

## Notice of Rule Making

Pursuant to Arkansas Code 20-78-201-220, the Director of the Division of Child Care and Early Childhood Education, issues revised Minimum Licensing Requirements for Child Care Centers, Licensed Child Care Family Homes and Registered Child Care Family Homes and FBI Record Check Forms. The Division of Child Care and Early Childhood Education is also intending to promulgate a new regulation book for Out-of-School Time Facilities. If you are interested in obtaining information or presenting your views regarding the revisions, you are welcome to attend one of the following public meeting dates:

**May 23, 2014: 10:00a - 12:00p**

Helen Walton Center  
1701 NE Wildcat Way  
Bentonville, AR 72712

**June 3, 2014: 10:00a - 12:00p**

Miller County DHS  
3809 Airport Plaza  
Texarkana, AR 71854

**June 5, 2014: 10:00a - 12:00p**

Drew County DHS  
444 Highway 425 N  
Monticello, AR 71657

**June 10, 2014: 10:00a - 12:00p**

Craighead County DHS  
1600 Browns Lane Access Road  
Jonesboro, AR 72401-7291

**June 12, 2014: 10:00a - 12:00p**

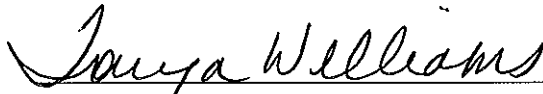
Arkansas River Room  
101 East Capitol, Suite 350  
Little Rock, AR 72201

The proposed policies and forms are available for review on the Division of Child Care and Early Childhood Education's website <http://hs.arkansas.gov/dcece/Pages/ChildCareLicensing.aspx>. There will also be a Frequently Asked Questions (FAQ's) section on the website as well. Limited copies will be available at each meeting. If you are unable to view

and/or print the documents electronically, you may also view or obtain them at the Division of Child Care and Early Childhood Education, located at 700 Main Street, Little Rock, AR 72201, or by calling 1-800-445-3316.

If you cannot attend the public hearing you can also send your comments to:  
DCCECE Licensing and Accreditation Unit,  
Attn: David Griffin, Associate Director: Licensing and Accreditation  
PO Box 1437 Slot S-150  
Little Rock, AR 72203  
(501) 320-8904  
[david.griffin@dhs.arkansas.gov](mailto:david.griffin@dhs.arkansas.gov)

**All comments (both written and verbal) must be received no later than 4:00 pm on June 30, 2014.**

A handwritten signature in cursive script that reads "Tonya Williams". The signature is written in dark ink and is positioned above a horizontal line.

Tonya Williams,  
Director, Division of Child Care and Early Childhood Education

## SUMMARY OF DCCECE RULE REVISION/PROMULGATION

The Division is proposing changes to The Minimum Licensing Requirements for Child Care Centers, Child Care Family Homes, Registered Child Care Family Homes and Out-of-School Time facilities, to reflect recent legislation and to increase the overall quality of care for the children of Arkansas.

The following recommended changes are the result of recent legislation:

- AR Code §20-38-103 (e) (3) (A) and changes resulting from Act 990 of 2013 regarding criminal background checks
  - Licensees may employ individuals with specifically designated criminal convictions, provided the individual has completed the terms of the conviction. (The changes made to section 110 of the Child Care Center Pub-002)
- AR Code § 20-9-1301 and changes resulting from Act 1208 of 2013 (Carter's Law)
  - Specific training regarding Shaken Baby Syndrome. (Section 306 of the Child Care Center Pub-002)
- AR Code § 20-78-228 and changes resulting from Act 1159 of 2013 regarding emergency management requirements.
  - Licensees must file current floor plans with local Offices of Emergency Management. (Section 1201 of the Child Care Center Pub-002)

The following proposed changes are the result of a consent agreement approved by the Joint Budget Committee of the Arkansas Legislature:

- Playground boundaries shall be identified using aerial photos from internet sites such as Google Maps. The aerial photos shall be accompanied by measurements of the identified playground area(s). Each piece of equipment used by the children enrolled in the licensed facility shall be listed. Any changes in the playground boundaries or equipment shall be approved by the Division prior to use.

The following proposed changes are reflective of nationally recommended guidelines by The Office of Child Care, The National Association of Regulatory Administration, Child Care Aware, The American Academy of Pediatrics, The Consumer Product Safety Commission, The Arkansas Department of Health and The Arkansas Fire Marshall's Office.

- Any Video recordings made by the facility shall be made available to Licensing staff upon request.
- All staff shall submit an FBI record check.
- Staff to child ratio for newly licensed providers will change to 1:5 for infants and 1:8 for toddlers. Facilities licensed prior to the effective date of this change shall have two years to comply.
- Director qualifications will require a Bachelor's Degree in Early Childhood Education. A Bachelor's Degree in a non-related field will be accepted with four years of experience in early childhood education, a CDA credential, or a Birth-Pre K Credential. (Individuals employed as Directors prior to the effective date of this regulation are not required to meet the new standard.)
- The Director shall be on site 50% of the operational day.
- The facility shall have a designated Site Supervisor who shall complete New Director's Orientation.
- All training hours shall be registered through Division of Child Care and Early Childhood

Educations Professional Development Registry or the Department of Education.

- Licensing Procedure Changes
  - A reasonable plan with a proposed budget for the financial support of the center covering costs of staffing, building (including rent or mortgage and repairs), utilities, equipment, safety, and nutrition.
- Criminal Records Check
- Request for a waiver prior to employment for specified non-violent offences. Professional Development changes:
  - Pre-service training shall be completed prior to working with Children
  - Additional training shall be completed within 10 business days of hire
  - Job specific training shall be completed within 30 days of hire
  - A probationary period shall include at least 30 days from hire
- Program Section changes:
  - One hour per day of moderate to vigorous physical activity shall be provided
  - An approved curriculum including the six developmental areas found in Frameworks shall be followed
  - Additional language will be added to describe meaningful interactions between staff and children
  - Additional requirements will be added to address communication between facility staff and parents, as well as overall parental involvement
  - Photographing or video recording of children shall be prohibited without parental consent
- Infant & Toddler Section changes:
  - Enhanced requirements for safe and sanitary toys
  - The definition and requirement for a relationship based program for infants and toddlers
  - An approved curriculum including the six developmental areas listed in the Infant & Toddler Frameworks to include lesson plans.
- Behavior Guidance Changes
  - Added trainings
  - Behavior charts shall not be used
  - Children shall not be forced or bribed to eat
- Records Section Changes:
  - Parents shall sign children in and out
  - Staff records to include a copy of GED or high school diploma
  - Documentation of new employee evaluations
  - Child records to include changes in child's physical or emotional state, infant feeding documentation and distribution of Shaken Baby Syndrome information.
- Nutrition Section
  - Language to clarify feeding schedules.
  - Requirements for outside food sources
  - Temperature requirements for refrigerators and freezers
  - Enhanced infant and toddler feeding requirements
- Building Section changes:
  - An operational Air conditioning system shall be required
  - Heating Ventilation and Air Conditioning systems shall be regularly serviced and cleaned

- Carbon monoxide detectors shall be required
- Playgrounds Section changes:
  - Fencing of outdoor playgrounds shall be required for all programs, including school age programs
  - Provisions shall be made for shaded areas on the playground
  - Play equipment that has been deemed unsafe shall be removed or fenced off
  - Newly purchased playground equipment shall be commercially manufactured and shall be certified to meet ASTM and CPSC standards for public playgrounds
  - Ball pits, trampolines, and wading pools shall be prohibited
  - Clothing and accessories that may cause entanglement or strangulation shall be prohibited
  - CPSC approved helmets shall be provided and used by children who are using riding toys
  - Slides shall have transition platforms
  - Flexible grid climbing devices shall be prohibited for preschoolers unless they are anchored at both ends and have a means of transitioning from one piece of equipment to the next
  - CPSC guidelines shall be adopted for play surfacing depths
- Additional requirements for balance beams, slides, swings, seesaws and climbing equipment.
- Furniture and Equipment

Requirements for child size furniture to be used. Sleeping requirements changes:

- Swaddling shall not be practiced except as directed in writing by the child's physician
- Bibs, necklaces, and garments with ties or hoods shall be removed prior to rest/naptime
- Health Section changes:
  - Clarifications and additions to exclusions due to contagious or infectious disease
  - Universal precautions shall be used when handling hazardous materials
  - Recommendations for adult immunizations against flu, whooping cough, chicken pox, and MMR
  - Requirements for handling medication
  - Requirements for vaccinating animals
- Safety Requirements
  - Clarification for fire drills
  - Requirements for rescue medications
  - Requirements for pacifiers
  - Additional clarification for swimming pools
- Hand Washing Section changes:
  - Hand washing sinks shall be required in infant/toddler areas
  - Specific requirements for diaper changing tables
- Transportation section changes:
  - At least one adult in the vehicle shall have current certification in CPR and First Aid
  - Heating and air conditioning systems in vehicles used to transport children must be in working order

#### **Revision of Rule:**

- Minimum Licensing Requirements for Child Care Centers
- Minimum Licensing Requirements for Child Care Family Homes

- Minimum Registration Requirements for Registered Child Care Family Homes
- FBI Records Check Form

## **SUMMARY**

### **Proposed revisions to the Minimum Licensing Requirements for Out-of-School Time Licensing Requirements**

**Please Note: This is a new proposed regulation book. Some of the regulations for this book are derived from other existing books.**

- **Changes to Related Laws and Requirements - Section 100**

- Child Care Licensing Unit will notify the applicable federal agency at any time they become aware of or are advised of violations of any of the following or similar laws. The owner should be aware of applicable federal laws which may affect the operation of the facility. -
- A reasonable plan with a proposed budget for the financial support of the center covering costs of staffing, building (including rent or mortgage and repairs), utilities, equipment, safety, and nutrition.
- Building/facility diagram will note proposed space used for consideration by program. -
- Any video recordings shall be made available to licensing staff
- A copy of the license fee notice shall be submitted, at the time of licensure recommendation. -
- Fingerprints submitted will be used to check the criminal history records of the FBI. Individuals with results showing a prohibited offense shall be advised to contact the Licensing Unit for procedures to obtain the results and for procedures to update or make corrections to the record of their individual history.
- Waivers for employment for certain circumstances.
- Any person who has pled guilty, nolo contendere, or who has been found guilty of any one of the offenses listed as prohibited above (Section 110.5, 0-62) may not work in child care unless:
  - The date of the conviction, plea of guilty or nolo contendere for a misdemeanor offense is at least five (5) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type of nature during the five (5) year period preceding the background check request. -
  - The date of the conviction, plea of guilty or nolo contendere for a felony offense is at least more than ten (10) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the ten (10) year period preceding the background check request. -
- Anyone employed in a licensed center, COE center, licensed child care family home or a registered child care family home prior to 9/1/2009 with a clear background check history may remain eligible for employment unless the employee had a conviction, plead guilty, or plead nolo contendere to an offense listed in the above section (Section 110.6) since 9/1/2009. -

- **Changes to Organization and Administration – Section 200**
  - Requiring facilities to include inadequate supervision as part of the serious licensing violation they must report. -
  
- **Changes to Personnel – Section 300**
  - Staff/Participant Ratio's chart has been updated to only include the ratio for Kindergarten and above
  - Regulations for adequate supervision, how participants should be accompanied, systems of monitoring and how often staff shall make contact with participants have been defined and explained. -
  - OST Programs with evening/night care variations should ensure that all staff are awake and have participants in view at all times. Participants shall have privacy when bathing or caring for personal needs. -
  - Maximum Group Size has been changed to the following...
    - An OST Program shall organize its environment so that participants may participate in activities individually and in small groups, so that the development of each participant is supported. -
    - Maximum group size at any one time during the day may not exceed twice the maximum number of participants allowed per staff member as outlined by the staff/participant ratio in Section 301. -
    - Maximum group size limitations do not apply during meal times, rest times, transitions, outdoor time periods, field trips, or the length of a special occasion, including but not limited to a holiday party or a visit from a guest speaker. -
  - Regulations to ensure that a Director or Site Supervisor is present at all times.
  - 300.303.2 Director regulations have been changed from person in charge to Site Supervisor. -
  - Directors/Site Supervisors qualifications have been clearly defines as to what Degree's/Credentials are needed to qualify directors. Additional topics appropriate for continuing early childhood education have been added. -
  - Staff members who work directly with participants shall obtain at least 15 hours of in-service training or outside workshop training each year in continuing Early Childhood Education or child/youth development. This training shall be approved by the Division. -
  - Additional CPR RequirementsVolunteers must have an orientation making them aware of program policies and practices that are related to the scope of the services they will be providing at the facility. -
  
- **Changes to Program – Section 400**
  - The OST program shall develop a written weekly routine listing well-rounded developmentally appropriate activities for participants and provide a copy of the routine of weekly activities to parents when they enroll the participants. -



- Guidelines for promoting physical, social, cognitive and emotional development have been included. -
- Guidelines for life skill development have been added. -
- Rules have been included for programs to develop personal responsibility, self-direction, leadership, activities to provide recognition of achievement and participation. -
- Program requirements for outdoor time, screen time and field trips have been specified in the proposed regulations. -
- Requirements for parental involvement have been added
- **Changes to Behavior Guidance – Section 500**
  - Proposed regulations for offering nurturing, respectful, supportive and responsive environment that supports frequent interactions between the participants and staff. -
  - Proposed guidelines for behavior guidance practices. -
  - OST Program regulations for the behavior guidance based on participant's individual needs and stages of development have been proposed. -
  - Unacceptable behavior guidance practices have been outlined and defined. -
- **Changes to Records – Section 600**
  - Requirements for daily attendance records
  - Written permission from parent regarding video taping children
- **Changes to Nutrition – Section 700**
  - Snack and mealtime regulations have been proposed. -
  - Requirements regarding how food should be served.
  - Parents are to provide written allergy substitutions to OST Facilities. -
  - Regulations for beverage glasses/cups have been proposed to state that each participant shall have their own. -
  - Vending machines are acceptable provided they are not the only source of snacks/or beverages. -
- **Changes to Buildings – Section 800**
  - Twenty-five square feet per participant of usable floor space shall be required for indoor activities. -
  - Requirement that heating and ventilation units be inspected
  - Requirements for carbon monoxide detectors
- **Changes to Playgrounds/Outdoor Learning Enviroments – Section 900**
  - Requirements to document in writing layout and design of a play area/playground, and also to document in writing any changes.
  - Shade area must be provided to children

- Enclosed play areas must be free from hazards. Ex: weeds, insects, standing water, etc.
- Requirements for unsuitable structures
- Equipment must be free from hazards
- Clarifications on what can and cannot be used and specifications on the various types of playground equipment
- **Changes to Furniture & Equipment – Section 1000**
  - Clarifications for Furniture/ Equipment and Sleeping Equipment
- **Changes to Health – Section 1100**
  - Guidelines for the administration of prescription and non-prescription medicine have been established for OST Facilities. -
  - The types of non-prescription medicine to be administered with proper permissions have been defined. -
  - Types of permission for administering non-prescription medicine have been included in this section. -
  - Proper handling of medicine and first aid procedures has been established. -
  - Pets with which participants have contact shall have all vaccinations as required by law with all vaccinations being administered by a licensed veterinarian. The verification of vaccinations shall be kept in the facility records. -
  - Guidelines for when hands should be washed have been outlined. -
  - Staff shall assist participants in toilet routines and hygiene practices as needed. -
  - Toileting equipment shall be safe and sanitary. -
  - Guidelines for notifying parents when children are ill.
  - Medical care plan shall be used when for children who need medication on an daily or emergency basis.
  - Universal precautions have been proposed when handling bodily secretions.
  - Recommendations regarding adult immunizations
- **Changes to Safety – Section 1200**
  - Written procedures and evacuation diagrams for emergency drills shall be posted in each program space. -
  - Within 30 days of licensure and within 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
  - In reference to swimming pool safety training the proposed regulation has been changed to add, "...or other industry recognized certification entity." -
  - Requirements for rescue medications have been proposed
  - Chemicals and toxins shall not be stored in the food storage areas
- **Changes to Transportation – Section 1300**
  - Ratios have been defined for routine transportation of participants. -

- **Changes to Special Needs – Section 1400**

- Participants with disabilities should be included in the same general activities as their same-age peers. Certain accommodations for their disability and some modifications to activities may be necessary and these should be determined on an individual basis and be related to the specific needs of the individual. Out of School Time providers are encouraged to make available additional staff training in the area of disability awareness. Such training would/might encompass the use of people-first language, general communication strategies, and disability etiquette. In general, it is desirable to treat an individual with a disability in the same way one would treat an individual of the same age but without a disability. -
- Additional information from the parent/caregiver of a child with a disability may be necessary. Questions that cover usual routines, special instructions for care and interaction, the child's interests, and things or situations to avoid are important; as is determining what kinds of things will motivate the child. If there are individualized requirements for rest, nutrition, hydration, etc. these should be noted. Emergency contact information—with back up contacts—may be essential -
- Consideration should be given to special needs related to medical as well as developmental, social/emotional, and mental health/behavioral concerns. -
- While IDEA is specific to educational needs, consideration should also include cooperation with 504 and Medical Plans to best meet the needs of the individual child. -

- **Changes to Day Camp – Section 1500**

- Regulations for hazardous items and specialized activities have been added. -
- Rules for outdoor day camps have been included. -

**Other Proposed Changes**

- References to Child Care Centers/Center has been changed to reflect OST Facilities/Facility
- References to children(s) has been changed to participant(s)
- Any Infant/Toddler requirements have been deleted.
- Regulations specific to preschoolers have been removed.

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