ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION ADMINISTRATIVE CODE

CHAPTER 660-5-25
DAY CARE FOR CHILDREN

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660-5-25-.01 Definition Of Day Care Services.

Day care for children is the provision of counseling, including information and referral, and care for a portion of a 24-hour day in a licensed or approved facility. Service includes developmental programs, nutritious meals, and physical examinations prior to admission in accordance with requirements of minimum standards (if such examinations are not available without cost to the Department). Persons eligible, the selection procedures, and fees are described below.

Author:

Statutory Authority: Title XX of the Social Security Act, 42 U.S.C. 1397.

History: Effective July 18, 1983.

660-5-25-.02 Purchase Of Day Care For Children - Eligibility.

(1) Title XX Day Care for Children. Purchase of day care is available for recipients of Aid to Families with Dependent Children (AFDC), including grantee relative not in AFDC budget, Supplemental Security Income (SSI), for persons eligible based on income, and Without Regard to Income (WRTI) for 90 days within a six-month period when day care is provided as a protective service. Purchase of service is limited to:

(a) Prevent or remedy abuse/neglect/exploitation of child as documented in the protective services plan and to enable foster care children placed with employed foster parents to receive day care;

(b) Enable employment of a grantee relative/responsible caretaker not in the AFDC budget; or

(c) Relieve stress caused by disability of parent/responsible caretaker or child.

(2) The following persons are eligible for day care under the Jobs Opportunity and Basic Skills Training Program (JOBS):

(a) AFDC recipients in designated JOBS counties who are participating in the JOBS program;

(b) AFDC recipients in non-JOBS counties who are participating in approved employment, education, or training programs; and

(c) Employed AFDC recipients statewide.

(3) Food Stamp E and T Day Care. Food Stamp recipients in counties designated as Food Stamp Employment and Training who are participating in employment and training programs are eligible for day care.

(4) Transitional Day Care. Families statewide who have ceased to receive AFDC benefits as a result of earnings from employment are eligible for day care for up to 12 months provided the following eligibility requirements are met:

(a) The assistance unit must have correctly received AFDC for three of the six months immediately prior to the first month of ineligibility and ceased to be eligible for AFDC on or after April 1, 1990;

(b) The grantee must remain employed in accordance with public assistance policy;

(c) The grantee must cooperate with child support activities; and

(d) The grantee must meet Title XX eligibility requirements and pay assessed day care fees.

(5) At-Risk Day Care. Day care may be purchased for employed persons who are income eligible and defined as "at risk" of welfare dependency.

(6) Block Grant Day Care. Day care may be purchased to enable a child's parent/responsible caretaker who is income eligible and defined eligible for block grant day care to be employed or attend school or training programs.

(7) CWS Day Care. Casework and counseling in the area of day care are available for families who are eligible only for Child Welfare Services (CWS), but no purchase of day care service is provided.

(8) AR Day Care. All day care services as described in the Refugee Resettlement Program, or under Title XX, including purchase, may be made under the Refugee Resettlement Program for refugees who qualify.

(9) Waiting List. With the exception of JOBS and transitional child-care services, day care payments are limited to a specified number of slots per county for each funding source (Title XX, At-Risk, and Block Grant). Payment is authorized on a "first come, first served basis" as long as there are slots available. When slots under a particular funding source are filled, a waiting list is established containing the names of children who were denied day care because of the lack of an available slot. As slots become available, children on the waiting list are selected for service based on the date of application and/or reasons why day care is needed.

(10) The Department may purchase day care services in the following day care facilities:

(a) Day care homes which have been licensed or approved by the Department, or which hold a six-month permit; and day care centers which have been licensed or approved by the Department, or which hold a six-month permit and which are in compliance with Title VI of the Civil Rights Act of 1964 (refer to 660-5-25-.05 through 660-5-25-.07 for licensing standards);

(b) Facilities under the supervision of the Department of Education;

(c) Facilities approved or certified by the Department of Mental Health;

(d) Facilities licensed by the Department of Public Health; and

(e) For JOBS participants and clients eligible for transitional day care and At-Risk day care, facilities exempt from licensure which are selected by the parent/responsible caretaker (reimbursement for care is made to the parent/ responsible caretaker);

(11) The extent of day care purchased and the amount paid is determined by the availability of purchased care and the availability of funds.

(12) Day care counseling services are provided by staff. Care in a facility is provided through vendor payment arrangements or an individual or contractual basis.

Author:

Statutory Authority: Title XX of the Social Security Act; 42 U.S.C. 1397; 45 C.F.R. Part 96; P.L. 100-485, Titles II and III;

42 U.S.C. §§602, 681-687; 45 C.F.R. Parts 250 and 255; 54 Fed. Reg. 42145-42267; Title IV-A of the Social Security Act, §§402(1) and 403(n); Code of Ala. 1975, Title 38; JOBS State Plan and State Supportive Services Plan.
History: Effective July 18, 1983. Emergency amendment effective August 24, 1983. Permanent amendment effective November 8, 1983. Succedent emergency amendment effective October 18, 1984. Succedent permanent amendment effective January 9, 1985. Succedent emergency amendment effective October 1, 1985. Succedent permanent amendment effective January 9, 1986. Succedent emergency amendment effective May 13, 1988. Succedent permanent amendment effective August 11, 1988. Succedent emergency amendment effective January 17, 1989. Succedent permanent amendment effective April 11, 1989. Succedent emergency amendment effective April 1, 1990. Succedent permanent amendment effective July 10, 1990. Succedent emergency amendment effective October 1, 1990. Succedent permanent amendment effective January 9, 1991. Succedent emergency amendment effective April 11, 1991. Succedent permanent amendment effective July 10, 1991. Succedent emergency amendment effective October 1, 1991. Succedent permanent amendment effective January 9, 1992.

660-5-25-.03 Purchase Of Day Care For Children - Fees.

(1) The following persons are required to pay assessed day care fees in order to receive day care services:

(a) All At Risk Income Eligible recipients authorized for day care for employment of parent/responsible caretaker; and

(b) Families who are receiving transitional day care due to having been terminated from AFDC as a result of earnings from employment.

(c) All Block Grant Recipients. Fees may be waived for families whose income is at or below the poverty level for a family of the same size.

(2) Fee Assessment Process. Provided day care slots and vacancies with day care providers exist, fees are assessed based on the Department's current fee schedule and income scale (Refer to Chapter 660-5-2, Appendix A). The amount of the fee will be determined through completion of the Fee Assessment/Agreement. The application for day care will be denied if the client does not agree to pay the assessed fees.

(a) The fee for one child in a family receiving full-time day care is the amount as shown on the fee schedule. Each additional child per family is assessed one-half of the full-time rate.

(b) Children authorized for part-time care (25 hours or less of care per week) will be assessed one-half of the full-time rate per child per family.

(c) Children authorized for before/after school care (15 hours or less of care per week for school children) will be assessed one-fourth of the full weekly fee per child per family.

(3) Fee Collection. The day care provider is responsible for the collection of fees from the parent/responsible caretaker.

(a) Fees are due in advance, payable on the Monday of the week of service.

(b) Fees will not be refunded for any partial weeks of services.

(c) Fees will not be waived in cases of absences, such as illness, vacation or approved closing of center/home.

(d) The day care provider or contractor is not allowed to assume responsibility for the payment of fees. The payment of fees by a third party, such as a relative, another agency, etc. is allowable.

(4) Nonpayment of assessed fees is basis of termination of day care services.

(a) If the recipient does not pay the fees on Monday of the week of service, the provider will initiate the termination process.

1. If care is being provided in a licensed day care center; the day care center sends or gives Notice of Action Taken on Services to the recipient that if fees are not paid in ten days, day care services will be terminated. If the recipient pays the fees within the ten days, the notice is voided and day care is continued. If the recipient does not pay the fees within the ten days, the provider will send a copy of the notice to the County Department. Day care will be terminated as of the effective date of the notice.

2. If care is being provided in a family day care home, the provider sends or gives a Notice of Delinquent Fees to the recipient that if fees are not paid in ten days, day care services will be terminated. If the recipient pays the fees within the ten days, the notice is voided and day care is continued. If the recipient does not pay the fees, the provider is to send a copy of the Notice of Delinquent Fees to the County Department. The County Department then sends a Notice of Action Taken on

Services to the recipient and terminated day care as of the expiration date of the Notice of Delinquent Fees.

(b) Any outstanding fees due must be paid before a child is readmitted to care.

Author:

Statutory Authority: Social Services Block Grant Title XX of the Social Security Act; 45 C.F.R. Part 96; P.L. 100-485, Titles II and III; 42 U.S.C. §§602, 681-687; 45 C.F.R. Parts 250 and 255; 54 Fed. Reg. 42145-42267; Title IV-A of the Social Security Act, §§402(1) and 403(n); Code of Ala. 1975, §38-2-6; JOBS State Plan and State Supportive Services Plan.

History: Effective July 18, 1983. Emergency amendment effective April 1, 1990. Succedent permanent amendment effective July 10, 1990. Succedent emergency amendment effective October 1, 1990. Succedent permanent amendment effective January 9, 1991. Succedent emergency amendment effective April 1, 1991. Succedent permanent amendment effective July 10, 1991. Succedent emergency amendment effective October 1, 1991. Succedent permanent amendment effective January 9, 1992.

660-5-25-.04 Termination Of Day Care Services.

(1) If termination's or reductions in day care services are necessary due to funding reductions, the persons most recently authorized for day care with the lowest priority will be the first terminated or reduced. Those terminated or reduced will go to the top of the waiting list.

(2) Day care payments will be terminated under the following conditions:

(a) The child is no longer eligible. A ten-day advance notice of termination is required;

(b) The eligible child has been removed from day care and is not returned as per verbal or written notice (ten-day advance notice not required);

(c) The child has been absent for 10 consecutive program days and does not return to day care prior to the ten-day advance notice of termination;

(d) The client fails to pay required child-care fees and no payment agreement has been established (ten-day advance notice required);

(e) In addition for client receiving transitional day care services (ten-day advance notice required except as noted below).

1. Client terminates employment without good cause (ten-day advance notice not required for self-arranged care);

2. Client fails to cooperate with child support activities; or

3. The child(ren) for whom day care is being provided leaves the home or is no longer dependent by definition.

Author:
Statutory Authority: Social Services Block Grant Title XX of the Social Security Act; 45 C.F.R. Part 96; P.L. 100-485, Titles II and III; 42 U.S.C. §§602, 681-687; 45 C.F.R. Parts 250 and 255; 54 Fed. Reg. 42145-42267; Code of Ala. 1975, §38-2-6; JOBS State Plan and State Supportive Service Plan.
History: Effective July 18, 1983. Emergency amendment effective October 1, 1990. Succedent permanent amendment effective January 9, 1991.

660-5-25-.05 Other Day Care Arrangements - Related Home Care.

(1) Definition. Day care/nighttime care provided for a child outside his own home by a relative (excluding a parent) in the relative's own home.

(2) There are no minimum standards for related home care. If a parent/responsible caretaker selects related home care, the Department has no regulatory responsibility in approving this day care arrangement.

(3) Purchase of Related Home Care.

(a) The Department will reimburse the parent/responsible caretaker for the cost, up to the maximum allowed, for day care in related home.

(b) Reimbursements for day care in a related home will be made to JOBS participants, clients eligible for transitional day care and at risk income eligibles.

(1) Licensing Requirement. Any person, group of persons, or corporation who or which receive children or arranges for care or placement of one or more children unrelated to the operator must apply for a license or for approval with the exception of certain preschool programs operated by churches and religious nonprofit elementary schools which are exempt from the licensing requirements providing proper notice is filed.

(2) Legal Base. The Department of Human Resources is given the authority under Alabama statutes to prescribe and publish minimum standards for licensing and approving day care centers and nighttime centers.

(3) Definitions.

(a) Child. Any person under 19 years of age.

(b) Adult. Any individual 19 years of age or over.

(c) Infant. In the context of these regulations shall mean any child between birth and the time of his/her walking independently.

(d) Toddler. In the context of these regulations shall mean any child between the age of his/her walking independently and 2 1/2 years of age.

(e) Preschool Child. In the context of these regulations shall mean any child between the ages of 2 1/2 years and lawful school age.

(f) School-Age Child. Any child of lawful school age.

(g) Department. The State or County Department of Human Resources.

(h) Department's Representative. An employee or designee of the State or County Department of Human Resources, acting as the authorized agent of the Commissioner in carrying out the responsibilities and duties specified in Code of Ala. 1975.

(i) Commissioner. The Commissioner of the Alabama State Department of Human Resources.

(j) Related. Any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, halfbrother, halfsister, uncle or aunt, and their spouses.

(k) Parent(s)/Guardian(s). The custodial parent(s) or legal guardian(s) or legal custodian, of the child enrolled or in the process of being enrolled in a child day care center.

(l) Facility For Child Care or Child-Care Facility. A facility established by any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in this chapter, established and maintained for the care of the children.

(m) Day Care Center. Any child-care facility receiving more than twelve children or daytime care during all or part of a day. The term "day care center" includes, but is not limited

to, facilities commonly called "child-care centers", "day nurseries", "nursery schools", "kindergartens", and "play groups", with or without stated educational purposes. Such term further includes, but is not limited to, kindergarten or nursery schools or other daytime programs operated as a part of a private school and receiving more than twelve children younger than lawful school age for daytime care for more than four hours a day, with or without stated educational purposes. The term does not include:

1. Kindergartens or nursery schools or other day-time programs operated by public elementary systems or secondary level school units or institutions of higher learning;

2. Kindergartens or nursery schools or other day-time programs, with or without stated educational purposes, operating no more than four hours a day and receiving children younger than lawful school age;

3. Kindergartens or nursery schools or other day-time programs operated as a part of a private school and receiving children younger than lawful school age for four hours a day or less, with or without stated educational purposes;

4. Facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; provided, however, that such facilities shall meet local and state fire and health requirements;

5. Any type of day care center that is conducted on federal government premises; or

6. Special activities programs for children of lawful school age including, but not limited to, athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations; provided, however, that local and state fire and health requirements are met.

(n) Nighttime Center. A child-care facility which is established to receive twelve or more children for care after 7 p.m.

(o) Character and Suitability. The person maintains business/professional, family, and community relationships which are characterized by honesty, fairness, truthfulness, and concern for the well-being of others to the extent that the person is

considered suitable to be entrusted with the care, guidance, and protection of children.

(p) Licensee. Any person, group of persons, or corporation, to whom the license is issued.

(q) Director. The staff person responsible for the day to day operation and management of a child day care center.

(r) Program Director. The person responsible for the programmatic functions and supervision of all staff who work directly with children.

(s) Staff or Center Staff. Administrative, program, service, and volunteer personnel including the licensee when the licensee is an individual.

(t) Child-Care Worker/Teacher. A person having primary responsibility for the care of a group of children and meeting the specified qualifications.

(u) Group. A group is a specific number of children and staff assigned to be together throughout the day. This definition would permit more than one group to occupy the same physical space.

(v) Aide. A person responsible for assisting a qualified child-care worker in program implementation and supervision of children.

(w) Resource Person. A person who visits the center for the purpose of enhancing the program, who has no direct responsibility for the care of the children and is not counted in the child-staff ratio. Resource persons include but are not limited to: community officials such as the mayor, fireman, police officer; enrichment instructors such as dance, music, art; health professionals such as nurses, doctors, dentists; parents who wish to share individual talents, experiences, or travels.

(x) Physician. An individual licensed to practice medicine in any of the 50 states or the District of Columbia.

(y) Child Abuse And Neglect. According to the Code of Ala. 1975, §26-14-1, harm or threatened harm to a child's health or welfare, which can occur through nonaccidental physical or mental injury, sexual abuse or attempted abuse or sexual exploitation or attempted sexual abuse or attempted sexual exploitation. "Sexual abuse" includes rape, incest and sexual molestation as those acts are defined by Alabama law. "Sexual exploitation" includes allowing, permitting or encouraging a child to engage in prostitution and allowing, permitting, encouraging or engaging in the obscene or pornographic

photographing, filming or depicting of a child for commercial purposes. Neglect is defined as negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, clothing or shelter; provided, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone, shall not be considered a negligent parent or guardian; however, such an exception shall not preclude a court from ordering that medical services be provided to the child, where his/her health requires it.

(z) Developmental Disabilities. Public Law 98-527, "The Developmental Disabilities Assistance and Bill of Rights Act", as amended, defines a developmental disability as a "severe, chronic disability of a person which: Is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the person attains age twenty-two; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following areas of major life activity: self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency; and reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are lifelong or extended duration and are individually planned or coordinated."

(4) Administration.

(a) Governing Authority. The governing authority's responsibilities shall include, but need not be limited to, the following:

1. Authorize a representative to apply to the Department for a license to operate a center and assume final authority and responsibility for the operation of the center in accordance with prescribed standards;

2. Establish written operating and personnel policies including categorized personnel job descriptions for the center;

3. Provide operating funds;

4. Develop a projected year's budget prior to the time of initial licensing; and

5. Employ a director and delegate to her/him the authority to administer the center.

(b) Written Operating Policies.

1. Policies shall include, but need not be limited to, the following:

(i) Statement of purpose, function, and description of program (e.g., health, nutrition, education, etc.);

(ii) Discipline of children;

(iii) Hours and days the center is in operation (including holidays);

(iv) Admission procedures and requirements;

(v) Plan for arrival and departure of children;

(vi) Fee payment plan and refund practices;

(vii) Procedure for termination of services, by center or parent(s) or guardian(s);

(viii) Policy concerning illness of children, non-admission and readmission;

(ix) Requests concerning children's personal belongings, etc.;

(x) Transportation of children, if provided;

(xi) Emergency plans for medical emergency, power failure, storms, fire, evacuation from immediate area, etc.;

(xii) Plan regarding provision of diapers, clothing and formula, if center is licensed for infant-toddler care;

(xiii) Procedures parent(s)/guardian(s) may use to make a complaint;

(xiv) Administration of medication;

(xv) Periods of the day when parent(s)/guardian(s) and others may visit;

(xvi) Name of person(s) at the center whom parent(s)/ guardian(s) should contact in reference to the child;

(xvii) Plan regarding provision of food; and

(xviii) Statement informing parent(s)/guardian(s) how they may obtain a copy of the Minimum Standards for

Day Care Centers and Nighttime Centers: Principles, Regulations, and Procedures.

2. The center shall, in practice, offer the type of services and program which the operating policies outline.

3. The parent(s) or guardian(s) shall be provided a copy of the center's operating policies prior to the child's admission.

(c) Records.

1. Confidentiality. All staff and children's records shall be kept confidential. The board members, staff members, and employees of the day care center or nighttime center shall not discuss or disclose personal information regarding children and facts learned about children and their relatives except with the parents or the person or persons authorized by the parents to receive such information, with the agency assisting the parents with planning for the child, and with the staff of the Department of Human Resources.

2. Filing.

(i) The records shall be filed for each child and staff member in alphabetical order. Records shall be maintained in the center for at least two years after the child or staff member has left the center. Inactive files shall be maintained separately from active files.

(ii) Individual records on each child, filed in the center, shall include, but need not be limited to:

(I) Pre-admission enrollment information, signed and on file in the center prior to the first day of attendance. The form shall include at least:

I. Child's full legal name, preferred name(s), birth date, age, and current address;

II. Name and address of the parent(s)/ guardian(s) and of any other person or agency responsible for the care of the child;

III. Telephone numbers or instructions as to how parent(s)/guardian(s) may be reached during the time the child is in the center;

IV. Name, address, telephone number and relation of person(s) to whom the child may be released from the center;

V. Name, address, and telephone number of the child's doctor;

VI. Child's admission and withdrawal information; and

VII. Child's special interests, habits, and progress.

(II) Signed parent agreement information, including at least the following:

I. Authorization for center staff to obtain emergency medical treatment for the child;

II. Authorization for child to participate in, and to be transported to and/or from school or center on "away from center" field trips, or other activities, if included in center's program;

III. Request and authorization for transportation of child to and from home, if service is provided by the center and desired by the parent(s)/guardian(s);

IV. Authorization for child to participate in swimming-wading activities, if provided in center program and desired by the parent(s)/guardian(s); and

V. Written agreement with the parent(s)/guardian(s) that the center assumes responsibility for the child only when he/she is delivered directly to the center personnel, unless the center is responsible for transportation. If the center provides transportation, the written agreement shall provide that the center is not responsible unless the child is at the agreed upon location at the agreed upon time. If the child is missing the agreement shall state the center personnel shall make reasonable effort to locate the child and shall notify parent(s)/guardian(s) and appropriate authorities. Parent(s)/guardian(s) and center personnel may negotiate written deviations from this requirement.

(III) Medical information, as required; and

(IV) Records of injury occurring at the center, which require professional medical attention and/or hospitalization.

3. Records on the Staff.

(i) The director's record shall include at least a medical examination report, three reference contacts and written verification of training/education. This record shall be maintained by the licensing agent.

(ii) All staff records shall be kept in the center and shall include at least:

(I) The application for employment;

(II) Information regarding the character, and suitability of the person to work with children inclusive of:

I. Recording of impressions gained through interviews with the individual to be employed, particularly his/her attitudes regarding child care; and

II. Reference contacts; i.e.; statements from three unrelated references, including at least one previous employer, if ever employed. A written report shall be made concerning any oral reference contacts.

(III) Written verification of training/education;

(IV) Medical information as required;

(V) Name, address and telephone number of person(s) to contact in case of an emergency involving applicant;

(VI) A written report of any misconduct or dereliction of duty, including the investigation procedure followed and the disposition made; and

(VII) Written and signed verification stating that staff members have read the Minimum Standards.

4. Attendance Records. Daily attendance records on staff and children shall be maintained.

5. Center license, current licensing evaluation, fire and health department approvals shall be posted in a conspicuous place in the center.

(d) Reports to the Department.

1. A monthly report shall be sent to the Department, not later than the fifth day of the month following the month for which the report is made.

2. The following shall be reported to the Department prior to occurrence:

(i) Change in ownership, directorship, or chief officership of the Board;

(ii) Change in location and/or alterations to buildings;

(iii) Major change or extension of basic operating schedule or program.

3. The following shall be reported to the Department within 24 hours after occurrence, with written explanation to follow within five (5) days:

(i) Any injury requiring professional medical treatment of any child or staff member while at the center or any death;

(ii) Major damage to the facility;

(iii) Any litigation involving the center; and

(iv) Any traffic accident involving day care children being transported.

4. Any staff member is required by law to report known or suspected child abuse or neglect to the County Department of Human Resources or the local chief of police, or county sheriff. The report shall be made immediately by telephone or direct oral communication, followed by a written report, containing all known information. The law also contains immunity provisions so that any person making a report in good faith is immune from any civil or criminal liability. The law further provides that all reports of child abuse and neglect, investigative reports by the Department of Human Resources and certain other records of child abuse and neglect are considered confidential under penalty of criminal law. The licensee and all staff members shall cooperate with Department personnel on any child abuse or neglect investigation,

including providing information to workers and allowing access to children and records.

(e) Admission Procedures.

1. The number and age range of the children in the center shall conform to that which is specified on the license.

2. If the center accepts children for irregular (drop-in) care, all of the following conditions shall be met:

(i) Vacancies in the group to which the children will be assigned;

(ii) A maintained child-staff ratio as required;

(iii) Required records maintained and filed; and

(iv) Advance plan of care made by parent(s)/ guardian(s).

(f) Transportation Provided by the Center.

1. Written policy and authorization.

(i) The center shall develop a written plan to ensure that children who are using transportation contracted for or provided by the center are accounted for in all situations. Immediate action shall be taken to locate missing children.

(I) The plan shall include a checklist for accounting for the loading and unloading of children at every location. All checklists shall contain the signature of the person in charge of performing the check.

(II) All checklists shall be turned over to the person in charge immediately upon arrival of the children at the center. Following delivery of children to homes/designated destinations, either an oral or written report shall be submitted to the person in charge. When oral reports are given, written checklists shall be turned over to the person in charge the next day of operation. The checklist shall be maintained as a part of the records of the center.

(ii) The center shall have on file written authorization from the parent(s)/guardian(s) for transporting the child to and from the home, school, or other designated place, and on center planned field trips and activities.

(iii) Written transportation plans for travel indicating means of transportation, approximate arrival/departure time, staff, parent, or other designated person involved, and designated location to be picked up/delivered to, shall be on file for each child. A plan for transportation in emergency situations, such as severe weather alerts, shall also be on file.

(iv) When the center provides transportation to and from the home or another designated location, the center shall be responsible for picking the child up at the designated location and delivering the child to the care of the designated person, according to the written transportation plan. Requests for deviation from the regular plan shall be in writing and signed by the parent(s)/guardian(s). The center is not considered responsible for the child unless he/she is at the designated location for pickup at the agreed upon time. If the child is missing, the driver shall consider this an emergency situation, and immediately contact center personnel, who shall immediately attempt to notify the parent/guardian(s) and appropriate authorities. The driver and center personnel shall make reasonable effort to locate the child.

(v) Written transportation policies and procedures shall be formulated. A copy of these policies and procedures shall be provided to the staff.

(vi) If transportation is contracted, arranged, or provided by the center, all policies shall be followed. Policies do not apply when a parent makes a private arrangement for the transportation of his/her child exclusive of arrangements made with the center.

2. The Driver of a Center Vehicle.

(i) The driver of a vehicle transporting children shall be at least 19 years of age; and

(ii) The driver shall have a valid Alabama driver's license during all times of vehicle operation. A copy of the license shall be on file in the center.

3. Supervision of Children in Center Vehicles.

(i) Staff in addition to driver needed per age group and number of children in the vehicle shall be as follows:

(I) No additional staff are needed for the following:

I. One to two (1-2) infants (no other age groups);

II. One to six (1-6) preschoolers;

III. One to thirty (1-30) school-age; or

IV. One to six (1-6) preschoolers/school-age (mixed grouping).

(II) One additional staff person is needed for the following:

I. Seven to twenty (7-20) preschoolers;

II. More than thirty (30) school-age;

III. Three to six (3-6) infants/toddlers/ preschoolers/school-age (mixed age grouping); or

IV. Seven to twenty (7-20) preschoolers/ school-age (mixed age grouping).

(III) Two additional staff persons are needed for the following:

I. More than twenty (20) preschoolers;

II. Seven to twenty (7-20) infants/toddlers/ preschoolers/school-age (mixed age grouping); or

III. More than twenty (20) preschoolers/ school-age (mixed age grouping).

(ii) Children shall not be left unattended in a vehicle.

(iii) A staff member shall accompany each child under age 2 1/2 years from the vehicle to the care of the designated person.

(iv) A staff member shall visually supervise each child 2 1/2 and over from the vehicle to the care of a designated person.

4. Safety Precautions in All Vehicles Used and Operated By the Center in Transporting Children.

(i) Stationary seating space for each child shall be provided, and no child shall sit on the floor. Children shall remain seated while the vehicle is in motion.

(ii) Children shall board and leave the vehicle from the curb side of the vehicle, onto the curb, or in a protected parking area or driveway.

(iii) Doors shall be locked at all times when the vehicle is moving.

(iv) Children under 3 years shall be properly secured in a federally approved child restraint (car seat) which is installed according to manufacturer's instructions and is properly maintained. Child restraints shall be appropriate for the height, weight, and physical condition of the child, according to the manufacturer's instructions.

(v) All children 3 years and over shall be properly secured in an individual seat belt. Each seat belt shall be properly anchored to the vehicle. Seat belts shall fit snugly across the child's hips.

(vi) The driver of the vehicle and all adult passengers shall be properly secured by seat belts.

(vii) Vehicles with a tonnage rating of one ton or more are exempt from seat belt and child restraint requirements.

5. Vehicles used for transporting children shall be equipped with an operational ventilation and heating system.

6. A safety check shall be done annually by a mechanic, within two months prior to the annual licensing evaluation or license renewal on all vehicles regularly used by the center to transport children. A copy of this safety check shall be filed in the center and shall show that the following items are operating in a safe condition: brakes; tires; lights (head, signal, brake, tail); windshield wipers; steering; and exhaust system.

(g) Transportation Provided by Parent(s), Guardian(s) or Other Designated Person(s). Children being transported by parent(s), guardian(s) or other designated person(s) shall be accompanied into and out of the center by this parent, guardian or other person. The center shall require the custodial parent/guardian or other designated person to sign children out at each departure from the center.

(5) Staff.

(a) Qualifications. All staff hired after January 1, 1989 shall meet experience, training and age qualifications. Verification of qualifications shall be on file in the center.

1. The director shall have the responsibility for operational management of the center. This person shall be at least 19 years of age and shall have at least a high school diploma or general education diploma. The Director shall obtain at least 20 clock hours of training in administration and management of day care centers prior to employment or licensing. Documentation of this training shall be provided to the Department representative. If this training is not immediately available, written approval to obtain training within six months, may be substituted. Examples of administrative and management training include, but are not limited to: maintenance of records; budgeting; supervision and management of center personnel, maintenance of the facility and equipment; purchasing; and meal planning. It shall be possible for the responsibilities of director and program director to be assumed by the same person provided all qualifications are met for each position. If the director does not meet the qualifications of a program director, then a program director shall be employed.

2. The program director shall have the responsibility of supervising the planning of and implementing the children's daily activity program, and directing the in-service training of the staff. The program director shall be at least 19 years of age and shall have at least one of the following:

(i) A bachelor's degree in child development or early childhood education from a college or university;

(ii) A bachelor's degree from a college or university, in addition to successful completion of at least 40 clock hours of child-care training, if not included in the degree, and a Department approved plan to complete at least 20 additional clock hours of child-care training within six months following employment or at least 3 months verifiable experience, as child-care staff, in a licensed day care center;

(iii) Child Development Associate Credential;

(iv) An Associate degree in child development or early childhood education from a post-secondary school (technical, vocational, junior college); or

(v) A high school or general education diploma, in addition to verification of successful completion of at least 40 clock hours of training in child care, and one year working experience in a licensed day care center, or a Department approved setting.

3. Child-care workers or teachers who have primary responsibility for the care of groups of children shall be at least 19 years of age and shall have a high school diploma or general education diploma (GED).

4. Aides/assistant teachers who assist with groups of children, shall be at least 16 years of age and shall:

(i) Have at least an 8th grade education; and

(ii) Work under the direct supervision of a person qualified as a child-care worker and shall not be counted in the required child-staff ratio.

5. Service staff, such as cook, maids, custodians, and drivers shall be able to read and write and shall not be counted in the required child-staff ratio.

6. Assisting professional staff, such as physicians, nurses, caseworkers, counselors, nutritionist, dentists, psychologists, and psychiatrists, employed or used by the day care center shall be qualified and/or licensed in their respective professions.

7. Substitute staff shall be at least 19 years of age, and shall be informed of policies and/or procedures for the age group for which they will be providing care. Substitute service staff shall be informed of procedures necessary to the performance of their duties.

8. Centers using volunteers shall meet the following conditions:

(i) A written and Department approved plan for the orientation, training and use of volunteers, shall be developed and implemented;

(ii) A staff member shall be designated to assign, supervise, and evaluate each volunteer;

(iii) A schedule of the hours and activities of the volunteers shall be kept on file;

(iv) All volunteers who are counted in the child-staff ratio shall meet all qualifications required of regular staff.

(b) Health.

1. Initially, each staff member shall provide a statement from a licensed practicing medical doctor or a physician's assistant. The initial statement shall be dated within six months prior to employment and shall document the date and results of a tuberculin skin test or chest x-ray. The statement shall attest to the physical suitability of the staff person to care for children and the person's freedom from infectious and contagious diseases. The statement shall be signed by the licensed practicing medical doctor or the physician's assistant and shall be on file in the center.

2. At least every four years after the initial doctor's statement is provided each staff member shall obtain a statement from a licensed practicing medical doctor or a physician's assistant which attests to the staff person's freedom from infectious and contagious diseases and physical fitness to care for children. The statement shall be on file in the center.

3. Staff members with symptoms of a communicable disease or illness shall not be present in the center.

4. A staff member who, upon examination or as a result of tests, shows indication of a physical, emotional, or mental condition which could be detrimental to the children or staff, or which would prevent satisfactory performance of duties, shall not continue work at the day care center until the condition is cleared to the satisfaction of the examining licensed practicing medical doctor and the Department representative.

5. The Department representative shall require an additional medical or psychological evaluation if a change in the condition of a staff member is evident. A medical release to allow the licensing worker to confer directly with the doctor, shall be provided on request.

(c) In-service Training.

1. All staff shall be involved in ongoing training. Program directors shall obtain at least 8 clock hours of training each year. Child-care workers shall obtain at least 4 clock hours of training each year. Service staff shall obtain at least 2 clock hours of training each year. Training shall be related to staff's specific responsibilities. Documentation of training shall be on file in the center.

2. Training shall be provided through, but need not be limited to, the following means:

(i) Staff communication at planned scheduled meetings;

(ii) Materials concerning child growth and development/early childhood education, available for, and used by staff; and

(iii) Reading of the Minimum Standards for Day Care Centers and Nighttime Centers: Principles, Regulations, and Procedures. A signed statement verifying that the staff member has read the Minimum Standards shall be placed in each staff member's file.

3. Centers shall have a written orientation for new staff and substitute personnel. Orientation shall be provided to staff and substitutes prior to or within one week after employment.

(6) Facilities.

(a) State, Local, and Municipal Codes and Ordinances. The center facilities shall meet all state, local and municipal codes and ordinances. Written approval shall be obtained from the fire and health departments for the particular kind of center being licensed. Separate approval by fire and health departments are required for the day care center and for the nighttime center. Subsequent inspections after the initial approval shall be made at the discretion of the director, Department representative, or the official of the fire and health departments.

(b) Building: Indoor Area.

1. Exclusive Use. Activity areas to which the day care children are assigned shall be used exclusively by the children during operating hours. When lunchroom facilities are shared with other groups, children receiving center care shall be seated together, apart from other groups.

2. Footage Per Child. There shall be at least 32 square feet of indoor play space for each child. Bathrooms, kitchens, isolation room, office, halls used as passageways, and storage areas shall not be considered when computing play space.

3. Space For Groups. Designated areas of indoor play space shall be provided for each grouping of children.

(i) A separate area(s) shall be provided for children younger than age 2 1/2 years; and

(ii) A separate indoor area shall be provided for use by school-age children.

4. Provisions shall be made to control excessive glare in areas occupied by children.

5. Bathroom Facilities.

(i) Bathrooms shall be located on the same floor level and under the same roof as activity rooms.

(ii) Number of fixtures per child shall be:

(I) One flush toilet for every 15 or fewer children;

(II) One handwashing sink for every 15 or fewer children; and

(III) One tub (portable plastic type acceptable) per center.

(iii) One handwashing sink with warm running water, soap, and disposable paper or single use cloth towels, shall be located in each room where children are diapered.

(iv) The toilets and lavatories shall be child size and height, or shall be adjusted for easy use with sturdy platforms and/or seat adapters, as needed.

6. Laundry Facilities.

(i) When provided, laundry facilities shall be located in an enclosed room apart from the food storage, preparation, and serving areas, as well as apart from the storage of cooking and eating utensils.

(ii) Dryers, when vented to the outside, shall be vented away from the children's play area.

7. Isolation Space For Ill or Injured Children. Space shall be provided to isolate an ill or injured child. A cot or crib, bedding and play equipment shall be provided in the isolation space and disinfected following use by an ill-child.

8. Storage Space For Children and Staff.

(i) Each child shall have individual, labeled storage space. For children age 2 1/2 years and older, the space shall be at child level.

(ii) Shelving, accessible to the children, shall be provided for the play equipment and supplies, in rooms used by children.

(iii) Storage space shall be provided for storage of teacher's supplies, and reserve equipment.

(iv) Accessible storage space shall be provided for cots and bedding.

9. Office space shall be provided for storage of records and to afford privacy for conferences.

10. Ventilation, Lighting, and Heating in Rooms Used By Children.

(i) There shall be windows to provide ventilation and fans with properly enclosed blades or ceiling fans to maintain circulation, unless the building is air-conditioned.

(ii) The temperatures shall be maintained between 68 and 85 degrees Fahrenheit, at child level, as appropriate to the season. There shall be an indoor thermometer.

(iii) Outside windows which open shall be securely screened.

(iv) Lighting shall be maintained at a minimum of 30 foot candles of illumination in area where children are doing close work.

11. There shall be an operational telephone in the center.

12. Hazard Prevention.

(i) All apparent safety hazards shall be eliminated from inside the center.

(ii) Floors shall have a non-slippery surface, free of splinters and other hazards.

(iii) All flammable and other dangerous substances, and potential poisons, shall be stored in locked cabinets accessible only to authorized persons. No firearms or ammunition shall be kept in the center.

(iv) Stairways shall have hand railings at child height.

(v) In rooms used by the children, doors shall remain unlocked during hours of operation. Locks which would prevent children from exiting a room are prohibited.

(vi) Clear glass doors shall be plainly marked, at child level, to avoid accidental impact.

(vii) Water temperatures at the handwashing sinks used by the children shall not exceed 120 degrees Fahrenheit.

(viii) Staff and children's medications shall be properly stored in a separate location away from toxic chemicals and other harmful items and out of the reach of the children.

(ix) Barriers shall be erected around radiators, heaters, and fans that are accessible to the children.

(x) Consumption of alcohol or use of other non-prescription narcotic or illegal substances is prohibited on the center premises. Smoking is permitted only in designated areas away from the children, food storage, and food preparation areas.

13. The center shall be clean.

(i) Cleaning shall be done daily. Floors and bathroom fixtures shall be cleaned and disinfected daily or more often as needed. Carpets shall be vacuumed daily.

(ii) Cleaning shall not interfere with children's activities.

(c) Grounds: Outdoor Area.

1. An area for loading and/or parking shall be provided.

2. Outdoor play space footage shall be:

(i) A minimum of 50 square feet of space for each child younger than age 2 1/2 years; for centers licensed prior to January 1, 1975, a minimum of 40 square feet;

(ii) A minimum of 60 square feet of space for each child 2 1/2 years of age and older;

(iii) A minimum of 60 square feet of play area per child for at least one-half of the licensed capacity, in centers enrolling 60 or more children; and

(iv) In unusual circumstances, when the above footage is not available, special permission may be granted by the Department for a partial substitution of a large indoor play area equipped with outdoor-type equipment.

3. Separate play areas shall be provided for children younger than age 2 1/2 years.

4. Outdoor play areas shall adjoin, or be safely accessible to, the indoor area.

5. Outdoor play areas on the premises shall be enclosed by a fence or wall at least four feet in height, and fences shall be free from sharp protruding edges. Licensed centers which have a three foot fence shall be permitted to use that fence until it needs to be replaced, at which time a four foot fence shall be installed. Centers without a fence shall install a four foot fence by July 1, 1989.

6. Fencing for outdoor play space located on the roof shall be enclosed by a fence which meets fire department standards.

7. Shade and sun areas shall be provided.

8. All apparent safety hazards shall be eliminated from the outdoor play area.

(i) Concrete or asphalt shall not be used as surface material under climbing structures or swings.

(ii) The play area shall be well-drained.

(iii) All freestanding play equipment shall be securely anchored to the ground.

(iv) The play area shall be free of hazard-producing conditions.

(d) Swimming and Wading Facilities and Additional Supervision.

1. Pools exceeding two feet in depth, on the premises, shall be enclosed with a fence at least 4 feet in height. Gates and other access areas shall be locked when pool is not in use.

(i) A lifeguard holding at least a current Advanced Life Saving Certificate shall be on duty at all times when the pool is in use. This person shall not be counted in the child/staff ratio if people other than the children from the center are swimming (as in

parks or "Y" pools). If the lifeguard is employed by the center, a copy of his/her Certificate shall be on file in the center.

(ii) Written safety rules shall be formulated and posted. Staff and children shall be informed verbally of these safety rules.

(iii) The water shall be clean and treated in compliance with health department recommendations (available from the State Health Department) and municipal codes where applicable.

(iv) Child/staff ratio for additional supervision shall be:

(I) Under 2 1/2 yrs. - 1 staff to 1 child;

(II) 2 1/2 up to 5 yrs. - 1 staff to 5 children;

(III) 5 up to 8 yrs. - 1 staff to 10 children; and

(IV) 8 yrs. and older - 1 staff to 15 children.

(v) The number of regular staff, in addition to the lifeguard, supervising the children shall meet at least minimum child/staff ratios. Parents or volunteers trained in the center's procedures for supervising swimming may be used to meet the required ratios for additional supervision.

(vi) Adults counted in child-staff ratios shall be able to swim and shall constantly supervise the swimming activity.

2. When a wading structure less than two feet in depth is available to the children:

(i) There shall be continuous supervision by a minimum of 2 staff persons; and

(ii) The wading area shall be filled with clean water for each day's usage. It shall be emptied when not in use.

3. The center shall have on file written, signed permission from parent(s) or guardian(s) for all children participating in swimming and wading activities.

(e) Furnishings and Equipment.

1. The furniture shall be child size related to the age range of children in care.

2. Condition.

(i) Equipment and furniture shall be in operative condition, free of sharp, loose, or rusty parts.

(ii) Equipment shall be easily cleaned and kept in a clean condition.

(iii) Equipment used by infants and toddlers shall be free of small parts which could be swallowed.

(iv) Toys made of easily breakable materials shall not be used by infants and toddlers.

3. Amount and Type of Furnishings.

(i) There shall be table space for each child who is able to sit at the table.

(ii) There shall be a straight chair, with a back, without arms, for each child who is able to use a chair.

(iii) A feeding chair shall be provided for children who do not eat at the table.

(iv) There shall be a crib provided for each infant, and a washable cot for each toddler and preschool child. Each crib shall have a waterproof mattress.

(v) Each cot and crib shall be equipped with a bottom sheet and an additional sheet or covering for the child.

4. Arrangement. Indoor equipment shall be arranged in an orderly manner, in designated activity areas, such as home living, books, blocks, and stories, music, art, manipulative toys and games, and science and nature, for each group of children between 2 1/2 years and school age.

5. Amount and Type of Equipment.

(i) The amount and type of equipment shall be determined and supplied for each age group according to the required equipment list. Refer to Appendix B - Required Equipment List. (Substitutes and modifications of equipment shall be considered by the Department upon written request, at the time of initial licensing or licensing renewal).

(ii) With written approval from the Department, stated pieces of equipment shall be shared by more than one group at alternating periods of time.

(7) Child-Care Program.

(a) Staffing

1. Child/staff ratio and grouping shall be as follows:

Age	**Ratio**	**Group Site**
3-wks. Up to 18 Mos.	1 to 6	6
18 mos. Up to 2 ½ yrs.	1 to 8	8
2 ½ yrs. Up to 4 yrs.	1 to 12	12
4 up to 6 yrs.	1 to 20	20
6 up to 8 yrs	1 to 22	22
8 yrs. And older	1 to 25	25

(ii) Children younger than age 2 1/2 years shall be grouped separately. Exceptions may be permitted with written approval from the Department representative. Such exceptions would allow children to be grouped based on individual needs. Ratios would be according to the multiple grouping ratio. Exceptions may also be granted to permit children age 24 to 36 months to be grouped together with a child/staff ratio of one to 9, with a group size of nine.

(iii) When multiple age grouping is used, child/staff ratio and group size shall be according to the age of the youngest child in the group if more than 20% of the children are in the youngest age category. If children in the youngest age category make up 20% or less of the group, staffing and group size shall be according to the next highest category.

(iv) Staff such as director and service staff, shall be counted in the child/staff ratio only during the time that they are giving full attention to the direct supervision of the children. Service staff acting as child-care workers shall meet the qualifications of child-care workers.

2. Staff Coverage.

(i) All children shall have staff supervision at all times.

(ii) Each staff member giving care to infants and toddlers shall be assigned the responsibility of

caring for the same infants/toddlers daily, except in the absence of the regularly assigned child-care worker.

(iii) When a regular staff person is absent, there shall be a substitute present in order to maintain the regular child/staff ratio.

(iv) During the director's absence, an adult staff member, meeting at least child-care worker qualifications, shall be designated as the responsible person in charge.

(v) One staff person shall be present in each room of children during napping/resting time.

(I) The number of napping/resting children, ages 2 1/2 years and older, shall not exceed 40 per staff person.

(II) Child/staff ratio shall be one staff person to 16 children during nap time for children from 1 1/2 to 2 1/2 years of age.

(III) Child/staff ratio for children under 1 1/2 years shall be one staff person to six children at all times of the day.

(vi) A staff member at least 19 years of age shall be present in the day care center during all hours of operation.

(vii) There shall be a second person age 19 or older available in the day care center building or on the premises, whenever 7 or more children are present.

(I) The director shall have a staff member on call in case he/she is needed during the time there is only one adult staff member at the center.

(II) The director shall post identifying information regarding emergency help; information including name, address, telephone number, age and reference data shall be on file in the center.

(viii) No staff person shall be on duty with the children for more than 8 continuous hours, on a regular basis.

(ix) Staff members shall be free from all other duties during the hours they are working directly with the children.

(x) Volunteers working 3 hours or more per day shall be eligible, if other qualifications are met, to assume responsibilities of a child-care worker and shall be counted in the child-staff ratio.

(xi) Volunteers working less than 3 hours per day shall work in assisting positions with the regular child-care worker and shall not be counted in the required child-staff ratio.

(b) Daily Program.

1. Infants.

(i) Learning/Growth Activities.

(I) Infants shall be encouraged to play with and handle a variety of toys.

(II) Infants shall spend time outdoors daily, when weather permits.

(III) Infants shall have daily indoor opportunities for freedom of movement, outside their cribs, in an open, uncluttered space.

(IV) The staff shall talk to each infant often and encourage him/her to respond.

(V) Cries of infants shall be investigated immediately.

(VI) Each infant shall receive daily personal contact and attention, such as being held, sung to, rocked, taken on walks.

(VII) Each infant's position and/or place shall be changed at least each half hour, when infant is awake.

(ii) Diapering/Toileting.

(I) There shall be a safe and sanitary diapering procedure.

I. Wet or soiled diapers and other clothing shall be changed promptly.

II. Diapers and other soiled and wet clothing shall be changed in each child's crib or on a surface which is cleaned and disinfected after each use.

III. No infant shall be left unattended while being diapered.

IV. Staff members shall wash hands with soap and warm running water before and immediately after diapering.

(II) There shall be a plan for the provision of diapers and clothing so that sufficient dry and clean clothing is available for each child.

I. If parent(s) or guardian(s) supply diapers and are responsible for laundering, soiled diapers shall be rinsed immediately, kept separate from every other child's diapers in plastic bags or plastic-lined, covered containers and sent home daily.

II. If the center supplies diapers and is responsible for laundering, soiled diapers shall be rinsed immediately, placed in plastic-lined, covered containers and removed daily for washing. The containers shall be cleaned and disinfected daily.

III. If disposable diapers are used, they shall be placed in a covered, plastic-lined container and disposed of daily.

IV. Individual, disposable wipes or a clean single use cloth shall be used at each diaper change, placed in a covered plastic-lined container, and disposed of properly, out of the reach of children.

(III) The staff shall not initiate any attempts to toilet train infants.

(iii) Napping/Resting. Each infant shall be allowed to form his/her own pattern of sleeping and waking.

(iv) Cribs and Bedding.

(I) Placement of cribs shall allow a minimum of 2 feet of space between occupied cribs.

(II) Cribs used by any infant shall be cleaned and disinfected and the sheets washed before being used by another child.

(III) Clean sheets shall be provided daily, or more often as needed when wet or soiled.

(v) Feeding.

(I) Food.

I. Formula and foods to be provided by the center to infants shall be planned in writing with the infant's parent(s)/guardian(s) or by the child's physician with the parent(s)/ guardian(s) knowledge and consent.

II. If the center provides formula for infants, commercially prepared, ready-to-feed formula shall be provided. All formula, bottles, nipples, and other equipment used in bottle preparation shall be prepared, handled, and stored in a sanitary and sterile manner.

III. If formula is provided by the parent(s)/ guardian(s) it shall be labeled with the child's name and stored in the refrigerator. All bottles shall be sent home or discarded at the end of the day.

IV. If baby food is provided by the parent(s)/guardian(s), all jars shall be labeled with the child's name. No previously opened jars shall be accepted by the center. All opened jars shall be sent home or discarded at the end of the day.

V. Meals and snacks provided by the center for infants shall be planned in accordance with child-care infant meal patterns of the food and nutrition service USDA. (Refer to Appendix A - Meal and Snack Patterns).

VI. Drinking water shall be offered to infants several times a day.

(II) Service and Serving Equipment.

I. The feeding schedule shall be in accordance with the infant's needs rather than according to the hour.

II. The infant shall be held for bottle feeding. No bottles shall be propped.

III. When an infant is able to sit in a chair or feeding table, he/she shall be allowed to do so.

IV. Infants shall be encouraged to experiment with self-feeding with hands and/or spoon.

V. Each infant's solid foods shall be fed/ eaten from a dish. For infants who eat a whole jar of baby food at one serving, the child-care worker may feed the infant directly from

the baby food jar. Any food remaining in the jar shall be discarded.

VI. Dishes and nursing bottles used shall be unbreakable.

VII. Infants shall not be forced to eat.

VIII. Food shall not be used as a punishment or reward.

(III) Weaning.

I. Weaning shall begin only when the child is determined ready by the child's physician and parent(s) or guardian(s).

II. Parent(s) or guardian(s) and staff shall work together to insure consistency in the weaning process.

III. The infant shall be allowed to become familiar with drinking from the cup prior to substituting it for the bottle.

2. Toddlers.

(i) Learning/Growth Activities.

(I) The staff shall plan and provide activities, in accordance with the toddler's developmental level, which shall include, but need not be limited to, stories, music, and creative art.

(II) The staff shall give personal, undivided attention to each toddler daily.

I. The staff shall talk to each toddler often and encourage him/her to respond.

II. The staff shall work with each toddler to guide his/her play with a variety of toys.

III. The staff shall have pleasant physical contact with each toddler.

(III) Toddlers shall spend time outdoors daily, when weather permits.

(IV) Toddlers shall have daily indoor opportunities for freedom of movement, in an open, uncluttered space.

(V) Cries of toddlers shall be investigated immediately.

(ii) Diapering/Toileting.

(I) There shall be a safe and sanitary diapering procedure.

I. Wet or soiled diapers and other clothing shall be changed promptly.

II. Diapers and other soiled and wet clothing shall be changed in each child's crib or on a surface which is cleaned and disinfected after each use.

III. No toddler shall be left unattended while being diapered.

IV. Staff members shall wash hands with soap and warm running water before and immediately after each diaper change.

(II) There shall be a plan for the provision of diapers and clothing so that sufficient dry and clean clothing is available for each child.

I. If parent(s) or guardian(s) supply diapers and are responsible for laundering, soiled diapers shall be rinsed immediately, kept separate from every other child's in plastic bags or plastic-lined, covered containers and sent home daily.

II. If the center supplies diapers and is responsible for laundering, soiled diapers shall be rinsed immediately, kept separate

from every other child's in plastic bags or plastic-lined, covered containers and removed daily for washing. The containers shall be cleaned and disinfected daily.

III. If disposable diapers are used, they shall be placed in a covered, plastic-lined container and disposed of daily.

IV. Individual disposable wipes or a clean single use cloth shall be used at each diaper change and placed in a plastic-lined, covered container and disposed of properly, out of the reach of children.

(III) Toileting Practices.

I. The staff shall begin toilet training toddlers only when the child is able to communicate his/her needs to use the toilet.

II. Staff shall work together with parent(s) or guardian(s) to determine when to initiate toilet training procedures and to ensure a consistent and relaxed toilet training process.

III. Potty chairs, if used, shall be emptied and rinsed and disinfected after each use.

(iii) Napping/Resting. The staff shall recognize differing needs of toddler for sleep/rest and each child shall be allowed to follow his/her own sleep/ rest pattern.

(iv) Cots and Bedding.

(I) Cots used by any toddler shall be cleaned before being used by another child, and clean sheets shall be provided.

(II) Clean sheets and coverings shall be provided at least once each week or as frequently as needed when wet or soiled.

(III) Cots shall be positioned to allow space for staff access to the children and to allow space for safe exit in case of emergency.

(v) Feeding. As toddler's eating patterns change from those of the infant to those of the preschool child, the regulations for preschool feeding shall apply.

3. Preschool and/or School-age Children.

(i) Learning/Growth Activities.

(I) There shall be a posted written daily plan or schedule of the day for each group of children.

(II) Indoor and/or outdoor experiences such as creative art, rhythm and music, books and stories, discussion, natural science, block building, home living, manipulative toys and games, water play, climbing, riding, sand and digging, shall be available.

(III) Indoor and/or outdoor experiences for school-age children, such as creative art, music, story and discussion, science, dramatic play, crafts and games, recreation and sports, and real tasks, such as cooking, sewing, or wood working, shall be available.

(IV) There shall be periods of indoor work-play time when the children shall be permitted to proceed from one activity to another, alone or in small groups.

(V) Preschool and school-age children shall spend time out of doors daily when weather permits.

(VI) There shall be periods of vigorous activity and opportunity for quiet play.

(VII) There shall be daily periods of staff-directed activity planned according to the child's stage of development.

(VIII) Provisions shall be made for a quiet area for use by children desiring to be alone or to work on homework.

(IX) The staff shall encourage the child's independence in routines and activities by assigning simple housekeeping duties, offering planned activities and projects, etc.

(X) The staff shall encourage conversation among children.

(XI) The staff shall give individual attention to each child daily, such as conversation between staff and child.

(XII) Radio and television and VCR's shall be used only when they supplement and enhance the daily plan for the children. No child shall be required to watch television or VCR's. All video tapes shall be previewed by a staff member to insure their appropriateness for the age of the children. Sexually explicit, violent, or frightening materials are prohibited.

(XIII) The staff shall assist the child needing help during the early morning and late afternoon periods in coping with separation from parents and usual end-of-the-day fatigue.

(XIV) In cases when children participate in "away from center" activities, there shall be a written plan from the child's parent(s) or guardian(s) and agreed to by the staff concerning:

I. The number and type of community activities in which the child shall participate, and means of transportation to be used; and

II. The amount and kind of freedom allowed for the child using the center as "home base".

(XV) The staff shall note that the child arrives at the center from school or "away from center" activities when expected and shall follow up on his/her whereabouts, if late.

(ii) Napping/Resting. The staff shall recognize differing needs of children for sleep/rest.

(I) A supervised rest period shall be scheduled for preschool children in attendance at the center for more than 5 hours.

I. Rest period shall not be less than 45 minutes and shall not exceed 2 1/2 hours.

II. Children who do not sleep after 45 minutes of rest shall be permitted to engage in quiet activities.

III. School-age children shall not be required to nap.

(II) Cots and Bedding.

I. Cots shall be cleaned and clean sheets provided before the cot is used by another child.

II. Clean bottom sheets and covers shall be provided at least once each week or as frequently as needed when wet or soiled.

III. Cots shall be positioned to allow space for staff access to the children and to allow space for a safe exit in case of emergency.

(iii) Toileting. Children's toileting shall be according to individual need.

(iv) Feeding.

(I) Food.

I. Children in attendance shall be served breakfast or a morning snack, a nutritious midday meal, and at least one afternoon snack.

II. The meal and snack patterns provided by the Food and Nutrition Service, USDA, shall be used in meal planning. Meal components and serving sizes shall be in accordance with these guidelines. (Refer to Appendix A - Meal and Snack Patterns.)

III. No child shall be deprived of a meal or snack if he/she is in attendance at the time the meal or snack is served.

IV. Meals and snacks shall be spaced at least 2 1/2 hours apart.

V. Meals and snacks for children with special dietary needs shall be provided in accordance with the child's needs and written instructions of the child's parent(s)/ guardian(s) or a licensed physician.

VI. Menus shall be planned, at least one week in advance, dated and posted where they may be seen by the parent(s)/guardian(s). Menus shall include a variety of foods. Food substitutions shall be noted on the menu.

VII. Meals and snacks shall be provided by the center. When a parent/guardian chooses to provide food for their child, a written

signed statement indicating this shall be on file in the center.

(II) Service and serving equipment.

I. Meals shall be served in a pleasant atmosphere and in a manner which permits the children to assist in serving themselves.

II. Staff shall sit at the tables with the children at mealtime.

III. Portions of food served shall be suited to the child's age and appetite. Second portions shall be available.

IV. Easily breakable dinnerware shall not be used.

V. Single-use cups or glasses or drinking fountains shall be supplied for water service during the day. A common drinking container shall not be used.

VI. Children shall not be forced to eat.

VII. Children shall not be allowed in the kitchen.

(III) When food service is catered, the plan shall be approved by the county health department. Meals which are catered shall meet the meal patterns provided in Appendix A.

(c) Disciplinary Practices. Disciplinary practices shall be according to the following requirements:

1. Developmentally appropriate limits or rules shall be understandable to the staff and children to whom they apply.

2. Staff shall agree on acceptable and unacceptable behavior and on limits set.

3. Expected behavior shall be on the child's level.

4. A kind, firm voice shall be used.

5. Discipline shall be consistent and fair.

6. Positive reinforcement shall be encouraged. Developmentally appropriate reward systems may be used.

7. Discipline shall not be associated with food, naps, or bathroom procedures.

8. No corporal/physical punishment shall be used.

9. Techniques of discipline shall not be humiliating, shaming, or frightening to the child.

10. Discipline shall be related to the misbehavior and it shall be administered immediately, usually by the worker primarily responsible for the child. In occasional situations, consultation with the director may be indicated.

11. No verbal abuse, threats, or derogatory remarks about the child or his/her family shall be used.

(d) Staff-Parent Communication.

1. The staff shall be responsible for communicating with the parent(s)/guardian(s) concerning changes in the child's behavior patterns.

2. The staff and parents shall discuss severe discipline or behavior problems to determine appropriate action consistent with disciplinary practices above.

3. Visits to the center by the parent(s)/guardian(s) and other interested persons shall be encouraged.

4. The center shall be open to visits from parent(s)/ guardian(s) at any time of the day.

5. Staff shall be available for communication and/or conferences with the parent(s)/guardian(s) at a mutually convenient time.

(e) Health and Medical Needs.

1. Medical Information.

(i) Results of medical examination, screening or assessment shall be on file.

(I) Each child under five years of age shall have, within 12 months prior to initial admission, a physical examination or medical screening or assessment (such as MEDIKIDS). The physical examination shall be performed by a licensed, practicing medical doctor or physician's assistant. A medical screening or assessment shall be performed by a licensed, practicing medical doctor, other medical

personnel who are administratively responsible to a licensed, practicing medical doctor or a licensed Registered Nurse who has access to consultation on a regular, planned basis from a licensed, practicing medical doctor. Documentation of the availability and frequency of consultation must be in written form.

(II) Record of the examination, screening or assessment, dated and signed by the appropriate medical staff, and additional information provided by the parent(s) or guardian(s), concerning health matters which would affect the child's participation in, or adjustment to, the day care program shall be on file in the center prior to the child's admission.

(III) In situations where medical services are not available, written verification of appointment to receive needed examination shall be substituted for no more than three months and shall be on file.

(ii) Effective July 1, 1993, each child under five years of age and five year olds who are not enrolled in public/private school kindergarten shall have an unexpired State of Alabama Certificate of Immunization (ADPH-F-IMM-50) on file in the center prior to the child's admission or one of the following conditions shall be met:

(I) An unexpired Alabama Certificate of Medical Exemption (ADPH-F-IMM-50) shall be on file in the center;

(II) Where immunizations are waived on religious grounds, an Alabama Certificate of Religious Exemption (ADPH-F-IMM-52) shall be on file in the center.

2. Illness and Injury.

(i) Inspections.

(I) No child who appears ill shall be admitted to the center.

(II) Any evidence of suspected child abuse/ neglect shall be recorded in the child's record and reported as required.

(ii) Isolation and Removal.

(I) Any child in attendance who becomes ill shall be isolated promptly from the group, but shall have continuous supervision by a staff member. Toys, bedding, equipment and bathroom facilities used by an ill child or adult shall be cleaned and disinfected prior to use by another person.

(II) The ill child's parents shall be notified immediately and required to come for, or arrange for another designated person to come for the child.

(iii) Communicable Diseases.

(I) When a communicable disease has been introduced into the center, parent(s) or guardian(s) of exposed children shall be notified.

(II) The center shall urge parent(s) or guardian(s) to notify center when their child is known to have been exposed to a communicable disease outside the center.

(III) The center shall report any known/suspected case of communicable disease to the local health department.

(iv) Readmission. A child who does not appear to be fully recovered from an illness shall not be readmitted to the center without a statement from an attending physician or physician's assistant, that the child is able to return and participate in the activities of the center, or is no longer infectious.

(v) First Aid.

(I) A copy(ies) of any First Aid reference book, current edition shall be readily available in the center.

(II) The center shall maintain emergency first aid supplies for minor cuts and abrasions.

(vi) Emergency Plan. A written description of procedures to be followed in emergency situations shall be developed and known by all staff members.

(I) The planned source of emergency medical care, such as a hospital emergency room, clinic, or other constantly staffed facility, shall be known to staff and parent(s)/guardian(s).

(II) A vehicle shall be immediately accessible for use by staff members in case of emergencies.

(III) Parent authorization for the center to obtain emergency medical treatment, name and telephone number or physicians designated by parents, telephone number and/or address where parent(s)/guardian(s) may be contacted, and other emergency telephone numbers including hospital emergency room, ambulance service, rescue squad, fire and police departments, shall be posted by the center's telephone so as to be immediately accessible.

(vii) Authority and procedure for administering medication shall be clearly defined.

(I) When parent(s)/guardian(s) of the children are unavailable to administer medication, one designated staff person shall be authorized to administer medication.

(II) Medication and/or special medical procedures shall be administered to a child by the designated staff person(s) only when there is a written, signed, and dated request from the parent(s)/guardian(s).

(III) Any prescription drug sent to the center shall be in its original container and clearly labeled with the child's name and directions for administering the drug.

(IV) All medication or drugs (children's or staff's members) shall be kept in an area inaccessible to the children and shall be removed when no longer needed.

(V) Time of all medication dosages administered at center shall be provided, in writing, to child's parent(s)/guardian(s).

3. Hygienic Practices.

(i) Face and Hand Washing.

(I) Children's hands shall be washed with soap and water before snacks and meals, and after toileting. Children's hands and faces shall be washed after meals.

(II) Staff shall wash their hands with soap and water before food preparation and/or service and after assisting with toileting or diapering.

(III) Paper towels, or individual single use washcloths, shall be supplied for each washing.

(ii) Toilet articles.

(I) A disposable wipe or single use cloth shall be provided each time, for washing hands and face and for diapering. Used cloths or wipes shall be disposed of properly out of the reach of children.

(II) Each child's toilet articles (such as combs or toothbrushes, etc.) shall be labeled with the child's name, stored separately, and maintained in a sanitary condition.

(III) Facial tissues shall be disposed of immediately following each use.

(iii) Extra children's clothing shall be available in the center.

4. Healthy animals, which present no apparent threat to the children, shall be permitted on the premises, unless prohibited under local health ordinances.

(i) A certificate of rabies inoculation shall be on file in the center for animals on the premises, when required.

(ii) Animals on the premises shall be confined. Cages and other areas used to confine animals shall be kept clean, with appropriate food and water available.

(iii) Aggressive animals or breeds of animals that have shown a reputation of aggressive or violent tendencies toward persons, shall not be permitted on the premises.

(iv) Children and staff shall wash hands with soap and warm running water immediately after handling animals.

(8) Nighttime Centers (Additions and/or Modifications). Nighttime centers, in the context of these regulations, shall mean any center in operation past 7:00 p.m. In addition to the requirements set forth above, centers offering nighttime care shall meet the following requirements or modifications:

(a) Administration.

1. A separate license shall be applied for and obtained prior to offering nighttime care.

2. Arrangements for use of the same premises for nighttime care and day care services, by different, or the same, licensee shall be such as to eliminate overlapping which would disrupt either service, and shall provide smooth transition from one type of service to the other.

3. Records on each child shall include information concerning family bedtime routines, and other information which would assist staff in providing a smooth transition for the child.

4. A child who has spent more than six daytime hours in a day care center shall not be enrolled for nighttime care, except in the case of special temporary circumstances.

(b) Staff Qualifications.

1. If all children enrolled at the center receive their regular night's sleep at the center, a staff person meeting at least child-care worker qualifications shall be assigned the director/program director responsibilities and shall be on duty and present at the center during all hours of operation.

2. During hours when children are normally sleeping, the child-staff ratio for sleeping children shall be met by staff members meeting at least child-care worker qualifications.

(c) Facility.

1. Building.

(i) In groups of children where all enrolled received their regular night's sleep at the center and where all in the group are sleeping in cribs, there shall be at least 20 square feet of space in addition to crib space per child.

(ii) There shall be 1 bathing facility for each 15 children receiving their regular night's sleep at the center.

2. Equipment and Furnishings.

(i) Requirements for equipment shall be adjusted to implement the nightly activity schedule if no child

is at the center more than 2 hours prior to normal bedtime or after normal waking time.

(ii) Cots, fitted with a firm, waterproof mattress, shall be provided for each child receiving his/her regular night's sleep at the center.

(d) Child-Care Program.

1. Arrival and Departure.

(i) The scheduling of arrival and departure of children, and the grouping of the children, shall be arranged so that no child is deprived of sleep or has his/her sleep unnecessarily disrupted.

(ii) The staff shall work with the child's parent(s) or guardian(s) to coordinate child's plan for time spent at the center, with the family schedule.

2. Staffing.

(i) The following child-staff ratio for sleeping children shall be used:

Age of Children	**Child Staff Ratio**
3 Weeks - 6 Months	1 Adult to 6
6 Months - 1 Year	1 Adult to 10
1 Year - 2 ½ Years	1 Adult to 15
2 ½ Years	1 Adult to 20
4 Years and Older	1 Adult to 30

(ii) Ratios and grouping for day care centers shall apply during the hours prior to normal sleeping time or after normal waking time.

(iii) Support staff.

(I) There shall be an additional staff person available to assist with groups of children age 2 1/2 years to 6 years, in which there is only 1 staff person, during the pre-bedtime and bedtime routine.

(II) Additional support staff shall not be required for groups of children who are sleeping.

(iv) Coverage.

(I) A staff member at least 19 years of age shall be present in the center during all hours of operation. A second adult shall be present in the

center whenever 7 or more children are in attendance.

(II) Each staff person giving care during pre-bedtime and bedtime period shall be assigned the responsibility of caring for the same children nightly.

(III) There shall be at least 1 adult in each room of sleeping children ages 3 weeks to 4 years. One adult shall supervise no more than 2 adjoining rooms of sleeping children, ages 4 years and older.

(IV) All staff on duty shall be awake and alert to the needs of the children.

(V) There shall be an additional adult on call, whose name, address, and telephone number are posted by the center's telephone, in case of emergency.

3. Nightly Activity Schedule.

(i) A nightly schedule shall be planned for the hours the children are awake.

(ii) Outdoor time and experiences shall be available to the children during daylight hours.

(iii) The staff shall give each infant who receives his/her regular night's sleep at the center, personal contact and individual attention.

(iv) A nightly creative art experience shall not be required for toddlers.

(v) Activities available for preschool and school-age children shall not be required if the child is at the center no more than 2 hours prior to the normal bedtime or after normal waking time. A selection of quiet activities which can be used with minimal staff supervision shall be available.

(vi) Quiet activities shall be scheduled immediately preceding bedtime for preschool and school-age children.

(vii) The word "napping" as included in the day care standards shall mean "sleeping" for nighttime centers.

(viii) Parent(s)/guardian(s) and staff shall work together to insure consistency between the family and the nighttime center bedtime routines.

(ix) The staff shall assist children, in dressing and grooming, as needed, if they are going directly from the center to school.

4. Food and food service. Children who go directly from the center to school shall be served breakfast before leaving the center unless breakfast shall be eaten at school. An evening meal shall be served for children who are continuing in attendance from the day time program.

5. Hygienic practices. Children shall have shower, tub or sponge baths as needed for body cleanliness.

(i) When a bathtub is used, fresh water shall be provided for each use.

(ii) All children shall be provided individual washcloths, towels, and soap for bathing.

6. Sleepwear. Sleepwear shall be clean and comfortable, and labeled with the child's name.

(9) Special Activities Programs.

(a) Special Activities Programs for children including, but not limited to, athletics, crafts instruction, and similar activities conducted on an organized and periodic basis shall meet local and state fire and health requirements and regulations pertaining to staff qualifications, staff's and children's records, swimming and wading facilities, child/staff ratios and grouping, transportation policies, and reports to the Department.

(b) Special activities programs for school-age children including, but not limited to, athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable, and governmental organizations, shall be exempted from licensure, provided that local and state fire and health requirements are met.

(10) Care of Children with Development Disabilities. In addition to the preceding regulations, when developmentally disabled children are cared for in the center, the following requirements shall be met.

(a) If a developmentally disabled child is enrolled in the center, a statement shall be obtained from a licensed practicing physician and/or licensed mental health professional indicating the particular nature of the child's

disability and recommendations concerning special care needed by the child.

(b) If a developmentally disabled child is enrolled in the center, he/she shall receive the same care and participate in the same program activities as other children, with necessary adaptions to enable his/her to participate.

(c) Adaptions to the environment shall be directed toward normalizing the life-style of the developmentally disabled child by helping him/her become independent and develop self-help skills.

(d) Any efforts to provide specialized services (such as speech/hearing therapy, physical therapy, or psychological evaluation) shall be planned in cooperation with the parent(s) or guardian(s) and documented in the child's record. Any informational exchange regarding these services shall also be documented.

(e) Staff/child ratios shall be at least that required for other children. Lower staff/child ratio (additional staff) may be required depending on the number of developmentally disabled children enrolled in the center, and the degree/type of their disabilities.

(11) Character and Suitability Requirement.

(a) All applicants and holders of a child-care license or six-month permit, all applicants for employment in a paid or voluntary position, and all current employees in paid or voluntary positions must be suitable and of good moral character in order to operate or work in a child-care facility. All applicants shall be investigated to determine their character and suitability to hold a license/permit or work in a child-care facility. For purposes of this requirement, an applicant includes individuals as well as all board members and officers of corporations, partnerships, associations or other legal entities who have contact with the children in care.

(b) In addition to those listed below, factors relevant in assessing character and suitability include, but are not limited to, character references, community reputation, work history, criminal history, personal history, interpersonal skills, mental and physical limitations, and psychological problems.

(c) The criminal record on individuals must be reviewed, and will be a factor in determining the character and suitability of individuals to hold a license or six-month permit or work in a child-care facility.

1. All applicants for a license and all staff members and applicants for a license/permit or employment, in paid or voluntary positions, must reveal on their application all past criminal convictions and/or current charges, except for minor traffic violations (parking and improper turning, stopping, or vehicle equipment tickets), since age 16.

2. The licensee or permit holder, and all staff members must advise the center's director or administrator and the Department of all criminal convictions and/or current criminal charges, except for minor traffic violations (parking and improper turning, stopping, or vehicle equipment tickets), which occur after the licensee/permit holder attains a license/permit or during the course of employment with the child-care facility.

3. A licensee/permit holder, staff member of applicant for employment for a paid or voluntary position is considered unsuitable to work or continue to work in a child-care facility if he/she has a criminal conviction in this or another state at any time which:

(i) Involves a sex-related crime. Such crimes include, but are not limited to, sexual abuse, sexual exploitation, molestation, rape, child pornography, sale or exhibition of obscene materials, sodomy, sexual mischief, incest, enticement for immoral purposes, prostitution, pandering or promoting prostitution, and obscenity; or

(ii) Involves serious intentional, reckless or negligent physical injury, danger or death of any person. Such crimes include, but are not limited to, murder, homicide, manslaughter, assault with a weapon, reckless endangerment, kidnapping, and unlawful imprisonment; or

(iii) Involves a crime against a child. In addition to those crimes listed in (i) and (ii), such crimes include, but are not limited to, abandonment, endangerment, and assault.

4. Convictions for crimes other than those listed in 3. above will be evaluated to determine whether or not they constitute a danger to children based on the seriousness of the crime, the existence of extenuating circumstances, the propensity to recommit the crime, and evidence of rehabilitation since the crime was committed.

(d) The character and suitability of a licensee/permit holder, staff member, or applicant for employment, in a paid or voluntary position, to hold a license or six-month permit or

to work in a child-care facility may also be assessed by a review of the past history of the individual regarding their truthfulness and their ability to care for children. False or misleading statements made by the individual to the Department or other government or center personnel regarding incidents or events occurring while on the job or surrounding part of any child abuse or neglect investigation conducted by the Department, law enforcement or other government officials are considered as evidence of unsuitable character.

(e) Applicants for a license and holders of licenses/six-month permits who are discovered to have had a history of operating without a license and refusal to cease operations or apply for a license or permit or refusal to allow the Department to conduct investigations regarding their activities or allegations of abuse and neglect are also considered as evidencing unsuitable character.

(f) A good character and suitability review shall be conducted on all applicants for a license, staff members, and all applicants for employment, who are discovered to have been determined by a child or adult protective service agency in any state, to have perpetrated the abuse or neglect of a child or adult. Determinations which fall within the general subject area outlined in paragraph (c)3. above, even if no criminal conviction has occurred, are considered as evidence of unsuitable character. Other determinations will be evaluated based upon the same factors as in paragraph (c)4.

(12) Application and Procedure for License.

(a) Application for a License.

1. Applications for a license shall be made on a departmental approved form and shall contain all information requested on that form including social security number.

2. Any person, group of persons or corporation may obtain an application form for a license to operate a child-care facility by contacting the Department of Human Resources by, letter, telephone or scheduled visit.

3. With the application form, a person is provided a copy of Minimum Standards for Day Care Centers and Nighttime Centers: Principles, Regulations and Procedures.

4. The completed application is returned to the Department within 30 days from the date of inquiry if such person, etc., wishes to pursue his plan to operate a center or, if such person is already operating a center illegally (without a license).

(b) Examination and Investigation of Application.

1. Upon receipt of the completed application, a representative of the Department of Human Resources will examine the premises proposed for the center and will investigate the person responsible for the center.

2. The examination and investigation will be based on the minimum standards and regulations as prescribed and published by the Department.

(c) In all counties except Madison and Mobile, the Commissioner of the State Department of Human Resources approves/denies the issuance of licenses, six-month permits and renewal of licenses to operate a day care center and nighttime centers. In Madison and Mobile County and any other county delegated the authority to perform day care and nightime center licensing functions, the County Director or his/her designee approves/denies the issuance of licenses, six-month permits and renewal of licenses to operate day care centers and nighttime centers. The Commissioner may delegate the authority to perform daycare/nighttime center licensing functions for specific centers or for all centers within a particular county to an individual County Department or Human Resources. Licensing functions may include but are not limited to approval or denial of the issuance of licenses and six month permits, renewal of licenses, inspections, investigations, suspension and revocation of licenses.

(d) Disposition of the Application.

1. When minimum standards for the operation of a center have been met, a license will be issued.

2. If denial of an application is indicated the Department will notify the applicant, in writing, of the decision, pointing out those areas of the minimum standards which have not been met. The applicant may withdraw the application either verbally or in writing.

(e) Provisions of the License.

1. Licenses issued by the Department to day care centers and nighttime centers are valid for two years from the date of issuance, unless revoked by the Department or voluntarily surrendered by the licensee.

2. The number of children in the center at any given time shall not exceed the number specified on the license.

3. The age range of the children served shall not vary from the limits specified on the license.

4. The license is not transferable from one individual or group or corporation to another, nor from one building to another.

(f) Six-Month Permit.

1. If specific areas of the minimum standards are identified as lacking, and if the applicant can demonstrate or document that in good faith he is taking action towards full compliance with regulations, the Department may issue a six-month permit to persons making initial application for a license to allow the center reasonable time to become eligible for a full license. Issuance of a permit is evidence that the Department approves the center's temporary operation without the center having fully met all requirements. One renewal of six-month permit may be issued at the discretion of the Department. The probationary six-month permit (alternative to revocation) is not to be confused with the six-month permit issued to persons making initial application for a license.

2. The Department's decision to issue a six-month permit shall be after the center/prospective licensee has met the following:

(i) All state, local, and municipal codes and ordinances, including fire approval, health approval and zoning approval if applicable;

(ii) Compliance with outdoor fencing;

(iii) Written documentation that required furnishings and equipment will be in the center by the end of the six-month period;

(iv) Sufficient qualified staff for compliance with child/staff ratios;

(v) References and medical reports on all staff; and

(vi) Provision of tables and chairs, and at least one-half of the equipment for each age group.

(g) Demonstration Permit/License. The Department may issue a demonstration permit or license to a facility to operate experimental or pilot child-care physical plants, programs or activities designed to help develop new or modified minimum standards for day care/nighttime centers or to study the effectiveness of current minimum standards for day care/ nighttime centers. A facility issued a demonstration permit or license shall operate in compliance with the established minimum standards as modified by the restrictions,

requirements, and other terms of operation placed upon the facility by the Department. A demonstration permit/license may be time-limited or nonrenewable. Failure to operate the facility in compliance with applicable minimum standards, restrictions, requirements, and terms of operation is grounds for suspension or revocation of the permit or license issued. A facility granted a demonstration permit or license shall be entitled to a Department hearing as any other facility holding a regular permit or license.

(h) Renewal of a License.

1. Application for renewal of a license to continue operating a day care center or nighttime center shall be made to the Department one month prior to the expiration date of the current license, and on the form prescribed by the Department.

2. The Department shall re-examine and re-evaluate every area of the facility included in the application process.

3. A renewal of a license shall be issued, if, upon re-examination, the Department is satisfied that the child-care facility continues to meet and maintain minimum standards prescribed and published by the Department.

(i) Department Visits, Examinations, and Consultation. Visits to the day care center or nighttime center are made by representatives of the Department to determine continued conformity with minimum standards and to offer consultative services.

2. Visits may be made at any time at the discretion of the Department of Human Resources or its representative, without prior notice, for the purpose of determining compliance with the Minimum Standards, investigating complaints, or any other department-related purpose.

6. The licensee shall have the opportunity to submit, in writing, information regarding inspections resulting from complaints reported to the Department.

(13) Probationary Permit (Alternative to Revocation).

(a) Within the licensure period, the Department may issue one six-month permit on a provisional basis to a licensed child-care facility found to be out of compliance with the Department's minimum standards where such noncompliance does not represent a hazard to the health or safety, or physical, moral or mental well-being of the children in care. During this six-month period, the child-care facility shall correct the items which were in noncompliance and report the

corrections to the Department for determination of eligibility for a full license.

(b) The Department cannot consider the issuance of this probationary permit as an alternative to revocation unless the child-care facility has voluntarily surrendered its license to the Department.

(c) This probationary six-month permit is not to be confused with the six-month permit issued to persons making initial application for a license.

(14) Suspension or Revocation of a License.

(a) With the exception of Madison and Mobile County and any other county delegated the authority to perform day care and nighttime center licensing functions, the Commissioner of the State Department of Human Resources may suspend or revoke or refuse to renew the license or the approval to operate a day care or nighttime center or refuse to issue a full license to the holder of a six-month permit or approval if the operator:

1. Consistently fails to maintain standards prescribed and published by the Department;

2. Violates the provisions of the license issued;

3. Furnishes or makes any misleading or any false statements or reports to the Department;

4. Refuses to submit to the Department any reports or refuses to make available to the Department any records required by the Department in making investigation of the child-care facility for licensing purposes; provided, however, that the Department shall not revoke or refuse to renew a license in such case unless it has made written demand on the person, firm or corporation operating the facility requesting such report or reports and such person, firm or corporation fails or refuses to submit such records for a period of ten days;

5. Fails or refuses to submit to an investigation by the Department;

6. Fails or refuses to admit authorized representatives of the Department at any reasonable time for the purpose of investigation;

7. Fails to provide, maintain, equip and keep in safe and sanitary condition the premises established or used for child care as required under standards prescribed by the

Department, or as otherwise required by any law, regulation or ordinance applicable to such facility;

8. Refuses to display its license or permit; or

9. Fails to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, learning experience and other essentials in the proper care, rearing and training of children.

(b) In Madison and Mobile County and any other county delegated the authority to perform day care and nighttime center licensing functions, the County Director or his/her designee, may revoke or refuse to renew the license or the approval to operate a day care or nighttime center or refuse to issue a full license to the holder of a six-month permit for the reasons as specified in (a).

(c) If the Department makes the decision to revoke or refuse to renew the license, or six-month permit, a pre-revocation hearing must be held in order to discuss the intended action and give the licensee/permit holder an opportunity to show why the action should not be taken. Notice of the pre-revocation hearing and notice of action taken by the Department following the pre-revocation hearing shall be sent to the licensee/ permit holder by certified mail unless waived. The pre-revocation hearing does not alter the person's right to a fair hearing.

(d) If an inspection of a licensed or approved day care or nighttime center by the Department discloses any condition, deficiency, dereliction or abuse which is, or could be, hazardous to the health, the safety, physical, or mental well-being of the children in the care of the child-care facility being inspected, the Department shall have the power to suspend or revoke without notice the license or six-month permit. The suspension may remain in effect for a period of not longer than 120 days and shall not be renewable. A pre-revocation hearing shall be scheduled as soon as possible to give the licensee/permit holder an opportunity to show why the license/permit should not be revoked. Notice of the pre-revocation hearing and notice of action taken by the Department following the pre-revocation hearing shall be sent to the licensee/permit holder by certified mail unless waived. The pre-revocation hearing does not alter the person's right to a fair hearing.

(e) No pre-denial hearing is required to be held prior to the denial of an initial application for a license or six-month permit.

(15) Request for a Fair Hearing.

(a) An aggrieved person may request a fair hearing in the following situations:

1. If an application for an initial license, six-month permit or an approval is denied;

2. If an application for a renewal of a license, six-month permit or an approval is denied;

3. If an application for an initial license or renewal of a license, six-month permit or an approval is not acted upon within reasonable promptness; or

4. If a license, six-month permit or an approval is revoked.

(b) Notice of the opportunity to request a fair hearing shall be given by certified mail.

(c) When a pre-revocation hearing has been held, a request for a fair hearing must be filed within 14 calendar days of the notice of revocation. Any existing license, six-month permit or approval shall remain in effect during the 14-day time period to request a hearing. If a hearing is requested, the existing license, six-month permit or approval shall remain in effect until, and including, 30 days after the final decision on a request for a rehearing.

(d) If the Department determines, and states in writing, that a danger to the public health, safety or welfare requires emergency suspension, the existing license, permit or approval may be suspended immediately or on the date specified in the notice of suspension.

(e) In all other situations where a pre-action hearing has not been held, a request for a fair hearing must be filed within 60 calendar days of the action (or inaction) with which the aggrieved person is dissatisfied.

(16) Conduct of Fair Hearing.

(a) When a pre-revocation hearing has been held, the fair hearing will be conducted on the record. No additional evidence or testimony will be admitted unless it can be shown that it is material to the issues of the case and could not have been presented at the prior hearing with reasonable diligence or that the additional evidence was not allowed at the prior hearing due to unlawful procedures.

(b) When a pre-action hearing has not been held, the fair bearing is to be conducted in accordance with the general

procedures found in Chapter 660-1-5. The following modifications and exceptions to Chapter 660-1-5 as it pertains to day care centers and nighttime centers apply:

1. An aggrieved person as defined in 660-1-5-.01(1) includes the applicant, licensee or holder of a six-month permit or approval whose:

(i) Application for license or approval is denied; or

(ii) Application for renewal of license or approval is denied; or

(iii) License, approval or six-month permit is revoked, or suspended or otherwise modified; or

(iv) Application for license or approval is not acted upon with reasonable promptness. "Reasonable promptness" is defined as 30 days from the date of the receipt by the Department of all information required to make the decision to grant or deny the license or approval.

2. The following rules are not applicable:

(i) 660-1-5-.02 (2) Choice or Action and (3) Informal Conference;

(ii) 660-1-5-.11 Group Hearing; and

(iii) 660-1-5-.12 Combined Hearings.

(17) Unlicensed Facilities.

(a) If the Department representative determines, through investigation, that any person, group of persons, or corporation is, or has been, operating an unlicensed child-care facility, the results of the investigation shall be reported to the Attorney General and to the appropriate District Attorney for prosecution.

(b) Filing of the report may be delayed for a period, not to exceed 60 days, to allow the person, group of persons, or corporation reasonable opportunity to apply for a license or a six-month permit.

(c) Any person, group of persons, association or corporation who conducts, operates or acts as a child-care facility without a license, or a six-month permit or an approval shall be guilty of a misdemeanor, and shall be fined not less than $100 nor more than $1000 or be imprisoned in the county jail not longer than one year or both.

Author:

Statutory Authority: P.L. 100-485, Titles II and III; 42 U.S.C. §§602, 681-687; 45 C.F.R. Parts 250 and 255; 54 Fed. Reg. 42145-42267; Title IV-A of the Social Security Act, §§402 (1) and 403 (n); Code of Ala. 1975, §§38-7-1 through -17 as amended by Act No. 81-310, Acts of Alabama 1981; JOBS State Plan and State Supportive Services Plan.
History: Effective July 18, 1983. Permanent amendment effective November 18, 1988 (formerly Rule 660-5-25-.07). Emergency amendment effective April 1, 1990. Succedent permanent amendment effective July 10, 1990. Succedent emergency amendment effective April 1, 1991. Succedent permanent amendment effective July 10, 1991. **Amended:** Filed December 18, 2000; effective January 22, 2001.

Ed. Note: Was previously 660-5-25-.08, renumbered to 660-5-25-.05 as per certification filed December 18, 2000; effective January 22, 2001.

660-5-25-.06 Other Day Care Arrangements - In-Home Care.

(1) Definition. Day care/nighttime care provided for a child in his own home. The child care provider may be a relative or non-relative who may or may not live in the home with the child and his/her parent.

(2) There are no minimum standards for in-home care. If a parent/responsible caretaker selects in-home care, the Department has no regulatory responsibility in approving this day care arrangement.

(3) Purchase of In-Home Care.

(a) The Department will reimburse the parent/responsible caretaker for the cost, up to the maximum allowed, for in-home day care.

(b) Reimbursement for in-home day care will be made to JOBS participants clients eligible for transitional day care, and at risk income eligibles.

(1) Licensing Requirement. Refer to Rule 660-5-25-.05 (1). A Group Day Care Home or Group Nighttime Home which is operational for more than four consecutive hours during a 24-hour period shall be subject to licensure.

(2) Legal Base. The Department of Human Resources is given the authority under Alabama statutes to prescribe and publish minimum standards for licensing and approving group day care homes and nighttime homes.

(3) Definitions.

(a) Group Day Care Home. A child-care facility which is a family home and which receives at least seven but no more than twelve children for care during part of the day where there are at least two adults present and supervising the activities.

(b) Group Nighttime Home. A child-care facility which is a family home which receives at least seven but no more than twelve children for nighttime care after 7 p.m. where there are at least two adults present and supervising the activities.

(c) Operator/Caregiver. The person responsible for daily operation and management of the group day care home, including supervision of caregiving staff and care and guidance of the children.

(d) Assistant Caregiver. A person providing care and guidance of the children in a group day care home, under the supervision of the operator/caregiver.

(e) Caregiving Staff. Includes the operator/caregiver and any assistant caregivers providing care and guidance of the children in a group day care home.

(f) Substitute. A person, at least 19 years of age, approved by the Department, and on call if the operator must be away from the home.

(g) Refer to Rules 660-5-25-.05(3) for other definitions which pertain to group day care home and group nighttime home.

(4) The Home - Physical Environment.

(a) Location.

1. The home shall be located in a neighborhood which meets local zoning ordinances.

2. The home shall meet all state, local, and municipal codes and ordinances. Inspections by the state or local fire department and by the local health department shall be requested as determined necessary by the Department, by the operator, or by officials of the fire and health departments.

(b) Space.

1. There shall be 32 square feet of usable play space available for each child present in the group day care home. Usable play space shall not include office space, bathrooms, bedrooms, storage rooms, or kitchens.

2. All rooms used for the care of children shall be well-lighted, adequately ventilated and comfortably cooled and/or heated.

3. All gas space heaters shall be vented.

4. No kerosene heaters or portable space heaters shall be used during hours of child care.

5. Any fans within reach of the children shall have enclosed blades.

6. The group day care home, its furnishings, and premises shall be maintained in a clean and safe condition.

7. The home shall have space for providing privacy to a child as needed, and to members of the operator/ caregiver's household, whether for resting, studying, or other purposes. Bathing and dressing shall be done in private.

8. Space and facilities shall be available for the temporary care of sick children or of members of the operator/caregiver's household.

9. Space shall be available to each child for storing his personal items.

10. An outdoor play area of not less than 600 square feet shall be available. The outdoor play area will be enclosed by a fence, at least 4 feet in height, with a locking gate. The fence shall be in good repair.

11. The following regulations shall apply when a swimming pool is accessible to the area used for child care:

(i) When a swimming pool, exceeding 2 feet in depth is accessible to the area used for child care, the pool shall be enclosed by a fence, at least 4 feet in height, with a locked gate. The gate and all areas of access shall remain locked at all times the pool is not in use.

(ii) If children are allowed in the pool area, additional supervision shall be required. The child-staff ratio shall be one adult caregiver to one child under age 2 1/2 and one adult caregiver to five children 2 1/2 and above.

(iii) A person holding a current advanced lifesaving certificate shall be present at all times when the pool is in use.

(iv) The water shall be clean and treated in compliance with health department recommendations.

(v) When a wading structure (less than 2 feet in depth) is available to the children, there shall be continuous supervision by at least two adult caregivers. The wading pool shall be filled with clean water prior to each day's usage. The wading pool shall be emptied at the end of each day.

(vi) The group day care home shall have on file written, signed permission from each child's parent(s)/guardian(s) to allow participation in swimming or wading activities.

(vii) The operator/caregiver shall provide the parent(s)/guardian(s) with a written statement of pool regulations and qualifications of staff who will supervise swimming or wading.

(c) Safety.

1. The children shall be visually supervised at all times.

2. The home and grounds shall be free from anything which constitutes a danger or hazard, such as but not limited to: abandoned automobiles and household appliances, uncovered wells and cisterns; stacked lumber with exposed nails; and explosives. Safeguards shall be provided against potential hazards, such as but not limited to: carpentry tools, machinery, firearms and ammunition, stairs, open fires, heaters, cooking ranges, floor furnaces, and thermostatic controls.

3. All poisons and items labeled "Keep out of the reach of children" shall be kept in a locked cabinet.

4. Animals that could pose a threat to the health and safety of the children shall be kept in an area away from the children. A certificate of rabies vaccination shall be on file for any animal on the premises required by law to be vaccinated. Animals or breeds of animals which have shown aggressive behavior, shall not be kept on the premises.

5. All exposed electrical outlets in rooms used for the care of children shall have protective covers. Covers shall be large enough to prevent being swallowed.

6. A smoke detector, powered by the home's electrical service, shall be located within 10 feet of each bedroom and no more than 30 feet apart in hallways. In a two-

story house (upstairs or basement) an additional smoke detector shall be located at the head of the stairway.

7. A fire extinguisher with at least a 2A-10BC rating shall be located in an accessible area of the home. The fire extinguisher shall be a dry chemical type, no less than 5 pounds in weight.

8. All approved exits shall be maintained in unobstructed, easily traveled condition at all times children are present.

9. All bathroom doors and doors of all other rooms accessible to children which have locks shall have available a device to allow the door to be opened from the outside in case of emergency. The device used to open locked doors shall be readily accessible to caregivers. Locks which would prevent children from exiting a room are prohibited.

10. Any stairway or steps in the home shall be maintained in a safe condition at all times. Landings, steps, and stairs shall be provided with handrails installed at child height. Stairways and steps in areas of the home accessible to children under three years shall have safety gates installed to prevent falling.

11. Hot tubs shall be drained or safely covered during the hours of child care.

12. Clear glass doors, such as patio type doors and storm doors, shall be plainly marked at children's eye level to prevent accidental impact.

13. Smoking is prohibited in the presence of children.

14. All video recordings, reading materials, etc., of a sexually explicit nature, or with violent or frightening content shall be kept in an area inaccessible to children.

(d) Emergency Procedures.

1. The group day care home shall have a working telephone.

2. The operator shall maintain a listing of names and telephone numbers, posted by the telephone for ready reference in emergency situations. The listing shall include:

(i) Each child's parent(s)/guardian(s);

(ii) Each child's responsible relative and doctor;

(iii) Police department;

(iv) Fire department;

(v) Hospital;

(vi) Poison control center;

(vii) Department of Human Resources;

(viii) Substitute helper; and

(ix) Alternate helper.

3. A written plan for the evacuation and/or care of the children in case of fire, tornado, serious accident or injury, or power failure shall be established and posted. The operator/caregiver shall inform any assistant and substitute caregivers of his/her duties and responsibilities in case of emergency. A fire drill program shall be established and practiced monthly to assure prompt evacuation of the home in case of emergency.

4. A statement, signed by the child's parent(s), or guardian(s) authorizing emergency medical care during the hours of care, shall be in the child's file in the home prior to attendance. (This is to be used if the parent(s)/guardian(s) cannot be located.)

(5) Caregiving Staff and Household Members.

(a) Personal Health.

1. Initially, the applicant/operator shall provide a medical report from a licensed practicing medical doctor or a physician's assistant. The initial report shall be dated within six months prior to licensing and shall document the date and result of a tuberculin skin test or chest x-ray. The medical report shall attest to the physical and mental suitability of the applicant/ operator/caregiver to care for children and the person's freedom from infectious and contagious diseases. The statement shall be signed by the licensed practicing medical doctor or the physician's assistant and shall be on file with the Department. A copy of the medical statement shall be kept by applicant/operator/caregiver for the group day care home file.

2. At least every four years after the initial doctor's medical report is provided to the Department, the

operator/caregiver shall obtain a report from a licensed practicing medical doctor or a physician's assistant which attests to the operator's freedom from infectious and contagious diseases and to his/her physical and mental fitness to care for children.

3. A medical report from a licensed practicing medical doctor or a physician's assistant shall be submitted initially and at least every four years thereafter on all members of the household who have contact with the children in care. Each report shall indicate the persons's physical condition and freedom from infectious and contagious diseases.

4. A medical report from a licensed practicing medical doctor or a physician's assistant shall be submitted initially and at least every four years thereafter on all assistant and substitute caregivers and household domestic help who have contact with the children in care or food served to the children in care. Each report shall indicate the person's physical condition and freedom from infectious and contagious diseases.

5. An operator/caregiver or assistant caregiver who shows indications of a physical, emotional, or mental conditions which could be detrimental to the children in care or which would prevent satisfactory performance of duties shall not continue giving care to children until the condition is cleared to the satisfaction of the examining medical doctor and the Department representative.

6. The Department representative shall require an additional medical or psychological evaluation, if a change in the condition of the operator/caregiver or assistant caregiver is evident. A release to allow the Department representative to confer directly with the doctor, shall be provided by the operator/caregiver upon request.

(b) Qualifications of the Operator/Caregiver.

1. A minimum of three references will be provided to the Department's representative to verify the character and suitability of the operator/caregiver to care for children. Three references shall also be provided for all adult household members who have contact with the children. All references shall be contacted by the Department representative.

2. The operator/caregiver shall be at least 19 years of age and shall have a high school diploma or GED. Prior to licensing, the operator/caregiver shall obtain at least

16 clock hours of on-site training in a facility approved by the Department. If such training is not immediately available, written approval from the Department to receive training within six months may be substituted.

3. The operator/caregiver shall have or shall obtain training in child development through participation in workshops, meetings, or one to one consultation. Documentation of 6 hours of training every 2 years shall be submitted to the Department.

4. The operator/caregiver shall not work outside the home or attend school during the hours of child care, and no other activities that take time and attention away from the children shall be performed in the home during the hours of child care. Household duties related to the care of the children shall be performed as necessary.

(c) Licensed Capacity and Ratio of Caregivers to Children.

1. The group day care home shall be licensed for no more than 12 children. The number and age range of the day or nighttime children shall conform to that which is specified on the license.

(i) The number of children present in the home shall not exceed the licensed capacity for any part of the day.

(ii) Drop-in and part-time children shall be counted in the licensed capacity regardless of the length of time they are present. These children shall meet the same requirements as full-time children.

(iii) Related children who do not live with the operator/caregiver 24 hours a day shall be included in the licensed capacity.

2. An assistant caregiver shall be present in the home whenever seven or more children are present.

(d) Qualifications of Assistant Caregivers and Substitute Caregivers.

1. The assistant caregiver shall be at least 19 years of age and able to read and write. They shall be competent to understand and carry out emergency procedures. The assistant caregiver shall receive at least 16 clock hours of training in child care during the first six months of employment.

2. Substitute caregivers shall be at least 19 years of age and able to read and write. They shall be available

to assist in emergency situations or when the operator/ caregiver is unavailable.

3. Assistant and substitute caregivers shall be approved by the Department representative. Medical reports and three references verifying the character and suitability of the caregivers shall be made available to the Department representative and shall be kept on file in the group day care home.

(e) Staff Training.

1. The operator/caregiver shall share information received in workshops, through consultation, etc., with assistant caregivers. In addition, all caregiving staff shall read the Minimum Standards for Group Day Care and Group Nighttime Homes and shall be informed of emergency procedures.

(6) Care of the Children.

(a) Health Practices and Physical Care.

1. Medical reports and immunizations.

(i) Each child under five years of age shall have, within 12 months prior to admission, a physical examination or medical screening or assessment (such as MediKids). The physical examination shall be performed by a licensed, practicing medical doctor, other medical personnel who are administratively responsible to a licensed, practicing medical doctor, or a licensed registered nurse who has access to consultation on a regular planned basis from a licensed, practicing medical doctor. Documentation of availability and frequency of consultation shall be in written form.

(ii) Effective July 1, 1993, each child under five years of age and five year olds who are not enrolled in public/private school kindergarten shall have an unexpired State of Alabama Certificate of Immunization (ADPH-F-IMM-50) on file in the home prior to the child's admission or one of the following conditions shall be met:

(I) An unexpired Alabama Certificate of Medical Exemption (ADPH-F-IMM-50) shall be on file in the home; or

(II) Where immunizations are waived on religious grounds, an Alabama Certificate of Religious

Exemption (ADPH-F-IMM-50) shall be on file on the home.

(iii) In situations where medical services are not available, written verification of appointment to receive the medical examination shall be substituted for no more than three months, and shall be on file in the home.

(iv) Before a child with special needs such as a mental or physical handicap or a medical condition is received for care, the operator/caregiver shall receive a statement signed by a licensed physician which identifies the child's condition, indicates the limits of the child's participation in daily activities, and gives special instructions for the child's care.

2. Medication.

(i) If medication (prescription or over-the-counter) is to be administered by the operator/caregiver, it shall be given or applied only with prior written permission from a parent(s)/guardian(s).

(ii) Medication shall be kept in the original container, stored according to instructions and clearly labeled with the child's name.

(iii) The operator/caregiver shall keep all medications including over-the-counter medications, and medication belonging to household members in a locked cabinet or a locked box.

(iv) All children's medication shall be returned to the parent(s)/guardian(s) or disposed of properly when no longer needed.

(v) The operator/caregiver shall give or apply the medication according to the instructions provided by the parent(s)/guardian(s) or the child's physician. The operator/caregiver shall maintain a written record of the time and amount of medication given or applied.

(vi) Prescription medication shall have a pharmacy label indicating the physician's name, child's name, instructions, and the name of the medication.

3. Sanitation.

(i) The group care home, its furnishings, and premises shall be maintained in a clean and safe

condition to provide a healthful environment for the general welfare of children.

(ii) The home and premises shall be kept free of standing water.

(iii) The home shall be maintained so as to prevent and/or eliminate rodent and insect infestation.

(iv) Any doorway, window, or other opening to the outside used for ventilation shall be equipped with screening in good repair to prevent insects from entering the home.

(v) Each sink, bathroom, or other water fixture used by the children shall be supplied with safe water from an approved source. Water shall be supplied from a public water system or from a private system which meets the requirements of the local health department.

(vi) Sewage and other water-carried wastes shall be disposed of through a municipal sewer system or into a private system which shall meet requirements of the local health department.

(vii) Garbage and trash shall be removed at intervals to prevent creating a nuisance or a menace to health. Garbage shall be stored in fly-proof and watertight containers with tight-fitting covers.

(viii) Sick children shall not be accepted for care. When a child becomes sick during care, he/she shall be isolated from the other children, in an area that allows for supervision and comfort until the child can be picked up. All bedding, toys, equipment, and bathroom fixtures used by a sick child or household members shall be cleaned and disinfected before being used by another child.

(ix) Handwashing sinks shall be supplied with warm running water. Hot water temperatures in sinks accessible to the children shall not exceed 120°. Paper towels or single use cloth towels shall be provided for hand drying.

4. Toileting and Diapering.

(i) Bathroom facilities shall be clean and adapted for the comfort and safety of the children. Stools with nonskid legs shall be available for handwashing and toileting. If potty chairs are used, they shall

be emptied into the toilet, washed and disinfected after each use.

(ii) Bathroom fixtures including toilet, sink, counter surfaces, and floors shall be cleaned and disinfected daily. More frequent cleaning shall be done as necessary.

(iii) The diapering area shall be covered with disposable paper which is changed after each use, or shall have a washable surface which is cleaned and disinfected after each use.

(iv) Disposable diapers shall be placed in a covered container with plastic liner out of the reach of the children.

(v) Cloth diapers shall be rinsed in the toilet if soiled and placed in a plastic bag out of reach of the children.

(vi) Caregivers shall wash hands thoroughly after each diaper change. The diapering area shall be located as near as possible to a sink but not in the kitchen. Paper towels or single use cloth towels shall be provided for hand drying.

(vii) Children shall not be left unattended during diapering.

(viii) The operator/caregiver shall work with the parent(s)/guardian(s) on when to begin toilet training procedures. Toilet training shall not be started until a child has been in the home long enough to feel comfortable. The child shall be able to communicate his needs and understand what is asked of him/her. The operator/caregiver shall consult with parent(s)/guardian(s) on their effort in toilet training to ensure a consistent and relaxed toilet training process. No child shall be made to sit on the potty or toilet for more than five minutes.

5. Rest/Sleep.

(i) Infants, toddlers, and preschool children shall have a period of rest/sleep each day, according to their individual needs. School-age children shall be allowed to rest/sleep if needed, but shall not be required to do so.

(ii) The group day care home shall provide cribs and/or cots for children who rest/sleep during hours of care. The cots shall be clean and sanitary and free

of hazards at all times and shall be of such quality as to ensure good sleeping posture. Coverings shall be appropriate to the season and shall be made of materials commonly used for bed linen. Sheets and covers shall be laundered weekly or more often) when soiled. Each child shall have his/her own bedding. Clean bedding shall be supplied prior to use by another child.

(iii) All children under 12 months of age shall sleep alone in a crib. All children between 12 and 18 months of age shall sleep alone in a crib or on a low cot. Children over 18 months shall sleep alone on a cot.

(iv) After a child has rested for a reasonable period of time he/she shall be allowed to get up and occupy himself/herself with quiet activities.

6. Health Reporting.

(i) The operator/caregiver shall promptly report any accident, suspected illness, or other changes observed in the child's health, to the parent.

(ii) If a communicable disease occurs among the children in the home, the operator/caregiver shall notify the parent(s)/guardian(s) of each exposed child immediately so that the child may be observed for symptoms of disease.

(iii) The operator/caregiver shall report in writing any injury or serious contagious illness occurring while the child is in care, requiring professional medical attention, to the Department within five days of occurrence.

(iv) Each child shall be observed for illness and/or injuries upon his/her arrival at the group day care home or group nighttime home, and if possible, shall be observed in the presence of the parent/guardian. The operator/caregiver is required by law, to report known or suspected child abuse or neglect to the County Department of Human Resources or the local chief of police, or county sheriff. The report shall be made immediately by telephone or direct oral communication, followed by a written report, containing all known information. The law also contains immunity provisions so that any person making a report in good faith is immune from any civil or criminal liability. The law further provides that all reports of child abuse or neglect, investigative reports by the Department of Human

Resources, and certain other records of child abuse and neglect are considered confidential under penalty of criminal law. The operator/caregiver shall cooperate with Department personnel on any child abuse or neglect investigation, including providing information to workers and allowing access to children and records.

(b) Activities.

1. The operator/caregiver shall plan a balanced daily program of activities appropriate to the number and ages of the children. A written plan of activities shall be posted each week. Plans shall include such activities as stories, creative art, rhythm and music, building and manipulative toys, dramatic play or make believe games, science experiences, water play, climbing, and sand and digging. There shall be periods of quiet play and periods of active play. Time for listening and talking with children shall be included daily.

2. Television may be used to supplement and enhance the daily plan for the children, but viewing shall be limited to children's programs. Videos shall be viewed by the operator/caregiver for appropriateness prior to being seen by the children. No child shall be required to watch television.

3. When children participate in field trips, there shall be a written plan including destination, adults and children involved, and transportation arrangements. Written permission shall be obtained from the parent(s)/ guardian(s) before each field trip.

4. Except in extremely inclement weather, there shall be outdoor play each day for the children, including infants and toddlers.

5. All activities shall be planned for positive development of the children. Potentially harmful activities shall be avoided.

(c) Equipment.

1. All equipment shall be sturdy, safe, and clean. Unsafe equipment shall be repaired or removed from the home or play yard.

2. The operator/caregiver shall provide a variety of toys, games, and other play equipment appropriate to the ages and interests of the children in care. Shelves or cabinets shall be provided so that toys can be stored in an orderly way.

3. Variety of outdoor equipment shall be available. Climbers, swings, and other large equipment shall be securely anchored and placed over grass, sand, or other soft surfaces instead of concrete or asphalt.

(d) Discipline. The caregivers shall use positive methods of discipline which encourage self-control, self-direction, self-esteem, and cooperation. The play area shall be arranged to ensure the safety of each child and lessen the opportunity for inappropriate behavior. Disciplinary practices shall be according to the following requirements:

1. Limits or rules shall be understandable to the children.

2. Expected behavior shall be on the child's level.

3. A kind, firm voice shall be used.

4. Discipline shall be consistent and fair.

5. Discipline shall not be associated with food, naps, or bathroom procedures.

6. No corporal/physical punishment shall be used.

7. Discipline shall not be carried out in a humiliating, shaming, or frightening manner.

8. Discipline shall be related to the behavior and shall be carried out as soon as possible after the misbehavior.

9. No verbal abuse, threats or derogatory remarks about the child or his/her family shall be used.

10. Discipline carried out by the child's peers shall not be allowed or encouraged.

(e) Transportation. The operator shall adhere to the following requirements regarding the transportation of children:

1. The caregiver shall not transport children in a vehicle without the written consent of the parent(s)/ guardian(s).

2. The caregiver shall use federally approved car seats, which are properly installed and maintained, when transporting children under three years of age.

3. Children age 3 and older shall be secured in an individual seat belt or in federally approved car seats of the appropriate size.

4. Children shall not be left unattended in a vehicle.

5. The driver shall have a valid driver's license and shall also be secured in a seat belt, whenever children in care are being transported.

6. There shall be an adult in addition to the driver whenever 7 or more children are being transported.

7. All adults and children shall be secured in a seat belt.

8. Written transportation plans shall be submitted to the Department.

(f) Nutritional Needs. The operator shall provide a nutritious meal and snacks each day for the children in care. Meals and snacks shall be planned in accordance with USDA guidelines.

1. Mid-morning, mid-afternoon and bedtime snacks shall be available as needed and shall consist of at least two of the following four choices:

(i) Milk or milk products;

(ii) Meat or meat alternate;

(iii) Fruit, vegetable or full strength juice; and

(iv) Bread, cereal, crackers or other bread products.

2. A meal shall be provided for children in care and shall consist of at least the following:

(i) Meat or meat alternate;

(ii) Vegetables, and/or fruits (2 vegetables or one vegetable and one fruit);

(iii) Bread or bread product; and

(iv) Milk.

3. Formula or food for infants and other special diets recommended or prescribed by a physician, shall be prepared as directed or provided by the parent(s)/ guardian(s). Special foods for children shall be clearly labeled with the child's name and stored as directed.

4. Breakfast shall be served to children who go directly to school from nighttime care, unless breakfast is provided by the school or by the parent(s)/guardian(s). Breakfast shall consist of at least the following:

(i) Fruit or vegetable or full strength juice;

(ii) Bread or bread product; and

(iii) Milk.

5. Fluid milk shall be served. No powdered milk shall be used for drinking.

6. Menus shall be planned at least one week in advance and posted for parents to see.

7. Water shall be offered to the children several times a day.

(g) Meal Service.

1. Caregivers and children shall wash their hands before eating or preparing foods. Disposable paper or single use cloth towels shall be provided for drying hands.

2. Feeding chairs shall be provided for infants. Child-size tables and chairs shall be provided for preschool children. Feeding chairs and tables on which food is served shall be thoroughly cleaned prior to and after snacks and meals. Each child's food shall be served from an individual dish.

3. Napkins and forks and/or spoons shall be provided for children who feed themselves.

4. All formula and food brought from home shall be labeled with the child's name and properly stored. Milk and prepared formula shall be placed immediately in the refrigerator. Previously opened baby food jars shall not be accepted by the operator/caregiver. All formula remaining in the bottle after a feeding shall be discarded.

5. Infants shall be held when fed from a bottle. Bottles shall not be propped.

6. The size of servings shall be adequate to meet children's needs. Food, including dessert or milk, shall not be forced on or withheld from a child.

(h) Food Protection and Preparation.

1. Food shall be in good condition and from an approved commercial source.

2. No home-canned foods shall be used.

3. Food shall be protected from contamination during storage, preparation, and serving. Potentially hazardous foods, such as milk, eggs, meat, poultry or fish, shall be maintained at a temperature of 45° F or below except during necessary preparation. A thermometer shall be placed in the refrigerator to assure proper temperature for food protection. Foods prepared in advance of serving time shall be maintained at a safe temperature (below 45 degrees or above 140 degrees).

4. All food preparation surfaces and utensils shall be thoroughly cleaned before use.

5. Once food has been served to a child, portions of leftover food shall not be served again.

6. Tableware cooking utensils, and all food contact surfaces shall be thoroughly cleaned after each use.

7. Containers of poisonous or toxic materials shall be clearly labeled for easy identification of contents. Such materials shall be stored in a locked cabinet, inaccessible to children and away from food storage and preparation areas.

8. Live animals, including birds and turtles, shall not be allowed in food storage, food preparation, and/or food service areas.

9. Floors in food preparation and service areas shall be swept and/or vacuumed daily and mopped as required to maintain cleanliness.

10. Smoking shall be prohibited in areas of food storage, food preparation, and/or food service.

(i) Nighttime Care.

1. A nightly schedule shall be planned for the hours the children are awake.

2. The operator/caregiver shall work with the parent(s)/ guardian(s) to provide consistency between the family and the nighttime group home bedtime routines.

3. The scheduling of arrival and departure of children, and the grouping of children shall be arranged so that no child is deprived of sleep or has his/her sleep unnecessarily disrupted.

4. The number of children in nighttime care shall not exceed the number of children for which the nighttime home is licensed. At least one adult in addition to the

operator/caregiver shall be present whenever 7 or more children are present.

5. Children shall have shower, tub, or sponge baths as needed for body cleanliness. When a bathtub is used, fresh water shall be provided for each use. Children shall not be left unattended in the bathtub.

6. Cots, fitted with firm mattresses shall be provided for children who receive their regular night's sleep in the home. Cots shall be clean and sanitary and free of hazards and shall be of such quality as to ensure good sleeping posture. Bedding shall be appropriate to the season. Sheets and covers shall be laundered weekly or more often when soiled. Each child shall have his/her own bedding. Bedding shall be changed prior to use by another child.

7. All children under 12 months of age shall sleep alone in a crib. Children 12 to 18 months shall sleep alone in a crib or on a low cot fitted with a firm mattress. Preschool children shall sleep alone on cots fitted with firm mattresses.

8. Sleepwear shall be clean and comfortable and labeled with the child's name.

9. Each child's toilet articles (such as combs, toothbrushes, etc.) shall be labeled with the child's name, kept separate, and in sanitary condition.

(7) Administration.

(a) General Administrative Responsibilities of the Operator/ Caregiver.

1. The operator/caregiver shall not discuss or disclose personal information regarding children and facts learned about children and their relatives except:

(i) With the parent/guardian or the person/persons authorized by the parent(s)/guardian(s) to receive such information;

(ii) With the agency assisting the parent/guardian with planning for the child; or

(iii) With the Department representative.

2. The operator/caregiver shall maintain the prescribed minimum standards and regulations. The operator is responsible for providing care appropriate to meet the daily needs of the children in care. The operator/

caregiver shall consult with the Department representative as needed for the benefit of care of the children.

3. An operating budget (actual or projected) shall be submitted initially to the Department representative. There shall be financial resources available to provide for the satisfactory care of the children in care in regard to upkeep of the home and the provision of nutritious meals, safe play equipment, and required arrangements for comfortable rest/sleep.

4. A copy of the current license and most recent licensing evaluation for the group day care home or group nighttime home shall be posted in a conspicuous place in the home.

5. A daily attendance record shall be kept for children in care. Documentation shall be provided showing that the assistant caregiver was present when 7 or more children were in the home. This record shall be available for review by the Department representative.

(b) Reports to the Department. The following reports are required:

1. Monthly reports shall be completed on the last working day of each month and submitted to the Department within five days on a specified form provided to the operator/ caregiver by the Department.

2. Verbal report within 24 hours of any accident in which a child receives an injury requiring professional medical attention, followed by a written report within 5 days.

3. Changes in the assistant or substitute caregiver.

4. Any change of address or telephone number of the operator/caregiver.

5. Serious accidents or serious illness of the operator/ caregiver or household members.

6. Child abuse and neglect reports.

7. Serious damage, such as weather damage, fire damage, vandalism, etc., to the group day care home or the premises which affects the care of the children, shall be reported verbally within 24 hours, followed by a written report within 5 days.

(c) Information Provided to Parent(s)/Guardian(s).

1. The operator/caregiver shall provide parent(s)/ guardian(s) with a written statement of services to be provided by the operator/caregiver, and rules and policies of the home. A copy of this written statement shall be provided to the Department representative.

2. Agreements shall be made between the parent(s)/ guardian(s) and operator/caregiver pertaining to child-care practices, schedules, fees, hours of care, meals and special needs.

3. Parent(s)/guardian(s) shall be informed of their right to visit and observe their child in the group day care home at any time during the hours of care.

4. Parent(s)/guardian(s) shall be informed in writing regarding procedures they may use to make a complaint. Parent(s)/guardian(s) shall also be informed of how they may obtain a copy of the Minimum Standards.

(d) Information to be Obtained from Parent(s)/Guardian(s).

1. Pertinent information needed about the child's general health, his/her usual routines, required pre-admission form and child's medical report and immunization certificate shall be provided when a child is accepted for care.

2. Transportation arrangements for the child to and from the home shall be discussed with the operator/caregiver. Written authorization of person(s) allowed to pick up the child shall be given to the operator/caregiver.

3. A written list of people to contact in an emergency if the parent(s)/guardian(s) cannot be reached shall be on file. The list shall include person's name, address, telephone number and relationship to the child.

4. Written permission allowing the operator/caregiver to transport the child if transportation is provided, shall be on file.

5. Written permission for use of the swimming pool and/or wading pool if this is available, shall be on file.

6. Written authorization for the operator/caregiver to obtain emergency medical care for the child if the parent cannot be reached shall be on file prior to the child's entering care.

(e) Records to be Kept by Operator/Caregiver.

1. There shall be three references on each assistant caregiver, substitute, and all adult household members. Reference information on the operator/caregiver shall be maintained by the Department representative.

2. Medical reports on the assistant caregiver and any substitute caregiver shall be maintained.

3. Children's records shall contain medical forms, immunization certificates, transportation authorization, swimming permission, emergency medical care authorization, child's pre-admission forms, parent(s)/ guardian(s) information including name, address, telephone, place of employment, work hours, and general background information on the child and the family.

4. The operator/caregiver shall maintain records on children and caregiving staff for at least 2 years after the child or staff member has left. Copies of the report to the Department shall also be kept for 2 years.

(f) Responsibilities of the Department.

1. Visits may be made at any time at the discretion of the Department of Human Resources or its representative, without prior notice, for the purpose of determining compliance with the Minimum Standards, investigating complaints, or any other department-related purpose.

2. The Department representative shall make prompt decisions on applications and renewals, and issue licenses for approved applications.

3. The Department representative shall maintain confidentiality concerning information regarding the operator/caregiver, other caregiving staff, household members of the group day care home, and the children and families being served.

(8) Character and Suitability Requirement.

(a) All applicants and holders of a child-care license or six-month permit, all applicants for employment in a paid or voluntary position, and all current employees in paid or voluntary positions must be suitable and of good moral character in order to operate or work in a child-care facility. All applicants shall be investigated to determine character and suitability to hold a license/permit or work in a child-care facility. For purposes of this requirement, an applicant includes individuals as well as all board members and officers of corporations, partnerships, associations or other legal entities.

(b) In addition to those listed below, factors relevant in assessing character and suitability include, but are not limited to, character references, community reputation, work history, criminal history, personal history, interpersonal skills, mental and physical limitations, and psychological problems.

(c) The criminal record on individuals must be reviewed, and will be a factor in determining the character and suitability of individuals to hold a license or six-month permit or work in a child-care facility.

1. All applicants for a license or six-month permit and all staff members and applicants for a license/permit or employment, in paid or voluntary positions, must reveal on their application all past criminal convictions and/or current charges, except for minor traffic violations (parking and improper turning, stopping, or vehicle equipment tickets), since age 16.

2. The licensee or permit holder, and all staff members must advise the Department of all criminal convictions and/or current criminal charges, except for minor traffic violations (parking and improper turning, stopping, or vehicle equipment tickets), which occur after the licensee/permit holder attains a license/permit or during the course of employment with the child-care facility.

3. A licensee/permit holder, staff member, or applicant for employment for a paid or voluntary position is considered unsuitable to work or continue to work in a child-care facility if he/she has a criminal conviction in this or another state at any time which:

(i) Involves a sex-related crime. Such crimes include, but are not limited to, sexual abuse, sexual exploitation, molestation, rape, child pornography, sale or exhibition of obscene materials, sodomy, sexual mischief, incest, enticement for immoral purposes, prostitution, pandering or promoting prostitution, and obscenity; or

(ii) Involves serious intentional, reckless or negligent physical injury, danger or death of any person. Such crimes include, but are not limited to, murder, homicide, manslaughter, assault with a weapon, reckless endangerment, kidnapping, and unlawful imprisonment; or

(iii) Involves a crime against a child. In addition to those crimes listed in (i) and (ii), such crimes include, but are not limited to, abandonment, endangerment, and assault.

4. Convictions for crimes other than those listed in paragraph 3. above will be evaluated to determine whether or not they constitute a danger to children based on the seriousness of the crime, the existence of extenuating circumstances, the propensity to recommit the crime, and evidence of rehabilitation since the crime was committed.

(d) The character and suitability of a licensee/permit holder, staff member, or applicant for employment, in a paid or voluntary position, to hold a license or six-month permit or to work in a child-care facility may also be assessed by a review of the past history of the individual regarding their truthfulness and their ability to care for children. False or misleading statements made by the individual to the Department or other government or center personnel regarding incidents or events occurring while on the job or surrounding part of any child abuse or neglect investigation conducted by the Department, law enforcement or other government officials are considered as evidence of unsuitable character.

(e) Applicants for a license/six-month permit and holders of licenses/six-month permits who are discovered to have had a history of operating without a license and refusal to, cease operations and apply for a license or permit or refusal to allow the Department to conduct investigations regarding their activities or allegations of abuse and neglect are also considered as evidencing unsuitable character.

(f) A good character and suitability review shall be conducted on all applicants for a license/permit, staff members, and all applicants for employment, who are discovered to have been determined by a child or adult protective service agency in any state, to have perpetrated the abuse or neglect of a child or adult. Determinations which fail within the general subject area outlined in paragraph (c) above, even if no criminal conviction has occurred, are considered as evidence of unsuitable character.

(9) Licensing Procedure.

(a) Application for a License. An application form for a license to give group day care or to give group nighttime care to children will be provided to the applicant by the Department. Applications shall contain all information requested on the form, including the applicant's social security number.

(b) Examination and Investigation of the Application. Upon receipt of the completed application, an examination of the home and an investigation of the family and household members shall be made by a representative of the Department. The examination and investigation will include, but are not limited to, visits to the home and interviews with family and

household members, with references, and with such other persons so as to give the Department representative a clear understanding of the home and the applicant.

(c) The Director of the County Department or his/her designee approves/denies the issuance of licenses six-month permits and renewal of licenses to operate group day care homes and group nighttime homes.

(d) Six-Month Permit.

1. If specific areas of the minimum standards are identified as lacking in the basic services to children, and if the applicant for a license indicates her intentions to attain minimum standards, the Department may issue a six-month permit to persons making initial application for a license to allow such persons reasonable time to become eligible for a full license. Issuance of a permit is evidence that the Department approves the person's temporary operation. One renewal of a six-month permit may be issued at the discretion of the Department. The probationary six-month permit (alternative to revocation) is not to be confused with the six-month permit issued to persons making initial application for a license.

2. The Department's decision to issue a six-month permit shall be after the group home's prospective licensee has met the following:

(i) Completed application;

(ii) Completed medical on the operator/caregiver, assistant caregiver and all household members who have contact with the child;

(iii) References on the operator/caregiver, assistant caregiver and all adult household members who have contact with the children.

(iv) Safety measures in the home and in the outdoor play area;

(v) Attainment of age and educational requirements of the operator/caregiver;

(vi) Attainment of requirements of the fire and health and zoning department when requested by the Department;

(vii) Plan which has been approved by the Department, to meet requirements regarding number and age range of children to be served; and

(viii) A complete review of Minimum Standards for Group Day Care Homes by the operator/caregiver and assistant caregivers.

(e) Demonstration Permit/License. The Department may issue a demonstration permit or license to a facility to operate experimental or pilot child-care physical plants, programs or activities designed to help develop new or modified minimum standards for group day care homes/group nighttime homes or to study the effectiveness of current minimum standards for group day care homes/group nighttime homes. A facility issued a demonstration permit or license shall operate in compliance with the established minimum standards as modified by the restrictions, requirements, and other terms of operation placed upon the facility by the Department. A demonstration permit/license may be time-limited or nonrenewable. Failure to operate the facility in compliance with applicable minimum standards, restrictions, requirements, and terms of operation is grounds for suspension or revocation of the permit or license issued. A facility granted a demonstration permit or license shall be entitled to a Department hearing as any other facility holding a regular permit or license.

(f) Disposition of the Application. Upon the receipt of all licensing material, including a medical statement, a decision to approve or to deny the application will be made by the Department based on the findings of the examination and investigation.

1. If the decision is to license the home, a license will be issued to the applicant. The license becomes effective on the date it is issued by the Department and it must be conspicuously displayed in the dwelling used for child care.

2. If denial of the application is indicated, the Department will notify the applicant in writing of the decision, pointing out those areas of the minimum standards which have not been met. The applicant may withdraw the application either verbally or in writing.

(g) Renewal of a License.

1. Application for renewal of a license to continue operating a group day care home or a group nighttime home shall be made to the Department thirty days prior to the expiration date on the current license, and on forms prescribed by the Department.

2. A renewal of a license shall be issued, if, upon reexamination, the Department is satisfied that the group day care home or the group nighttime home continues to meet and to maintain the prescribed standards.

(10) Provisions of the License.

(a) Licenses issued by the Department for group day care homes and group nighttime homes are valid for two (2) years from the date of issuance, unless revoked by the Department.

(b) The licensee may voluntarily surrender the license.

(c) The number of children received in a group day care home or a group nighttime home shall not exceed the number and age limitations specified on the license for any part of the day.

(d) A group day care home or a group nighttime home, operating under a license, may publish advertisements of the services offered.

(e) The license is nontransferable and is void if the family moves to another dwelling.

(f) The Department shall have the right, and its authorized representatives shall be afforded reasonable opportunity to inspect in its entirety any child-care facility seeking a license, any child-care facility seeking a renewal of a license, and any child-care facility which is operating under a license or a six-month permit. Such inspection shall be made at any reasonable time, without prior notice. This inspection shall include the entire facility.

(g) No person shall hold a license for a group day care home and a license for a group nighttime home simultaneously without special permission by the County

Department. Nighttime homes, in the context of these standards, means a facility in operation past 7:00 p.m.

(h) Any operator who violates any terms or provisions or any reasonable standard or regulation prescribed and published by the Department is guilty of a misdemeanor and shall be fined not less than $100 nor more than $1000 or be imprisoned in the county jail not longer than one year, or both such fine and imprisonment, as specified by the court.

(11) Unlicensed Facilities. If the Department finds that a group day care home or group nighttime home is operating without a license, the Department shall report the results of its investigation to the Attorney General for prosecution. The Department may delay making said report for a period of time, not to exceed 60 days, to allow the operator of the group day care home or group nighttime home an opportunity to apply for a license or a six-month permit to meet the standards for group day care homes or group nighttime homes.

(12) Probationary Permit (Alternative to Revocation).

(a) Within the licensure period, the Department may issue one six-month permit on a provisional basis to a licensed child-care facility found to be out of compliance with the Department's minimum standards where such noncompliance does not represent a hazard to the health or safety, or physical, moral or mental well-being of the children in care. During this six-month period, the child-care facility shall correct the items which were in noncompliance and report the corrections to the Department for determination of eligibility for a full license.

(b) The Department cannot consider the issuance of this probationary permit as an alternative to revocation unless the child-care facility has voluntarily surrendered its license to the Department.

(c) This probationary six-month permit is not to be confused with the six-month permit issued to persons making initial application for a license.

(13) Revocation of a License.

(a) The Director of the County Department or his/her designee may revoke or refuse to renew the license to operate a group day care home or group nighttime home, or refuse to issue a full license to the holder of a six-month permit should the operator(s):

1. Consistently fail to maintain standards prescribed and published by the Department;

2. Violate the provisions of the license issued;

3. Furnish or make any misleading or any false statements or reports to the Department;

4. Refuse to submit to the Department any reports or refuse to make available to the Department any records required by the Department in making investigation of the home for licensing purposes; provided, however, that the Department shall not revoke or refuse to renew a license in such case unless it has made written demand on the person, operating the home requesting such report or reports and such person, fails or refuses to submit such records for a period of ten days.

5. Fail or refuse to submit to an investigation by the Department;

6. Fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of investigation;

7. Fail to provide, maintain, equip and keep in safe and sanitary condition the premises established or used for child care as required under standards prescribed by the Department, or as otherwise required by any law, regulation or ordinance applicable to such home;

8. Refuse to display its license or permit;

9. Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, learning experience and other essentials in the proper care, rearing and training of children; or

10. Fail to adhere to all terms of the Day Care Home Agreement.

(b) If the Department makes the decision to revoke or refuse to renew the license or six-month permit, a pre-revocation hearing must be held in order to discuss the intended action and give the licensee/permit holder an opportunity to show why the action should not be taken. Notice of the pre-revocation hearing and notice of action taken by the Department following the pre-revocation hearing shall be sent to the licensee/ permit holder by certified mail unless waived. The pre-revocation hearing does not alter the person's right to a fair hearing.

(c) If an inspection of a licensed day care or nighttime home by the Department discloses any condition, deficiency, dereliction or abuse which is, or could be, hazardous to the health, safety, physical, or mental well-being of the children in the care of the child-care facility being inspected, the Department shall have the power to immediately suspend without notice the license or six-month permit. The suspension may remain in effect for a period of not longer than 120 days and shall not be renewable. A pre-revocation hearing shall be scheduled as soon as possible to give the licensee/permit holder an opportunity to show why the license/permit shall not be revoked. Notice of the pre-revocation hearing and notice of action taken by the Department following the pre-revocation hearing shall be sent to the licensee/permit holder by certified mail unless waived. The pre-revocation hearing does not alter the person's right to a fair hearing.

(d) No pre-denial hearing is required to be held prior to the denial of an initial application for a license or six-month permit.

(14) Request for a Fair Hearing.

(a) An aggrieved person may request a fair bearing in the following situations:

1. If an application for an initial license, six-month permit or an approval is denied;

2. If an application for a renewal of a license, six-month permit or an approval is denied;

3. If an application for an initial license or renewal of a license, six-month permit or an approval is not acted upon within reasonable promptness; or

4. If a license, six-month permit or an approval is revoked.

(b) Notice of the opportunity to request a fair hearing shall be given by certified mail.

(c) When a pre-revocation hearing has been held, a request for a fair hearing must be filed within 14 calendar days of the notice of revocation. Any existing license, six-month permit or approval shall remain in effect during the 14-day time period to request a hearing. If a hearing is requested, the existing license, six-month permit or approval shall remain in effect until, and including, 30 days after the final decision on a request for a rehearing.

(d) If the Department determines, and states in writing, that a danger to the public health, safety or welfare requires emergency suspension, the existing license, permit or approval may be suspended immediately or on the date specified in the notice of suspension.

(e) In all other situations where a pre-action hearing has not been held, a request for a fair bearing must be filed within 60 calendar days of the action (or inaction) with which the aggrieved person is dissatisfied.

(15) Conduct of Fair Hearing.

(a) When a pre-revocation hearing has been held, the fair hearing will be conducted on the record. No additional evidence or testimony will be admitted unless it can be shown that it is material to the issues of the case and could not have been presented at the prior hearing with reasonable diligence or that the additional evidence was not allowed at the prior hearing due to unlawful procedures.

(b) When a pre-action hearing has not been held, the fair hearing is to be conducted in accordance with the general procedures found in Chapter 660-1-5. The following

modifications and exceptions to Chapter 660-1-5 as it pertains to day care centers and nighttime centers apply:

1. An aggrieved person as defined in 660-1-5.01(1), includes the applicant, licensee or holder of a six-month permit or approval whose:

(i) Application for license or approval is denied; or

(ii) Application for renewal of license or approval is denied; or

(iii) License, approval or six-month permit is revoked, or suspended or otherwise modified; or

(iv) Application for license or approval is not acted upon with reasonable promptness. "Reasonable promptness" is defined as 30 days from the date of the receipt by the Department of all information required to make the decision to grant or deny the license or approval.

2. The following rules are not applicable:

(i) 660-1-5-.02(2) Choice or Action and (3) Informal Conference;

(ii) 660-1-5-.11 Group Hearing; and

(iii) 660-1-1-.12 Combined Hearings.

Author:
Statutory Authority: P.L. 100-485, Titles II and III; 42 U.S.C. §§602, 681-687; 45 C.F.R. Parts 250 and 255; 54 Fed. Reg. 42145-42267; Title IV-A of the Social Security Act, §§402 (1) and 403 (n); Code of Ala. 1975, §§38-7-1 through -17 as amended by Act No. 81-310, Acts of Alabama 1981; JOBS State Plan and State Supportive Services Plan.
History: Effective July 18, 1983. Permanent amendment effective November 18, 1988 (formerly Rule 660-5-25-.07). Emergency amendment effective April 1, 1990. Succedent permanent amendment effective July 10, 1990. Succedent emergency amendment effective April 1, 1991. Succedent permanent amendment effective July 10, 1991. Succedent emergency amendment effective October 1, 1991. Succedent permanent amendment effective January 9, 1992. **Amended:** Filed December 18, 2000; effective January 22, 2001.

Ed. Note: Was Previously 660-5-25-.09, renumbered to 660-5-25-.06 as per certification filed December 18, 2000; effective January 22, 2001.

Ed. Note: Rule 660-5-25-.05 was repealed and replaced as New chapter 660-5-26, as per certification filed December 18, 2000; effective January 22, 2001.

660-5-25-.05 Day Care Licensure - Minimum Standards For Day Care Centers And Nighttime Centers.
Author:
Statutory Authority: Code of Ala. 1975, §§38-4-5 through -6, §§38-7-1 through -17, §§41-22-1-through -27.
History: Effective July 18, 1983. Emergency amendment effective October 1, 1983, superseded by emergency amendment effective October 24, 1983. Permanent amendment effective February 21, 1984. Succedent amendment effective December 10, 984. Succedent emergency amendment effective March 25, 1988. Succedent permanent amendment effective June 9, 1988. Permanent repealer effective November 18, 1988. New adoption effective November 18, 1988. Succedent emergency amendment effective July 18, 1991. Succedent permanent amendment effective October 10, 1991. **Amended:** Filed April 6, 1993; effective May 11, 1993. **Amended:** Filed March 7, 1995; effective April 11, 1995. **Amended:** Filed February 6, 1997; effective March 13, 1997. **Repealed:** Filed December 18, 2000; effective January 22, 2001.

Ed. Note: 660-5-25.06 and 660-5-.07 was repealed and replaced with new chapter 660-5-27, as per certification filed December 18, 2000; effective January 22, 2001.

660-5-25-.06 Day Care Licensure - Minimum Standards For Group Day Care Homes And Group Nighttime Homes.
Author:
Statutory Authority: Code of Ala. 1975, §§38-4-5 through -6, §§38-7-1 through -17, §§41-22-1 through -27.
History: Effective July 18, 1983. Emergency amendment effective October 1, 1983, superseded by emergency amendment effective October 24, 1983. Permanent amendment effective February 21, 1984. Succedent amendment effective December 10, 1984. Succedent permanent amendment effective June 9, 1988. Permanent repealer effective November 18, 1988. New adoption effective November 18, 1988. Succedent emergency amendment effective July 15, 1991. Succedent permanent amendment effective October 10, 1991. **Amended:** April 6, 1993; effective May 11, 1993. **Amended:** Filed March 7, 1995; effective April 11, 1995. **Repealed:** Filed December 18, 2000; effective January 22, 2001.

660-5-25-.07 Day Care Licensure - Minimum Standards For Family Day Care Homes And Nighttime Homes.
Author:
Statutory Authority: Code of Ala. 1975, §§38-4-5 through -6, §§38-7-1 through -17, §§41-22-1 through -27.
History: Effective July 18, 1983. Emergency amendment effective October 1, 1983, superseded by emergency amendment effective October 24, 1983. Permanent amendment effective February 21, 1984. Succedent amendment effective December 10, 1984. Succedent permanent amendment effective June 9, 1988. Succedent permanent

amendment effective November 18, 1988 (formerly Rule 660-5-25-.06). Succedent emergency amendment effective July 15, 1991. Succedent permanent amendment effective October 10, 1991. **Amended:** April 6, 1993; effective May 11, 1993. **Repealed:** Filed December 18, 2000; effective January 22, 2001.