

§8302-A. Rules for child care facilities and family child care providers

The commissioner shall adopt rules for child care facilities and family child care providers according to this section. Nursery schools are subject to the requirements of chapter 1675 and this section, except that subsection 1, paragraph F does not apply to nursery schools. [PL 2005, c. 530, §8 (AMD).]

1. Rules for child care facilities. Rules for child care facilities must include, but are not limited to, rules pertaining to the following:

- A. Child to staff ratios; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- B. The health and safety of the children and staff, including training on communicable diseases; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- C. Water for drinking and cooking; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- D. Wastewater; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- E. Rabies vaccinations for pets; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- F. The quality of the program provided; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- G. [PL 2017, c. 457, §1 (RP).]
- H. The administration of medication; [PL 2015, c. 497, §2 (AMD).]
- I. Licensing procedures; and [PL 2015, c. 497, §2 (AMD).]
- J. Requiring a criminal background check that meets the requirements of 42 United States Code, Section 9858f(b) for each child care staff member. For the purposes of this paragraph, "child care staff member" means an individual:
 - (1) Who is employed by a child care facility for compensation, including a contract employee or self-employed individual; or
 - (2) Whose activities involve the care or supervision of children for a child care facility or unsupervised access to children who are cared for or supervised by a child care facility.

"Child care staff member" does not include an individual who is related to all children for whom child care services are provided or a contractor performing maintenance and repairs at the child care facility who does not have unsupervised access to children who are cared for or supervised by the child care facility. [PL 2017, c. 457, §2 (RPR).]

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, except that rules adopted pursuant to paragraph J to comply with 42 United States Code, Section 9858f(b) are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2017, c. 457, §§1, 2 (AMD).]

2. Rules for family child care providers. Rules for family child care providers must include, and are limited to, rules pertaining to the following:

- A. Cardiopulmonary resuscitation; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- B. Water for drinking and cooking; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- C. Wastewater; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- D. Rabies vaccinations for pets; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]

- D-1. The quality of the program of child care that is provided; [PL 2021, c. 35, §22 (NEW).]
- D-2. The administration of medication; [PL 2021, c. 35, §23 (NEW).]
- E. Recording the times, reasons and numbers of children involved when more than 12 children are cared for; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- F. Ongoing training for providers on health and safety issues, including training on communicable diseases. This training must be offered at times that are convenient to the providers; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- G. Child to staff ratios; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- H. Health and safety of the children and staff; [PL 1997, c. 494, §10 (NEW); PL 1997, c. 494, §15 (AFF).]
- I. Procedures for waivers of rules and for suspension and revocation of licensure; and [PL 2021, c. 35, §24 (AMD).]
- J. [PL 2017, c. 457, §4 (RP).]
- K. Requiring a criminal background check that meets the requirements of 42 United States Code, Section 9858f(b) for a family child care provider and each child care staff member. For the purposes of this paragraph, "child care staff member" means an individual:
- (1) Who is employed by a family child care provider for compensation, including a contract employee or self-employed individual;
 - (2) Whose activities involve the care or supervision of children for a family child care provider or unsupervised access to children who are cared for or supervised by a family child care provider; or
 - (3) Who is 18 years of age or older and who resides in the home of a family child care provider.
- "Child care staff member" does not include an individual who is related to all children for whom child care services are provided or a contractor performing maintenance and repairs at the home of a family child care provider who does not have unsupervised access to children who are cared for or supervised by the family child care provider. [PL 2017, c. 457, §5 (RPR).]

Rules adopted pursuant to paragraphs A to F are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A and rules adopted pursuant to paragraphs G to K are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 35, §§22-24 (AMD).]

3. Payment for criminal background checks. Fees for the criminal background checks required for a child care staff member pursuant to subsection 1, paragraph J and subsection 2, paragraph K must be paid by the department from the funds available under the federal Child Care and Development Block Grant Act of 1990, as amended by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105. The fees for the criminal background checks reimbursed under this subsection may not exceed the actual costs for processing and administration.
[PL 2017, c. 457, §6 (NEW).]

SECTION HISTORY

RR 1997, c. 1, §21 (COR). PL 1997, c. 494, §10 (NEW). PL 1997, c. 494, §15 (AFF). PL 2001, c. 645, §7 (AMD). PL 2005, c. 530, §8 (AMD). PL 2015, c. 497, §§2, 3 (AMD). PL 2017, c. 457, §§1-6 (AMD). PL 2021, c. 35, §§22-24 (AMD).

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