

Title 20. Public Health and Welfare

Chapter XLV. Office of Early Childhood, Department of Education

Subchapter B. Licensing

Part 1028. Minimum Licensing Requirements for Registered Childcare Family Homes

Subpart 1. Department Responsibility

20 CAR § 1028-101. Responsibilities and requirements.

(a) The Office of Early Childhood, referred to hereafter as the office, under the Department of Education, is directly responsible for the inspection and evaluation of all registered homes.

(b)(1) The office has the power to establish rules and standards for licensing, registration, and operation of childcare facilities.

(2) This includes all powers with respect to granting, revocation, denial, and suspension of licenses and registrations.

(3) Information regarding the appeal process is available upon request.

(c) The office works in coordination with:

(1) Local and state:

(A) Health departments;

(B) Fire departments; and

(C) City planning or zoning departments; and

(2) The Boiler Inspection Division of the Division of Labor.

(d)(1) It is recommended that the owner be aware of any applicable city or county zoning ordinances or codes or neighborhood covenants which may:

(A) Limit the number of children in care; or

(B) Impose additional safety requirements.

(2) The office will share information on the location and status of registered homes with any city or county that requests this information.

(e)(1) Owners, operators, staff, therapists, and volunteers are:

(A) Mandated reporters of suspected child maltreatment; and

(B) Required to call the Child Abuse Hotline at 1-800-482-5964 if they have reason to suspect child maltreatment.

(2) Additionally, these same individuals are required by Acts 2019, No. 530, to notify law enforcement if they have a good faith belief that there is a serious and imminent threat to the health or safety of a student, employee, or the public, based on a threat made by an individual regarding violence in or targeted at a school or registered home that has been communicated to the person in the course of their professional duties.

(f)(1) The Child Care Licensing Unit will notify the applicable federal agency at any time it becomes aware of or is advised of violations of any of the following or similar laws.

(2) It is recommended that the owner be aware of applicable federal laws that may affect the operation of the facility, such as, but not limited to:

(A) Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.;

(B) Environmental Protection Agency regulations to ensure that any renovation or repair work on a home, childcare facility, or school that was constructed prior to 1978 shall be completed by a contractor that is certified by the Environmental Protection Agency when the repairs or renovations consist of any or all of the following:

(i) The repair or renovation disturbs six square feet (6 sq. ft.) or more of the interior;

(ii) The repair or renovation disturbs twenty square feet (20 sq. ft.) or more of the exterior; or

(iii) The repair or renovation involves removing a window; and

(C) Federal civil rights laws state that a facility may not discriminate on the basis of:

(i) Race;

(ii) Color;

(iii) Sex;

(iv) Religion;

(v) National origin;

- (vi) Physical or mental handicap; or
- (vii) Veteran status.

(g) The registrant shall maintain childcare liability insurance and comply with the following requirements:

(1) Prior to approval of an application, the applicant shall provide:

(A) Verification of the required coverage to the childcare licensing specialist; and

(B) Subsequent verification when requested; and

(2) Maintain the minimum amount of coverage as follows:

Registered Capacity of Home	Minimum Childcare Liability Coverage Required
1 – 5	\$100,000 per occurrence

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-102. General requirements.

(a)(1) To determine a recommendation for registration, the applicant’s home shall be reviewed by a childcare licensing specialist to determine that the home is in substantial compliance with the requirements.

(2) Clarification.

(A) In addition to rooms used for care, childcare licensing staff must also be given access to all other rooms or spaces not used for child care.

(B) Any rooms or areas that are not accessible to children in care:

- (i) Will only be viewed briefly for major health and safety issues; and
- (ii) Will not be routinely monitored for general licensing compliance.

(C) This is to help ensure that there are no dangers such as fire hazards that could impact the safety of the entire structure.

(b)(1) Substantial compliance means compliance with all essential standards

necessary to protect the health, safety, and welfare of the children attending the registered home.

(2) Essential standards include, but are not limited to, those relating to issues involving:

- (A) Fire;
- (B) Health;
- (C) Safety;
- (D) Nutrition; and
- (E) Behavior management.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-103. Definitions and application.

(a) There are three (3) types of registered homes as follows:

(1) "Registered childcare family home" means a situation in which five (5) or fewer children are cared for in:

- (A) The caregiver's own residence; or
- (B) Some other suitable family-type residence;

(2)(A) "Relative childcare family home" means a situation in which five (5) or fewer children are cared for by a relative of the child or children.

(B) The relationship must be that of a grandparent, great-grandparent, aunt, uncle, or sibling residing out of the home.

(C) The registered relative may provide the child care either in his or her home or the home of the child or children.

(D) Proof of relationship must be provided.

(E) The following must be provided to verify proof of relationship:

- (i) The child or children's birth certificate or certificates;
- (ii) The parent's birth certificate;
- (iii) Marriage license of the parent, if parent's last name has changed;
- (iv) Marriage license of the caregiver, if last name has changed; and

(v) Birth certificate of the caregiver, if the application is for an aunt or uncle; and

(3)(A) "In-home childcare provider" means an individual selected by the family to provide the day care to five (5) or fewer children in the child's or children's own home.

(B) The in-home registration is not valid for child care provided outside the child's or children's own home.

(b)(1) There shall be no more than one (1) registration issued per home or structure.

(2) This does not apply to situations such as duplexes where two (2) registrations could be issued to two (2) separate applicants.

(3) An individual shall be eligible to hold only one (1) registration, which shall be issued for one (1) specified location.

(c)(1) Homes with only one (1) caregiver shall limit care to no more than two (2) shifts (eighteen (18) hours) per twenty-four-hour period.

(2) Homes offering twenty-four-hour care shall provide a schedule verifying that they have made provisions for a secondary caregiver to provide relief for one (1) shift.

(3) Alternative compliance may be requested by caregivers who:

(A) Provide twenty-four-hour care; and

(B) Do not have a secondary caregiver.

(4) For this request to be approved, consideration will be given to the:

(A) Overall level of compliance with registration requirements; and

(B) Number and ages of children in care during the third shift.

(d)(1) The holder or holders of the registration shall be the primary caregiver or caregivers and at least one (1):

(A) Shall be present and responsible for children during hours of care; and

(B) Shall not be otherwise employed during the hours of care.

(2) If a qualified secondary caregiver is present, the primary caregiver may be absent for:

(A) Reasons related to the operation of the childcare business, such as attending required training; and

(B) Brief and occasional absences relating to personal business or personal time off.

(e)(1) If at any time care is provided to six (6) or more children from more than one (1) family, the law requires the provider to be licensed.

(2) The caregiver's own preschool children shall be considered when determining the need for a license or registration.

(3) The caregiver's own school-age children are not considered when determining the need for a license or registration.

(4) Other children in the home who are not accompanied by a parent are considered as being in care whether pay is received for the care or not.

(f) Any home that has not provided care to children for a period of one (1) year shall have the registration closed unless a written request is made by the registrant stating why closure should not take place.

(g) The primary caregiver in a registered home shall submit the following to complete the application process:

(1) A completed and signed application provided by the office;

(2) Diagram of the home indicating rooms to be used by children in care and the location of exit doors;

(3) A health card on applicant, other caregivers, and any adult or adults in addition to the caregiver or caregivers present in the home on a regular basis while children are in care;

(4) Zoning approval, if applicable, shall be provided by:

(A) New applicants for license; and

(B) Existing homes requesting increase in licensing capacity;

(5)(A) A signed Authorization for Release of Confidential Information and Child Maltreatment Central Registry check form.

(B) Everyone living in the home age eighteen (18) and older must complete and sign this form.

(C) A check or money order for ten dollars (\$10.00) made out to the Department of Education must be attached to each form.

(D) Children under age eighteen (18) only need to be listed where applicable.

(E) This form must be notarized;

(6)(A) Criminal record check form or forms.

(B) Everyone in the home age eighteen (18) and older must complete a form.

(C) The form or forms must be notarized;

(7) The registrant's Social Security number or tax identification number (TIN) shall be listed on the application;

(8)(A) A TIN number can be obtained by calling 1-900-546-3920 or by sending an SS-4 to the Internal Revenue Service, Memphis, Tennessee 37501.

(B) It takes approximately four (4) weeks to receive the TIN;

(9) Boiler inspection, or verification that inspection has been scheduled; and

(10)(A) Verification of childcare liability insurance.

(B) If childcare liability insurance cannot be obtained before application, it must be obtained with proof provided to the Child Care Licensing Unit before care of children can be provided.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-104. Registration procedures.

(a) Any applicant applying for registration may contact the local Office of Early Childhood office or childcare licensing specialist to obtain information and the necessary application and related forms.

(b)(1) A preapplication consultation meeting shall be required for all applicants for registration prior to approval of the application.

(2) This meeting shall be offered prior to or within thirty (30) days of receipt of the application.

(c) Upon receipt of a signed application, the childcare licensing specialist shall schedule an appointment to:

- (1) Inspect;
- (2) Evaluate; and
- (3) Make a recommendation for consideration of registration to the Office of Early Childhood.

(d) The childcare licensing specialist shall make unscheduled visits throughout the year to:

- (1) Determine continued compliance of standards; and
- (2) Offer consultation and technical assistance.

(e)(1) The registration, as issued, shall apply only to the home's location at the time of registration.

(2) The registrant shall notify the childcare licensing specialist's office of any change of location or ownership, at which time a new study shall be conducted.

(3) Upon issuance of a registration, the registration shall remain in effect as long as compliance is maintained.

(f) New provisional registration.

(1) If the childcare licensing specialist finds that an applicant for a registered home meets the registration requirements or has a reasonable expectation of correcting deficiencies within specified time frames, the childcare licensing specialist may recommend a new provisional registration to the Office of Early Childhood.

(2)(A) The new provisional registration shall be in effect for a period of time not to exceed twelve (12) months.

(B) This time frame shall be specified in the provisional registration.

(3) The childcare licensing specialist has sixty (60) days to submit a recommendation to the Office of Early Childhood for a provisional registration.

(g) **Regular registration.** The childcare licensing specialist will recommend a regular registration when:

- (1) The home has demonstrated substantial compliance; or
- (2) An existing registrant with a regular registration relocates their home and

their past demonstrates a substantial level of compliance.

(h) Probationary provisional registration.

(1)(A) The Child Care Licensing Unit may issue a probationary provisional registration when the home is not maintaining substantial compliance due to deficiencies which are so numerous, frequent, or severe as to potentially jeopardize the health, safety, and welfare of children.

(B) The home and the licensing unit shall have a corrective action plan in place addressing the issues.

(2) Based on the level of compliance during the period of the probationary provisional registration the licensing unit may:

- (A) Issue a regular registration;
- (B) Suspend a registration; and
- (C) Revoke a registration.

(i) Suspension or revocation of registration.

(1) At the time of a final determination by the Office of Early Childhood of revocation or suspension of a registration, the Office of Early Childhood shall specify in the letter the period and terms of the action.

(2) A revocation of a registration shall be set for no less than one (1) year but may be for a longer term as established by the Office of Early Childhood.

(3)(A) Related parties shall not be eligible to apply for registration for the same specified period.

(B) "Related parties" means:

- (i) Immediate family members;
- (ii) Members of the board of directors; and
- (iii) Person or entities associated or affiliated with, or that share common ownership, control, or common board members or that have control of or is controlled by the registrant.

(C) "Immediate family member" means:

- (i) A spouse;
- (ii) Step-relationships;

- (iii) In-law relationships;
- (iv) A child;
- (v) A natural or adoptive parent;
- (vi) A sibling;
- (vii) A grandparent;
- (viii) A grandchild; or
- (ix) A son-in-law or daughter-in-law.

(4) The revocation of a registration places that registration in a null and void status.

(5) At the completion of the terms of revocation, homes wishing to be reregistered must submit a new application for registration for review and approval by the Office of Early Childhood.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-105. Appeal of registration actions.

(a) A registrant or applicant for registration may request to appeal any of the following registration actions:

- (1) Adverse registration actions, revocation of the registration, or denial of an application for registration;
- (2) Founded registered complaints; or
- (3) Cited noncompliance with the published standards.

(b)(1) An appeal may be initiated on any of the above actions by requesting an appeal in writing to the childcare licensing specialist or licensing supervisory staff.

(2) Requests to appeal adverse registration actions must be mailed within ten (10) calendar days of the receipt of the notice of the adverse action.

(3) Requests to appeal registration actions, other than adverse, must be mailed within twenty (20) calendar days from receipt of the notification of the action.

(4) The request to appeal shall include a statement of the:

- (A) Action or actions taken by the Office of Early Childhood; and

(B) Reason or reasons the registrant or applicant for registration disagrees with that action.

(5) The request to appeal will be reviewed by the licensing supervisor and the licensing administrator.

(6) If the appeal is not resolved to the satisfaction of the registrant or applicant for registration, the matter will be referred to the Child Care Appeal Review Panel for hearing.

(7) Additional information regarding the appeal procedures and the Child Care Appeal Review Panel is available on request.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-106. Alternative compliance.

(a) The Office of Early Childhood may grant alternative compliance with this part if the Office of Early Childhood determines that the alternative form of compliance:

- (1) Offers equal protection of health, safety, and welfare to children; and
- (2) Meets the basic intent of the requirements for which the registrant is making the request.

(b) The Office of Early Childhood shall consider all requests for alternative compliance with the registration requirements except those requirements which are enforced by the:

- (1) Department of Health;
- (2) Local fire marshal; or
- (3) State Fire Marshal's Office.

(c) To request alternative compliance, the following procedures shall be initiated by the person responsible for the operation of the facility:

- (1) The applicant or registrant shall submit the request for alternative compliance in writing; and
- (2) The request shall include:
 - (A) The specific standard for which alternative compliance is sought;

(B) An explanation of how the alternative compliance is equal to, or exceeds, the requirement;

(C) Full justification and description of:

(i) What the alternative compliance method will be; and

(ii) The method by which the facility will carry out this plan to be able to continue to provide for the health, safety, and welfare of children as intended by the requirement; and

(D) The applicant or registrant shall provide:

(i) Clear and supportive evidence; and

(ii) Upon request of the Office of Early Childhood, an expert's opinion of:

(a) The effects on the health, safety, and welfare of children;

and

(b) How it will protect through the alternative means of compliance.

(d)(1) A separate written request shall be submitted for each requirement for which alternative compliance is sought.

(2) The approved alternative compliance is effective for the duration of the registration, unless a shorter time frame is requested or approved.

(e)(1) The granting of alternative compliance for a requirement shall in no way constitute a precedent.

(2) If an alternative means of complying with the requirement is granted by the Office of Early Childhood and the facility fails to implement satisfactorily this alternative means, the original requirement for which alternative compliance was sought shall become immediately enforceable.

(f) The Office of Early Childhood shall have the right to obtain an expert opinion to corroborate that provided by the applicant or registrant.

(g) The Office of Early Childhood reserves the right to deny requests for alternative compliance when it finds that such a request does not:

(1) Adequately protect the health, safety, and welfare of children; and

(2) Meet the intent of the requirement.

(h) All requests for alternative compliance shall be answered in writing by the Office of Early Childhood.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-107. Registration investigations and inspections.

(a)(1) Childcare licensing staff shall have access to registered homes for the purpose of conducting:

- (A) Inspections;
- (B) Reviews; and
- (C) Complaint investigations.

(2) Denial of access to the home or denial of the right to interview children in care or other individuals present during hours of care may result in adverse action against the registration.

(3) **Clarification.** In addition to childcare licensing staff having access to all areas of care, they must also be given access to any other rooms or spaces not used for care to ensure there are no possible hazards.

(b)(1) If video recordings are made by the caregiver and are maintained for viewing as part of a continuous monitoring system, they shall be made available to licensing staff upon request.

(2) This does not include video recordings of special events, etc.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-108. Child Maltreatment Central Registry checks.

(a) Prospective owners, household members who are ten (10) years of age or older, and employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a Child Maltreatment Central Registry check in any states where they resided during the past

five (5) years.

(b) The following persons shall be required to have their background reviewed through a Child Maltreatment Central Registry check:

Each applicant	At application and every two (2) years thereafter
All household members who are at least ten (10) years of age	At application, upon residency, and every two (2) years thereafter
Staff members and applicants for employment in a registered home	Prior to employment and every two (2) years thereafter
All volunteers and therapists who have access to children in the home	Prior to providing services or being present in the home and every two (2) years thereafter
Other persons who have routine contact with children	Prior to providing services or participating in home activities and every two (2) years thereafter

(c)(1) The Office of Early Childhood has the authority to review and consider each true (founded) report of child maltreatment received from the Child Maltreatment Central Registry.

(2) The office shall retain the authority to deny the applicant or revoke the registration.

(d)(1) All caregivers are mandated reporters under the Child Maltreatment Act, Arkansas Code § 12-18-101 et seq.

(2)(A) The caregiver shall notify the Child Abuse Hotline number at 1-800-482-5964 when there is reason to believe that a child has been abused or neglected

(B) These reports of child maltreatment shall include all allegations made to the registrant by:

- (i) Parents;
- (ii) Staff members; or
- (iii) The general public.

(3) It is recommended that the registrant call the childcare licensing specialist for guidance if there is any question about whether the hotline should be called regarding any situation where potential child maltreatment is involved.

(4) If a complaint of child maltreatment is filed against any registrant or persons in the home, the Child Care Licensing Unit shall:

(A) Evaluate the risk to children; and

(B) Determine the suitability of the persons to supervise, be left alone with children, or remain in the home during hours of care until the allegations have been determined true or unsubstantiated.

(e)(1) The registered childcare family home operator and any employees or other persons in the home who have had a true report of child maltreatment shall follow the corrective action plan approved by the licensing unit.

(2) Corrective action measures may vary from relevant training to reassignment or termination.

(3) Failure to comply with corrective action plans can constitute grounds for adverse action against the registration.

Authority. Arkansas Code § 20-78-221.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following at the end of subdivision (d)(2)(A): "(AR Code Annotated 12-12-501 et seq.)". This statute was repealed by Acts 2009, No. 749, which moved the Child Maltreatment Act to Arkansas Code § 12-18-101 et seq.

20 CAR § 1028-109. Federal Bureau of Investigation criminal record checks.

(a)(1) The following persons shall apply to the Identification Bureau of the Division of Arkansas State Police for a nationwide criminal records check, to be conducted by the Federal Bureau of Investigation, which shall include a fingerprint check:

Each applicant to own or operate a Registered Home and all household members age eighteen (18) and up	At initial application and every five (5) years thereafter
Each staff member	Prior to providing services or participating in home activities and every five (5) years thereafter
Volunteers or other persons who have supervisory or disciplinary control over children, are left alone with children, or have routine contact with children	Prior to providing services or participating in home activities and every five (5) years thereafter

(2) The individual is responsible for the cost of the nationwide check.

(3) Fingerprints submitted will be used to check the criminal history records of the Federal Bureau of Investigation.

(4) Individuals with results showing a prohibited offense shall be advised to contact the Child Care Licensing Unit for procedures to:

(A) Obtain the results and for procedures to update; or

(B) Make corrections to the record of their individual history.

(b) Division of Arkansas State Police criminal background check.

(1) A prospective staff member may not begin work until the Division of Arkansas State Police criminal record check result has been returned as satisfactory.

(2) Following receipt of the satisfactory result, this individual must be supervised at all times, pending completion of all of the required background check components, by a staff member who has successfully completed all required background checks.

(3) Prospective employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a criminal background check and sex offender registry check in any states where they resided during the past five (5) years.

(4) A National Sex Offender Registry check will also be conducted on

prospective employees.

(5) The following persons shall be required to have their background reviewed through a fingerprint criminal records check including the Arkansas Sex Offender Registry, conducted by the division:

Each applicant	At application and every five (5) years thereafter
All household members who are eighteen (18) years of age or older	At application and every five (5) years thereafter
Staff and applicants for employment in a registered home	Prior to employment and every five (5) years thereafter
Volunteers and therapists who have routine contact with children	Prior to providing services and every five (5) years thereafter
Other persons who have supervisory control, disciplinary control over children, or routine contact with children	Prior to providing services or participating in home activities and every five (5) years thereafter

(c)(1) Criminal records will be returned to the division for review.

(2) Any charge or convictions listed in this section that are returned will be considered regardless of whether the record is:

- (A) Expunged;
- (B) Pardoned; or
- (C) Otherwise sealed.

(d)(1) No person shall be eligible to be a childcare facility owner, operator, employee, household member, or volunteer who is in the home on a routine and continual basis if that person has pled guilty or been found guilty of:

- (A) Any of the following offenses by any court in the State of Arkansas;
- (B) Any similar offense by a court in another state; or
- (C) Any similar offense by a federal court.

(2) The following offenses are permanently prohibited:

Abuse of an endangered or impaired person, if felony;	§ 5-28-103;
Arson;	§ 5-38-301;
Capital murder;	§ 5-10-101;
Endangering the welfare of an incompetent person in the first degree;	§ 5-27-201;
Kidnapping;	§ 5-11-102;
Murder in the first degree;	§ 5-10-102;
Murder in the second degree;	§ 5-10-103;
Rape;	§ 5-14-103;
Sexual assault in the first degree; and	§ 5-14-124 and
Sexual assault in the second degree.	§ 5-14-125.

(e)(1) No person shall be eligible to be a childcare facility owner, operator, employee, household member, or volunteer, who is in the home on a routine or continual basis, if that person has pleaded guilty or been found guilty of:

- (A) Any of the following offenses by any court in the State of Arkansas;
- (B) Any similar offense by a court in another state; or
- (C) Any similar offense by a federal court.

(2) The following offenses are prohibited:

Criminal attempt to commit any offenses;	§ 5-3-201;
Criminal complicity to commit any offenses;	§ 5-3-202;
Criminal conspiracy to commit any offenses;	§ 5-3-401;
Criminal solicitation to commit any offenses;	§ 5-3-301;
Assault in the first, second, or third degree;	§§ 5-13-205 to 5-13-207;
Aggravated assault;	§ 5-13-204;
Aggravated assault on a family or household member;	§ 5-26-306;

Battery in the first, second, or third degree;	§§ 5-13-201 to 5-13-203;
Breaking or entering;	§ 5-39-202;
Burglary;	§ 5-39-201;
Coercion;	§ 5-13-208;
Computer crimes against minors;	§ 5-27-601 et seq.;
Contributing to the delinquency of a juvenile;	§ 5-27-220;
Contributing to the delinquency of a minor;	§ 5-27-209;
Criminal impersonation;	§ 5-37-208;
Criminal use of a prohibited weapon;	§ 5-73-104;
Communicating a death threat concerning a school employee or	§ 5-17-101;
Domestic battering in the first, second, or third degree;	§§ 5-26-303 to 5-26-305;
Employing or consenting to the use of a child in a sexual	§ 5-27-402;
Endangering the welfare of a minor in the first or second degree;	§§ 5-27-205 to 5-27-206;
Endangering the welfare of an incompetent person in the second degree;	§ 5-27-202;
Engaging children in sexually explicit conduct for use in visual or print medium;	§ 5-27-303;
False imprisonment in the first or second degree;	§§ 5-11-103 to 5-11-104;
Felony abuse of an endangered or impaired person;	§ 5-28-103;
Felony interference with a law enforcement officer;	§ 5-54-104;
Felony violation of the Uniform Controlled Substances Act;	§ 5-64-101 et seq.;
Financial identity fraud;	§ 5-37-227;
Forgery;	§ 5-37-201;
Incest;	§ 5-26-202;
Interference with court-ordered custody;	§ 5-26-502;
Interference with visitation;	§ 5-26-501;

Introduction of controlled substance into body of another person;	§ 5-13-210;
Manslaughter;	§ 5-10-104;
Negligent homicide;	§ 5-10-105;
Obscene performance at a live public show;	§ 5-68-305;
Offense of cruelty to animals;	§ 5-62-103;
Offense of aggravated cruelty to dog, cat, or horse;	§ 5-62-104;
Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child;	§ 5-27-304;
Sexual solicitation;	§ 5-70-103;
Permanent detention or restraint;	§ 5-11-106;
Permitting abuse of a minor;	§ 5-27-221;
Producing, directing, or promoting a sexual performance by a child;	§ 5-27-403;
Promoting obscene materials;	§ 5-68-303;
Promoting obscene performance;	§ 5-68-304;
Promoting prostitution in the first, second, or third degree;	§§ 5-70-104 to 5-70-106;
Prostitution	§ 5-70-102;
Public display of obscenity;	§ 5-68-205;
Resisting arrest;	§ 5-54-103;
Robbery;	§ 5-12-102;
Aggravated robbery;	§ 5-12-103;
Sexual Offenses;	§ 5-14-101 et seq.;
Simultaneous possession of drugs and firearms;	§ 5-74-106;
Soliciting money or property from incompetents;	§ 5-27-229;
Stalking;	§ 5-71-229;
Terroristic act;	§ 5-13-310;
Terroristic threatening;	§ 5-13-301;
Theft by receiving;	§ 5-36-106;
Theft of property;	§ 5-36-103;

Theft of services;	§ 5-36-104;
Transportation of minors for prohibited sexual conduct;	§ 5-27-305;
Unlawful discharge of a firearm from a vehicle; and	§ 5-74-107; and
Voyeurism.	§ 5-16-102.

(f)(1) If the registrant wishes to employ an individual with a conviction or plea of guilty or nolo contendere for the following nonviolent offenses, they shall submit a written request for a waiver prior to employment:

- (A) Theft by receiving, Arkansas Code § 5-36-106;
- (B) Forgery, Arkansas Code § 5-37-201;
- (C) Financial identity fraud, Arkansas Code § 5-37-227;
- (D) Resisting arrest, Arkansas Code § 5-54-103;
- (E) Criminal impersonation in the second degree, Arkansas Code § 5-37-

208(b);

- (F) Interference with visitation, Arkansas Code § 5-26-501;
- (G) Interference with court-ordered visitation, Arkansas Code § 5-26-502;
- (H) Prostitution, Arkansas Code § 5-70-102; and
- (I) Sexual solicitation, Arkansas Code § 5-70-203.

(2) The waiver may be approved if all of the following conditions are met:

- (A) The individual has completed probation or parole supervision;
- (B) The individual has paid all court-ordered:
 - (i) Fees;
 - (ii) Fines; and
 - (iii) Restitution; and

(C) The individual has fully complied with all court orders pertaining to the conviction or plea.

(g) The waiver will be revoked if after employment the individual:

(1) Pleads guilty or nolo contendere or is found guilty of any prohibited offense, including the list in subdivision (f)(1) of this section; or

(2) Has a true or founded report of child maltreatment or adult maltreatment

in a central registry.

(h) The request for waiver and certification of approval shall be kept in the individual's file for:

- (1) The term of employment; and
- (2) Three (3) years after termination of employment.

(i) If approved, the waiver is not transferable to another licensed facility.

(j) Any person who has pleaded guilty, nolo contendere, or who has been found guilty of any one (1) of the offenses listed in subsection (d) of this section, may not work in child care unless:

(1) The date of the conviction or plea of guilty or nolo contendere for a misdemeanor offense:

(A) Is at least five (5) years from the date of the request for the criminal history records check; and

(B) There have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the five-year period preceding the background check request; or

(2) The date of the conviction, plea of guilty, or nolo contendere for a felony offense:

(A) Is at least ten (10) years from the date of the request for the criminal history records check; and

(B) There have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the ten-year period preceding the background check request.

(k) Anyone employed in a licensed center, church-operated exempt center, licensed childcare family home, or a registered childcare family home prior to September 1, 2009, with a clear background check history may remain eligible for employment unless the employee had a conviction, pleaded guilty, or pleaded nolo contendere to an offense listed in subsection (d) of this section since September 1, 2009.

Authority. Arkansas Code § 20-78-221.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following at the end of subdivision (b)(10)(A): “(§ 20-38-103(e)(3)(A) Act 990 of 2013)”.

Subpart 2. Administration

20 CAR § 1028-201. Administrative procedures.

(a)(1) Parents shall be informed in writing upon enrollment of their child that children may be subject to interviews by licensing staff, child maltreatment investigators, or law enforcement officials for the purpose of determining licensing compliance or for investigative purposes.

(2) Child interviews do not require parental notice or consent.

(b) Required records shall be kept and made available to the Child Care Licensing Unit on request.

(c)(1) Falsification of any document and submission of false information to the Office of Early Childhood may constitute grounds for revocation of the license.

(2) Falsification means the submission of untrue information, whether by statement or omission.

(d)(1) Any individual and related parties on the Department of Human Services exclusion list pursuant to Participant Exclusion, 25 CAR pt. 30, shall not be eligible to be an owner, member of the board of directors, director, assistant director, or person in charge of any licensed childcare facility.

(2) All applicable health and fire regulations shall be met.

(e) The registered home shall not care for more than five (5) children at any time including their own preschool children.

(f) The caregiver:

(1) Shall provide prudent supervision of the other persons in the registered home; and

(2) Is responsible for the health, welfare, and safety of the children in care.

(g)(1) The caregiver shall provide a copy of the list of kindergarten readiness skills, prepared by the Department of Education, to parents of all three-year-old and four-year-old children enrolled.

(2) A statement signed by the parent that they have received a copy of the list shall be maintained in the child's record.

(h) The caregiver shall not release a child to anyone who is not immediately recognized as the child's parent or as someone on the authorized pick-up list unless:

- (1) The individual can provide an official picture identification (ID); and
- (2) The person in charge can match the ID to the individual named on the child's data sheet.

(i)(1) Verification of permission for persons not on the authorized pick-up list shall be obtained by the caregiver by calling the parent at a number listed in the child's record.

(2) The caregiver shall view an official picture ID of the individual to verify identity.

Authority. Arkansas Code § 20-78-221.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following at the end of subdivision (g)(1): "(Act 825 of 2003)."

Subpart 3. Personnel

20 CAR § 1028-301. Caregiver qualifications and responsibilities.

- (a) The registered home primary caregiver shall be eighteen (18) years or older.
- (b) The primary caregiver and all secondary caregivers shall have a high school diploma or general education diploma (GED).
- (c) The caregiver shall not be otherwise employed during the time he or she is responsible for children in the home.

(d) Employment at other times shall not affect the quality of care given to the children.

(e) The caregiver shall not use profanity or speak in an abusive manner when children are present.

(f) The caregiver shall also cooperate with licensing staff during regular monitor visits.

(g) The caregiver shall have a person who would be able to care for the children in the event of an emergency.

(h) Newly registered home providers shall attend family childcare provider training within the first six (6) months of being registered.

(i) The registrant shall notify the Child Care Licensing Unit within five (5) calendar days of any change in the person or persons designated as secondary caregivers.

(j)(1) The caregiver shall obtain at least fifteen (15) hours of training, including child development training registered with the Office of Early Childhood professional development registry or Department of Education-approved or Department of Higher Education-approved training each year in continuing early childhood education, which is approved by the office.

(2) Topics appropriate for continuing early education shall include, but are not limited to the following:

- (A) Child growth and development;
- (B) Nutrition and food service;
- (C) Parent communication and involvement;
- (D) Curriculum and curriculum development;
- (E) Developmentally appropriate practice and learning environments;
- (F) Behavior management;
- (G) Emergency care and first aid; and
- (H) Administration and management of early childhood program.

(k)(1) All caregivers, including volunteers who are counted in the ratios, shall receive the following orientation within three (3) months of employment (and every three (3) years thereafter) and shall not be left alone with children until this is

completed.

(2) Introduction (eight (8) clock hours):

(A) Proper supervision of children;

(B) Behavioral guidance practices;

(C) Safe sleep practices for infants;

(D) Shaken baby syndrome, which includes prevention, Carter's Law, Acts

2013, No. 1208;

(E) Appropriately responding to a crying or fussy infant or child;

(F) Emergency procedures in the event of severe weather, or fire,

including:

(i) Evacuation procedures and routes; and

(ii) Location and use of fire extinguishers;

(G) Mandated reporter training;

(H) Administering medication;

(I) Caring for children with special needs or care plans;

(J) Transportation and car seat safety;

(K) Policies regarding release of children to authorized individuals;

(L) Prevention and control of infectious diseases;

(M) Building and physical premises safety, including the identification of,

and protection from:

(i) Hazards;

(ii) Bodies of water; and

(iii) Vehicular traffic;

(N) Nutrition and physical activities;

(O) Prevention and response to food sensitivities and allergic reactions;

(P) Basic child development; and

(Q) The handling and storage of hazardous materials and the appropriate

disposal of bio contaminants.

(l)(1) At least one (1) caregiver who has a current certificate of successful completion of first aid and cardiopulmonary resuscitation (CPR) from an approved

organization shall be on-site at all times.

(2) If the home serves infants and toddlers, this training shall include infant and child CPR.

(3)(A) Infant and child CPR may be included in the basic course or in a separate course.

(B) The curriculum shall conform to current American Heart Association or American Red Cross guidelines.

(C) The curriculum shall require hands on, skill-based instruction, as well as practical testing.

(D) Training and certification that is provided solely online will not be accepted.

(E) The instructor shall be qualified and authorized to teach the curriculum and shall be certified by a nationally recognized organization, including but not limited to:

(i) The Health and Safety Institute; and

(ii) Emergency Medical Services (EMS) Safety Services, Inc.

(m) The caregiver shall be physically and emotionally able to care for children.

(n) The licensing unit may require a physician's statement for the caregiver anytime behavioral or physical indicators warrant.

(o) The caregiver shall not engage in behavior that could be viewed as:

(1) Sexual;

(2) Dangerous;

(3) Exploitative; or

(4) Physically harmful to children.

(p)(1) The caregiver shall not consume or be under the influence of illegal drugs.

(2) The caregiver shall not consume or be under the influence of alcohol while delivering care.

(3) The caregiver shall not consume or be under the influence of medications, prescription or nonprescription, which may impair his or her ability to provide care.

(q) Newly registered caregivers shall attend Business Administration Scale training

within the first six (6) months of being registered.

(r) At no time shall children be left unsupervised.

(s) Additional staff provisions shall be made for enrollment of children with disabilities who require individual attention.

(t) It is recommended that all staff members who have direct contact with children receive annual influenza (flu) immunizations.

(u) It is recommended that all staff members who have direct contact with children receive a one-time Tdap (diphtheria, tetanus, and pertussis) immunization.

(v) It is recommended that all staff members who have direct contact with children receive the recommended series of immunizations for chicken pox, mumps, measles, and rubella, or evidence of immunity.

Authority. Arkansas Code § 20-78-221.

Codification Notes. Carter's Law, Acts 2013, No. 1208, is codified at Arkansas Code § 20-9-1401 et seq.

20 CAR § 1028-302. Adults in the registered home.

(a)(1) The caregiver or caregivers shall provide a clear statement regarding the presence of any other adults eighteen (18) years of age and above who reside in the home.

(2) Any adult, residents, or visitors shall not present a threat to the safety or welfare of children.

(b) A registered home shall have additional staff when there are persons in the home who require constant or routine care.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-303. Volunteer requirements.

(a)(1) Volunteers are those individuals who have routine contact with children and

assist in the home.

(2) If they are left alone with children, considered in the staff-to-child ratios or given supervisory and disciplinary control over children, they:

(A) Shall be considered staff; and

(B) Must meet caregiver qualifications and responsibilities, see 20 CAR § 478-301.

(b) All volunteers in a registered childcare family home shall be eighteen (18) years of age or older unless the volunteer:

(1) Is under the direct supervision of the licensee; and

(2) Has been approved on an individual basis by the Child Care Licensing Unit.

(c)(1) Volunteers who have routine contact with children shall have on file a Child Maltreatment Central Registry check.

(2) An exception shall be given to parents who volunteer on field trips but are not left alone with children.

(3) Child Maltreatment Central Registry checks for volunteers under eighteen (18) years of age must include a parent's signature.

(d)(1) Individuals who provide health services or program enrichment activities on a limited basis are not considered volunteers.

(2) The home shall retain a register of such persons listing:

(A) Name;

(B) Organization address;

(C) Telephone number;

(D) Date; and

(E) Time in the center.

(3) **Note.** This section does not apply to therapists or others who have routine contact with children.

(4) Therapists who are not left alone with children are required to have Child Maltreatment Central Registry checks.

(5) Therapists who are left alone with children at any time are subject to all background checks required for personnel.

- (6) The therapist:
- (A) Is entitled to a copy of the initial background and maltreatment check results; and
 - (B) May share a copy with other facilities in which the therapist may be working.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-304. Supervision.

- (a) The caregiver shall:
- (1) Be responsible for children in care at all times; and
 - (2) Exercise prudent supervision.
- (b) When a caregiver is not in the same room with children:
- (1) The children shall be frequently observed; and
 - (2) The caregiver shall remain close enough to easily hear them.
- (c) Doors to rooms where children are sleeping or playing within the home shall remain open, and sleeping children shall be visually monitored and periodically checked to ensure they are breathing normally.
- (d) The caregiver shall be present on the outdoor play area at all times when any children are present.
- (e) The caregiver shall not leave children unattended in the kitchen area of the home while any cooking is occurring.
- (f) Ironing shall not occur in the presence of the children.

Authority. Arkansas Code § 20-78-221.

Subpart 4. Program and Activities

20 CAR § 1028-401. Program requirements.

- (a) There shall be a posted daily schedule, which includes age-appropriate

activities, including alternating periods of active play and quiet activities throughout the day.

(b)(1) Staff shall plan and provide experiences that meet children's needs and stimulate learning in the following developmental areas: physical, social and emotional, creative and aesthetic, cognitive and intellectual, and language, found in Arkansas's Early Learning Standards.

(2) Experiences that promote self-concept development for infants and toddlers shall also be provided if that age group is in care.

(c) There shall be meaningful interaction between staff and children to include but not be limited to the following:

(1) Comfort children who are upset;

(2) Engage in frequent, multiple, and rich social interchanges such as:

(A) Smiling;

(B) Talking;

(C) Touching; and

(D) Singing;

(3) Interact with children by being their play partner as well as protector;

(4) Help children identify and label feelings by being attuned to children's needs;

(5) Communicate consistently with parents and guardians; and

(6) Interact with children and develop a relationship in the context of everyday routines.

(d) There shall be an opportunity for a supervised rest period that does not exceed two (2) hours.

(e) If children do not fall asleep, they shall be allowed to participate in a quiet activity either:

(1) On their cot, in the area; or

(2) In another room under supervision.

(f) Staff shall not cover the faces of sleeping children with blankets or other bedding.

(g) Pacifiers, if used, shall not be secured around the neck by:

(1) A cord; or

(2) Any other means that could represent a strangulation hazard.

(h)(1) There shall be a total of at least one (1) hour of outdoor play per day in suitable weather.

(2) It is recommended that when deciding if children should play outside, staff shall consider the following environmental factors:

(A) When the heat index is forecast to be ninety degrees (90°) or above, it is recommended that:

(i) Outdoor play be scheduled during early morning hours; or

(ii) The length of time spent outdoors should be reduced to avoid heat stress;

(B) When outdoor play occurs during the hotter part of the day, it is recommended that children have shaded area, an ample supply of water, and should be monitored closely for signs of heat stress; and

(C) When outdoor play occurs during the winter months and when temperatures are extremely cold, it is recommended that the time scheduled for outdoor play be reduced or suspended depending on the temperature and other weather conditions.

(i)(1) There shall be a total of thirty (30) minutes per day of moderate to vigorous physical activity.

(2) This could be included in outdoor play time if it meets this criterion.

(j) Indoor activity equipment shall be adequate for the number and ages of children in the registered home to meet their physical and developmental needs.

(k)(1) Children shall have a variety of toys, books, creative materials, and equipment that is easily accessible and arranged to support learning.

(2) This includes equipment for:

(A) Large muscle and gross motor activities, such as climbing and running; and

(B) Manipulative and fine motor activities, such as things done with the

hands:

- (i) Puzzles;
- (ii) Drawing; or
- (iii) Modeling clay.

(l) The use of television, digital versatile disc (DVD), video cassette viewing, and computer or video games, and other screen time activities shall meet the following requirements:

(1)(A) Shall be limited to programs which are age-appropriate.

(B) It is recommended that programs have educational value;

(2)(A) Shall not exceed one (1) hour daily per child or group of children.

(B) Children shall not be required to participate in screen time activities and shall be offered other choices.

(C) Viewing time may be extended for:

(i) Special events or occasions such as a current event, holiday, or birthday celebration; or

(ii) The occasional viewing of age-appropriate movies or other programs that may exceed one (1) hour in length; and

(3) Computer learning periods for children below age five (5) may not exceed two (2) hours a day per child or group of children.

(m) It is recommended that caregivers encourage parents to be involved in planning and participating in activities at the registered childcare family home.

(n)(1) The caregiver shall distribute materials developed or approved by the Department of Health on prevention of shaken baby syndrome to all parents of infants upon enrollment.

(2) Written documentation of receipt of this information by each parent, with a signature, shall be placed in the child's file, Carter's Law, Acts 2013, No. 1208.

(o) Photos or video recordings shall not be made of any child without prior written parental permission.

(p) Photos or video recordings of children shall not be placed on social media websites without prior written parental permission.

Authority. Arkansas Code § 20-78-221.

Codification Notes. Carter’s Law, Acts 2013, No. 1208, is codified at Arkansas Code § 20-9-1401 et seq.

20 CAR § 1028-402. Infant and toddler-specific program requirements.

(a) Infants shall be carefully supervised at all times.

(b) The caregiver shall provide a safe and clean learning environment, both indoors and outdoors, with age-appropriate materials and equipment arranged to support learning.

(c)(1) The caregiver shall implement relationship-based practices that promote consistency and continuity of care for infants and toddlers.

(2) Infant and toddler caregivers and teachers shall:

(A) Respond promptly to cries and calls of distress by verbally acknowledging, gently touching, and holding children;

(B) Engage children in frequent rich social exchanges in a variety of ways, for example:

(i) Holding;

(ii) Patting;

(iii) Making frequent eye contact;

(iv) Smiling;

(v) Singing; and

(vi) Using a pleasant, calm voice in conversation;

(C) Engage children in frequent positive social exchanges during routine care such as:

(i) Eating;

(ii) Diaper changing;

(iii) Toileting; and

(iv) Preparing for rest;

(D) Provide consistent emotional support to infants and toddlers by:

- (i) Acknowledging their feelings and emotions; and
- (ii) Providing physical and verbal support;

(E) Communicate consistently with parents and guardians by:

- (i) Greeting them warmly; and
- (ii) Exchanging information that promotes continuity between the

center and the child's home; and

(F) Engage in play activities with children by:

- (i) Providing a safe environment to explore;
- (ii) Modeling play behavior such as imagination and use of toys and

equipment; and

- (iii) Providing verbal encouragement and support.

(d) Infants shall be taken outside for a period of time every day, unless prevented by weather or special medical reasons.

(e)(1) Outdoor play for infants and toddlers may include riding in a stroller.

(2) However, infants and toddlers shall be offered opportunities for gross motor play outdoors as well.

(f) If a child falls asleep while in a walker, swing, high chair, etc., that child shall be placed in appropriate sleep equipment.

(g)(1) Infants (children twelve (12) months and below) shall be placed flat on their backs to sleep to lessen the risk of suffocation and sudden infant death syndrome (SIDS).

(2) If a child rolls over on his or her own, the facility is not required to reposition the child.

(3) If there is a medical reason a child cannot sleep on his or her back, then a signed statement from the child's physician must be in the file stating that a different sleep position is indicated.

(h)(1) Infants' sleep space, e.g., crib, shall be free of loose bedding.

(2) It is recommended that if a light blanket is necessary, it be kept at or below the mid-chest area of the child.

(i) Staff shall not cover the faces of infants.

(j) Pillows, including nursing or Boppy pillows, bumpers and bumper pads, and stuffed animals shall not be placed in cribs.

(k) Toys or materials used by younger children shall not be small enough to be swallowed.

(l)(1) Toys used by infants and toddlers shall be safe and sanitized as needed to help prevent the spread of contagious diseases.

(2) Toys that cannot be cleaned and sanitized shall not be used.

(m) Safety straps shall be used on all equipment originally manufactured with safety straps.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-403. School-age children program requirements.

(a) The school-age child shall be provided with a choice of indoor and outdoor activities.

(b)(1) A quiet time and a private place with appropriate equipment shall be provided for one-person activities, including resting or homework.

(2) A supervised rest period does not apply to school-age children.

(c)(1) Permission of parents shall be on file for school-age children to leave the home.

(2) School-age children who leave the registered home to participate in classes, clubs, or other activities shall have written permission from the parents naming the:

(A) Activity;

(B) Time of leaving and returning; and

(C) Method of transportation to the activity.

(3) Permission for regular activities such as scouting may be given for the entire school term.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-404. Evening and night care program requirements.

(a) Night care is any care provided after midnight.

(b)(1) The caregiver shall remain awake at all times children are in care.

(2) Alternative compliance may be requested to allow the caregiver to sleep after the children are in bed for the night.

(3) For this request to be approved, consideration will be given to:

(A) The overall level of licensing compliance;

(B) The use of motion detectors or other alarms to alert the caregiver if the children leave the sleeping area;

(C) The ages, number, and sex of the children in overnight care; and

(D) Written notification to parents that the caregiver will be sleeping during overnight care.

(c) There shall be a plan for evacuating children to safety in case of fire or emergency.

(d)(1) Children arriving in the daylight hours shall have outdoor play, weather permitting.

(2) Older children shall have time for reading or doing homework during the school year.

(e)(1) Evening meals shall be served.

(2) The home shall ensure that children spending the night are served breakfast.

(f) Drinking water shall be available to children during the night.

(g)(1) Bathing facilities shall be available.

(2) Hot water shall be available.

(3) Children shall not take baths together or share the same bath water.

(4) Tubs or showers shall be cleaned after each use.

(5) Children shall be given fresh washcloths and towels.

(6) Preschool children shall never be left alone when bathing.

(7) Privacy shall be ensured for school-age children.

(h)(1) Children in night care shall be given a bed or cot with mattress or pad and a pillow.

(2)(A) If linens become soiled, they shall be changed.

(B) Protective mattress covers shall be used and washed at least weekly.

(3) Each child's bed or cot shall have a cover available.

(4) Beds or cots shall be arranged at least one foot (1') apart.

(i)(1) Homes with only one (1) caregiver shall limit care to no more than two (2) shifts (eighteen (18) hours) per twenty-four-hour period.

(2) Homes offering twenty-four-hour care shall provide a schedule verifying that they have made provisions for a secondary caregiver to provide relief for one (1) shift.

(3) Alternative compliance may be requested by caregivers who:

(A) Provide twenty-four-hour care; and

(B) Do not have a secondary caregiver.

(4) For this request to be approved, consideration will be given to:

(A) The overall level of compliance with registration requirements; and

(B) The number and ages of children in care during the third shift.

Authority. Arkansas Code § 20-78-221.

Subpart 5. Behavior Guidance

20 CAR § 1028-501. Behavior guidance requirements.

(a) Use of behavior guidance shall show that the caregiver understands each child's needs and shall promote self-discipline and good behavior.

(b) Acceptable behavior guidance techniques include:

(1) Look for appropriate behavior and reinforce the children with praise and encouragement when they are behaving well;

(2) Remind the children on a daily basis of the rules by using clear positive

statements of how they are expected to behave rather than what they are not supposed to do;

(3) Attempt to ignore minor inappropriate behaviors and concentrate on what the child is doing properly;

(4) Use brief supervised separation from the group only when the child does not respond to a verbal command which instructs the child as to how he or she is supposed to behave;

(5) When a misbehaving child begins to behave appropriately, encourage and praise small positive steps rather than waiting until the child has behaved for a long period of time; and

(6) Attend to the children who are behaving appropriately, and other children will follow their example in order to obtain your attention.

(c) Physical punishment shall not be administered to children.

(d) The length of time a child is placed in time-out shall not exceed one (1) minute per year of the child's age.

(e)(1) The following activities are unacceptable as behavior guidance measures and shall not be used.

(2) These include but are not limited to:

(A)(i) Restraints.

(ii) Restraining a child briefly by holding the child is allowed when the child's actions place the child or others at risk of injury;

(B) Washing mouth with soap;

(C) Taping or obstructing a child's mouth;

(D) Placing unpleasant or painful tasting substances in mouth, on lips,

etc.;

(E) Profane or abusive language;

(F) Isolation without supervision;

(G) Placing child in a dark area;

(H) Inflicting physical pain, hitting, pinching, pulling hair, slapping, kicking, twisting arms, biting or biting back, spitting, swatting, etc.;

(I)(i) Yelling.

(ii) This does not include a raised voice level to gain a child's attention to protect the child from risk of harm;

(J)(i) Forcing physical activity, such as running laps, doing push-ups, etc.

(ii) This does not include planned group physical education activities that are not punitive in nature;

(K) Associating punishment with rest, toilet training, or illness;

(L)(i) Denying food (lunch or snacks) as punishment or punishing children for not eating.

(ii) Children shall not be forced or bribed to eat;

(M) Shaming, humiliating, frightening, physically or mentally harming children, or labeling children; and

(N) Covering the faces of children with blankets or similar items.

(f)(1) Posted group behavior charts shall not be used.

(2) Individual behavior charts that are not viewable by children and individual charts used by therapists are allowed.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-502. Infant and toddler behavior guidance requirements.

(a) Time-out shall not be used with children under the age of two (2).

(b)(1) The only acceptable form of behavior guidance with infants and toddlers shall be redirection.

(2) Brief separation from the group is acceptable when the child's behavior places the child or others at risk of harm.

(3) The child may be placed in a supervised area away from the group or in a crib or playpen while the caregiver attends to the situation.

Example: A child who has bitten another child would be removed from the group briefly while the caregiver attends to the bitten child.

Authority. Arkansas Code § 20-78-221.

Subpart 6. Records

20 CAR § 1028-601. Home records.

(a)(1) All employee, child, and home records shall be kept and made available to the Child Care Licensing Unit on request.

(2) All required records shall be maintained for three (3) years.

(3) This includes records on children no longer enrolled.

(b)(1) Licensing and registration Compliance Form (DCC-521).

(2) The caregiver shall advise parents in writing that the compliance forms are available for review upon request.

(3) Verification of childcare liability insurance.

(4) Fire department approval, if required by local fire department, state fire code, or requested by the licensing unit due to possible hazards.

(5) Department of Health approval, if applicable.

(6) Verification of annual approval by the Boiler Inspector Division of the Division of Labor.

(7) Record of emergency drills.

(8) Plans and procedures of emergency preparedness

(9) Pet vaccinations

(10) Attendance records on all children to include:

(A) The date and time of arrival and departure; and

(B) Daily parental signatures on the sign in and out forms

(11) Transportation rosters, if applicable.

(12) Verification of commercial vehicle insurance coverage.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-602. Children's records.

(a)(1) Enrollment information shall be obtained for each child before admission.

(2) Sample enrollment forms may be obtained from your childcare licensing specialist.

(b) Identifying and personal data shall include:

(1) Child's:

(A) Name;

(B) Birthdate;

(C) Home address; and

(D) Telephone number;

(2) Name and addresses of the parents and telephone numbers where the parents can be reached while the child is in care;

(3) Date of enrollment in facility;

(4) Name, address, and phone number of persons to be contacted if parents cannot be reached;

(5) The caregiver shall provide a written discipline policy to parents with a copy signed by the parents and retained by the caregiver; and

(6) Any legal documentation that has been given to the facility by the parent or legal guardian regarding the care of the child.

(c) Medical records shall include:

(1) The name, address, and telephone number of the child's physician or emergency medical care facility;

(2) Pertinent past medical history on the child and any change in health;

(3) Child's unusual food needs such as:

(A) Special formulas;

(B) Diabetic diet; or

(C) Food allergies;

(4) Notes of special problems such as allergies to medication or sunburn sensitivity or needs as indicated by the parents;

(5)(A) An authorized record of up-to-date immunizations or documentation of a religious, medical, or philosophical exemption from the Department of Health.

(B) The caregiver shall maintain a roster of children who have not completed the minimum immunization requirements.

(C) A current immunization schedule is provided as an insert in this publication;

(6)(A) A written record shall be made of all significant changes in the child's physical or emotional state and accidents, incidents, or injuries, indicating the location, time of day, area, or piece of equipment where the incident occurred.

(B) A copy of this shall be given to the parent on the day of occurrence; and

(7) Any medical documentation that has been given to the facility by the parent or legal guardian regarding the care of the child.

(d) Permissions and agreements will be signed by the parents and caregiver or caregivers:

(1) Consent for emergency medical care and transportation for such care which shall accompany children who are transported to and from the home;

(2) Other transportation permission, if any, including routine and special field trips;

(3) Permission to participate in water activities, if any;

(4) Signed statements by the parents stating who is authorized to pick up the child;

(5) Written permission for the facility to photograph or video tape their child, if applicable; and

(6) Written permission for the facility to place photos and video recordings of their child on social media or other websites, if applicable.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-603. Caregiver records.

Caregiver records shall contain the following:

(1)(A) Documentation of high school diploma or GED, and continuing education hours.

(B) If these documents are no longer available, proof of reasonable effort to obtain the documentation is acceptable.

(C) **Clarification.** Training hours will be counted on a calendar year basis or by the home's operating schedule if they do not operate year-round;

(2) Documentation of the initiation of all required background checks and results obtained; and

(3) Verification of required transportation training and a current copy of the driver's license for caregiver or caregivers who transports children.

Authority. Arkansas Code § 20-78-221.

Codification Notes. "GED" means General Educational Development.

Subpart 7. Nutrition

20 CAR § 1028-701. Nutrition requirements.

(a) The registered home shall meet the following:

(1) All food shall be safe and stored properly to prevent spoiling;

(2)(A) There shall be a thermometer in the refrigerator that is visible and maintained at forty-one degrees Fahrenheit (41° F) or below.

(B) Freezer thermometers shall be maintained at thirty-two degrees Fahrenheit (32° F) or below.

(C) All freezers shall be inaccessible to children;

(3) Food shall not be stored under sinks;

(4) Food shall be stored in original container or in a closed container;

(5) Chemicals and toxins shall not be stored in food storage areas; and

(6) All medicines shall be stored separately from food at all times.

(b) All food and drink shall be prepared, distributed, and served under sanitary conditions and the following shall be met:

(1) Caregivers shall wash hands before preparing food;
(2) There shall be a sink with hot and cold running water;
(3) Individual drinking glasses or disposable cups shall be provided;
(4) All countertops and other food preparation surfaces shall be kept clear of clutter and in a sanitary condition;

(5) Food left uncovered or handled shall not be reused;
(6) When dishes are washed by hand, they shall be sanitized with a bleach solution; and

(7)(A) Drinking water and water used for the preparation of formula shall not come from the hot water supply.

(B) Water from hot water systems may contain higher levels of lead and other substances that could be harmful to small children.

(c) Food shall be served on individual plates, bowls, or other dishes that can be sanitized or discarded.

(d) Age-appropriate tables and chairs, highchairs, and equipment designed for children, or other comfortable seating options shall be used during snack and meal time.

(e)(1) Breakfast, if served, lunch, and evening meals shall each meet current United States Department of Agriculture guidelines, including portion size, see Appendix A.

(2) If sack lunches are utilized, the home shall ensure that these also meet United States Department of Agriculture guidelines by supplementing the lunches if necessary.

(3) Milk shall be served to each child during the day.

(4) Exceptions may be made for children who suffer allergies to milk.

(f)(1) Breakfast shall be made available to children who arrive before 7:00 a.m.

(2) Breakfast may be served to all children rather than a morning snack, provided there are no more than three (3) hours between the beginning of breakfast

and the beginning of lunch.

(g) Midmorning and midafternoon snacks shall:

- (1) Be provided to all children; and
- (2) Meet current United States Department of Agriculture guidelines.

(h)(1) All children in care during hours shall be offered an evening snack.

(2) Children in care during evening hours shall be served supper and children spending the night shall be served breakfast (unless provided by parent or school).

(i) Menus for all food service shall be available for review.

(j)(1) It is recommended that food brought in from outside sources:

- (A) Be in commercially prepackaged containers; or
- (B) Come from Department of Health-approved kitchens.

(2) This recommendation is based on concerns for the health and safety of children who may have severe food allergies, and the difficulty of monitoring ingredients brought in from home kitchens.

(k) Children shall not be forced or bribed to eat.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-702. Infant and toddler nutrition requirements.

(a) It is recommended that mothers be allowed and encouraged to breastfeed their child at the registered childcare family home.

(b)(1) The routine use of baby food, bottles, and formula shall be agreed upon by the caregiver and parent (Appendix B).

(2) Instructions regarding special needs for food, bottles, and formula, such as food allergies, shall be:

- (A) Obtained in writing from the parent; and
- (B) Followed by the caregiver.

(c)(1) Feedings for all children up to twelve (12) months of age shall be:

- (A) Documented by the caregiver; and
- (B) Available for review by the parent.

(2) This documentation shall continue for all children older than twelve (12) months of age who are still being given bottles.

(d)(1) Children shall not share the same bottle.

(2) A sanitary method of cleaning baby bottles shall be practiced.

(e) Baby bottles shall be properly refrigerated.

(f) Microwaves shall not be used for heating bottles due to the danger of uneven heating.

(g) Infant feeding schedules shall be flexible and adapted to each infant's needs.

(h) The solid foods fed to an infant shall be determined by the child's parent or parents.

(i)(1) Infants under six (6) months of age shall be held while being fed.

(2) Bottles shall not be propped.

(3) Infants six (6) months of age or older shall be held if needed.

(j)(1) Infants no longer held for feedings shall either sit in:

(A) Low chairs at low tables or in infant seats with trays; or

(B) Highchairs with wide bases.

(2) Safety straps shall be used.

(k) Children under two (2) years of age shall not be fed foods that may cause choking, such as but not limited to:

(1) Hard candy;

(2) Raw carrots;

(3) Hot dogs;

(4) Nuts;

(5) Seeds; or

(6) Popcorn.

Authority. Arkansas Code § 20-78-221.

Subpart 8. Building

20 CAR § 1028-801. Building requirements.

(a)(1) The registered family home's building, grounds, and equipment shall be:

- (A) Clean;
- (B) Kept in good repair; and
- (C) Maintained as needed to protect the health and safety of the children.

(2) If the home has sustained structural damage, the caregiver shall immediately notify the childcare licensing specialist.

(b)(1) Boiler Inspection Division requirements shall be met.

(2) All water heaters and any other boilers in licensed childcare settings shall be inspected:

- (A) On an annual basis; and
- (B) Upon installation.

(3) Verification that initial inspection or proof of attempt to set up initial inspection shall be completed within six (6) months of licensure.

(4) Scheduling and completion of annual inspections will be the responsibility of the Division of Labor, however, the facility is responsible for:

- (A) Cooperating; and
- (B) Keeping documentation of such inspection on file for review.

(c)(1) The registered family home shall have a working telephone on-site all hours children are in care.

(2) The registrant shall provide the phone number to the Child Care Licensing Unit and to the parents.

(3) This phone may be a cell phone if the phone:

- (A) Stays operable;
- (B) Stays at the facility during all hours of care; and
- (C) Is the phone number provided to the licensing unit and the parents.

(d) Light, heating, cooling, and ventilation of the home shall be adequate for safety and comfort.

(e) Windows and doors used for ventilation shall be screened.

(f) It is recommended that if natural gas or propane is used, the facility's heating

systems be inspected and cleaned, if necessary, before each heating season by a qualified heating, ventilation, and air conditioning technician.

(g) Carbon monoxide detectors shall be placed in homes according to manufacturer's recommendations if either of the following situations apply:

(1) The home uses wood, propane, natural gas, or any other products as a source of heat that can produce carbon monoxide indoors or in an attached garage; or

(2) Situations where carbon monoxide detectors are required by state or local law.

(h)(1) Manufactured homes registered as registered childcare family homes shall be tied down and under-pinned as required by the Arkansas Manufactured Home Commission.

(2) The registered childcare family home shall obtain an inspection and approval from the commission prior to registration.

(i) An annual fire approval shall be obtained on all manufactured homes that are registered.

Authority. Arkansas Code § 20-78-221.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following at the end of subdivision (b)(4)(B): "AR Code § 20-23-101 et seq.)".

Subpart 9. Grounds

20 CAR § 1028-901. Playground environment.

(a) **Recommendation.** To provide the safest possible playground environment, you are encouraged to meet the Consumer Product Safety Commission's guidelines listed in the Handbook for Public Playground Safety.

(b)(1) Please note that these requirements do not mandate the use of any playground equipment that would require use zones and protective surfacing.

(2) Numerous options for suitable playground environments are available and acceptable.

(3) Examples of such activities are:

(A) Sand boxes;

(B) Activity walls at ground level;

(C) Art easels;

(D) Balls and games;

(E) Playhouses;

(F) Nature walks; and

(G) Use of the approved natural environment for outdoor learning.

(c)(1) It is not advisable to use public playgrounds and other play environments away from the facility.

(2) These environments may not meet acceptable safety standards.

(3) If these playgrounds are used, it is recommended that staff provide close supervision and not allow children to use any equipment that appears unsafe, e.g., broken equipment, sharp objects, strangulations hazards, etc.

(4) Please remember that visiting playgrounds and other play environments away from the facility is considered a field trip and all field trip rules shall be followed.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-902. Ground requirements.

(a)(1) A diagram of the playground shall be submitted clearly identifying:

(A) The perimeter of the playground, with measurements; and

(B) Each piece of equipment used by the children enrolled at the licensed facility.

(2) This documentation shall be in the form of a:

(A) Satellite photo, when possible, from an internet site such as Google Maps; or

(B) Diagram of the playground if a satellite photo is not available.

(b) Any changes in the play area boundaries or equipment requested must be:

- (1) Submitted in writing; and
- (2) Approved prior to use.

(c) All equipment and protective surfacing shall be installed and maintained according to manufacturer's guidelines.

(d) The play area or outdoor learning area shall:

- (1) Be fenced or otherwise enclosed; and
- (2) Provide at least seventy-five square feet (75 sq. ft.) per child present on the playground at any time.

(e) Children shall be supervised at all times when outdoors by someone at least eighteen (18) years of age.

(f) The play area shall be maintained in good order and free of potentially hazardous items.

(g)(1) Trampolines shall not be used.

(2) Therapeutic use of trampolines is acceptable if supervised by the therapist on a one-on-one basis.

(h)(1) Ball pits shall not be used.

(2) Ball pits are large areas or pits filled with balls intended for children to jump in and play.

(3) Therapeutic use of ball pits is acceptable if supervised by the therapist on a one-on-one basis.

(i)(1) There shall be use zones and protective surfacing under and around all equipment that is over eighteen inches (18") in height at the highest accessible point.

(2) The highest accessible point is defined as the highest surface on the piece of equipment where children would stand or sit when the equipment is being used as intended.

(3) Use zones shall extend a minimum of six feet (6') in all directions (unless otherwise specified) from the perimeter of the equipment.

(4) Playground equipment that is between eighteen inches (18") and twenty-four inches (24") at the highest accessible point and that was installed prior to the

enforcement date of this revision is allowable without protective surfacing, as long as it meets all other requirements.

(j) Use zone protective surfacing depths shall be as follows:

Minimum compressed loose-fill protective surfacing depths

Inches	Loose-Fill Material	Protects to Fall Height of:
6*	Shredded and recycled rubber	10 feet
9	Sand	4 feet
9	Pea Gravel	5 feet
9	Wood mulch (non-CCA)	7 feet
9	Wood chips	10 feet

*Shredded and recycled rubber loose-fill protective surfacing does not compress in the same manner as other loose-fill materials. However, it is recommended that care be taken to maintain a constant depth as displacement may still occur.

Authority. Arkansas Code § 20-78-221.

Subpart 10. Sleeping Arrangements

20 CAR § 1028-1001. Sleeping arrangement requirements.

(a) All manufacturer guidelines shall be followed for furniture and equipment that is used by or around children.

(b) Any cribs or playpens that have been identified as unsafe or have been subject to recall as defined by the Consumer Product Safety Commission guidelines or law, shall be removed or repaired as indicated.

(c)(1) Each child under twelve (12) months of age shall have a separate well-constructed baby bed or playpen with a waterproof mattress or pad which shall be:

- (A) Clean;
- (B) Dry; and
- (C) In good condition.

(2) Sheets and covers are required and shall be kept clean and dry.

(3) Bassinets shall not be used.

(d) Waterbeds shall not be used for sleeping children under the age of two (2) years.

(e) The following guidelines shall also be required for cribs:

(1) Cribs that have end panels with decorative cutout areas shall not be used;

(2) Mattresses shall fit snugly in the crib;

(3) The space between crib and mattress shall measure no more than one inch (1");

(4) Corner posts shall be the same height as end panels;

(5) End panels shall extend below the mattress at the lowest position of the mattress; and

(6) Baby beds shall have slats no greater than two and three-eighth inches (2 3/8") apart.

(f)(1) Each child twelve (12) months of age or older shall have a cot, bed, pallet, or mat which shall be placed at least one foot (1') apart.

(2) Sheets and covers are required.

(3) Bedding shall be of washable material and shall be kept clean.

(4)(A) If mats or pallets are used on floors, floors shall be:

(i) Clean;

(ii) Warm;

(iii) Dry; and

(iv) Draft-free.

(B) Any mat or pallet less than two inches (2") thick shall be placed on carpet.

(g) Doors in rooms where children are sleeping shall remain open.

(h) Infants and toddlers shall be visually monitored at all times and physically checked regularly for breathing.

(i) Swaddling of infants is not recommended and shall require a note from the child's physician if continued past the age of three (3) months.

(j) Bibs, necklaces, and garments with ties or hoods shall be removed from infants prior to rest and naptime to reduce the risk of entanglement and strangulation while sleeping.

(k) Children shall not nap on:

- (1) Waterbeds;
- (2) Beanbags; or
- (3) Thick rugs.

(l) Playpens or cribs shall not be placed near dangling cords.

Authority. Arkansas Code § 20-78-221.

Subpart 11. Health

20 CAR § 1028-1101. General health requirements.

(a) It is recommended that all caregivers and household members who have direct contact with children be immunized against:

- (1) Whooping cough;
- (2) Chicken pox; and
- (3) The flu.

(b)(1) The registered home shall have an adequate supply of water that meets the standards for drinking water of the Department of Health.

(2) Bottled water is also acceptable.

(3) Water shall always be available to the children.

(c) The registered home shall follow any health or medical care plans or medical documentation as provided by the child's:

- (1) Physician;
- (2) Parent; or
- (3) Guardian.

(d) Garbage shall be kept in a closed container out of children's reach.

(e) All garbage, soiled diapers, and trash shall be removed from the:

- (1) Home daily; and
 - (2) Grounds at least once a week.
- (f) The home shall be free of insects and rodents.
- (g)(1) Waste and sewage disposal and toilet facilities shall be safe and sanitary.
- (2) The department may be consulted for its recommendation.
- (h)(1) Registered homes shall comply with the Arkansas Clean Indoor Air Act of 2006, Arkansas Code § 20-27-1801 et seq.
- (2) Smoking, including e-cigarettes, in a childcare family home is prohibited at all times.
- (3) This includes:
- (A)(i) All areas of the home, regardless of whether children are in care, including time periods such as nights, weekends, holidays, etc.
 - (ii) This also includes office areas or other areas of the facility that share the same ventilation systems;
 - (B) Outdoor play area;
 - (C) Other outdoor areas when children are present on those areas; and
 - (D) In any vehicle used to transport children, whether children are present in the vehicle or not.
- (i)(1) First-aid materials are required and shall be kept out of reach of children.
- (2) A first-aid kit containing medications shall be locked.
 - (3) The first-aid materials shall include:
 - (A) Adhesive Band-Aids (various sizes);
 - (B) Scissors;
 - (C) Sterile gauze squares;
 - (D) Roll of gauze bandages;
 - (E) Adhesive tape;
 - (F) Antiseptic;
 - (G) Thermometer;
 - (H) Tweezers; and
 - (I) Disposable gloves.

(j) There shall be no adult in the home who poses a health risk to children in care.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-1102. Children's health.

(a) No child or staff shall be admitted who has a contagious or infectious disease.

(b)(1) The parent or legal guardian shall be notified as soon as possible when a child has any symptom that requires exclusion from the facility.

(2) The child shall be separated from other children and closely monitored until the parent arrives to pick the child up.

(c)(1) It is recommended that the caregiver determine if the illness:

(A) Prevents the child from participating comfortably in activities;

(B) Results in a greater need for care than the childcare staff can provide without compromising the health and safety of the other children; or

(C) Poses a risk of spread of harmful diseases to others.

(2) Temporarily exclude from child care if child has:

(A) Sudden change in behavior, such as:

(i) Lethargy or lack of responsiveness;

(ii) Unexplained irritability or persistent crying;

(iii) Difficult breathing; or

(iv) A quickly spreading rash;

(B)(i) Fever over one hundred one degrees (101°) oral or one hundred degrees (100°) axillary (or equivalent method) in a child who also has:

(a) Pain;

(b) Behavior changes; or

(c) Other symptoms of illness.

(ii) An infant younger than two (2) months with any increased temperature shall get urgent medical attention within an hour.

(iii) An infant younger than six (6) months with any increased temperature shall be medically evaluated;

(C)(i) Diarrhea, defined as watery or runny stools, if frequency:

(a) Exceeds two (2) or more stools above normal for that child;

and

(b) Is not related to a change in diet or medication.

(ii) Exclusion from child care is required if diarrhea cannot be contained in the diaper or if diarrhea is causing soiled clothing in toilet-trained children;

(D) Blood or mucus in stools (unless caused by hard stools);

(E) Vomiting illness (two (2) or more episodes of vomiting in the previous twenty-four (24) hours);

(F) Abdominal pain which lasts more than two (2) hours;

(G) Mouth sores with drooling;

(H) Rash with fever or behavior change;

(I)(i) Conjunctivitis or pink eye with white, yellow, or green eye discharge, and red (bloodshot) eyes.

(ii) Exclude only if:

(a) Child has fever;

(b) Child has eye pain;

(c) Child has redness or swelling of the skin around the eyes; or

(d) If more than one child in the program has symptoms;

(J) Pediculosis (head lice), from the end of the day until after the first treatment;

(K) Active tuberculosis, until a healthcare provider or health official states that the child:

(i) Is on appropriate therapy; and

(ii) Can attend child care;

(L) Impetigo, until treatment has been started;

(M) Strep throat, until twenty-four (24) hours after antibiotic treatment has been started;

(N) Chicken pox, until all lesions have crusted (usually six (6) days after the rash appears);

- (O) Rubella, until six (6) days after onset of rash;
- (P) Pertussis (whooping cough), until five (5) days of antibiotic treatment;
- (Q) Mumps, until five (5) days after onset of gland swelling;
- (R) Measles, until four (4) days after onset of rash; and
- (S) Hepatitis A, until one (1) week after onset of illness or as directed by

the Department of Health.

(d) Illness in the registered home shall be handled to protect all children in care.

(e)(1) In case of critical illness or injury, and if the parents cannot be reached, the physician named by the parent shall be called.

(2) If necessary, the child shall be taken to the nearest emergency room.

(3) Injuries that require the attention of medical personnel shall be reported to the parent immediately.

(f) In case of critical illness or serious injury that requires the attention of medical personnel, the childcare licensing specialist shall be notified within one (1) business day.

(g)(1) The caregiver shall notify the child's parent of significant events that affect the children.

(2) This shall include, but not be limited to:

(A) Cases of serious contagious disease shall be reported to the parents of all the children in care; and

(B) Any injury incurred by a child.

(h)(1) The communicable diseases listed in Appendix D, whether suspected in a child or adult, shall be reported within twenty-four (24) hours to either the:

(A) Local county health unit; or

(B) Toll-free reporting system (800-482-8888).

(2) Immediate notification is recommended for the following:

(A) Hepatitis;

(B) Rash illness (including measles and rubella);

(C) Whooping cough (pertussis);

(D) Meningitis;

- (E) Mumps;
- (F) Tuberculosis;
- (G) Salmonellas (including typhoid); and
- (H) E.coli.

(i) Reporting data shall include:

- (1) The reporter's name, location, and phone number;
- (2) The name of the disease reported and the onset date;
- (3)(A) The patient's name, address, phone number, age, sex, and the race.
 - (B) Please spell the patient's name;
- (4) The attending physician's name, location, and phone number;
- (5)(A) Any pertinent clinical and laboratory information used in the diagnosis.
 - (B) Please give the laboratory name; and
- (6) Any treatment information, if known.

(j)(1) It is recommended that universal precautions be used when handling and disposing of materials containing bodily secretions, such as wet or soiled diapers, fecal matter, etc.

(2) Universal precautions shall be used when handling items contaminated by blood.

(3) These items shall be disposed of separately and by using rubber gloves that shall be properly disposed of after each use.

(4) **Note.** Hands must be washed even after gloves are used.

(k)(1) Within fifteen (15) days of enrollment of a child, the registered home provider shall verify that the child has been immunized as required by the department or the child cannot remain in care.

(2) A current immunization schedule is provided as an insert in this publication.

(l)(1) Children shall be protected from overexposure to the sun.

(2) Sunscreen shall be used if needed and as directed by the parent.

(3) Suntan lotions or sunscreens used for infants and toddlers and preschool children shall be:

- (A) Kept out of the children's reach; and
- (B) Administered only with written parental permission.
- (4) School-age children may apply sunscreen to themselves with supervision.
- (5) Blanket permission may be obtained annually.
- (m) It is recommended that the facility have an automated external defibrillator on-site.

Authority. Arkansas Code § 20-78-221.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following at the end of subdivision (k)(1): "(Arkansas code § 20-78-206 as amended by Act 870 of 1997).".

20 CAR § 1028-1103. Toilet arrangements.

(a)(1) At least one (1) commode and one (1) sink shall be made available for the children's use.

(2) Potty chairs may be used by the younger children if emptied, cleaned, and disinfected after each use.

(3) Potty chairs shall be located in the bathroom only.

(b) Toilet tissue shall be located within reach of the children when toileting.

(c) Individual cloth towels or paper towels shall be available for each child.

(d) Caregiver's and children's hands shall be washed with liquid soap:

(1) Before meals;

(2) After toileting;

(3) After each diaper change; and

(4) As needed.

(e) There shall be a safe diaper changing table that meets the following requirements:

(1) Impervious (nonabsorbent) smooth surfaces that do not trap soil and are easily disinfected;

(2) There shall be a changing pad capable of being sanitized used as a cushion between the child and the changing table surface;

(3) The table shall be sturdy and stable to prevent tipping over;

(4) The table shall be a convenient height for use by caregivers and teachers;

and

(5) The table shall be equipped with a raised edge or other provision to help reduce the risk of a child rolling off the table.

(f) Children shall always be attended during diapering.

(g)(1) Soiled or wet diapers shall be:

(A) Removed;

(B) Disposed of properly; and

(C) Replaced with clean, dry diapers.

(2) The caregiver shall ensure that children are properly cleaned and dried.

(h) The caregiver shall assist children in toilet routine and hygiene practices.

(i) The following methods shall not be used in toilet learning:

(1) Placing the child on a toilet or potty chair for prolonged time periods;

(2) Using harsh language;

(3) Punishing or berating in any way for soiling clothing;

(4) Using physical force to place child on a toilet or potty chair against their

will; and

(5) Leaving child unsupervised on toilet.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-1104. Medications.

(a) Prescription medicine shall be in the original container with a child resistant cap and labeled with the child's name, not have an expired date, instructions, and the physician's name.

(b) All nonprescription medicine (except aspirin substitutes, such as ibuprofen and acetaminophen) shall be:

- (1) Labeled with the child's name; and
- (2) Dated.

(c) All medicines shall be given to a child only with the written permission of the child's parent or parents or guardian which includes:

- (1) Date;
- (2) Type;
- (3) Drug name;
- (4) Time and dosage;
- (5) Length of time to give medication; and
- (6) What the medication is being given for.

(d)(1) Children with special healthcare needs (examples: asthma, seizures, diabetes, etc.) who require scheduled daily medications or medications to be given on an emergent basis (Benadryl, EpiPen, rescue asthma medication, etc.) shall have a care plan.

(2) Care plans shall:

(A) Have clearly stated parameters, directions, and symptoms for giving the medications; and

(B) Be updated as needed, but at least yearly.

(e) The facility shall share information with families regarding medical homes for children.

(f)(1) Medicines shall be kept in a locked area.

(2) Medicine shall be kept out of the reach of the children when dispensing.

(g) Rescue medications such as inhalers or EpiPens shall be inaccessible to children (kept in an accessible cabinet with a childproof type safety latch or carried by the caregiver).

(h) Medication shall be returned to the parent or disposed of properly when:

- (1) A child withdraws from care; or
- (2) The medication is out of date.

(i) Medicine shall be stored at the proper temperature, separately from food at all times.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-1105. Phone numbers required.

The following numbers shall be available in the immediate area of the telephone:

- (1) Ambulance service or emergency medical services;
- (2) Police or sheriff's department;
- (3) Fire department;
- (4) Poison control center, 1-800-376-4766;
- (5) Child Abuse Hotline, 1-800-482-5964;
- (6) The physicians named by the parents;
- (7) The Child Care Licensing Central Office, 501-682-8590, or toll-free 1-800-445-3316; and
- (8) Home and business numbers of parents.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-1106. Pets.

(a)(1) Pets with which children have contact shall receive vaccinations as required by law.

(2) Verification of vaccinations administered by a licensed veterinarian shall be maintained.

(b) Any pet that constitutes a threat to the welfare and safety of the children shall be kept in a confined area that prevents any contact with the children.

Authority. Arkansas Code § 20-78-221.

Subpart 12. Safety

20 CAR § 1028-1201. Evacuation of infants.

It is suggested that the home have an evacuation crib or equivalent that could be used for the safe evacuation of infants.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-1202. Safety requirements.

(a)(1) Within thirty (30) days of registration and within thirty (30) days of any change or modification of the floor plan, the facility shall file a copy of their floor plan with the local Office of Emergency Management including the following (Arkansas Code § 20-78-228, Acts 2013, No. 1159):

(A) A schematic drawing of the facility and property used by the childcare facility including the configuration of rooms, spaces, and other physical features of the building;

(B) The location or locations where children enrolled in child care spend time regularly;

(C) The escape routes approved by the local fire department for the childcare facility;

(D) The licensed capacity and ages of children per room at the facility;

(E) The contact information for at least two (2) emergency contacts for the facility; and

(F) An aerial view of the childcare facility and property used by the childcare facility shall be included with the floor plan if available.

(2) Homes already registered on the effective date of this part shall have thirty (30) days to comply.

(b)(1) The registered childcare family home shall have a written plan detailing the procedures to follow in the event of emergencies (fires, floods, tornadoes, utility disruptions, bomb threats, etc.)

(2) The plan and procedures are required for emergencies that could:

(A) Cause structural damage to the facility;

(B) Be identified as a threat by the Division of Emergency Management;

or

(C) Pose a health or safety hazard to the children and staff.

(3) This plan shall include provisions for “sheltering in place” or “lock down”, in the event of situations that warrant such measures.

(c) The written plan shall include the following information:

- (1) Designated relocation site and evacuation route;
- (2) Procedures for notifying parents of relocation;
- (3) Procedures for ensuring family reunification;
- (4) Procedures to address the needs of individual children, including children

with:

- (A) Special needs;
- (B) Disabilities; and
- (C) Chronic medical conditions;
- (5) Procedures and documentation for annual training of staff regarding:
 - (A) The plan; and
 - (B) Possible reassignment of staff duties in an emergency; and
- (6) Plans to ensure that all caregivers and volunteers are familiar with the components of the plan.

(d)(1) The home shall maintain, on-site, a current copy of the Arkansas Comprehensive Emergency Management Plan issued by the division.

(2) This plan shall be reviewed by the licensee and signed and dated, indicating that they:

- (A) Have reviewed the current plan; and
- (B) Agree to comply with the provisions of the plan.

(e) The registered childcare family home shall coordinate with local emergency management officials to plan for emergencies.

(f) Written procedures and evacuation diagrams for emergency drills shall be posted in each room used for child care.

(g) Fire and tornado drills shall be practiced as follows:

- (1) Monthly;

- (2) On separate days and at different times of the day;
 - (3) During all hours when children are in care (evenings, nights, weekends, etc.);
 - (4) Everyone in the home at the time of the drill shall participate in the drill;
- and
- (5) Caregivers, including volunteers, shall be trained in safety drill procedures.
- (h)(1) The registered childcare family home shall maintain a record of emergency drills.

(2) This record shall include:

- (A) Date of drill;
- (B) Type of drill;
- (C) Time of day;
- (D) Number of children participating in the drill;
- (E) Length of time taken to reach safety; and
- (F) Notes regarding things that need to be improved upon.

(i)(1) The registered childcare family home shall maintain an evacuation pack that shall be taken:

- (A) On all drills; and
- (B) During real emergency evacuations.

(2) The pack shall be easily accessible in an emergency and all caregivers shall know the location of the pack.

(3) The evacuation pack shall include, but is not limited to the following:

- (A) List of emergency numbers;
- (B) List of all emergency and contact information for children;
- (C) List of all emergency and contact information for staff;
- (D) First-aid kit, 20 CAR § 478-1101(i), with extra gloves;
- (E) Kleenex;
- (F) Battery-powered flashlight and extra batteries;
- (G) Battery-powered radio and extra batteries;
- (H) Hand sanitizer;

- (I) Notepad and pens or pencils;
- (J) Whistle;
- (K) Disposable cups;
- (L) Wet wipes; and
- (M) Emergency survival blanket.

(j)(1) The registrant shall immediately notify the Child Care Licensing Unit of any damage to the building or grounds.

(2) If phone service is not available, notification shall be as soon as service is restored or available.

(k)(1) Registered homes shall:

- (A) Maintain a log of all child product recall and safety notices:
 - (i) Issued by the Consumer Product Safety Commission; or
 - (ii) Distributed by the Attorney General's office; and
- (B) Post or otherwise make these notices available for parents to review.

(2) The holder of the registration shall certify on an annual basis that:

- (A) These notices have been maintained and reviewed; and
- (B) Any identified items have been removed from the home.

(3) Forms for self-certification:

- (A) Will be provided by the childcare licensing specialist; and
- (B) Shall be submitted annually.

(l)(1) Electrical outlets shall be guarded.

(2) Protective caps, if used, shall be large enough to prevent swallowing.

(m)(1) Indoor or outdoor cooling or heating units shall have guards or barriers when necessary.

(2) All outdoor electrical boxes, gas lines, and exposed electrical cords shall be enclosed.

(n) Stairways shall be well-lighted and guarded as needed.

(o) Dangerous equipment or objects shall be stored away from areas used by the children.

(p)(1)(A) All detergent and cleaning supplies shall be kept out of the reach of

children.

(B) This does not include hand soap in the children's or staff's bathrooms.

(2) Supplies used for children's activities shall be carefully supervised.

(q)(1) All poisonous substances shall be kept in a locked area.

(2) Guns shall be unloaded.

(3) Guns, other weapons, and ammunition shall be stored in a locked area in the home.

(r) Illegal drugs or paraphernalia shall not be in any part of the facility or on the premises, regardless of whether children are present or not.

(s) Tanks, ponds, swimming pools, open wells, drainage ditches, and sewage drainpipes shall be fenced if located within the play area.

(t)(1) Home swimming pools shall not be used by children in care unless permission is obtained from the licensing unit through an alternative compliance request.

(2) This request must include written approval from the Department of Health for the use of the pool by children in care.

(3) Home swimming pools used by children in care are considered semiprivate pools by the Department of Health and approval for these pools requires inspection during the construction phase.

(4) Obtaining approval for existing pools is usually not possible.

(u)(1) Wading pools shall not be used by children under two (2) years of age.

(2) Water sprinklers are acceptable.

(v) Alcoholic beverages shall be kept out of reach of children.

Authority. Arkansas Code § 20-78-221.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following at the end of subdivision (b)(1): "(Act 801 of 2009)".

This section contained the following at the end of subdivision (k)(3)(B): "(Act 1313 of 2001)".

20 CAR § 1028-1203. Fire requirements.

(a) The currently adopted Arkansas Fire Prevention Code, 12 CAR pt. 15, does not allow the use of basements or floors above ground level by children first grade and younger unless there is a ground-level exit.

(b)(1) A fire extinguisher with a minimum of five pounds (5 lbs.) ABC rating shall be:

(A) Installed in the kitchen area of the home; and

(B) Properly maintained.

(2) Caregivers shall know how to operate the extinguisher.

(3) **Clarification.** These fire extinguishers are required by State Code to:

(A) Be inspected annually; and

(B) Have the approval verification tag attached.

(4) An alternative to the inspection is:

(A) The purchase of a new fire extinguisher annually; and

(B) Retention of the receipt verifying the purchase.

(c) A working smoke detector shall be installed:

(1) Near the kitchen area; and

(2) In children's sleeping areas.

(d)(1) The home shall be maintained to be free from fire hazards at all times.

(2) The childcare licensing specialist shall consult with the local fire department or the State Fire Marshal when it appears hazards exist.

(e) The structure and use of the home shall permit easy entry and exit and shall comply with the following:

(1) A registered home with more than one (1) level shall have second exits on all levels used by children;

(2) A registered home shall have at least two (2) exits to the outside located on different sides of the home;

(3) Doors opening to the outdoors shall be constructed so the children can open them easily from the inside;

(4) Doors between rooms in the exit route shall not be locked while children are in the home; and

(5) Doors and pathways shall be clear of equipment that blocks the movement of children and caregiver or caregivers.

(f)(1) Wood burning stoves, or gas logs, fireplaces, open flame space heaters, water heaters, floor furnaces, or other sources of heat shall be guarded and vented when necessary for the protection of the children.

(2) Portable fuel heaters shall not be used.

(g) Cooking stoves or ovens shall not be used as a heating source in the home.

(h) Portable heaters:

(1) Shall not be placed within reach of children; and

(2) Shall be approved UL listed products.

(i)(1) The providers shall notify the childcare licensing specialist of any fires causing damage to the home.

(2) This notification shall be made no later than the end of the following working day.

Authority. Arkansas Code § 20-78-221.

Codification Notes. "UL" means Underwriter Laboratories.

Subpart 13. Transportation

20 CAR § 1028-1301. Transportation requirements.

(a)(1) The requirements in this section shall apply to all transportation provided by the registrant, including transportation provided by any person on behalf of the registrant, regardless of whether the person is employed by the registrant.

(2) The requirements in this section are not limited to routinely scheduled

transportation.

(3) Periodic transportation, such as a parent requesting that their child be picked up at school due to the parent's work schedule or other conflicts, is also covered by these requirements, whether a fee is charged for this service or not.

(b) When children are transported, emergency contact information shall be in the vehicle at all times.

(c) Caregivers transporting children shall meet the following requirements:

(1) Be at least twenty-one (21) years old or the minimum age required by the registrant's commercial auto insurance;

(2) Hold a current valid driver's license or commercial driver's license as required by state law, and a readable copy shall be maintained in the employee's record;

(3)(A) Successfully completed the training course in driver safety that is offered by the Office of Early Childhood prior to transporting children.

(B) Verification of the completed course in driver safety shall be maintained in the employee's record; and

(4) Be certified in cardiopulmonary resuscitation and first aid.

(d) The vehicle or vehicles used for the transportation of children shall comply with Arkansas state laws on transportation of children.

(e) Vehicles shall be licensed and maintained in proper working condition including air conditioning and heating systems.

(f)(1) Commercial insurance coverage shall be maintained for any vehicle used for transportation by the facility.

(2) Verification of commercial insurance coverage shall be provided to the childcare licensing specialist prior to transportation of children.

(3) Required coverage amounts to be maintained are:

(A) Minimum coverage of one hundred thousand dollars (\$100,000) combined single limit;

(B) Minimum coverage of one hundred thousand dollars (\$100,000) for both uninsured motorist and underinsured motorist; and

(C) Minimum coverage of five thousand dollars (\$5,000) personal injury protection for each passenger (based on the number of passengers the vehicle is manufactured to transport).

(g) The vehicle shall be licensed, insured, and maintained in proper working condition.

(h)(1) Any child transported in a passenger automobile, van, or pickup truck, who is less than six (6) years old or weighs less than sixty pounds (60 lbs.), shall be restrained in a child passenger safety seat.

(2) Any child who is at least six (6) years old or weighs at least sixty pounds (60 lbs.) must be restrained by a safety belt or any other approved safety devices.

(3) Child passenger safety seats shall be used in accordance with manufacturer's guidelines.

(i) Loading and unloading of children from vehicles shall be conducted in a safe manner.

(j) There shall be a seating space and an individual, appropriate restraint system provided for each child being transported.

(k)(1) Rosters listing the date, names, and ages of all children being transported as well as the name of the driver and any other staff member on the vehicle shall be maintained.

(2) These rosters shall be used to check children on and off the vehicle when they:

(A) Are picked up and dropped off at home, school, etc.; and

(B) Arrive at and leave the registered home.

(3) Transportation rosters shall be kept by the home and available for review for one (1) year.

(l)(1) To ensure that no children are left in the vehicle, the driver or a staff member must walk through the vehicle and physically check each seat before leaving the vehicle.

(2) The transportation roster must be signed by the driver or staff who conducted the walk-through inspection, documenting that all children have exited the

vehicle.

(m)(1) To ensure that children have safely arrived in the home, the transportation roster shall be:

- (A) Reviewed by the registrant; and
- (B) Compared with attendance records.

(2) The registrant shall sign off on the transportation roster to verify that all children have safely transitioned from the vehicle to the classroom.

(n)(1) Any vehicles designed or used to transport more than seven (7) passengers and one (1) driver must have approved child safety alarm devices installed.

(2)(A) These devices must be properly maintained in working order at all times.

(B) Vehicles in service at licensed facilities prior to July 1, 2005, shall have the alarm installed by a qualified technician or mechanic no later than December 31, 2005.

(C) On or after July 1, 2005, all vehicles at newly licensed facilities and newly acquired vehicles at existing facilities shall have a child safety alarm installed before placing the vehicle in service.

(3) The Child Care Licensing Unit shall maintain a list of approved alarm systems.

(4) Clarification.

(A) The alarm system shall be installed so that the driver must walk to the very back of the vehicle to reach the switch that deactivates the alarm.

(B) Alarm switches installed in locations that do not require the driver to walk to the back of the vehicle and view all seating areas will not be acceptable.

(C) The alarm systems may be installed by any certified technician or mechanic employed by a recognized electronics or automotive business in accordance with the device manufacturer's recommendations.

(D) The time delay from activation of the alarm until the alarm sounds shall be no longer than one (1) minute.

(E) Any of the following three (3) options are acceptable to meet the

intent of Acts 2005, No. 1979, when children are being delivered at the facility.

(F) Other options must be approved by the licensing unit.

(5) Options:

(A)(i) Unload all of the children, walk through the vehicle to ensure that no children remain on board and deactivate the alarm.

(ii) This option will only work if you are able to unload all children in less than one (1) minute;

(B)(i) Upon arrival, have one (1) staff member immediately walk through the vehicle to deactivate the alarm system.

(ii) That staff member will remain near the alarm switch at the back of the vehicle until all children have been unloaded to ensure that no child is left on board.

(iii) This option will require at least two (2) staff members:

(a) One (1) to supervise the children; and

(b) One (1) to remain inside the vehicle; or

(C)(i) Upon arrival, deactivate the alarm and unload the children.

(ii) Immediately after unloading, start the vehicle and move it to a different location for final parking.

(iii) This will reactivate the alarm and require a final walkthrough.

Authority. Arkansas Code § 20-78-221.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following at the end of subdivision (h)(2): "(Act 470 of 2001)".

20 CAR § 1028-1302. Infant and toddler transportation requirements.

A vehicle transporting children under the age of thirty-six (36) months shall maintain a ratio of one (1) adult to three (3) children.

Authority. Arkansas Code § 20-78-221.

Subpart 14. Special Needs

20 CAR § 1028-1401. Individuals with Disabilities Education Act.

(a)(1) The Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., is a law ensuring services to children with disabilities throughout the nation.

(2) The Individuals with Disabilities Education Act governs how states and public agencies provide early intervention, special education, and related services to eligible infants, toddlers, children, and youth with disabilities.

(b) It defines a child with special needs as:

(1) A child determined eligible for special services under the Individuals with Disabilities Education Act for whom a current individualized family service plan or individualized education program exists; and

(2) A child whose physical condition has lasted or is expected to last at least two (2) years as diagnosed by a licensed medical or psychological examiner.

(c) It is specified in Pub. L. No. 108-466 § 635(a)(16)(A) and (B) (Individuals with Disabilities Education Act as reauthorized) as:

(1) Children with disabilities including children in public or private institutions or other care facilities are educated to the maximum extent appropriate with children who are not disabled; and

(2) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of the child is such that the child is not achieving a satisfactory education in a regular class that provides supplementary aids and services.

(d) All childcare facilities are required by the Individuals with Disabilities Education Act to refer a child with any suspected delays or disabilities to the appropriate lead agency, as determined by the child's age.

Authority. Arkansas Code § 20-78-221.

20 CAR § 1028-1402. Special needs requirements.

All childcare facilities shall comply with all applicable provisions as specified in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.:

(1) The facility shall enroll children with special needs without regard to disability;

(2) Programs are required to provide space and care for a child who can be placed in their facility with existing services, as well as added supports from special educational services as long as the health and safety of the child can be met;

(3) Staff shall provide care in the general classroom with children who are not disabled;

(4) The facility shall assist in facilitation of services required to meet the special needs of children in the center or in the classroom as specified on the individualized education program or individualized family service plan;

(5) Facility staff (regular classroom staff) shall be a partner in the IFSP and individualized education program (IEP) process;

(6) The facility shall allow service providers who are representatives of the Department of Human Services, the Division of Developmental Disabilities Services, or the Department of Education access to the facility to provide special services as prescribed on the plan to enable the plan to be implemented in the classroom (natural or least restrictive environment);

(7) The facility shall not charge special service providers for space or accept gratuities or payment for allowing special service providers to provide services in their facility;

(8) The facility is not required to displace children or staff to make space available to special service providers;

(9) In order for a special service provider to provide special services in the facility, the IFSP/IEP planning team, under the authority of the Department of Education and the division, shall identify the needed special services on the IFSP/IEP; and

(10) Classroom staff shall reinforce the specified goals and objectives as part of the daily routine of the classroom.

Authority. Arkansas Code § 20-78-221.

Codification Notes. “IFSP” means individualized family service plan.

20 CAR § 1028-1403. Infant and toddler special needs requirements.

(a) To the maximum extent appropriate, children ages zero (0) to two (2) shall participate in early intervention services provided in natural environments.

(b) When infants and toddlers cannot achieve satisfactory results from early intervention services in a natural environment, the provision of early intervention services shall occur in other appropriate settings as determined by the:

- (1) Parent; and
- (2) Individualized family service team.

Authority. Arkansas Code § 20-78-221.

Appendix A. Child Care Meal Pattern

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/112/20CARpt.1028AppendixA.pdf>

Appendix B. Infant Care Meal Pattern

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/113/20CARpt.1028AppendixB.pdf>

Appendix C. Adult Care Meal Pattern

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/114/20CARpt.1028AppendixC.pdf>

Appendix D. List of Reportable Diseases

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/115/20CARpt.1028AppendixD.pdf>

Appendix E. Disaster and Emergency Preparedness

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/116/20CARpt.1028AppendixE.pdf>