i. (No change.)

ii. Uncovered and unobstructed glass panels [and/or] or two-way mirrors that comprise at least 10 percent of the square footage of one interior wall, provided that such [panels/mirrors] **panels or mirrors** are not in conflict with applicable provisions of the NJUCC [and/or] or the NJUFC;

iii. (No change.)

iv. At least one interior door leading to every room designated for use by children, which shall meet one of the following conditions, provided that such conditions are not in conflict with applicable provisions of the NJUCC [and/or] and the NJUFC:

(1)-(4) (No change.)

v. (No change.)

(d) Toilet facility requirements are as follows:

1. For existing centers that have only one toilet facility, or for existing centers that have more than one toilet facility, but where all toilets have been counted in determining the maximum number of children who can be served per session, the center shall ensure that staff members [and/or] and other adults who use the toilet facility for their own toileting needs do so only:

i. (No change.)

ii. After the staff member [and/or] or other adult has secured the door with a lock or latch that is located on the inside of the door at a height beyond the reach of the children.

(1) If a center documents to the satisfaction of the Office of Licensing that it lacks the authority to meet the [lock/latch] **lock or latch** provisions noted in [(d)ii above] **this subparagraph**, the Office of Licensing may approve an alternative means by which the center may comply with the privacy intent of this provision.

2. For existing centers that have an additional toilet facility that has not been counted in determining the maximum number of children who can be served per session and for centers to be located in newly constructed buildings, the center shall ensure that:

i. One toilet facility is reserved and designated for the exclusive use of staff members [and/or] and other adults; and

ii. This designated toilet facility is identified by a sign located on the exterior of its door, indicating that this toilet facility is for the exclusive use of staff members [and/or] and other adults.

(e) (No change.)

## SUBCHAPTER 6. PROGRAM REQUIREMENTS

### 10:122-6.1 Activities

(a) (No change.)

(b) The staff member(s) specified in N.J.A.C. 10:122-4.5 who are responsible for developing and overseeing the implementation of the center's daily activities shall ensure that:

1. (No change.)

2. Children have opportunities to choose materials freely **and materials are accessible at all times except during lunch and nap time;**

3.-6. (No change.)

7. The use of a television, computers, and other video equipment shall be limited to educational and instructional use, shall be age and developmentally appropriate, and shall not be used as a substitute for planned activities or for passive viewing.

i. Centers shall [significantly limit] **prohibit** the use of television, computers, and other video equipment for children under the age of two [and shall prepare and maintain on file written plans for such use and the length of time for their use. In addition, centers shall develop a written policy for the use of such equipment as it pertains to children in care less than four hours and children in care more than four hours].

ii.-iii. (No change.)

(c)-(d) (No change.)

**(e) The center shall ensure that pacifiers are removed when the children are crawling or walking.**

[(e)] **(f)** (No change in text.)

[(f)] **(g)** For early childhood programs, the following shall apply:

1. (No change.)

2. Centers serving children less than 18 months of age shall provide[: i. At] at least four [of the following] types of children's daily activities[:] **including, but not limited to,** sensory; [language/dramatic] **language and dramatic** play; manipulative; building; large muscle; music; or other comparable activities; and [ii. At] at least four types of supplies [and/or] and equipment for each activity area chosen by the center[, as listed below:].

[(1) Sensory activities: crib mobiles; teething toys; busy boxes; baby mirrors; rattles; melody chimes; squeeze toys; or other comparable supplies or equipment.

(2) Language/dramatic play activities: picture books; toy telephones; records; hand puppets; stuffed animals; soft washable dolls; photographs; or other comparable supplies or equipment.

(3) Manipulative activities: squeeze and grip toys; boxes; sorting and stacking toys; three and/or four piece wooden inlay puzzles; puzzle blocks; simple threading toys; mobile pull toys; balls; or other comparable supplies or equipment.

(4) Building activities: soft lightweight blocks; toy cars, trains and/or boats; figures of animals and people; stacking rings and/or cups; nesting toys; or other comparable supplies or equipment.

(5) Large muscle activities: low climbers; slides; riding/rocking toys; foam or soft plastic balls; gym mats; play tunnels; or other comparable supplies or equipment.

(6) Music activities: rhythm instruments; record player and records; toys equipped with musical tones; musical mobiles and/or busy boxes; drums, xylophones and/or pianos; or other comparable supplies or equipment.]

[iii.] i. Staff members shall provide periodic activity or learning opportunities to stimulate the five senses of **non-ambulatory** children [who are awake and being cared for in cribs, playpens, or other Office of Licensing-approved sleeping equipment].

[iv.] ii. Staff members shall [carry non-ambulatory infants around the center periodically] **ensure infants have age-appropriate, supervised tummy time at least twice per day.**

[v.] iii. (No change in text.)

**iv. The use of infant equipment including swings, exersaucers, and bouncers shall be limited to periods of 30 minutes at a time.**

3. Centers serving children 18 months of age and older shall provide[: i. At] at least five [of the following] types of children's daily activities [:] **including, but not limited to,** language; science and mathematics; manipulative; large muscle; building; art; music; drama; or other comparable activities; and [ii. At] at least five types of supplies and [/or] equipment for each daily activity chosen by the center[, as listed below:].

[(1) Language activities: books; flannel board; upper and lower case letters; pictures for discussion; materials for recognition, identification and/or classification; poetry; puppets; audio-visual materials; show and tell items; or other comparable supplies or equipment.

(2) Science and math activities: plants and gardening equipment; aquarium with fish and/or other appropriate live animals; water table and supplies; sand table and supplies; cooking supplies; weather chart and/or thermometer; counting equipment; or other comparable supplies or equipment.

(3) Manipulative activities: puzzles; pegs and pegboards; lacing boards; table top building toys; stencils; dominoes; pounding bench; lotto games; or other comparable supplies or equipment.

(4) Large muscle activities: rocking boat; wheel toys; climbers; slides; balance beam; barrels and/or large cartons; parachute; balls and beanbags; outdoor play equipment; gym mats; or other comparable supplies or equipment.

(5) Building activities: unit blocks (minimum of four sizes); transportation toys; farm animals and/or play people; work bench and tools; table top building toys; building logs; or other comparable supplies or equipment.

(6) Art activities: crayons; tempera paint, large brushes and newsprint; finger paint and finger paint paper; construction paper in assorted colors; paste or glue; blunt scissors; collage materials; non-toxic felt tip markers; easels; clay or playdough; or other comparable supplies or equipment.

(7) Music activities: record player and records; piano and/or organ; guitar; rhythm sticks; drums; cymbals and bells; tape recorder; or other comparable supplies or equipment.

(8) Dramatic activities: toy dishes; ironing board; telephones; occupational props and/or uniforms; dress-up clothes; housekeeping area (stove, sink, refrigerator); cradle or doll bed; doll carriage and dolls; puppets; grocery store, post office or hospital; or other comparable supplies or equipment.]

4. (No change.)

[(g)] (h) For school-age child care programs, the following shall apply:

1. Centers shall plan and implement programs that include:

i.-iii. (No change.)

iv. Recreational opportunities, including a mixture of [indoor/outdoor] **indoor, outdoor**, and large muscle activities; and

v. (No change.)

10:122-6.3 Food and nutrition

(a) All centers shall comply with the following requirements:

1.-11. (No change.)

12. The center shall ensure that these safety and sanitation practices are followed:

i. (No change.)

**ii. Sippy cups shall be labeled with the child's name;**

Recodify existing ii.-iii. as **iii.-iv.** (No change in text.)

[iv.] v. Unused portions of food shall be labeled with the child's name, date, and type of food. The food shall be stored in the refrigerator, returned to the parent, or discarded with the parent's consent. All unused food shall be discarded if not consumed [after 24 hours of storage in the refrigerator] **by the end of the day.**

(b) For early childhood programs, the following shall apply:

1.-2. (No change.)

3. Feeding requirements for centers serving children less than 18 months of age are as follows:

i. The center shall develop mutually with each child's parent(s) and follow a feeding plan regarding the feeding schedule, specific formula, breastfeeding [arrangements/accommodations] **arrangements and accommodations**, and/or expressed breast milk, nutritional needs, and introduction of new food for each child.

ii.-iii. (No change.)

**iv. The requirements for bottles are as follows:**

[iv.] (1) Each child's bottle(s) shall be [sanitized, including the nipple(s), when the center provides the bottle,] labeled with the child's name and dated;

**(2) The center shall sanitize each child's bottles, including the nipples, when the center provides the bottles;**

Recodify existing (1)-(3) as **(3)-(5)** (No change in text.)

[(4)] (6) No milk, formula, or breast milk shall be warmed in a microwave oven[.];

v.-vii. (No change.)

viii. When a child is bottle-feeding while resting [or sleeping], the bottle shall be removed when the child falls asleep.

4. Mealtime and snack requirements for centers serving children 18 months of age or older and those children younger than 18 months of age

who are developmentally ready to eat regular meals and snacks are as follows:

i.-iv. (No change.)

v. Centers that provide snacks shall ensure that the snack includes one juice, milk, or fruit and one food supplement selected from the lunch and dinner choices specified in [(b)4v] **(b)4iv** above, except on special occasions, such as holidays and birthdays; and

vi. (No change.)

(c) (No change.)

10:122-6.4 Rest and sleep requirements for early childhood programs

(a) For early childhood programs, the center shall provide opportunities for daily rest and sleep as follows:

1. For children 12 months of age and younger, the center shall ensure that each child is initially placed in a face-up sleeping position unless a different position is indicated in writing by the child's health care provider [and ensure that blankets or pillows not cover the child's face].

2. For children **from 13 to 18** months of age [and younger], the center shall provide daily rest and sleep according to the child's physical needs and ensure that blankets or pillows **do** not cover the child's face.

**3. Swaddling of children during rest and sleep is prohibited.**

[3.] **4.** For children over the age of 18 months and under the age of [five] **four** years, the center shall provide:

i. Daily rest [and/or] **or** sleep for each child who attends the center for four or more consecutive hours;

ii. Daily rest [and/or] **or** sleep for each child who attends the center for fewer than four consecutive hours, but whose individual physical needs call for a rest period while the child is at the center; and

iii. (No change.)

(b) The center shall provide sleeping equipment for each child as follows:

1. For children 12 months of age and younger, the center shall provide for each child a crib, that complies with the Consumer Product Safety Commission's (CPSC) Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220, which is incorporated herein by reference, and can be obtained through the CPSC's website at <http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf> [(no later than December 28, 2012)], playpen, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i. Each crib or playpen shall be equipped with:

(1) (No change.)

(2) A clean, snugly fitting sheet [or other covering and blanket];

(3)-(4) (No change.)

[ii. Locks and latches on the dropsides of cribs shall be safe and secure from accidental release.]

[iii.] **ii.** Sleeping equipment shall be free of pillows and soft bedding, **including, but not limited to, bumper pads**, when occupied by a sleeping child.

[iv.] **iii.** Stackable cribs shall be prohibited. [Centers currently using stackable cribs shall discontinue their use by August 6, 2014.]

2. For children over the age of 12 months and under the age of five years, the center shall provide for each child a crib that complies with the Consumer Product Safety Commission's (CPSC), Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220, which is incorporated herein by reference, and can be obtained through the CPSC's website at <http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf> [(no later than December 28, 2012)], playpen, cot, mat, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i.-iii. (No change.)

iv. Stackable cribs shall be prohibited. [Centers currently using stackable cribs shall discontinue their use by August 6, 2014.]

(c) Centers that operate after 7:00 P.M. shall comply with the following requirements for rest and sleep:

[1. For children who attend the center for three hours or less after 7:00 P.M., the center shall not be required to comply with the requirements specified in (a)2 above.]

[2.] **1.** For children who attend the center for more than three hours after 7:00 P.M., the center shall:

i.-iii. (No change.)

(d)-(h) (No change.)

**(i) Children shall not use pacifiers with straps or other types of attachment devices.**

10:122-6.5 Policy on the release of children

(a) The center shall maintain on file and follow a written policy on the release of children, which shall include:

1.-3. (No change.)

4. Written procedures to be followed by a staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, appear to be physically [and/or] **or** emotionally impaired to the extent that, in the judgment of the director [and/or] **or** staff member, the child would be placed at risk of harm if released to such an individual. The procedures shall require that:

i.-iii. (No change.)

**(b) The center shall distribute a copy of the release policy to the parent of each enrolled child and each staff member and secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the policy.**

[(b)] (c) (No change in text.)

10:122-6.6 Discipline

(a) The methods of guidance and discipline used shall:

1.-2. (No change.)

3. Lead to the child's ability to develop and maintain [self control] **self-control.**

(b)-(g) (No change.)

10:122-6.7 Special requirements to prevent child abuse [and/or] **or** neglect and inappropriate staff behaviors toward children

(a)-(b) (No change.)

(c) Staff members shall not engage in or inflict any form of child abuse [and/or] **or** neglect.

(d)-(e) (No change.)

**(f) Centers shall not prohibit staff members from or discipline staff members for:**

**1. Making good faith reports of suspected child abuse or neglect to the Division of Child Protection and Permanency or law enforcement; or**

**2. Taking photographs of children for the purpose of documenting injuries in support of a good-faith report of suspected child abuse or neglect to the Division of Child Protection and Permanency or law enforcement.**

10:122-6.8 Parent and community participation

(a) The center shall complete and maintain on file for each enrolled child a Children's Records Checklist, signed by the director, [or sponsor/sponsor] **sponsor, or sponsor** representative and designated by the Office of Licensing, indicating that the center has obtained documentation of:

1.-7. (No change.)

(b)-(c) (No change.)

(d) Staff member(s) shall inform the parent(s) of enrolled children in advance of any field trip(s), outing(s), or special event(s) involving the transportation of children away from the center. The center shall inform parents whether a school bus, **other approved** school vehicle, or private passenger vehicle will be used, and whether the driver will be a staff member, a parent, or another person. **The center shall provide each parent with the name and telephone number of any bus company providing service.** Before taking a child on such a field trip, outing, or special event, the center shall either:

1.-3. (No change.)

(e)-(g) (No change.)

(h) For early childhood programs, the following shall apply:

1. (No change.)

2. Centers choosing the options specified in either (h)1i or ii above shall maintain on file a listing of current members of the board or committee and documentation indicating that the board or committee is functioning. The board or committee shall:

i. (No change.)

ii. Include representatives from the civic, business, educational, [and/or] **or** child care communities; and

iii. (No change.)

3. The center shall provide for the direct involvement of parents of enrolled children in the center's operation and activities by:

i. (No change.)

ii. Holding individual parent/staff conferences semi-annually and upon request of the parent [and/or] **or** staff member(s) to discuss the child's needs and progress.

4. (No change.)

(i) (No change.)

(j) The center shall develop and follow a written policy on the expulsion of children from enrollment at the center.

1. (No change.)

2. The center shall not expel a child based solely on the child's parent making a complaint to the Office of Licensing regarding a center's alleged violations of the licensing [regulations,] **rules** or questioning a center directly regarding policies and procedures.

3. The center shall [give] **distribute** a copy of the expulsion policy to the parent of each enrolled child **and secure and maintain on file a record of each parent's signature attesting to receipt of the policy.**

[4. The center shall secure and maintain on file a record of each parent's signature attesting to receipt of the expulsion policy.]

[5.] **4.** If the center determines to expel a child, the center shall maintain on file a record of the circumstances, parental notification, and corrective action taken.

**(k) The center shall develop and follow a written policy on the use of social media including, but not limited to:**

**1. The use of social networking sites and other websites;**

**2. The use of e-mail, text messages, and other electronic means of communication with staff and parents;**

**3. The types of social media that the center uses;**

**4. The methods and devices the staff use to communicate with the parent;**

**5. The guidelines for appropriate conduct by staff members; and**

**6. The guidelines for parents including, but not limited to, prohibiting the posting of photographs or videos of any child other than their own.**

**(l) The center shall distribute a copy of the social media policy to the parent of each enrolled child and each staff member and secure and maintain on file a record of each parent's signature and each staff member's signature attesting to the receipt of the policy.**

[(k)] (m) (No change in text.)

## SUBCHAPTER 7. HEALTH REQUIREMENTS

10:122-7.1 [Illnesses/communicable] **Illnesses and communicable** diseases

(a) A center that seeks to serve any children who have any of the illnesses, symptoms of illness, or diseases specified in (c) and (d) below shall meet all applicable provisions of this subchapter and all provisions of N.J.A.C. 10:122-8.

(b) (No change.)

(c) The following provisions relate to illness [and/or] **or** symptoms of illness:

1.-2. (No change.)

3. If a child who has already been admitted to the center manifests any of the illnesses or symptoms of illness specified in (c)1 above, the center shall remove the child from the group of well children to a separate room or area, as specified in N.J.A.C. 10:122-[5.2(q)4]**5.3(q)4**, until:

i.-ii. (No change.)

4. The center may exclude a child whose illness prevents the child from participating comfortably in activities[,] or results in a greater need for care than the staff can provide without compromising the health and safety of other children at the center.

(d) (No change.)

10:122-7.2 Attendance by children [and/or] **or** staff members known to be infected with Human Immunodeficiency Virus (HIV)

(a) The center should admit a child known to be infected with HIV [(also known as HTLV-III or LAV)], the virus that causes Acquired Immunodeficiency Syndrome (AIDS), to the center.

(b)-(e) (No change.)

## 10:122-7.3 Health and immunization requirements for children

(a) For early childhood programs, the following shall apply:

1. (No change.)

2. For each child not enrolled in a public or private school, upon admission, the center shall maintain on file at the center a Universal Child Health Record (Department of Health Form CH-14) or its equivalent, updated annually, along with an immunization record, [except for a 30-day grace period as permitted in N.J.A.C. 8:57-4.5(e) for children coming from other states or countries and in accordance with the provisions of N.J.A.C. 8:57-4.6 and 4.7,] and a special care plan, if applicable. **A 30-day grace period is permitted in N.J.A.C. 8:57-4.5(e):**

**i. For children coming from other states or countries in accordance with N.J.A.C. 8:57-4.6 and 4.7; and**

**ii. For children who are in foster care or experiencing homelessness as defined by the McKinney-Vento Act, 42 U.S.C. § 11434a(2).**

3.-4. (No change.)

5. A child shall be exempted from a physical examination, immunization, or medical treatment if the parent objects thereto in a written statement submitted to the center, signed by the parent, explaining how the examination, immunization, or medical treatment conflicts with the child's exercise of bona fide religious tenets or practices.

i. [Religious affiliated] **Religiously-affiliated** centers shall have the authority to withhold or grant a religious exemption from the required immunization for children entering or attending their centers without challenge by any secular health authority, as specified in N.J.A.C. 8:57-4.4.

ii. (No change.)

6. (No change.)

(b) (No change.)

## 10:122-7.4 Health requirements for staff members

(a) Prior to or upon beginning work at the center, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the center written documentation of the results of the test [and/or] **and** x-ray.

1.-2. (No change.)

(b) (No change.)

(c) The center shall maintain on file either at the center or at a central administrative office the results of each staff member's:

1. Mantoux tuberculin test [and/or] **and** chest x-ray when indicated; and

2. (No change.)

(d) The [sponsor/sponsor] **sponsor or sponsor** representative or director shall exclude a staff member who:

1.-2. (No change.)

(e) When the affected staff member specified in (d) above serves as the director, then the [sponsor/sponsor] **sponsor or sponsor** representative shall take the necessary action specified in (d) above.

(f) When the affected staff member specified in (d) above is the [sponsor/sponsor] **sponsor or sponsor** representative, then the Office of Licensing shall take the necessary action specified in (d) above.

## 10:122-7.5 Administration and control of prescription and non-prescription medicines and health care procedures

(a) (No change.)

(b) The center shall develop and follow a policy on the administration of medication and health care procedures to children, which shall include the following provisions:

1. (No change.)

2. The center shall:

i. Designate those staff members who are trained as specified in N.J.A.C. 10:122-[4.7(a)8]**4.8(a)8** and authorized to administer medication or health care procedures to, or to supervise self-administration of medication or health care procedures by, those children whose parents authorize it; and

ii. (No change.)

3.-4. (No change.)

5. The center shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage[,] **for the age** [and/or] **and** weight of the child, as indicated on the label:

i.-iii. (No change.)

iv. Non-aspirin fever [reducers/pain] **reducers and pain** relievers; and

v. (No change.)

6.-9. (No change.)

**10. The center shall store prescribed epinephrine pens in their original boxes with the child's name and prescription. A special care plan or other documentation from a health care provider shall accompany the epinephrine pen. If two epinephrine pens are required, both shall be available. The center shall store epinephrine pens on site consistent with the requirements stated at N.J.S.A. 18A:40-12.5.e(1).**

[10.] **11.** (No change in text.)

(c)-(d) (No change.)

## 10:122-7.6 Injury to a child while in the center's care

(a) The center shall take immediate necessary action to protect the child from further harm and shall immediately notify the child's parent(s) [verbally] when one of the following occurs while the child is in the center's care:

1. (No change.)

2. A child sustains a head **or facial** injury, **including when a child bumps his or her head;**

3.-4. (No change.)

(b) The center shall maintain on file a **written** record of [the] **each** incident[s] **resulting in an injury** as specified in (a) above. [The incident] **These** records shall include the following:

1.-6. (No comment.)

(c)-(d) (No change.)

**(e) The center shall develop and follow a written policy for parental notification if a method other than a telephone call is used at the center for parental notification.**

**1. The center shall distribute a copy of this policy to the parent of each enrolled child and secure and maintain on file a record of each parent's signature attesting to receipt of this policy.**

## 10:122-7.7 Environmental sanitation requirements

(a)-(b) (No change.)

(c) Pets shall be permitted in a center only under the following circumstances:

1. Pets kept by or located in the center, regardless of ownership, shall be:

i.-v. (No change.)

vi. Prohibited from the following areas:

(1) [Areas/surfaces] **Areas and surfaces** used for food preparation, storage, [and/or] **or** service;

(2)-(3) (No change.)

2. (No change.)

(d) Smoking shall be prohibited in all rooms[, vehicles,] and outside play areas while such rooms[, vehicles,] and areas are occupied by children. [1.] The center shall comply with **each provision of P.L. 1998, [c.35, which contains the provisions specified in (d)2 to 5 below] c. 35 (N.J.S.A. 30:5B-5.3).**

[2. Smoking is prohibited in an indoor area of a child care center when children are present, and in all vehicles when used for center-sponsored transportation.

3. In addition, smoking is prohibited in an indoor area of a child care center even when children are not present, unless that area is separately ventilated to the outside.

4. The center shall post a sign in a prominent location which is clearly visible to employees and the public that smoking is prohibited.

5. For the purposes of this subsection, "smoking" means the burning of a lighted cigar, cigarette, pipe or other matter or substance which contains tobacco.]

(e) (No change.)

## 10:122-7.8 Personal hygiene requirements

(a) Handwashing requirements are as follows:

1. The center shall ensure that children **three months of age and older** wash their hands with soap and running water:

i.-ii. (No change.)

iii. Immediately after coming into contact with blood, fecal matter, urine, vomit, nasal secretions, or other body fluids or secretions; [and]

iv. Immediately after coming in contact with an animal's body secretions[.]; **and**

v. **Immediately after outdoor play.**

**2. For children under three months of age or for those children three months of age and older wherein hand washing with soap and running water may not be developmentally appropriate, the center may use an alternate means for hand washing, including, but not limited to, disposable baby wipes.**

[2.] **3.** (No change in text.)

[3.] **4.** Staff members shall wash their hands with soap and running water immediately:

i.-v. (No change.)

vi. After coming into contact with blood, fecal matter, urine, vomit, nasal secretions, or other body fluids or secretions.

(b) (No change.)

(c) Centers that encourage children to brush their teeth while at the center shall individually store toothbrushes in a manner [which] **that** prevents the toothbrushes from touching each other during storage.

(d) (No change.)

## 10:122-7.9 Illness log for early childhood programs

(a) For early childhood programs, the following shall apply:

1. The center shall maintain on file a log of the initial illnesses, symptoms of illness, or diseases that are exhibited by each child while in the center's care, as specified in N.J.A.C. 10:122-7.1(c) and (d). This illness log shall include:

i.-iii. (No change.)

iv. The action taken by the center to assist:

(1) The child who is demonstrating symptoms of illness; [and/or] **and**

(2) (No change.)

v.-vi. (No change.)

## 10:122-7.10 Reporting of illnesses, injuries, and reportable diseases

(a) The director, [or sponsor/sponsor] **sponsor, or sponsor** representative, upon learning that an enrolled child or staff member at the center has been diagnosed as having contracted or is suspected of having a reportable disease, as specified in N.J.A.C. 10:122-7.1(d), shall report this knowledge by the next working day to the local health department.

(b) The director, [or sponsor/sponsor] **sponsor, or sponsor** representative shall report the **following** occurrences [of any injury or illness that results in the admittance to a hospital or death of a child while under the center's supervision] to the Office of Licensing by the next working day after the center learns of the occurrence **and shall submit documentation to the Office of Licensing within one week of the occurrence of the incident:**

**1. The occurrence of an injury or illness while under the center's supervision that results in a child visiting the emergency room;**

**2. The occurrence of an injury or illness while under the center's supervision that results in a child's admittance to the hospital;**

**3. The death of a child while under the center's supervision; or**

**4. The occurrence of an injury or illness that results in a call to 911, on-site medical or transported emergency care, or urgent care.**

(c) The director, [or sponsor/sponsor] **sponsor, or sponsor** representative, having knowledge that a child has been injured by a dog, cat, or other animal that is kept by or located at the center, and when no physician attends such child, shall, within 12 hours of the injury, report the name, age, sex, and address of the child to the local health department.

## 10:122-7.11 Information to parents regarding the management of communicable diseases

(a) Each center shall develop a written policy on the management of communicable diseases. This policy shall include the following:

1. The list of illnesses [and/or] **and** symptoms of illness for which a child will be separated from the group and possibly sent home, as specified in N.J.A.C. 10:122-7.1(c);

2.-3. (No change.)

(b) [A] **The center shall distribute a copy of the [center's] policy on the management of communicable diseases [shall be given] to the parent of each child enrolled [in the center] and secure and maintain on file a record of each parent's signature attesting to receipt of the policy.**

(c) (No change.)

## SUBCHAPTER 8. REQUIREMENTS FOR CENTERS SERVING SICK CHILDREN

## 10:122-8.1 Requirements for all centers serving sick children

(a)-(b) (No change.)

(c) The center shall maintain on file written policies and procedures governing its operation, including:

1.-3. (No change.)

4. The center's admission criteria, which shall include provisions for conducting either:

i. (No change.)

ii. A physical assessment, known as a triage, of arriving children by a registered nurse;

(1) The triage shall include, as appropriate to the demonstrated symptoms, an assessment of the child's temperature[;], pulse[;], respiration[;], skin[;], eyes[;], nose[;], throat[;], mouth[;], chest[;], abdomen[;], [and/or] **and** extremities;

5.-8. (No change.)

9. The preparation, frequency, and serving of meals that are appropriate for the child's illnesses, symptoms of illness, or diseases; and

10. The center's policy on communicating with parents concerning the child's illnesses, symptoms of illness, or diseases.

(d) (No change.)

(e) The center shall have a governing board or an advisory board, which shall oversee the development of and approve in writing its policies and procedures, as specified in (c) above. The governing or advisory board shall include at least two of the following licensed health professionals:

1. A physician licensed by the New Jersey Board of Medical Examiners; [and/or]

2. A registered nurse licensed by the New Jersey State Board of Nursing; [and/or] **or**

3. (No change.)

(f) (No change.)

## 10:122-8.3 Requirements for additional staff for centers serving sick children

(a) The staff requirements for centers serving sick children are as follows:

1.-2. (No change.)

3. In centers that primarily serve well children and provide sick care only as a component of the overall program, the physician or registered nurse, as specified in (a)1 above, shall be required to be at the center for at least 50 percent of the sick care component's daily operating hours, and shall be on call and available to come to the center immediately at all other times, provided that the following conditions are met:

i.-iv. (No change.)

[v. A child has attended the center's program serving well children for at least 20 days before being allowed admission to the sick care component;]

Recodify existing vi.-vii. as **v.-vi.** (No change in text.)

4. (No change.)

(b)-(e) (No change.)

## 10:122-8.4 Requirements for additional physical facilities for centers serving sick children

(a) (No change.)

(b) An individual room or a specific area within a large room, which is separated from other areas of the room by a partition or room divider, shall be available to separate and prevent contact between children who have different illnesses, symptoms of illness, or diseases.

- (c)–(d) (No change.)
  - (e) Centers that serve only sick children shall not be required to have the following:
    1. An outdoor space for the children’s physical activities or its equivalent, as specified in N.J.A.C. 10:122-[5.3(a)7]5.4(a)7; and
    2. A room or area in a separate section of the center for children who become ill, as specified in N.J.A.C. 10:122-[5.2(q)4]5.3(q)4.
  - (f) Centers that have a sick child care component, as specified in N.J.A.C. 10:122-8.1(a)2, shall use separate play rooms [and/or] **and** areas and separate toilet facilities for sick and well children.
- 10:122-8.5 Program requirements for centers serving sick children
- (a) (No change.)
  - (b) The center shall make available to parents of prospective enrollees information in writing on the center’s program, including:
    1. Illnesses, symptoms of illness, or diseases for which the center will provide care;
    - 2.–3. (No change.)

SUBCHAPTER 9. TRANSPORTATION REQUIREMENTS

- 10:122-9.1 Scope
- (a) The provisions of this subchapter shall apply to:
    1. Each center that provides or arranges for the provision of transportation for children:
      - i. To or from their homes or other prearranged sites and the center; [and/or] **or**
      - ii. (No change.)
    2. (No change.)
  - (b) (No change.)
- 10:122-9.3 Vehicle requirements
- (a)–(e) (No change.)
  - (f) Any center may authorize staff members [and/or] **or** parents of enrolled children to utilize their own private passenger vehicles to transport children from the center to and from scheduled center field trips, outings, or special events (such as visits to the zoo, library, or museum) or to transport children from the center to a hospital, clinic, or office for medical treatment, pursuant to N.J.S.A. 18A:39-20.1[.However,]. **However**, staff members [and/or] **and** parents may be authorized to do so only if:
    1. (No change.)
    2. The driver possesses a valid Basic automobile driver’s license issued by the MVC[,] or a valid automobile driver’s license issued by an approved out-of-State motor vehicle agency for the state in which the driver is a legal resident;
    - 3.–5. (No change.)
    6. The center ensures that the driver [and/or] **and** additional adults apply the safety practices, as specified in N.J.A.C. 10:122-9.5(a) through (d) and (g) through (m).

- (g) For school-age child care programs, the center may use an autobus under the jurisdiction of the Department of Transportation when chartered for scheduled center field trips, outings, or special events, provided that the driver [and/or] **and each** additional adult[s] apply the safety practices, as specified in N.J.A.C. 10:122-9.5(a) through (e), (h), and (j) through (m).
- (h) (No change.)

- 10:122-9.4 Driver licensing requirements
- (a) If a center uses a Type I School Bus, Type II School Bus, or Type S School Vehicle, the center shall:
    1. Meet all applicable rules of the Motor Vehicle Commission (MVC), Department of Education, [and/or] **and** Department of Children and Families;
    - 2.–3. (No change.)

- 10:122-9.5 Vehicle-related safety practices
- (a)–(c) (No change.)
  - (d) All vehicles that are utilized to transport children shall be equipped with car seats (child passenger restraint systems) [and/or] **and** booster seats that meet Federal motor vehicle safety standards, as appropriate for the age and weight of the children transported, in accordance with

- applicable provisions of Motor Vehicle Commission (MVC) law, pursuant to N.J.S.A. 39:3-76.2a and f **or 39:3B-10 and 11, as applicable.**
- (e) The driver shall not transport more persons, including children and adults, than:
    1. (No change.)
    2. The occupancy of the Type II School Bus, [or] **Type S** School Vehicle, or other approved vehicle, as determined by the number of operable seat belts.
  - (f) The driver [of and/or] **and each** additional adult[s] on the Type I School Bus shall ensure that:
    - 1.–2. (No change.)
    - (g) The driver [of and/or] **and each** additional adult(s) on the Type II School Bus, **Type S** School Vehicle, and private passenger vehicle shall ensure that:
      1. (No change.)
      2. Each child is secured in an operable seat belt or proper restraint system or booster seat, if applicable as specified in [(d)] (e) above, when the vehicle is in motion.
    - (h)–(j) (No change.)
    - (k) The driver shall conduct a check of the vehicle, after each run is completed, to ensure that no child has been left [on] **in** the vehicle.
    - (l)–(m) (No change.)
    - (n) **Children shall not remain in any vehicle for more than one hour at any given time on a daily basis.**

- 10:122-9.8 Vehicle staff requirements
- (a) For early childhood programs, the following shall apply:
    - [1.] (a) When one or more children [who are 2½ years of age or older] are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.
    - [2.] When 12 or fewer children who are below 2 ½ years of age are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.]
    - [3.] (b) (No change in text.)
    - (c) **The center shall have a written policy and procedures to ensure the safe transportation of children, including, but not limited to, ensuring that children are secured in appropriate restraints. The center shall train each regularly-scheduled driver and additional adult as referred to in (a) and (b) above on this policy prior to starting his or her position.**

**INSURANCE**

**(a)**

**DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF SOLVENCY REGULATION  
Exportable List  
Proposed Amendment: N.J.A.C. 11:1-34.6**

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.  
Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:22-6.43.  
Calendar Reference: See Summary below for explanation of exception to the calendar requirement.  
Proposal Number: PRN 2016-158.

Submit comments by November 18, 2016, to:

Denise M. Illes, Chief  
Department of Banking and Insurance  
Legislation and Regulation  
20 West State Street  
PO Box 325