

**GETTING READY  
FOR YOUR  
LICENSING VISIT  
(Licensed Home)**

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Purpose of this Documentation:

- Provide information about records that will be reviewed during the Semi- Annual and Annual child care licensing visit
- Provide suggested templates for files, suggestions for organization of records, and sample forms
- Provide a copy of the current Child Care Licensing Regulations
- Provide a copy of the Licensed Home Checklist
- Reduce the amount of time Child Care Licensing spends on reviewing documents

## **ADMINISTRATIVE RECORDS & CHECKLISTS**

## ADMINISTRATIVE REQUIREMENTS 8.16.2.32

This contains two sections:

- Administrative records that must be posted in the child care home in a prominent place that is readily visible to parents, staff and visitors and;
- Administrative records that must be on file.

Administrative records that must be posted in the facility:

- Current child care license issued by the State of New Mexico
- Weekly menus
- Daily activity schedule
- Emergency Numbers next to phone

Administration records that must be on file:

Set up a filing system for these records. Use this template as a guide for arranging/organizing the file to insure that all required documents/information is included and available for Child Care Licensing Surveyor to review. Delineation of each section will provide ease in locating required information.

- Current child care license issued by the State of New Mexico
- Copy of most recent fire inspection (only at the time of the Initial Survey)
- Certificate from the New Mexico Environment Department (if appropriate, only at the time of the Initial Survey)
- Copy of last child care licensing survey
- Current copy of New Mexico Child Care Licensing Regulations
- Guidance Policy
- Current list of notifiable diseases and communicable diseases
- An up to date disaster preparedness plan approved annually by the licensing authority
- Emergency Preparedness practice drill log (conducted at least quarterly)
- Fire Practice Drill Log (conducted at least once a month)

***(See Appendix A)***

Section One: Program Statements and Program Policies and Procedures that includes:

***(See Appendix B)***

- Mission statement
- Philosophy statement
- Curriculum Statement

Section Two: Parent Handbook and Policies and Procedures that includes:

- General information:
  - ✓ Program's mission statement
  - ✓ Program's philosophy statement
  - ✓ General program information
  - ✓ Name of licensee and how he/she may be contacted
  - ✓ Meals, snacks and types of food served by the program (or alternatively, guidelines for children bringing their own food)
  - ✓ Daily schedule
  - ✓ A statement supportive of family involvement that include an open-door policy to the child care home
  - ✓ Explanation/description of appropriate dress for children, including a request for extra change of clothing
  - ✓ Explanation of how the program celebrates holidays, birthdays, and parties
  - ✓ A form that is provided to parent/s or guardian/s disclosing that the licensee does not have liability or accident insurance coverage. If licensee carries such insurance, disclosure of insurance coverage is not necessary.
- Written policies and procedures for the following:
  - ✓ Enrollment procedures
  - ✓ Disenrollment procedures
  - ✓ Policies and procedures for expulsion of children. Policies and procedures shall include how the home will maintain a positive environment and will focus on preventing the expulsion of children age birth to five. The home must develop policies that include clear, appropriate, consistent expectations, and consequences to address disruptive student behaviors; and ensure fairness, equity, and continuous improvement;
  - ✓ Fee payment procedures, including penalties for tardiness
  - ✓ Fee credits, if applicable (for example, for vacations or extended absences)
  - ✓ Notification policies and procedures when child will be absent from the child care home
  - ✓ Policies and procedures for field trips and/or activities that occur off-site

- ✓ Health policies such as those related to admitting children who are ill, when children may return to the child care home after an illness, administering of medications, and information on common illnesses
- ✓ Procedures that the child care home will follow in an emergency
- ✓ Safety policies
- ✓ Current, approved disaster preparedness plan
- ✓ Policies for snow days and child care home closure
- ✓ Policy for handling confidential information
- ✓ Policy and procedures for reporting child abuse and neglect
- ✓ Child guidance policy used by the home

***(See Appendix C)***

Section Three: Personnel Handbook and Policies and Procedures that includes (required for each non-resident employee):

- Job descriptions for all employees by title
- Benefits including vacations days, sick leave, professional development days, health insurance, break times, etc.
- Yearly calendar, including meetings, holidays, professional development days
- Code of Conduct used by the child care home
- Training requirements, New Mexico's career lattice and professional development opportunities
- Procedures and criteria used for employee performance evaluations
- Policies regarding absence from work
- Procedures for resignation or termination from employment
- Current copy of New Mexico Child Care Licensing Regulations
- Home policy regarding parent involvement
- Health policies related to children
- Health policies related to staff
- Child care home policy on sexual harassment
- Home capacity and Provider/Child Ratio
- Child guidance policy
- Confidentially statement
- Plan for retention

***(See Appendix D)***

Section Four: Other Records

- Accreditation and Recording Keeping (A supplemental checklist is attached. ***This is not a licensing regulation***, but is provided to assist accredited programs in documenting the status of their accreditation.) (If applicable)

**(See Appendix E)**

- Written notice to parents before pets are allowed in program if applicable
  - ✓ Record of proof that pets have been inoculated
- Back ground checks for all adults living in the child care home **other than** those working with the children



**APPENDIX A**

✓	<b>ADMINISTRATION RECORDS THAT MUST BE ON FILE CHECKLIST</b>	Date Developed (if applicable)
	Current child care license issued by the State of New Mexico	
	Copy of most recent fire inspection (only at the time of the Initial Survey)	
	Fire Practice Drill Log (conducted at least once a month)	
	Certificate from the New Mexico Environment Department (if appropriate, only at the time of the Initial Survey)	
	Copy of last child care licensing survey	
	Current copy of New Mexico Child Care Licensing Regulations	
	Guidance Policy	
	Current list of notifiable diseases and communicable diseases	
	An up to date disaster preparedness plan approved annually by the licensing authority	
	Emergency Preparedness practice drill log (conducted at least quarterly)	

APPENDIX B

✓	<b>Child Care Home Statements Checklist</b>	Date Developed
	Mission Statement	
	Philosophy Statement	
	Curriculum Statement	

**APPENDIX C**

✓	<b>Parent Handbook-General Information Checklist</b>	Page Number	Date Developed
	Mission Statement		
	Philosophy Statement		
	Program Information		
	Name of licensee and how he/she may be reached		
	Meals, snacks and types of food served		
	Daily schedule		
	Statement supportive of family involvement that includes an open door policy to child care home		
	Appropriate dress for children, including request for extra change of clothes		
	Celebrating holidays, birthdays and parties		
	Disclosure to parents that the licensee does not have liability or accident insurance coverage. If the licensee does carry such insurance, disclosure of insurance coverage is not necessary.		
	<b>Policies &amp; Procedures Checklist</b>		
	Enrollment Procedures		
	Disenrollment Procedures		
	Policies and procedures for expulsion of children.		
	Fee payment procedures, including penalties for tardiness		
	Notification of absence		

	Fee credits, if any (e.g. for vacations, absences, etc)		
	Field trip policies		
	Health policies (child care home's policies on admitting sick children, when children can return after an illness, administering medications, and information on common illnesses)		
	Emergency procedures, safety policies, and disaster preparedness plan		
	Snow days and child care home closure		
	Confidentiality policy		
	Child abuse/neglect reporting procedure		
	Guidance policy		

**APPENDIX D**

✓	<b>Personnel Handbook: Written Policies &amp; Procedures Checklist</b>	Page Number	Date Developed or Revised
	Job descriptions of all employees by title		
	Benefits, including vacation days, sick leave, professional development days, health insurance, break times, etc.		
	Yearly calendar, including meetings, holidays, professional development days		
	Code of conduct		
	Training requirements, career lattice, professional development opportunities		

	Procedures and criteria for performance evaluations		
	Policies on absence from work		
	Grievance procedures		
	Procedures for resignation or termination		
	Copy of licensing regulations		
	Policy on parent involvement		
	Health policies related to children		
	Health policies related to staff		
	Home Capacity and Provider/Child Ratio		
	Policy on sexual harassment		
	Child's guidance policy		
	Confidentially Statement		
	Plan for retention of qualified staff		

**APPENDIX E**

<b>Accreditation Status</b>	
Name of Accrediting Body:	
Date of Accreditation	
Expiration Date	
Date application was sent to accrediting body for renewal	
Copies of all correspondence between the program and the accrediting body attached	

## PERSONNEL RECORDS AND CHECKLIST

## PERSONNEL RECORDS (8.16.2.32 E)

**Develop an up to date written/typed list of all current staff, substitutes and volunteers that are counted in the staff/child ratios, as well as all adults residing in the home.** This list must be available to the licensing surveyor during the licensing visit. The list will be utilized to randomly select personnel files for review. Keep all personnel records for one year after the individual's last day of employment.

Set up a filing system (multi-part file, binder, file folders) for each staff, substitute, and volunteer counted in the staff/child ratios, as well as all adults residing in the home. Use this template as a guide for arranging/organizing the file to insure that all required documents/information is included and available for the Child Care Licensing Surveyor to review. Delineate each section for ease in locating required information.

***(See Appendix F)***

### Section One: Background Check Information that includes:

- Documentation of a background check for all staff members and all adults living in the home.
- A background check must be conducted at least once every five years on all required individuals.
- For all caregivers, a statement that the individual has had or never has had an arrest or substantiated referral to a child protective service agency. **Must be updated and signed on an annual basis.**

### Section Two: Employment History:

- Documentation of employment history for all caregivers and all adults living in the home
- A log of the time the second care giver arrived at and left work, including breaks and lunch (This record may be kept in another file. If so, please indicate where work schedules are located).

Section Three: Training Information that includes:

- 45-Hour Entry Level Course certificate for the primary caregiver or documentation of completion of approved equivalent course
- Written plan for ongoing professional development based on the seven areas of competency that is consistent with New Mexico's career lattice and based on the individual's goals (Family child care homes that do not have employees are exempted from this requirement. If licensee has an employee then both are required to have a written professional development plan.)
- Certificate for at least two hours of training in infant and toddler care completed within six months of working (only for providers caring for infants and toddlers)
- Certificate for the Early Learning New Mexico Health and Safety Orientation (a-k listed in the regulations)
- Current 1<sup>st</sup> Aid certificate
- Current CPR certificate
- Annual training log that includes the name of the caregiver, the date, time, hours of training, area of competency, source of training, and the certificate Training must be provided by individuals who are Registered on the New Mexico Trainer Registry . <https://www.newmexicokids.org/caregivers-and-educators/training-education-certification/trainer-registry/>

Section Four: Other required forms/information that includes:

- Signed form acknowledging that individual has reviewed and is aware of the child care home's disaster preparedness plan and fire evacuation plan
- Form that documents individual has completed universal precautions training
- Signed acknowledge that individual has read and understand guidance practices, policies and procedures



**APPENDIX F**

✓	<b>Personnel File Checklist</b>	Date Completed
	Up to date staff, substitute, and volunteer list	
	Statement that individual has had or never has had an arrest or substantiated referral to a child protective service agency (must be updated and signed annually)	
	A log of the time the second care giver arrived at and left work, including breaks and lunch (if applicable)	
	Background Check (for all adults living in the home) updated every 5 years.	
	Employment History	
	Training Information-45 Hour Entry Level Course (or approved equivalency-for primary caregiver	
	Certificate for the Early Learning New Mexico Health and Safety Orientation (a-k listed in the regulations)	
	Current First Aid/CPR certification	
	Professional Development Plan (if applicable)	
	Annual Training Log	
	Signed Acknowledgment that employee has reviewed and is aware of the home's disaster preparedness and fire evacuation plans	
	Signed Acknowledgment that employee has completed universal precautions training	
	Signed acknowledge that individual has read and understand guidance practices, policies and procedures.	

## **CHILDREN'S RECORDS & CHECKLIST**

## CHILDREN'S RECORDS (8.16.2.32 D)

Develop a written/typed list of all children enrolled in your program. Set up a filing system for each child enrolled in your program. Use this template as a guide for arranging/organizing the file to insure that all required documents/information is included and available for the Child Care Licensing Surveyor to review. Delineation of each section will provide ease in locating required information. **Children's records shall be kept at the home for 12 months after the child's last day of attendance.**

*(See Appendix G)*

Section One: Child enrollment form that includes:

- Name of child
- Date of birth
- Gender
- Home address
- Mailing address
- Telephone number
- Name of parent/s or guardian/s
  - ✓ Parent/s or guardian/s current place/s of employment
  - ✓ Addresses
  - ✓ Pager Number
  - ✓ Cellular and/or work phone numbers
- Documentation of the legal status of the child, if applicable. This includes such information as, but not limited to restraining orders, guardianship, powers of attorney, court orders, custody by CYFD Child Protective Services, etc
- A form signed by the parent/s or guardian/s that acknowledges that they have read and understand the Parent Handbook
- Date the child first attended the child care home and the date of child's last day of attendance at the center
- A list of individuals authorized to pick up the child that includes:
  - ✓ Authorization form signed by the parent or guardian
  - ✓ Identification of the person/s authorized by the parent or guardian to pick up the child **Authorization shall be verified at the time of pick up**
- Emergency information that includes:

- ✓ The name and telephone number of two (2) people in the local area to contact in an emergency when the parent/s or guardian/s cannot be reached. **Emergency contact phone numbers must be kept up-to-date at all times.**
- ✓ The name and telephone number of the physician or emergency medical center authorized by the parent/s or guardian/s to contact in case of illness or emergency.
- ✓ A form that is signed by the parent/s or guardian/s that gives the licensee permission to transport the child in a medical emergency and that authorizes medical treatment for the child.
- An agreement form which has been signed by the parent/s or guardian/s that outlines the services provided by the child care home and the costs of services.

Section Two: Health information that includes:

- A copy of the child's up-to-date immunization record or a public health department approved exemption from this requirement. A maximum 30 day grace period for foster care or homeless children.
- A form that records any accidents, injuries or illnesses which require first aid or medical attention.
- A form to record observation of recent bruises, bites or signs of potential abuse or neglect.
- Information regarding any allergies or medical conditions suffered by the child
- Authorization to administer medication form.

Section Three: Other forms/information that includes:

- Attendance records that indicate the dates of attendance, times of arrival and departure. Attendance records shall be initialed by a parent/guardian or person authorized to pick up the child. **This record may be kept in another file. If so, please indicate where attendance records are located.**
- A form that is signed by the parent/s or guardian/s which authorizes the licensee to remove the child from the premises to participate in off-site activities. The form must include the field trip destination, date and time of the field trip and expected time of return from the field trip.

Section Four: Additional information required by the home: (for example, samples of child's work, IEP/IFSP information, anecdotal notes of child's participation in activities, development checklists, etc.)

**APPENDIX G**

✓	<b>Child's File Checklist</b>	Date Completed
	Up to date list of all enrolled children	
	Child Enrollment Form	
	Enrollment Agreement (contract with parent)	
	Signed Acknowledgements	
	Written permission for Offsite Activities	
	Legal Status Documentation (if applicable)	
	Up-to-date Immunization Record	
	Health Information	
	Accident/Injury Report(s)	
	Administering Medication Form (if applicable)	

## **LICENSED HOME CHECKLIST**

Annual & Semi-Annual Checklist Updated 10/4/2016

ADMINISTRATION RECORDS:  Posted in area readily visible to parents & visitors	Annual	Semi-Annual
State License <b>Posted</b> 8.16.2.32 A	<input type="checkbox"/>	
Emergency Numbers next to Phone <b>Posted</b> 8.16.2.38 G(4)	<input type="checkbox"/>	
Daily Activity Schedule <b>Posted</b> 8.16.2.34 I(6)	<input type="checkbox"/>	
Dated Weekly Menus <b>Posted</b> 8.16.2.35 C	<input type="checkbox"/>	<input type="checkbox"/>
ON FILE FOR REVIEW:		
Current Child Care Home State Regulations 8.16.2.32 A(2)	<input type="checkbox"/>	
Mission Statement 8.16.2.32 B(1)	<input type="checkbox"/>	
Philosophy Statement 8.16.2.32 B(2)	<input type="checkbox"/>	
Curriculum Statement 8.16.2.32 B(3)	<input type="checkbox"/>	
Parent Handbook 8.16.2.32 C	<input type="checkbox"/>	
Expulsion Policy 8.16.2.32 C (2)(c)	<input type="checkbox"/>	
Personal Handbook 8.16.2.32 F	<input type="checkbox"/>	
<del>Last Licensing Survey Rev. 11-29-2016 8.16.2.32A(1)</del>	<input type="checkbox"/>	

Current Notifiable/Communicable Diseases 8.16.2.32A(4)	<input type="checkbox"/>	
Guidance Policy 8.16.2.32A(3)	<input type="checkbox"/>	
Fire drill & Emergency Preparedness Practice log 8.16.2.38 G(3)	<input type="checkbox"/>	<input type="checkbox"/>
Pet vaccinations 8.16.2.38 I(2)	<input type="checkbox"/>	<input type="checkbox"/>
Disaster Preparedness 8.16.2.32A(5)	<input type="checkbox"/>	
PERSONNEL RECORDS:		
Employment history verified, CRC Letter or Submission Receipt <b>(Every 5 years)</b> , annual child abuse statement. New Caregivers/adults in home 8.16.2.32 E(1), 32E(2)	<input type="checkbox"/>	<input type="checkbox"/>
First-Aid and CPR <b>(All Staff)</b> 8.16.2.33 B(j)	<input type="checkbox"/>	
Training log and certificates /All Staff 8.16.2.33 B (2)	<input type="checkbox"/>	<input type="checkbox"/>
45-hour or 3-credit hrs. in Early Care <i>(Primary only)</i> 8.16.2.33 B(5)	<input type="checkbox"/>	
Home capacity/ratio (Provider/child ratio) 8.16.2.31 B	<input type="checkbox"/>	<input type="checkbox"/>
Attendance record of 2 <sup>nd</sup> caregiver 8.16.2.32E(3)	<input type="checkbox"/>	
HOUSEKEEPING:		
Keep the premises, including furniture, fixtures, toys & equipment clean, safe, disinfected & free of debris & potential hazards	<input type="checkbox"/>	<input type="checkbox"/>



8.16.2.38 A(1)		
Dangerous material inaccessible to children 8.16.2.38 A(2)	<input type="checkbox"/>	<input type="checkbox"/>
Electrical outlets covered 8.16.2.38 D(2)	<input type="checkbox"/>	<input type="checkbox"/>
<b>GUIDANCE:</b>		
Guidance acknowledgement 8.16.2.34A(1)	<input type="checkbox"/>	<input type="checkbox"/>
Guidance is consistent and age appropriate. 8.16.2.34A(2)	<input type="checkbox"/>	<input type="checkbox"/>
Guidance shall be positive and include redirection and clear limits that encourage the child's ability to become self-disciplined. 8.16.2.34A(3)	<input type="checkbox"/>	<input type="checkbox"/>
A home will not use the following disciplinary practices: <ul style="list-style-type: none"> <li>• physical punishment of any type, including shaking, biting, hitting, pinching or putting anything on or in a child's mouth;</li> <li>• withdrawal of food, rest, bathroom access, or outdoor activities;</li> <li>• abusive or profane language, including yelling;</li> <li>• any form of public or private humiliation, including threats of physical punishment;</li> <li>• and unsupervised separation</li> </ul> 8.16.2.34A(4)(a-e)	<input type="checkbox"/>	<input type="checkbox"/>
<b>SOCIAL EMOTIONAL:</b>		
Educators remain calm in stressful situations 8.16.2.34 H(1)	<input type="checkbox"/>	<input type="checkbox"/>
Educators are actively engaged with children, talk and actively listen to children and respond appropriately. Responding to children's questions and acknowledge their comments, concerns, emotions and feelings. 8.16.2.34 H(2)	<input type="checkbox"/>	<input type="checkbox"/>
Provide language to express feelings	<input type="checkbox"/>	<input type="checkbox"/>

8.16.2.34 H(3)		
Educators model appropriate social behaviors, interactions and empathy and make appropriate physical contact to comfort and support children in daily routines and interactions.	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 H(4)		
<b>ENVIRONMENT:</b>		
Environment shall be organized in functional identifiable learning areas	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 G(1)		
Centers are clearly defined using shelving and furniture	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 G(2)		
Materials are well cared for and organized by type. Where appropriate, materials are labeled with words or pictures. Adaptations to materials are made. Unused materials are stored in inaccessible storage.	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 G(5) * ( Labeling only not needed for 1 star providers)		
Have adequate space; no continually interruptions	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 G(4)		
Individually expressed artwork are displayed	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 G(6) *(not needed for 1 star providers)		
Floor surface is suitable for activities that will occur in each learning area. 8.16.2.34 G(7) *(not needed for 1 star providers)	<input type="checkbox"/>	<input type="checkbox"/>
File and storage space is available for teacher/caregiver materials.	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 G(8)		
<b>NAPS/REST:</b>		
Cribs, cots & mats 30"apart; Mats will be at least 3/4" thick	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 B(4)		
Infants placed on back to sleep	<input type="checkbox"/>	<input type="checkbox"/>
8.16.2.34 C(4)		

No Child sleeping in playpen, car seat, stroller or swing 8.16.2.34 C(3)	<input type="checkbox"/>	<input type="checkbox"/>
No child sleeping behind closed doors 8.16.2.34 B(9)	<input type="checkbox"/>	<input type="checkbox"/>
Unattended Children 8.16.2.33 A(8)	<input type="checkbox"/>	<input type="checkbox"/>
Dark room 8.16.2.34 B(7)	<input type="checkbox"/>	<input type="checkbox"/>
No propping bottles & no child sleeping w/bottle 8.16.2.34 C(10)	<input type="checkbox"/>	<input type="checkbox"/>
No pillows in cribs 8.16.2.34 C(2)	<input type="checkbox"/>	<input type="checkbox"/>
TELEVISION:		
<b>Children do not watch more than 6 hour per month of TV, DVD, videotapes, or play video games, but not to exceed one full length film in one day. Children under two will not be permitted to view media.</b> 8.16.2.34 I(7)	<input type="checkbox"/>	
KITCHEN:		
Thermometers in Refrigerator/Freezer 8.16.2.35 D(7)	<input type="checkbox"/>	<input type="checkbox"/>
Food and drink stored in airtight container or by wrapping them. Label and date leftover food 8.16.2.35 D(4)	<input type="checkbox"/>	<input type="checkbox"/>
Label children's personal food items and bottles 8.16.2.35 D(5)	<input type="checkbox"/>	<input type="checkbox"/>
Cleaning products separate from food items 8.16.2.35 D(11)	<input type="checkbox"/>	<input type="checkbox"/>

FIRST-AID REQUIREMENTS:		
Check First-Aid Kit 8.16.2.36 B(1)	<input type="checkbox"/>	
• Band Aids	<input type="checkbox"/>	
• Gauze pads	<input type="checkbox"/>	
• Adhesive tape	<input type="checkbox"/>	
• Scissors	<input type="checkbox"/>	
• Soap	<input type="checkbox"/>	
• Non-porous Gloves	<input type="checkbox"/>	
• Thermometer	<input type="checkbox"/>	
• First-Aid Manual	<input type="checkbox"/>	
Medication Locked Box 8.16.2.36 C(1)	<input type="checkbox"/>	
Medication Form w/Parents Initials 8.16.2.36 C(4)	<input type="checkbox"/>	
FIRE PROTECTION:		
Smoke Detectors 8.16.2.38 G(1)	<input type="checkbox"/>	<input type="checkbox"/>
Fire Extinguisher 8.16.2.38 G(2)	<input type="checkbox"/>	<input type="checkbox"/>
Fire Extinguisher mounted in the kitchen 8.16.2.38 G(2)	<input type="checkbox"/>	<input type="checkbox"/>
RESTROOM:		
Must have toilet paper, soap & disposable towels, height accessible to children; Must not use a common towel or wash cloth 8.16.2.38 F(1)	<input type="checkbox"/>	<input type="checkbox"/>

Must have hot/cold running water 8.16.2.38 C(6)	<input type="checkbox"/>	<input type="checkbox"/>
Hygiene 8.16.2.36 A(1)(a)-(e)	<input type="checkbox"/>	<input type="checkbox"/>
Diapers change on waterproof surface; Soiled diapers stored in a secure container/tight-fitting lid 8.16.2.34 D(4)	<input type="checkbox"/>	<input type="checkbox"/>
Gloves worn during diaper changing 8.16.2.34 D(2)	<input type="checkbox"/>	<input type="checkbox"/>
Water Temp below 110 degrees 8.16.2.38 C(5)	<input type="checkbox"/>	<input type="checkbox"/>
<b>PLAYGROUND:</b>		
Play equipment safe & securely anchored 8.16.2.34 J(1)(b)	<input type="checkbox"/>	<input type="checkbox"/>
Playground enclosed w/fence at least 4' high with 1 latched gate available for an emergency exit 8.16.2.34 J(2)	<input type="checkbox"/>	<input type="checkbox"/>
Energy absorbing surfaces beneath climbing structures, swings & slides 8.16.2.34 J(3)	<input type="checkbox"/>	<input type="checkbox"/>
Trampoline is prohibited 8.16.2.34 J(4)	<input type="checkbox"/>	<input type="checkbox"/>
<b>TRANSPORTATION:</b>		
All vehicles used for transporting children will have: 8.16.2.37 A	<input type="checkbox"/>	
• Fire Extinguisher	<input type="checkbox"/>	
• First-Aid Kit	<input type="checkbox"/>	
• First-Aid Manual	<input type="checkbox"/>	

• Water	<input type="checkbox"/>	
• Blanket	<input type="checkbox"/>	
Valid driver's license, registration and insurance 8.16.2.37 F	<input type="checkbox"/>	
SURVEY NOTES:		
Conduct fire drill - During ANNUAL or SEMI-ANNUAL		
Renewal Application mailed 8.16.2.11 B (1)	<input type="checkbox"/>	<input type="checkbox"/>
• Date mailed / New staff and children's records	/ /	<input type="checkbox"/>
• Inform the provider of application late fee	<input type="checkbox"/>	<input type="checkbox"/>
• Provider website for a copy of current regulations	<input type="checkbox"/>	<input type="checkbox"/>
• The 12 hours of annual training will be waived for educators if employed by a program currently under FOCUS consultation. 8.16.2.33B(3)		
• An emergency preparedness practice drill at least quarterly beginning January of each calendar year. 8.16.2.38G(3)		
Go back and verify any deficiencies from annual, follow-up as needed	<input type="checkbox"/>	<input type="checkbox"/>

(Revised 10-4-16)

**CHILD CARE LICENSING REGULATIONS**

## TITLE 8 SOCIAL SERVICES

### CHAPTER 16 CHILD CARE LICENSING

#### PART 2 CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS

##### 8.16.2.1 ISSUING AGENCY: Children, Youth and Families Department (CYFD).

[8.16.2.1 NMAC - Rp, 8.16.2.1 NMAC, 10/1/16]

**8.16.2.2 SCOPE:** All child care centers, out of school time programs, family child care homes, and other early care and education programs within the state of New Mexico.

[8.16.2.2 NMAC - Rp, 8.16.2.2 NMAC, 10/1/16]

**8.16.2.3 STATUTORY AUTHORITY:** The regulations set forth herein, which govern the licensing of facilities providing child care to children, have been promulgated by the secretary of the New Mexico children, youth and families department, by authority of the Children, Youth and Families Department Act, Section 9-2A-1 to 9-2A-16 NMSA 1978, and Sections 24-1-2 (D), 24-1-3 (I) and 24-1-5 of the Public Health Act, Sections 24-1-1 to 24-1-22, NMSA 1978, as amended.

[8.16.2.3 NMAC - Rp, 8.16.2.3 NMAC, 10/1/16]

**8.16.2.4 DURATION:** Permanent.

[8.16.2.4 NMAC - Rp, 8.16.2.4 NMAC, 10/1/16]

**8.16.2.5 EFFECTIVE DATE:** October 1, 2016, unless a later date is cited at the end of a section.

[8.16.2.5 NMAC - Rp, 8.16.2.5 NMAC, 10/1/16]

**8.16.2.6 OBJECTIVE:** The objective of 8.16.2 NMAC is to establish standards and procedures for the licensing of facilities and educators who provide child care to children within New Mexico. These standards and procedures are intended to: establish minimum requirements for licensing facilities providing non-residential care to children in order to protect the health, safety, and development of the children; monitor facility compliance with these regulations through surveys to identify any areas that could be dangerous or harmful to the children or staff members; monitor and survey out of school time programs; and encourage the establishment and maintenance of child care centers, homes and facilities for children that provide a humane, safe, and developmentally appropriate environment. These regulations apply during all hours of operation for child care centers, homes and out of school time programs.

[8.16.2.6 NMAC - Rp, 8.16.2.6 NMAC, 10/1/16]

##### 8.16.2.7 DEFINITIONS:

A. "Abuse" means any act or failure to act, performed intentionally, knowingly or recklessly, which causes or is likely to cause harm to a child, including:

- (1) physical contact that harms or is likely to harm a child;



(2) inappropriate use of a physical restraint, isolation, medication or other means that harms or is likely to harm a child; and

(3) an unlawful act, a threat or menacing conduct directed toward a child that results or might be expected to result in fear or emotional or mental distress to a child.

B. "Activity area" means space for children's activities where related equipment and materials are accessible to the children.

C. "Adult" means a person who has a chronological age of 18 years or older.

D. "AIM HIGH" is a voluntary quality child care improvement program that is no longer open to new registered or licensed child care programs. Recognition of AIM HIGH will terminate on December 31, 2017.

E. "Assessment of children's progress" means children's progress is assessed informally on a continuous basis using a series of brief anecdotal records (descriptions of the child's behavior or skills in given situations). Children's progress also can be assessed formally at least twice a year using a developmental checklist (checklist of behaviors that indicate physical, motor, language, cognitive, social and emotional development/progress).

F. "Attended" means the physical presence of a staff member or educator supervising children under care. Merely being within eyesight or hearing of the children does not meet the intent of this definition (See Supervision, Subsection TTT, 8.16.2.7 NMAC).

G. "Capacity" means the maximum number of children a licensed child care facility can care for at any one time.

H. "Child" means a person who is under the chronological age of 18 years.

I. "Child care center" means a facility required to be licensed under these regulations that provides care, services, and supervision for less than 24-hours a day to children. A child care center is in a non-residential setting and meets the applicable state and local building and safety codes.

J. "Child with a disability or special needs" means a child with an identified disability, health, or mental health conditions requiring early intervention, special education services, or other specialized services and support; or children without identified conditions, but requiring specialized services, supports, or monitoring.

K. "Class A deficiency" means any abuse or neglect of a child by a facility employee or volunteer for which the facility is responsible, which results in death or serious physical or psychological harm; or a violation or group of violations of applicable regulations, which results in death, serious physical harm, or serious psychological harm to a child.

L. "Class B deficiency" means any abuse or neglect of a child by a facility employee or volunteer for which the facility is responsible; or a violation or group of violations of applicable regulations which present a potential risk of injury or harm to any child.

M. "Class C deficiency" means a violation or group of violations of applicable regulations as cited by surveyors from the licensing authority which have the potential to cause injury or harm to any child if the violation is not corrected.

N. "Clean" means to physically remove all dirt and contamination.

O. “Conditions of operation” means a written plan that applies to a licensed facility and is developed by the licensing authority when the licensing authority determines that provisions within these regulations have been violated. The plan addresses corrective actions that the licensee must take within a specified timeframe in order to come into compliance with licensing requirements. During this timeframe the licensing authority may increase its level of monitoring.

P. “Core hours” means the daily hours of operation of the child care facility.

Q. “Corrective action plan” means the plan submitted by the licensee addressing how and when identified deficiencies will be corrected.

R. “Curriculum” is what happens every day in the classroom and on the playground. It includes every aspect of the daily program. Curriculum derives from the program’s mission statement, philosophy (which, in turn, is based on assumptions about young children’s development and learning), and program goals and objectives. It includes how materials and equipment are used, activities that children and adults participate in, and interactions among children and between children and adults.

S. “Deficiency” means a violation of these regulations.

T. “Direct provider of care” means any individual who, as a result of employment or contractual service or volunteer service has direct care responsibilities or potential unsupervised physical access to any care recipient in the settings to which these regulations apply.

U. “Director” means the person in charge of the day-to-day operation and program of a child care center.

V. “Disinfect” means to destroy or inactivate most germs on any inanimate object, but not bacterial spores. Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.

W. “Drop-in” means a child who attends a child care facility on an occasional or unscheduled basis.

X. “Educator” means an adult who directly cares for, serves, and supervises children in a licensed child care facility. Educators are considered staff members.

Y. “Environment” means that the environment meets all required local, state, and federal regulations. It includes space (both indoors and outdoors) with appropriate equipment and materials that encourage children to engage in hands-on learning.

Z. “Exploitation” of a child consists of the act or process, performed intentionally, knowingly, or recklessly, of using a child’s property for another person’s profit, advantage or benefit without legal entitlement to do so.

AA. “Expulsion” means the involuntary termination of the enrollment of a child or family.

BB. “Facility” means any premises licensed under these regulations where children receive care, services, and supervision. A facility can be a center, home, program, or other site where children receive childcare.

CC. “Family child care home” means a private dwelling required to be licensed under these regulations that provides care, services and supervision for a period of less than 24 hours of any day for no more than six children. The licensee will reside in the home and be the primary educator.

DD. "FOCUS" is a voluntary tiered quality rating and improvement program that is open to all registered and licensed child care programs.

EE. "Group child care home" means a home required to be licensed pursuant to these regulations, which provides care, services, and supervision for at least seven but not more than 12 children. The licensee will reside in the home and be the primary educator.

FF. "Group size" is the number of children assigned to an educator or team of educators occupying an individual classroom or well-defined space within a larger room.

GG. "Guidance" means fostering a child's ability to become self-disciplined. Guidance shall be consistent and developmentally appropriate.

HH. "Home" means a private residence and its premises licensed under these regulations where children receive care, services, and supervision. The licensee will reside in the home and be the primary educator.

II. "Homeless children and youth" means individuals who lack a fixed, regular, and adequate nighttime residence, which includes:

(1) Children and youth who are temporarily sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks (excludes mobile homes), or camping ground due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(2) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Paragraphs (1) through (3) of this subsection.

JJ. "Infant" means a child age six weeks to 12 months.

KK. "License" means a document issued by CYFD to a child care facility licensed and governed by these regulations and granting the legal right to operate for a specified period of time, not to exceed one year.

LL. "Licensee" means the person(s) who, or organization which, has ownership, leasehold, or similar interest in the child care facility and in whose name the license for the child care facility has been issued and who is legally responsible for compliance with these regulations.

MM. "Licensing authority" means the child care services bureau - licensing section of the early childhood services division of the New Mexico children, youth and families department which has been granted the responsibility for the administration and enforcement of these regulations by authority of Children, Youth and Families Department Act, Section 9-2A-1 to 9-2A-16 NMSA 1978, as amended.

NN. "Mission statement," describes what the program aspires to do and whom the program aspires to serve.

OO. "National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by CYFD. To determine approval of national accrediting bodies, the following standards are used: for center based programs, CYFD uses the 2007 national association for the education of young children (NAEYC) program standards and accreditation criteria as well as NAEYC's 2007 accreditation process criteria; for family child care, CYFD uses the CYFD family child care accreditation standards; for before and after school care, CYFD uses the CYFD before and after school accreditation standards.

- (1) The following are the only national accrediting bodies that are approved by CYFD:
  - (a) the association of Christian schools international (ACSI);
  - (b) the council on accreditation (COA) for early childhood education and after school programs;
  - (c) the international Christian accrediting association (ICAA);
  - (d) the national accreditation commission for early care and education programs (NAC);
  - (e) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; or
  - (f) the national association of family child care (NAFCC).
- (2) Effective July 15, 2014 accrediting bodies that have been previously approved by CYFD that are not on the above list will no longer be CYFD approved national accrediting bodies.

PP. "Night care" means the care, services and supervision provided by a licensed child care facility to children between the hours of 10:00 p.m. to 6:00 a.m.

QQ. "Neglect" means the failure to provide the common necessities including but not limited to: food, shelter, a safe environment, education, emotional well-being and healthcare that may result in harm to the child.

RR. "Notifiable diseases" means confirmed or suspected diseases/conditions as itemized by the New Mexico department of health which require immediate reporting to the office of epidemiology which include but are not limited to: measles, pertussis, food borne illness, hepatitis and acquired immune deficiency syndrome.

SS. "Orientation" means a process by which the employer informs each new employee, volunteer and substitute, in advance of assuming their duties, of the mission, philosophy, policies, and procedures of the program, including clear direction about performance expectations.

TT. "Out of school time program" means a school age program at a specific site, usually a school or community center, offering on a consistent basis a variety of developmentally appropriate activities that are both educational and recreational.

UU. "Parent handbook" is a written communication tool that provides valuable information to families of the children the program serves. It includes all matters of relevance to family members regarding the program and is updated annually, or as needed.

VV. "Pest" means any living organism declared a pest pursuant to the Pesticide Control Act.

WW. "Pesticide" means any chemical substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.

XX. "Philosophy statement" describes how the program's mission will be carried out. It reflects the values, beliefs, and convictions of the program about how young children learn and describes the components of the program that contribute to that learning. It provides the program's perspective on early care and education and the nature of how children learn. The program's philosophy is implemented through the curriculum.

YY. "Policy" is a written directive that guides decision-making. Policies form the basis for authoritative action.

ZZ. "Premises" means all parts of the buildings, grounds, and equipment of a child care facility licensed pursuant to these regulations.

AAA. "Procedure" is a series of steps to be followed, usually in a specific order, to implement policies.

BBB. "Professional development" is an on-going plan for continued professional development for each educator, including the director.

CCC. "Program administrator" means the person responsible for planning or implementing the care of children in the program. This includes but is not limited to making contact with parents, keeping appropriate records, observing and evaluating the child's development, supervising staff members and volunteers, and working cooperatively with the site director and other staff members toward achieving program goals and objectives. This definition applies to out of school time programs only.

DDD. "Punishment" means the touching of a child's body with the intent of inducing pain. This includes but is not limited to pinching, shaking, spanking, hair or ear pulling. It also includes any action which is intended to induce fear, shame or other emotional discomfort.

EEE. "Ratio" is the maximum number of children one educator can be responsible for.

FFF. "Requirements" means the criteria and regulations developed by children, youth and families department in 8.16.2 NMAC; to set minimum standards of care, education and safety for the protection and enhancement of the well-being of children receiving care, services or supervision.

GGG. "Restriction" means to control enrollment, service type, capacity, activities, or hours of operation.

HHH. "Revocation" means the act of making a license null and void through its cancellation.

III. "Sanction" means a measure imposed by the licensing authority for a violation(s) of these standards.

JJJ. "Sanitize" means to reduce germs on inanimate surfaces to levels considered safe by public health codes or regulations. Mix one and one half teaspoons of bleach with one gallon of cool water or use an EPA registered sanitizer.

KKK. "Serious injury" means the death of a child or accident, illness, or injury that requires treatment by a medical professional or hospitalization.

LLL. "School-age" means a child in care who is age five to 18 years.

MMM. "Staff evaluation" means that each staff member is evaluated by the director, using criteria from the individual's job description. The individual being evaluated knows ahead of time the criteria and procedures (which may include self-evaluation) for which they are being evaluated. The

director discusses evaluation results with each staff member, and results are considered when determining salary increments and are incorporated into the individual's professional development plan.

NNN. "Staff member" means any person, including educators, who are employed by the licensee and who are present at any time when children are present.

OOO. "Substitute" means an adult who directly cares for, serves, and supervises children in a licensed child care facility, who works in place of the regular educator, and who works less than an average of 40 hours per month in a six month period.

PPP. "Suspension" means a temporary cancellation of a license pending an appeal hearing or correction of deficiencies.

QQQ. "Site director" means the person at the site having responsibility for program administration and supervision of an out of school time program. This definition applies to out of school time programs only.

RRR. "Star level" means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality.

SSS. "Substantiated complaint" means a complaint determined to be factual, based on an investigation of events.

TTT. "Supervision" means the direct observation and guidance of children at all times and requires being physically present with them. The only exception is school-age children who will have privacy in the use of bathrooms.

UUU. "Survey" means a representative of the licensing authority enters a child care facility, observes activity, examines the records and premises, interviews parents and staff members and records deficiencies.

VVV. "Toddler" means a child age 12 months to 24 months.

WWW. "U/L" means the underwriters laboratory, which is a standards organization which tests electrical and gas appliances for safety.

XXX. "Unattended" means an educator is not physically present with a child or children under care.

YYY. "Unsubstantiated complaint" means a complaint not determined to be factual based on an investigation of events.

ZZZ. "Variance" means an allowance granted by the licensing authority to permit non-compliance with a specified regulation for the period of licensure. The granting of variances is at the sole discretion of the licensing authority.

AAAA. "Volunteer" means any person who is not employed by the child care facility, spends six hours or less per week at the facility, is under direct physical supervision and is not counted in the facility ratio. Anyone not fitting this description must meet all requirements for staff members or educator.

BBBB. "Waiver" means an allowance granted by the licensing authority to permit non-compliance with a specified regulation for a specified, limited period of time. The granting of waivers is at the sole discretion of the licensing authority.

[8.16.2.7 NMAC - Rp, 8.16.2.7 NMAC, 10/01/16]

**8.16.2.8 RELATED REGULATIONS AND CODES:** Facilities subject to these regulations are also subject to the current versions of the following regulations and codes:

- A. New Mexico health department regulations, control of disease and conditions of public health significance, 7.4.3 NMAC.
- B. New Mexico health department regulations, control of communicable disease in health facility personnel, 7.4.4 NMAC.
- C. New Mexico health department regulations, governing public access to information in the department records, 7.1.3 NMAC.
- D. New Mexico department of health regulations, health facility licensure fees and procedures, 7.1.7 NMAC.
- E. New Mexico children, youth and families department regulations, administrative appeals, 8.8.4 NMAC.
- F. New Mexico department of health regulations, health facility sanctions and civil monetary penalties, 7.1.8 NMAC.
- G. New Mexico children, youth and families department regulations, governing background check and employment history of licensees and staff of child care facilities, 8.8.3 NMAC.
- H. New Mexico environment department, food service and food processing, 7.6.2 NMAC.
- I. Latest edition adopted by the New Mexico state fire board of the national fire protection association life safety code handbook 101.
- J. Latest edition adopted by the New Mexico state fire board of the international fire code.
- K. Latest edition adopted by the New Mexico construction industries division of the uniform building code enacted by the international conference of building officials.
- L. Latest edition of the New Mexico building, plumbing/mechanical and electrical codes adopted by the New Mexico construction industries division.
- M. New Mexico department of health regulations governing immunizations required for school attendance immunization requirement, 7.5.2 NMAC.
- N. Federal Americans with Disabilities Act (ADA).
- O. New Mexico department of agriculture Regulations Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 and 21.17.50 NMAC.
- P. Latest edition of critical heights of playground equipment for various types and depths of resilient surfaces based on information from the U.S. consumer product safety commission (CPSC Publication No.325), handbook for public playground safety.
- Q. Any code, ordinance, or rule of a governing body, including but not limited to cities, towns, or counties having jurisdiction over the area in which the facility is situated.

[8.16.2.8 NMAC - Rp, 8.16.2.8 NMAC, 10/1/16]

**8.16.2.9 APPLICATION:** These regulations apply to public or private facilities and homes that provide care, education, services, and supervision to children less than 24 hours of any day, come within the statutory definition of "health facilities" set out in Section 24-1-2 (D) of the Public Health Act,

Section 24-1-1 to 24-1-22 NMSA 1978 as amended, and are required to be licensed by the licensing authority. These regulations do not apply to any of the following.

- A. Facilities providing child care for 24 hours on a continuous basis. Such facilities are covered by other regulations promulgated by the children, youth and families department that are available upon request from the licensing authority.
- B. Child care facilities operated by the federal government or a tribal government.
- C. Child care facilities operated by a public school system and governed by the local school board.
- D. Private schools accredited or recognized by the New Mexico department of education, operated for educational purposes only for children age five years or older.
- E. Child care facilities provided exclusively for children of parents who are simultaneously present in the same premises.
- F. Summer religious schools held on a church, religious building or house of worship premises.
- G. Summer camps, wilderness camps, and programs operated for recreational purposes only by recognized organizations such as churches, schools, and the boy and girl scouts, provided such camps and programs are not conducted in private residences.
- H. Any individual who in their own home provides care, services and supervision to four or fewer nonresident children.
- I. Parent's day out programs held in a church, religious building or house of worship, or public building operating for no more than eight hours per week and no more than four hours on any given day. The program will be staffed by parents participating in the program, or by others who are members of the church or public affiliation.

[8.16.2.9 NMAC - Rp, 8.16.2.9 NMAC, 10/1/16]

**8.16.2.10 LICENSING AUTHORITY (ADMINISTRATION AND ENFORCEMENT RESPONSIBILITY):** The child care services bureau, licensing section, of the early childhood services division of the New Mexico children, youth and families department, hereafter called the licensing authority, has been granted the responsibility for the administration and enforcement of these regulations by authority of Children, Youth and Families Department Act, Section 9-2A-1 to 9-2A-16, NMSA 1978, as amended.

[8.16.2.10 NMAC - Rp, 8.16.2.10 NMAC, 10/1/16]

**8.16.2.11 LICENSING:**

A. TYPES OF LICENSES:

- (1) ANNUAL LICENSE: An annual license is issued for a one-year period to a child care facility that has met all requirements of these regulations.



(a) 1-star level requires meeting and maintaining licensing requirements at all times, except for the requirements outlined in the following items: Items (i), (ii) and (iii) of Subparagraph (a) of Paragraph (1) of Subsection A of 8.16.2.11 NMAC. 1-star level is designated for programs not receiving child care subsidy. All 1-star educators receiving subsidy and licensed at the time of publication of these rules shall have until July 1, 2012 to meet 2-star requirements included in the following sections of these regulations:

(i) for centers: Paragraph (16) of Subsection G of 8.16.2.22 NMAC, Paragraphs (5) through (9) of Subsection G of 8.16.2.24 NMAC, and Subsection H of 8.16.2.24 NMAC;

(ii) for licensed family and group child care homes: Paragraph (4) of Subsection E of 8.16.2.32 NMAC, Paragraph (14) of Subsection F of 8.16.2.32 NMAC, Paragraphs (4) through (8) of Subsection G. of 8.16.2.34 NMAC, and Subsection H of 8.16.2.34 NMAC;

(iii) for licensed out of school time programs: Subparagraph (k) of Paragraph (1) of Subsection E of 8.16.2.41 NMAC, Paragraph (14) of Subsection F of 8.16.2.41 NMAC, Paragraphs (5) through (9) of Subsection B of 8.16.2.43 NMAC and Subsection C of 8.16.2.43 NMAC.

(b) 2-star level requires meeting and maintaining licensing requirements at all times.

(c) 2+ star level is voluntary and requires meeting and maintaining licensing requirements as well as meeting the most recent FOCUS eligibility requirements and 2+ star criteria.

(d) 3-star level is voluntary and requires meeting and maintaining licensing requirements and AIM HIGH or FOCUS level 3 quality criteria at all times. AIM HIGH criteria will no longer be used for the determination of star level effective December 31, 2017.

(e) 4-star level is voluntary and requires meeting and maintaining licensing requirements and AIM HIGH or FOCUS levels 3 and 4 quality criteria at all times. AIM HIGH criteria will no longer be used for the determination of star level effective December 31, 2017.

(f) 5-star level is voluntary and requires meeting and maintaining licensing requirements, FOCUS levels 3, 4 and 5 quality criteria at all times and maintaining CYFD approved national accreditation status.

(2) TEMPORARY LICENSE: The licensing authority will, at its discretion, issue a temporary license when it finds the child care facility in partial compliance with these regulations.

(a) A temporary license can, at the discretion of the licensing authority, be issued for up to 120 days, during which time the child care facility will correct all specified deficiencies.

(b) The licensing authority will not issue more than two consecutive temporary licenses.

(c) After a second temporary license has been issued, a new application and the required application fee must be submitted within 30 days in order to renew the license for the remainder of that one year period.

(3) AMENDED LICENSE: A child care facility will submit a new notarized application to the licensing authority before modifying information required to be stated on the license. Examples of such modifications include dates, capacity, director and number of stars.

(a) A child care facility will apply to the licensing authority for an amended license in order to change the director. The child care facility must notify the licensing authority within 24 hours after the child care facility becomes aware of the need to name a new director, submit an application (Fee \$20) and, if necessary, appoint a temporary acting director with the minimum requirements of a high school diploma or GED and three years of experience. The temporary acting director's appointment is valid for 90 days.

(b) A notarized application must be submitted for a change of capacity (Fee \$20). Application for an increase or decrease of capacity will not be approved nor an amended license issued until an on-site visit has been made by the licensing authority to determine that the child care facility meets all applicable codes and regulations. A child care facility must not accept additional children or change the layout of the child care facility until the licensing authority has approved and issued the amended license.

(c) A child care facility will apply to the licensing authority for an amended license in order to change the number of stars. An application for a different star level will not be approved nor an amended license issued until on-site visits have been made and it has been determined that the child care facility meets all applicable criteria.

(4) PROVISIONAL 2-STAR LICENSE: Newly licensed programs receiving child care subsidy will be given a provisional 2-star license for up to three months, pending observation by the licensing authority of the interactions between teachers and children in the classrooms.

B. RENEWAL OF LICENSE:

(1) A licensee will submit a notarized renewal application, indicating the number of stars requested, on forms provided by the licensing authority, along with the required fee, at least 30 days before expiration of the current license. CYFD-approved nationally accredited centers, homes and out of school time programs will submit copies of their current accreditation certificates along with their renewal application. Applications postmarked less than 30 days prior to the expiration date will be considered late and a \$25 late fee must be submitted with the renewal fee.

(2) All licensed facilities must maintain an original background check eligibility letter for all current employees and applicable volunteers, including a signed statement annually by each staff person certifying that they would or would not be disqualified as a direct provider of care under the

most current version of the background checks and employment history verification provisions pursuant to 8.8.3 NMAC. This will include all adults and teenage children living in a family child care or group child care home operated in a private residence. The teenage child's guardian shall sign the annual statement on behalf of the teenage child.

(3) Upon receipt of a notarized renewal application, the required fee and the completion of an on-site survey, the licensing authority will issue a new license effective the day following the date of expiration of the current license, if the child care facility is in compliance with these regulations.

(4) If a licensee fails to submit a notarized renewal application with the required fee before the current license expires, the licensing authority may require the agency to cease operations until all licensing requirements are completed.

C. POSTING OF LICENSE: A child care facility will post the license on the licensed premises in an area readily visible to parents, staff members, and visitors.

D. NON-TRANSFERABLE RESTRICTIONS OF LICENSE: A licensee will not transfer a license by assignment or otherwise to any other person or location. The license will be void and the licensee will return it to the licensing authority when:

- (1) the owner of the child care facility changes;
- (2) the child care facility moves;
- (3) the licensee of the child care facility changes; or
- (4) the child care facility closes.

E. AUTOMATIC EXPIRATION OF LICENSE: A license will expire automatically at midnight on the expiration date noted on the license unless earlier suspended or revoked, or:

- (1) on the day a child care facility closes;
- (2) on the day a child care facility is sold, leased, or otherwise changes ownership or licensee;
- (3) on the day a child care facility moves.

F. ACCREDITED PROGRAMS: Accredited programs must meet and maintain all licensing standards and their CYFD-approved national accreditation without a lapse in order to be designated as a 5-star facility. The licensing authority may, at its option, notify the program's accrediting body of the program's failure to meet and maintain licensing standards.

[8.16.2.11 NMAC - Rp, 8.16.2.11 NMAC, 10/1/16]

**8.16.2.12 LICENSING ACTIONS AND ADMINISTRATIVE APPEALS:**

A. The licensing authority may revoke, suspend, or restrict a license, reduce star status, deny an initial or renewal license application, impose monetary sanctions pursuant to 7.1.8 NMAC, put in place conditions of operation, impose other sanctions or requirements against a licensee, or reduce to a base level of child care assistance reimbursement a licensee who is in receipt of a higher than base level of child care assistance reimbursement, for any of the following reasons:

- (1) violation of any provision of these regulations, especially when the licensing authority has reason to believe that the health, safety or welfare of a child is at risk, or has reason to believe that the licensee cannot reasonably safeguard the health and safety of children;
- (2) failure to allow access to the licensed premises by authorized representatives of the licensing authority;
- (3) misrepresentation or falsification of any information on an application form or any other form or record required by the licensing authority;
- (4) allowing any person to be active in the child care facility who is or would be disqualified as a direct provider of care under the most current version of the background checks and employment history verification provisions pursuant to 8.8.3 NMAC; this will include all adults and teenaged children living in a family child care or group child care home operated in a private residence whether or not they are active in the child care operation;
- (5) failure to timely obtain required background checks;
- (6) failure to properly protect the health, safety and welfare of children due to impaired health or conduct or hiring or continuing to employ any person whose health or conduct impairs the person's ability to properly protect the health, safety, and welfare of the children;
- (7) allowing the number of children in the child care facility to exceed its licensed capacity;
- (8) substantiated abuse or neglect of children by an educator, staff member, volunteer, or household member as determined by CYFD or a law enforcement agency;
- (9) failure to comply with provisions of the other related regulations listed in these regulations;
- (10) discovery of repeat violations of the regulations or failure to correct deficiencies of survey findings in current or past contiguous or noncontiguous licensure periods;

(11) discovery of prior revocations or suspensions that may be considered when reviewing a facility's application for licensure or license renewal;

(12) loss of accreditation, regardless of reason, will result in a reduction in star status;

(13) possessing or knowingly permitting non-prescription controlled substances or illegal drugs to be present or sold on the premises at any time, regardless of whether children are present;

(14) making false statements or representations to the licensing authority with the intent to deceive, which the licensee knows, or should know to be false; or

(15) background clearance suspension or denial.

B. Commencement of a children, youth and families department or law enforcement investigation may be grounds for immediate suspension of licensure pending the outcome of the investigation. Upon receipt of the final results of the investigation, the department may take such further action as is supported by the investigation results.

C. A suspension, revocation, or conditions of operations imposed pursuant to Part A of this Section may take effect immediately if in the discretion of the department that the health, safety or welfare of a child is at risk, or has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children.

D. The children, youth and families department notifies the licensee in writing of any action taken or contemplated against the license/licensee. The notification shall include the reasons for the department's action.

E. The licensee may obtain administrative review of any action taken or contemplated against the license/licensee.

F. The administrative review shall be conducted by a hearing officer appointed by the department's secretary.

G. If the action is to take effect immediately, the department affords the licensee the opportunity for an administrative appeal within five working days. If the license is suspended pending the results of an investigation, the licensee may elect to postpone the hearing until the investigation has been completed.

H. If after the imposition of an immediate suspension the department takes additional actions including additional suspension, revocation, or conditions of operations, the immediate action will stay in effect until the following action goes into effect or an appeal of the following action is concluded and the action is either upheld or overturned.

I. If the contemplated action does not take immediate effect, and the licensee is given advance notice of the contemplated action, the licensee is allowed 10 working days from date of notice to request an administrative appeal.

J. In circumstances in which Public Health Act NMSA 1978 Subsection N of Section 24-1-5 (2005) may apply, and in which other provisions of this regulation are not adequate to protect children from imminent danger of abuse or neglect while in the care of a licensee, the provisions of Subsection N of Section 24-1-5 shall apply as follows.

(1) The department shall consult with the owner or operator of the child care facility.

(2) Upon a finding of probable cause, the department shall give the owner or operator notice of its intent to suspend operation of the child care facility and provide an opportunity for a hearing to be held within three working days, unless waived by the owner or operator.

(3) Within seven working days from the day of notice, the secretary shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child care facility, the secretary may suspend operation of the child care facility for a period not in excess of 15 days.

(4) Prior to the date of the hearing, the department shall make a reasonable effort to notify the parents of children in the child care facility of the notice and opportunity for hearing given to the owner or operator.

(5) No later than the conclusion of the 15 day period, the department shall determine whether other action is warranted under this regulation.

(6) Nothing in Subsection J of 8.16.2.12 NMAC shall be construed to require licensure that is not otherwise required in this regulation.

K. The licensing authority may require a direct provider of care to undergo an additional background check if information shows any of the following:

(1) that the direct provider of care has pending charges for any criminal offense;

(2) that the direct provider of care has a pending or substantiated CYFD protective services or juvenile justice service referral;

(3) that the direct provider of care has any criminal history or history of a referral to CYFD protective services or juvenile justice services discovered after the most recent background check;  
or

(4) that the direct provider of care is the subject of an allegation of abuse and neglect in any licensed facility.

L. There shall be no right to administrative review for reduction in star level resulting from loss of, or failure to maintain, national accreditation status. The licensee shall be bound by the rules, regulations, policies and procedures implemented by the national accreditation body that governs its accreditation process.

M. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. The licensing authority shall reduce the star level of a provider granted national accreditation status by the department to star level 2 until the licensee regains national accreditation status, or until the facility can be verified at a level higher than star level 2. If a provider holding accreditation from an accrediting body no longer approved by CYFD fails to maintain these requirements, this will result in the provider reimbursement reverting to the base reimbursement rate. The provider may increase their star level only by meeting FOCUS criteria or by attaining CYFD approved national accreditation status. Child care subsidies shall be adjusted to correspond with any reductions or increases to star level.

[8.16.2.12 NMAC - Rp, 8.16.2.12 NMAC, 10/1/16]

**8.16.2.13 CIVIL MONETARY PENALTIES:**

A. The following factors shall be considered by the licensing authority when determining whether to impose civil monetary penalties:

- (1) death or serious injury to a child;
- (2) abuse, neglect or exploitation of a child;
- (3) regulatory violations which immediately jeopardize the health and safety of a child;
- (4) numerous violations, which combined, jeopardize the health and safety of a child;
- (5) repetitive violations of the same nature found during two or more consecutive on-site visits or surveys of a child care facility;
- (6) failure of a child care facility to correct violations found during previous surveys or visits;
- (7) intentional misrepresentation regarding condition of the facility;
- (8) effect of a civil monetary penalty on financial viability of the facility; or
- (9) extenuating circumstances, which allow the licensing authority greater discretion to consider both mitigating and exacerbating circumstances not specifically defined.

B. An initial base penalty amount is assessed when a civil monetary penalty is imposed. The base penalty amount is calculated at the rate of the most serious deficiency. For example, the base penalty amount is assessed at the rate applicable to a class A deficiency when the survey or investigation results in citation of regulatory violations comprising class A, class B, and class C deficiencies, because the most serious regulatory violation is the class A deficiency. The base penalty is

assessed once for the deficiencies cited by the licensing authority during any particular survey or investigation.

C. The licensing authority has the discretion to impose an initial base penalty at any amount within the range for each deficiency level.

- (1) Class A deficiency: not less than \$500 and not greater than \$5,000.
- (2) Class B deficiency: not less than \$300 and not greater than \$3,000.
- (3) Class C deficiency: not less than \$100 and not greater than \$500.

[8.16.2.13 NMAC - Rp, 8.16.2.13 NMAC, 10/1/16]

#### **8.16.2.14 WAIVERS:**

A. Programs, facilities or homes licensed under these regulations may request a waiver from any of the requirements of these regulations by applying, in writing, to the licensing authority for a waiver. The request should identify the regulatory requirement for which a waiver is requested, the reason for the waiver, and any action proposed to meet the intent of the regulation.

B. Requests for waivers that involve construction of any type on a current licensed premise must be reviewed and approved by the licensing authority prior to the initiation of the construction.

C. Requests for waivers will be reviewed and approved or denied within 30 calendar days of receipt by the licensing authority.

D. Requests for waivers may include temporary operating standards following a CYFD recognized disaster.

[8.16.2.14 NMAC - Rp, 8.16.2.14 NMAC, 10/01/16]

#### **8.16.2.15 VARIANCES - CURRENTLY LICENSED FACILITIES:**

A. If a child care facility licensed on the date these regulations are promulgated provides the services prescribed but fails to meet all building requirements, the licensing authority will grant a variance, provided that the variances granted:

- (1) will not create a hazard to the health, safety, or welfare of children and staff members; and
- (2) is for building requirements that cannot be corrected without an unreasonable expense to the child care facility.

B. Variances granted will continue in force as long as the child care facility continues to provide services pursuant to these regulations and will not violate the criteria of Subsection A of this section.

C. The licensing authority will grant a variance for those requirements contained in 8.16.2.8 NMAC related regulations and codes if the licensee provides written documentation from the



relevant authority identified in these regulations that the licensee complies with those requirements or has been granted a waiver or variance from them.

[8.16.2.15 NMAC - Rp, 8.16.2.15 NMAC, 10/1/16]

**8.16.2.16 VARIANCES - NEW CHILD CARE FACILITY:** A new child care facility may be located in an existing building or a newly constructed building.

A. If opened in an existing building, the licensing authority may grant a variance for those building requirements the child care facility cannot meet provided any variance is not in conflict with existing building and fire codes.

B. A new child care facility opened in a newly constructed building will meet all requirements of these regulations.

C. The licensing authority will make all variances granted a permanent part of the child care facility file.

D. The licensing authority may grant a variance for those requirements contained in 8.16.2.8 NMAC related regulations and codes if the licensee provides written documentation from the relevant authority identified in these regulations that the licensee complies with those requirements or has been granted a waiver or variance from them.

[8.16.2.16 NMAC - Rp, 8.16.2.16 NMAC, 10/1/16]

**8.16.2.17 SURVEYS FOR CHILD CARE FACILITIES:**

A. The licensing authority will conduct a survey at least twice a year in each child care facility using these regulations as criteria. The licensing authority will conduct additional surveys or visit the child care facility additional times to provide technical assistance, to check progress on correction of deficiencies found on previous surveys, or to investigate complaints.

B. Upon the completion of a survey, the licensing authority will discuss the findings with the licensee or their representative and will provide the child care facility with an official written report of the findings and a request for a plan or plans of correction, if appropriate.

C. The licensee, director, or operator, will submit within 10 working days after the date of the survey, a corrective action plan to the licensing authority for deficiencies found during the survey. The corrective action plan will be specific on how and when the child care facility will correct the deficiency or deficiencies.

D. The licensing authority may accept the corrective action plan as written or require modifications of the plan.

E. By applying for either a new license or a license renewal, the licensee grants the licensing authority representative the right to enter the premises and survey the child care facility, including inspection and copying of child care facility records, both while the application is being processed and, if licensed, at any time during the licensure period.

F. The licensing authority may or may not announce a survey. At all times, a person who is knowledgeable in the daily operations, has access to all records and locked areas, and can represent the licensee or director for survey purposes will be present in the child care facility.

[8.16.2.17 NMAC - Rp, 8.16.2.17 NMAC, 10/1/16]

**8.16.2.18 COMPLAINTS:**

A. The licensing authority will process any complaint regarding any child care facility licensed or required to be licensed under these regulations. The investigatory authority of the licensing authority is limited to matters pertaining to these regulations.

B. A licensing authority representative receiving complaints will ask complainants to identify themselves and provide all information necessary to document the complaint.

C. The licensing authority will investigate any complaint in which the health, safety, or welfare of a child could be in danger. The complaint will be reviewed and prioritized immediately according to the nature and severity of the complaint. The licensing authority follows established protocols and procedures for prioritizing, tracking, initiating and reporting of complaints and complaint investigations. Complaints will be investigated in a timely manner as follows.

- (1) Priority 1 complaints: investigation will be initiated within 24 hours.
- (2) Priority 2 complaints: investigation will be initiated within three working days.
- (3) Priority 3 complaints: investigation will be initiated within five working days.
- (4) Initiation timeframes for investigations may be shortened based on the severity

and nature of the complaint, but timeframes may not be extended.

D. The licensee shall cooperate in good faith with any investigation by the licensing authority. Obstruction of an investigation may subject the licensee to sanctions, up to revocation.

E. Action by the licensing authority:

(1) The licensing authority will provide a written letter on the results of the investigation to both the licensee of the child care facility that is the subject of the complaint and the complainant.

(2) If the licensing authority finds the complaint is unsubstantiated, it will be so designated and the licensing authority will take no further action.

(3) If the licensing authority finds that a complaint is substantiated, it will make the complaint part of the licensing authority's file on the child care facility. The following additional actions will, at the discretion of the licensing authority, be taken:

- (a) the licensing authority will require the child care facility to submit and comply with a written corrective action plan; or
- (b) the licensing authority will sanction the child care facility administratively including, without limitation, suspension, revocation, or restriction of a license; or
- (c) the licensing authority will file criminal charges or pursue civil remedies.

F. The licensing authority will report all cases of suspected child abuse and neglect to both children's protective services and the local law enforcement agency.

[8.16.2.18 NMAC - Rp, 8.16.2.18 NMAC, 10/1/16]

**8.16.2.19 BACKGROUND CHECKS:** Background checks will be conducted in accordance with the most current regulations related to background checks and employment history verification provisions as promulgated by the children, youth and families department pursuant to 8.8.3 NMAC. All licensed child care facilities must adhere to these provisions to maintain their licensing status. A request for a background check must be submitted prior to a staff member's employment. A background check must be conducted in accordance with 8.8.3 NMAC on all required individuals at least once every five years from the original date of eligibility regardless of the date of hire or transfer of eligibility. A direct provider of care may request a transfer of background check eligibility if:

A. the staff member was found eligible as a direct provider of care in a child care center, licensed child care, home licensed group home, or registered home within the past five years and has not been separated from employment for more than 180 days; and

B. submits an application for transfer and is found eligible pursuant to 8.8.3.11 NMAC.

[8.16.2.19 NMAC - Rp 8.16.2.19 NMAC, 10/01/16]

**8.16.2.30 FAMILY CHILD CARE HOME AND GROUP CHILD CARE HOME REGULATIONS:**

**APPLICABILITY:** A private dwelling required to be licensed under regulations in 8.16.2.31 NMAC through 8.16.2.38 NMAC which meets one of the following criteria.

A. Family child care home - A private dwelling required to be licensed pursuant to these regulations which provides care, services, and supervision to at least five but no more than six children for a period of less than 24 hours of any day. The licensee will reside in the home and be the primary educator. A family day care home intending to provide care for more than two but not to exceed four children under the age of two must be specifically licensed for this purpose.

B. Group child care home - A private dwelling or other building on the premises required to be licensed pursuant to these regulations which provides care, services, and supervision for at least seven but not more than 12 children for a period of less than 24 hours of any day. The licensee will reside in the home and be the primary educator. A group day care home intending to provide care for more than two but not to exceed four children under the age of two must be specifically licensed for this purpose.

[8.16.2.30 NMAC - Rp, 8.16.2.30 NMAC, 10/1/16]

**8.16.2.31 LICENSURE REQUIREMENTS FOR HOMES:**

A. LICENSING REQUIREMENTS:

(1) APPLICATION FORM: An applicant will complete an application form provided by the licensing authority and include payment for the non-refundable application fee. Applications will be rejected unless all supporting documents are received within six months of the date indicated on the application. A 45 day extension will be granted if the licensee provides documentation to the licensing authority that documents were submitted to the appropriate agencies in a timely manner but, through no fault of their own, they have not received responses from these agencies.

(2) A home will submit a new application to the licensing authority before changing anything required to be stated on the license such as dates, capacity, operator, or address.

(3) BACKGROUND CHECK: In addition to the basic requirements at 8.16.2.19 NMAC of the general provisions an applicant will apply for a national criminal records check. The licensing authority will provide a copy of the most current version of the department's background check and employment history verification provisions (8.8.3 NMAC), regulations, fingerprint instructions, and forms for recording an employment history. The licensee will be responsible for obtaining background checks on all staff members, educators, volunteers, and prospective staff members, educators, volunteers, any person who may have unsupervised physical access to children, and all adults residing in the home as per the requirements outlined in the department's most current version of the background check and employment history verification provisions. All requirements of the current background check and employment history verification provisions pursuant to 8.8.3 NMAC must be met prior to the issuance of an initial license. A request for a background check must be submitted prior to a staff member's employment. A background check must be conducted in accordance with 8.8.3 NMAC at least once every five years on all required individuals.

(4) ZONING AND OTHER APPROVALS: An applicant will have:

- (a) current written zoning approval from the appropriate city, county or state authority;
- (b) current written approval of the state fire marshal office or other appropriate city, county or state fire-prevention authority if applicable;
- (c) current written approval from the New Mexico environment department or other environmental health authority for: 1) Private water supply, if applicable; 2) Private waste or sewage disposal, if applicable; and 3) A swimming pool, if applicable.

(5) SCHEDULE: All applications for a new license will include a description of the home's proposed activities and schedule.

(6) INITIAL SURVEY: The licensing authority will schedule a survey for a home when it receives a complete application with all supporting documents.

B. CAPACITY OF A HOME:

(1) The number of children in a home, either in total or by age, will not exceed the capacity stated on the license.

(2) The licensing authority will count all children in the care of the licensed home, including the educator's own children under the age of six, in the capacity of a home, even if the

children are on a field trip or other outing outside the home. The licensed capacity must not be exceeded by the presence of school age children.

(3) A home may be licensed for up to 12 children.

(4) A home licensed as a family day care home under these regulations providing care for a maximum capacity of six children may care for up to four children under the age of two providing a second educator is present in the home and the home is licensed to provide such care. A home licensed as a group day care home under these regulations providing care for a maximum of 12 children may care for up to four children under age two providing a second educator is present in the home and the home is licensed to provide such care.

(5) A home must have 35 square feet of activity and sleeping space per child, excluding bathrooms, kitchens, halls and other built-in fixtures and offsets, with total capacity limited to no more than 12 children. A home must have at least one bathroom with a toilet and sink. For a home licensed for no more than six children, one activity room will be measured. For a home licensed for 12 children, no more than two rooms will be measured.

(6) The home will have an outdoor play area, which must be fenced in.

C. INCIDENT REPORTING REQUIREMENTS:

(1) The licensee will report to the appropriate authorities the following incidents. After making a report to the appropriate authorities, the licensee shall notify the licensing authority of the incident giving rise to its report as soon as possible but no later than 24 hours after the incident occurred. A report should first be made by telephone and followed with written notification. The licensee shall report any incident that has threatened or could threaten the health and safety of children and staff members, such as, but not limited to:

(a) a lost or missing child;

(b) a serious injury;

(c) the abuse or neglect of a child;

(d) fire, flood, or other natural disaster that creates structural damages to a home or poses a health hazard;

(e) any of the illnesses on the current list of notifiable diseases and communicable diseases published by the office of epidemiology of the New Mexico department of health;

(f) any legal action against a home, household member, or staff members;

(g) any incident that could affect the background check eligibility of any cleared person related to this license;

(h) the use of physical or mechanical restraints, unless due to documented emergencies or medically documented necessity; or

(i) any known change in an educator's health condition or use of medication that impairs his or her ability to provide for the health, safety or welfare of children in care.

(2) A home will notify parents or guardians in writing of any incident, including notifiable illnesses, that has threatened the health or safety of children in the home. Incidents include, but are not limited to, those listed in Paragraph (1) of Subsection C of 8.16.2.31 NMAC.

(3) Incident reports involving suspected child abuse and neglect must be reported immediately to children's protective services and local law enforcement. The licensing authority follows written protocols/procedures for the prioritization, tracking, investigation and reporting of incidents, as outlined in the complaint investigation protocol and procedures.  
[8.16.2.31 NMAC - Rp, 8.16.2.31 NMAC, 10/01/16]

**8.16.2.32 ADMINISTRATIVE REQUIREMENTS FOR HOMES:**

A. ADMINISTRATIVE RECORDS: A licensee will post the child care home license in an area readily visible to parents and visitors. The licensee will also keep on file:

- (1) all licenses, certificates, and most recent inspection reports of all state and local government agencies with jurisdiction over the home;
- (2) the current child care regulations;
- (3) the guidance policy;
- (4) the current list of notifiable diseases and communicable diseases published by the office of epidemiology of the New Mexico department of health; and
- (5) an up to date emergency evacuation and disaster preparedness plan, which shall include steps for evacuation, relocation, shelter-in-place, lock-down, communication, reunification with parents, individual plans for children with special needs and children with chronic medical conditions, accommodations of infants and toddlers, and continuity of operations. The plan shall be approved annually by the licensing authority and the department will provide guidance on developing these plans.

B. MISSION, PHILOSOPHY AND CURRICULUM STATEMENT: All licensed facilities must have a:

- (1) mission statement;
- (2) philosophy statement; and
- (3) curriculum statement.

C. PARENT HANDBOOK: All facilities using these regulations must have a parent handbook which includes the following:

- (1) GENERAL INFORMATION:
  - (a) mission statement;
  - (b) philosophy statement;
  - (c) program information (location, license information, days and hours of operation, services offered);
  - (d) name of licensee and how he/she may be reached;
  - (e) meals, snacks and types of food served (or alternatively, guidelines for children bringing their own food);
  - (f) daily schedule;

- (g) a statement supportive of family involvement that includes an open door policy to the family or group child care home;
- (h) appropriate dress for children, including request for extra change of clothes;
- (i) celebrating holidays, birthdays and parties; and
- (j) disclosure to parents that the licensee does not have liability or accident insurance coverage.

(2) POLICIES AND PROCEDURES:

- (a) enrollment procedures;
- (b) disenrollment procedures;
- (c) policies and procedures for **expulsion** of children. Policies and procedures shall include how the home will maintain a positive environment and will focus on preventing the **expulsion** of children age birth to five. The home must develop policies that include clear, appropriate, consistent expectations, and consequences to address disruptive student behaviors; and ensure fairness, equity, and continuous improvement;
- (d) fee payment procedures, including penalties for tardiness;
- (e) notification of absence;
- (f) fee credits, if any (e.g. for vacations, absences, etc.);
- (g) field trip policies;
- (h) health policies (program's policies on admitting sick children, when children can return after an illness, administering medication, and information on common illnesses);
- (i) emergency procedures, safety policies, and disaster preparedness plan;
- (j) snow days and school closure;
- (k) confidentiality policy;
- (l) child abuse/neglect reporting procedure; and
- (m) guidance policy.

D. CHILDREN'S RECORDS: A home will maintain a complete record for each child, including drop-ins, completed before the child is admitted and kept at the home for 12 months after the child's last day of attendance. Records will contain at least:

(1) PERSONAL INFORMATION:

- (a) name of the child, date of birth, gender, home address, mailing address and telephone number;
- (b) names of the parents or guardians, the parents or guardians current places of employment, addresses, pager, cellular and work telephone numbers;
- (c) a list of people authorized to pick up the child and an authorization form signed by parent or guardian; identification of person authorized by the parent or guardian to pick up the child shall be verified at pick up;
- (d) date the child first attended the home and the date of the child's last day at the home;

(e) a copy of the child's up-to-date immunization record or a public health division-approved exemption from the requirement. A grace period of a maximum of 30 days will be granted for children in foster care or homeless children and youth;

(f) a record of any accidents, injuries or illnesses that require first aid or medical attention and any observations of recent bruises, bites or potential signs of abuse or neglect, both of which must be reported to a parent or guardian;

(g) written authorization from the child's parent or guardian to remove a child from the premises to participate in off-site activities; authorization must contain fieldtrip destination, date and time of fieldtrip and expected return time from fieldtrip;

(h) written authorization from the child's parent or guardian for the educator to apply sunscreen, insect repellent and, if applicable, diaper cream to the child;

(i) a record of the time the child arrived and left the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child;

(j) an enrollment agreement must be signed by a parent or guardian with an outline of the services and the costs being provided by the home; and

(k) a signed acknowledgement that the parent or guardian has read and understands the parent handbook.

(2) EMERGENCY INFORMATION:

(a) information on any allergies or medical conditions suffered by the child;

(b) the name and telephone number of two people to contact in the local area in an emergency when a parent or guardian cannot be reached; emergency contact numbers must be kept up to date at all times.

(c) the name and telephone number of a physician or emergency medical center authorized by a parent or guardian to contact in case of illness or emergency;

(d) a document giving a home permission to transport the child in a medical emergency and an authorization for medical treatment signed by a parent or guardian; and

(e) if applicable, legal documentation regarding the child, including but not limited to: restraining orders, guardianship, powers of attorney, court orders, and custody by children's protective services.

E. PERSONNEL RECORDS: A home will keep the following records on file and make them available to the licensing authority.

(1) Documentation of a background check and employment history verification for all staff members and all adults living in the home. A background check must be conducted at least once every five years on all required individuals.

(2) An annual signed statement that the staff member would or would not be disqualified as a direct provider of care under the most current version of the background checks and employment history verification provisions pursuant to 8.8.3 NMAC.

(3) A record of the time the second educators arrived at and left work, to include breaks and lunch.



(4) A written plan for ongoing professional development for each educator that is based on the seven areas of competency, consistent with the career lattice, and based on the individual's goals. Family child care homes who do not have employees are exempted from this requirement.

F. PERSONNEL HANDBOOK: The educator will give each non-resident employee a personnel handbook that covers all matters relating to employment and includes the following critical contents:

- (1) job description of second educator;
- (2) benefits, if provided, including vacation days, sick leave, professional development days, health insurance, break times, etc.;
- (3) code of conduct;
- (4) training requirements, professional development opportunities;
- (5) procedures and criteria for performance evaluations;
- (6) policies on absence from work;
- (7) procedures for resignation or termination;
- (8) copy of licensing regulations;
- (9) policy on parent involvement;
- (10) health policies related to both children and staff;
- (11) policy on sexual harassment;
- (12) child guidance policy;
- (13) confidentiality statement; and
- (14) plan for retention of qualified staff.

[8.16.2.32 NMAC - Rp, 8.16.2.32 NMAC, 10/01/16]

**8.16.2.33 PERSONNEL AND STAFFING REQUIREMENTS FOR HOMES:**

A. PERSONNEL AND STAFFING REQUIREMENTS:

- (1) A licensee will not allow any staff member, including the licensee, or any other adult living in the home involved in an incident which would disqualify that staff member or other adult under the department's most current version of the background check and employment history verification provisions pursuant to 8.8.3 NMAC to continue to work directly or unsupervised with children or to reside in the home.
- (2) All staff members will demonstrate the ability to perform essential job functions that reasonably ensure the health, safety and welfare of children in care.
- (3) Educators who work directly with children and who are counted in the staff/child ratios must be 18 years of age or older.
- (4) The licensee shall be in the licensed child care home during at least seventy-five percent of the home's core hours of operation.
- (5) Substitutes, volunteers and part time second educators counted in the staff/child ratios shall meet the same requirements as regular staff members, except for training requirements. Substitutes and part time second educators routinely employed in the home but working

20 hours or less a week shall complete half the required training hours. Such employees working more than 20 hours per week shall complete all required training hours. The primary educator in a licensed home shall complete all required training hours, regardless of the number of hours worked.

(6) A home licensed to provide care for six or fewer children will have at least one educator in the home at all times. A home licensed to provide care for more than two children under the age of two will have at least two educators in the home at all times.

(7) A home licensed for seven to 12 children will have at least two educators at the home when more than six children are present or when more than two children under the age of two are present.

(8) Children will never be left unattended. An educator will be with the children at all times whether activities are inside or outside of the home. Educators will be onsite, available and responsive to children during all hours of operation.

**B. STAFF QUALIFICATIONS AND TRAINING:**

(1) All new educators regardless of the number of hours per week will complete the following training within three months of their date of hire. All current educators will have three months to comply with the following training from the date these regulations are promulgated:

- (a) prevention and control of infectious diseases (including immunization);
- (b) prevention of sudden infant death syndrome and use of safe sleeping practices;
- (c) administration of medication, consistent with standards for parental consent;
- (d) prevention of and response to emergencies due to food or other allergic reactions;
- (e) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (f) prevention of shaken baby syndrome and abusive head trauma;
- (g) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused;
- (h) handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
- (i) precautions in transporting children (if applicable);
- (j) first aid and cardiopulmonary resuscitation (CPR) certification; and
- (k) recognition and reporting of child abuse and neglect.

(2) A home will keep a training log on file including the date of the training, name of educator, hours earned, subject/competency area, source of training, and training certificates.

(3) Educators working for a home will receive at least 12 documented hours of training during each year, including six hours in child growth and development and three hours in health, safety, nutrition, and infection control. The three remaining training hours must be within the seven competency areas. The competency areas are: 1) child growth, development and learning; 2)

health, safety, nutrition and infection control; 3) family and community collaboration; 4) developmentally appropriate content; 5) learning environment and curriculum implementation; 6) assessment of children and programs; and 7) professionalism. An educator cannot count more than three hours in first aid or CPR training toward the total hours required. Online first aid and CPR training will not be approved. For this purpose, a year begins and ends at the anniversary date of employment. Training must be provided by individuals who are registered on the New Mexico trainer registry. On-line training courses shall count for no more than eight hours each year. If the 45-hour entry level course or its equivalent is taken online, it is exempt from the online training limitation. Identical trainings shall not be repeated for the purpose of obtaining credit. The 12 hours of annual training will be waived for educators if employed by a program currently under FOCUS consultation.

(4) Infant and toddler educators must have at least two hours of training in infant and toddler care within six months of starting work. The two hours will count toward the 12-hour requirement in Paragraph (2).

(5) The primary educator will complete the 45-hour entry level course or approved three-credit early care and education course or an equivalent approved by the department prior to or within six months of employment.

(6) A home must have all educators certified in first aid and cardio-pulmonary resuscitation (CPR).

[8.16.2.33 NMAC - Rp, 8.16.2.33 NMAC, 10/01/16]

#### **8.16.2.34 SERVICES AND CARE OF CHILDREN IN HOMES:**

##### **A. GUIDANCE:**

(1) A home will have written policies and procedures clearly outlining guidance practices. Care-givers will give this information to all parents and staff who will sign a form to acknowledge that they have read and understand these policies and procedures.

(2) Guidance will be consistent and age appropriate.

(3) Guidance shall be positive and include redirection and clear limits that encourage the child's ability to become self-disciplined. The use of physical or mechanical restraints is prohibited unless due to documented emergencies or medically documented necessity.

(4) A home will not use the following disciplinary practices:

(a) physical punishment of any type, including shaking, biting, hitting, pinching or putting anything on or in a child's mouth;

(b) withdrawal of food, rest, bathroom access, or outdoor activities;

(c) abusive or profane language, including yelling;

(d) any form of public or private humiliation, including threats of physical punishment; or

(e) unsupervised separation.

##### **B. NAPS OR REST PERIOD:**

- (1) A home will provide physical care appropriate to each child's developmental needs that will include a supervised rest period.
  - (2) A home shall allow children who do not sleep to get up and participate in quiet activities that do not disturb the other children.
  - (3) Each child will have an individual bed, cot, or mat.
  - (4) Cribs, cots or mats shall be spaced at least 30 inches apart to permit easy access by adults to each child. If the room used for sleeping cannot accommodate 30 inches of spacing between children, educators shall space children as far as possible from one another. There must be enough room to permit easy access to all children without moving cribs, cots or mats. Cots or mats will have a nonabsorbent, cleanable surface. Mats will be at least three-fourths of an inch thick. Mats and cots shall be cleaned and linens must be laundered before being used by another child.
  - (5) Educators shall ensure that nothing covers the face or head of a child aged 12 months or younger when the child is laid down to sleep and while the child is sleeping. Educators shall not place anything over the head or face of a child over 12 months of age when the child is laid down to sleep and while the child is sleeping.
  - (6) Children with disabilities or medical conditions that require unusual sleeping arrangements will have written authorization from a parent or physician justifying the sleeping arrangement.
  - (7) Illumination equivalent to that cast by a soft night light shall be operational in areas that are occupied by children who are napping or sleeping.
  - (8) Children shall be directly supervised during naptime.
  - (9) All children shall sleep in the licensed area of the home. No children shall be allowed to sleep behind closed doors.
- C. ADDITIONAL REQUIREMENTS FOR INFANTS AND TODDLERS:
- (1) The home will provide a crib for each infant and, when appropriate, for a toddler.
  - (2) Cribs will meet federal standards and be kept in good repair. A home will not use plastic bags or lightweight plastic sheeting to cover a mattress and will not use pillows in cribs.
  - (3) No child will be allowed to sleep in a playpen, car seat, stroller or swing.
  - (4) Children under the age of 12 months shall be placed on their backs when sleeping unless otherwise authorized in writing by a physician.
  - (5) A home will not admit any child under the age of six weeks except with the written approval of a licensed physician.
  - (6) Throughout the day, an educator will give each infant and toddler physical contact and attention. An educator will hold, talk to, sing to and take inside and outside walks with the child. An educator will respond immediately to all cries of infants and to the cries of all children within two minutes.
  - (7) An educator will use routine activities such as nap time, feeding, diapering and toileting as opportunities for language development and other learning.

(8) Infants shall not be allowed to be confined to one area for prolonged periods of time unless the infant is content and responsive.

(9) A home will arrange the sleeping and play areas so that children in the play area do not disturb sleeping children.

(10) Infants shall either be held or be fed sitting up for bottle-feeding. Infants unable to sit shall always be held for bottle-feeding. Infants and toddlers shall not be placed in a laying position while drinking bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted.

(11) Each infant shall be allowed to form and observe his or her own pattern of feeding, sleeping, and waking periods.

(12) Food served shall meet the nutritional needs of the infant or toddler. Foods shall be developmentally appropriate for each infant served.

D. DIAPERING AND TOILETING:

(1) An educator will plan toilet training with a parent so the toilet routine is consistent. A home will not attempt to toilet train a child who is not developmentally ready.

(2) A home will change wet and soiled diapers and clothing promptly. Staff members will wear non-porous, single use gloves when changing a diaper and wash their hands after changing a diaper. Food service gloves are not permissible for diaper changing.

(3) A home will have a supply of dry, clean clothing and diapers sufficient to meet the needs of the child. A home will label diapers and diapering supplies for each child and store them separately. Diaper bags will be inaccessible to children.

(4) An educator will change a child's diaper on a clean, safe, waterproof surface and discard any disposable cover and disinfect the surface after each diaper change. Soiled diapers shall be stored in a secure container with a tight-fitting lid to assure proper hygiene and control of odors.

E. ADDITIONAL REQUIREMENTS FOR CHILDREN WITH SPECIAL NEEDS:

(1) Child care facilities are responsible for staff awareness of community resources for families of children with disabilities, including children under the age of five years as well as those of school age. If family or group home educators believe that a child may have a delay or disability, possible resources for referral and assistance are provided to parents when appropriate. No referral for special needs services to an outside agency will be made without a parent's consent. Family Education Right and Privacy Act (FERPA) will be respected at all times.

(2) Child care facilities are responsible for staff awareness of the Americans with Disabilities Act (ADA) as it relates to enrolling and caring for children with disabilities.

F. NIGHT CARE: In addition to all other requirements, a home providing night care will have an educator onsite, physically available and responsive to children who need attention during the night.

G. PHYSICAL ENVIRONMENT:

(1) Environment shall be organized into functional identifiable learning areas. Family child care homes that have dedicated space shall have at least four of the following learning

areas. Family child care homes that do not have dedicated space shall have at least three of the following learning areas:

- (a) a place for messy play;
- (b) a place for loud, active play;
- (c) a place for playing quietly;
- (d) a place to pretend; and
- (e) a place to read.

(2) Each learning area is clearly defined, using shelves and furniture.

(3) Adults can visually supervise all centers at all times.

(4) Learning areas have adequate space and noisy and quiet areas are arranged so that children's activities can be sustained without interruption.

(5) Materials are well cared for and organized by type. Where appropriate, materials are labeled with words or pictures. Adaptations to materials are made when needed to accommodate various abilities of all children. Unused materials are stored in inaccessible storage.

(6) Examples of children's individually expressed artwork are displayed in the environment at the children's eye level.

(7) Floor surface is suitable for activities that will occur in each learning area.

(8) File and storage space is available for educators' materials.

#### H. SOCIAL-EMOTIONAL RESPONSIVE ENVIRONMENT:

(1) Educators remain calm in stressful situations.

(2) Educators are actively engaged with children. Educators talk, actively listen and respond to children appropriately by responding to children's questions and acknowledging their comments, concerns, emotions and feelings.

(3) Educators help children communicate their feelings by providing them with language to express themselves.

(4) Educators model appropriate social behaviors, interactions and empathy. Educators respond to children that are angry, hurt, or sad in a caring and sensitive manner. Educators make appropriate physical contact to comfort children who are distressed.

#### I. EQUIPMENT AND PROGRAM:

(1) Toys and equipment must be safe, durable, and easy to clean, non-toxic and sanitized daily.

(2) A home will not use accordion-style baby gates.

(3) A home will provide sufficient equipment, materials, and furnishings for both indoor and outdoor activities so that at any one time, each child can be individually involved.

(4) A home will store equipment and materials for children's use within easy reach of the children, including those with disabilities. A home will store the equipment and materials in an orderly manner so children can select and replace the materials by themselves or with minimal assistance.

(5) A home will provide children with toys and other materials that are safe, developmentally appropriate, and encourage the child’s creativity, social interaction, and a balance of individual and group play.

(6) A home will post a daily activity schedule. A home will follow a consistent pattern for routine activities such as meals, snacks and rest.

(7) Media viewing will not be permitted for children less than two years of age. Media viewing for children two years and older will be limited to six hours per month, but not to exceed one full length film in one day. Programs, movies, music and music programs shall be age appropriate and shall not contain adult content.

(8) Children and family members shall be acknowledged upon arrival and departure.

(9) Full-time children shall have a minimum of 60 minutes of physical activity daily, preferably outside. Part time children shall have a minimum of 30 minutes of physical activity daily, preferably outside.

(10) Equipment and program requirements apply during all hours of operation of the licensed facility.

J. OUTDOOR PLAY:

(1) Outdoor play equipment used in child care homes shall be:

(a) intended for public (non-residential) use and installed and maintained according to the manufacturer’s instructions; or

(b) if intended for residential use, shall be safe and securely anchored.

(2) A home will enclose the outdoor play area with a fence at least four feet high and with at least one latched gate available for an emergency exit.

(3) A home will place sufficient energy absorbing surfaces beneath climbing structures, swings and slides (as determined by Subsection P of 8.16.2.8 NMAC).

Critical Heights of Playground Equipment for Various Types and Depths of Resilient Surfaces Based on Information from the U.S. CONSUMER PRODUCT SAFETY COMMISSION (CPSC Publication No. 325), Handbook for Public Playground Safety.

When no requirement is provided for a specific height of equipment, we have used the requirement for the next higher height, so requirements are conservative, erring on the side of safety.

Equipment Height	Wood Chips	Double Shredded Bark	Uniform Wood Chips	Fine Sand	Coarse Sand	Fine Gravel
	Uncompressed Depths of Materials In Fall Zone					
Five feet or less	6 inches	6 inches	6 inches	6 inches	6 inches	6 inches

Six feet	6 inches	6 inches	6 inches	12 inches	12 inches	6 inches
Seven feet	6 inches	9 inches	9 inches	12 inches	12 inches	9 inches
Eight feet	9 inches	9 inches	12 inches	12 inches	12 inches	12 inches
Nine Feet	9 inches	9 inches	12 inches	12 inches	N/A	12 inches
Ten Feet	9 inches	9 inches	12 inches	N/A	N/A	12 inches
For poured or installed foam or rubber surfaces, the materials must meet the ASTM F1292 requirements with written verification from the manufacturer.						

(4) The use of a trampoline is prohibited at any time during the hours of operation or by any children receiving care at the facility.

(5) Children shall be protected from the sun during outdoor play, as instructed by the child's parent or guardian.

K. SWIMMING, WADING AND WATER:

(1) Each child will have written permission from a parent or guardian before the child enters a pool.

(2) If a home has a portable wading pool:

(a) a home will drain and fill the wading pool with fresh water daily and disinfect the pool regularly;

(b) a home will empty a wading pool when it is not in use and remove it from areas accessible to children; and

(c) a home will not use a portable wading pool placed on concrete or asphalt.

(3) If a home has a built in or above ground swimming pool, ditch, fishpond or other water hazard:

(a) the fixture will be constructed, maintained and used in accordance with applicable state and local regulations;

(b) the fixture will be constructed and protected so that, when not in use, it is inaccessible to children; and

(c) when in use, children will be constantly supervised and the number of adults present will be increased to ensure adequate safety for the ages, abilities and type of water hazard in use.



(4) The following ratios shall be observed for swimming pools more than two feet deep:

Ratio for swimming pools more than two feet deep		
Age of the youngest child	Number of educators, lifeguards or volunteers	Number of children
0-23 months	1	1
2 years	1	2
3 years	1	6
4 years	1	8
5 years	1	10
6 years and older	1	12

L. FIELD TRIPS:

(1) A home will ensure the children’s safety on field trips and excursions. See Subparagraph (g) of Paragraph (1) of Subsection D of 8.16.2.32 NMAC for information on permission slips.

(2) Children will not go to a private residence other than the licensed home unless accompanied by two adults.

[8.16.2.34 NMAC - Rp, 8.16.2.34 NMAC, 10/01/16]

**8.16.2.35 FOOD SERVICE REQUIREMENTS FOR HOMES:**

A. MEAL PATTERN REQUIREMENTS: All foods prepared by the home will conform to the guidelines from United States department of agriculture’s (USDA’s) child and adult care food program (CACFP) for foods, meal patterns and serving sizes.

B. MEALS AND SNACKS:

(1) A home will provide a child a meal or snack at least every three hours except when the child is sleeping at night.

(2) A home will serve if necessary a child a therapeutic or special diet with a written prescription/diet order from a physician or a registered or licensed dietician. Diet orders must be complete and descriptive, and not subject to interpretation by the educators.

(3) A home shall make water freely available to children.

(4) A home that provides daily meals and snacks shall plan these to meet the minimum standards in the CACFP and to be consistent with the USDA's current dietary guidelines for Americans, to include the following. Parents of children who have special dietary needs may provide written permission to the child care program to exempt their child from the following requirements if necessary due to such special dietary needs.

(a) Only one hundred percent fruit or vegetable juice shall be served. The use of fruit drinks containing less than one hundred percent or artificially flavored drinks for meals or snacks is prohibited. one hundred percent fruit or vegetable juice may be diluted with water.

(b) Only whole, pasteurized fluid milk shall be served to children between 12 and 24 months of age; reduced fat, low fat, or skim milk may be served to children who are two years and older.

(c) A wide variety of fruits and vegetables shall be served, with a preference for fresh or frozen fruits and vegetables over canned.

(5) A home will vary snacks each day and will include a selection of two different food group components from the four food group components.

C. MENUS:

(1) Weekly menus must be dated and posted in an area easily visible to parents.

(2) Menus shall be posted at least one week in advance, in a conspicuous place, for review by parents, educators and children.

D. KITCHENS:

(1) A home will not allow children in the kitchen except under careful supervision.

(2) A food preparer will thoroughly wash all raw fruits and vegetables before cooking or serving.

(3) A home will serve food promptly and refrigerate immediately after use. Foods served will meet the nutritional needs of the infant or toddler. Foods will have the proper texture and consistency for each infant served.

(4) A home will protect food and drink by properly storing items in an airtight container or by tightly wrapping them. A home will label and date all leftover food.

(5) If food is brought from the child's home, a home will label it with the child's name and refrigerate if necessary. A home will label and refrigerate bottles of infant formula or breast milk. Labeling is not necessary if only one child is using bottles.

(6) A home will keep food requiring refrigeration, including formula, at 41 degrees Fahrenheit or below, and frozen food at 0 degrees Fahrenheit or below.

(7) Refrigerators and separate freezers will have working internal thermometers.

(8) A home will protect all food from insects, rodents and other vermin.

(9) A home will discard any leftover milk or formula, rinse bottles after use and sanitize bottles before reuse.

(10) A home will sanitize eating utensils, dishes and cups before re-use by washing them in a dishwasher or by completing the following steps: 1) wash with soapy water; 2) rinse with clean warm water; and 3) sanitize.

(11) A home will use cleaning materials for the kitchen and food preparation areas only in the kitchen and will store the materials separately from food.

(12) A home shall thoroughly sanitize food preparation surfaces before and after each use.

E. MEAL TIMES:

(1) A home will equip dining areas with tables, chairs, eating utensils and dishes appropriate to the age of the children served. Areas will be sanitized before and after each use.

(2) A home will provide sanitary cups or glasses or a drinking fountain for drinking water. Infants and toddlers shall be offered water from a cup. Toddlers shall be encouraged to hold and drink from a cup, use a spoon, and to use their fingers for self-feeding. A home will not allow children to share drinking or eating utensils.

(3) Time allowed for meals shall enable children to eat at a reasonable rate.

[8.16.2.35 NMAC - Rp, 8.16.2.35 NMAC, 10/1/16]

**8.16.2.36 HEALTH AND SAFETY REQUIREMENTS FOR HOMES:**

A. HYGIENE:

(1) Children and staff members will wash their hands with soap and warm running water as needed. Water basins shall not be used as an alternative to running water. Staff and children will wash their hands whenever hands are contaminated with body fluids and always:

- (a) after using a toilet, assisting a child with toilet use, or changing a diaper;
- (b) before and after caring for a sick child;
- (c) before any food service activity, including setting the table;
- (d) before and after eating or feeding a child; and
- (e) after handling pets or animals or items used by animals such as water

and food bowls.

(2) A home will label with the child's name and store separately any item used for an individual child's personal hygiene.

B. FIRST AID REQUIREMENTS:

(1) A home will keep a first-aid kit and a first-aid manual together in the home in a location inaccessible to children and easily accessible to adults. The first aid kit will contain, at a minimum: band aids, gauze pads, adhesive tape, scissors, soap, non-porous gloves, and a thermometer.

(2) A home will treat blood spills cautiously and promptly disinfect the area. Staff members will wear non-porous, single-use gloves when handling a blood spill, bloody diarrhea, bloody nose, or any other blood. A home will clean contaminated surfaces first with hot soapy water then with a disinfecting solution, which is effective against HIV and hepatitis B.

C. MEDICATION:

(1) A home will keep all medications in a locked and identified container inaccessible to children and will refrigerate medications when necessary. If the refrigerator is inaccessible to children, medications do not need to be in a locked container in the refrigerator.

(2) Homes will give medication only with written permission from parents or guardian, to be administered according to written directions from the prescribing physician. In the case of non-prescription medication, written instructions must be provided by the parent or guardian. For the purpose of this requirement (Paragraph (2) of Subsection C of 8.16.2.36) only, non-prescription medications include sunscreen, insect repellent and diaper creams or other over the counter medications. With written authorization from the child's parent or guardian, sunscreen and insect repellent may be shared. Diaper cream shall not be shared.

(3) The licensee will be responsible for giving medication to children. The designated staff member will ensure non-prescription and prescription medications have a label with the child's name and the date the medication was brought to the home. A home will keep non-prescription and prescription medication in the original container with written instructions, including the name of medication, the dosage, and the hours and dates the child should receive the medicine.

(4) The licensee will keep and sign a written record of the dosage, date and time a child is given medication. This information will be provided to the parent or guardian who will initial/date acknowledgment of information received on the day the medication is given.

(5) When the medication is no longer needed, it shall be returned to the parents or guardians or destroyed. The home shall not administer expired medication.

**D. ILLNESS AND NOTIFIABLE DISEASES:**

(1) Children or staff members absent due to any notifiable disease will not return to the home without a signed statement from a physician.

(2) A home will separate and constantly observe a child who becomes sick at the home and promptly notify a parent or guardian of the child's illness.

(3) A home will send a child home when:  
(a) the child's oral temperature is 101 degrees Fahrenheit or greater or armpit temperature is 100.4 degrees Fahrenheit or greater and the child shows signs of illness or behavior changes; or

(b) the educator observes signs of contagious disease or severe illness.

[8.16.2.36 NMAC - Rp, 8.16.2.36 NMAC, 10/1/16]

**8.16.2.37 TRANSPORTATION REQUIREMENTS FOR HOMES:**

A. When a home provides transportation to children, it is responsible for the care of children from the time of pick up to delivery to a responsible adult. All vehicles used for transportation of children will have an operable fire extinguisher, first-aid kit, first-aid manual, water and blanket.

B. A home will license all vehicles used for transporting children and will meet all applicable state vehicle laws. A child shall be transported only if the child is properly secured in a child passenger restraint device or by a safety belt as follows.

(1) Children less than one year of age shall be properly secured in a rear-facing child passenger restraint device that meets federal standards, in the rear seat of a vehicle that is equipped with a rear seat. If the vehicle is not equipped with a rear seat, the child may ride in the front seat of the vehicle if the passenger-side air bag is deactivated or if the vehicle is not equipped with a deactivation switch for the passenger-side air bag.

(2) Children one year of age through four years of age, regardless of weight, or children who weigh forty pounds, regardless of age, shall be properly secured in a child passenger restraint device that meets federal standards.

(3) Children five years of age through six years of age, regardless of weight, or children who weigh less than 60 pounds, regardless of age, shall be properly secured in either a child booster seat or an appropriate child passenger restraint device that meets federal standards.

(4) Children seven years of age through 12 years of age shall be secured in a child passenger restraint device or by a seat belt.

C. Vehicles used for transporting children will be enclosed and properly maintained. Vehicles shall be cleaned and inspected inside and out.

D. A home will load and unload children at the curbside of the vehicle or in a protected parking area or driveway. The home will ensure children do not cross a street unsupervised after leaving the vehicle.

E. No one will smoke in a vehicle used for transporting children.

F. Children may be transported only in vehicles that have current registration and insurance coverage. All drivers must have current driver's license and comply with motor vehicle and traffic laws. Persons who have been convicted in the last seven years of a misdemeanor or felony DWI/DUI cannot transport children under the auspices of a licensed facility.

G. At least one adult transporting children shall be currently certified in cardiopulmonary resuscitation.

[8.16.2.37 NMAC - Rp, 8.16.2.37 NMAC, 10/1/16]

**8.16.2.38 BUILDING, GROUND AND SAFETY REQUIREMENTS FOR HOMES:**

**A. HOUSEKEEPING:**

(1) An educator will keep the premises, including furniture, fixtures, toys and equipment clean, safe, and free of debris and potential hazards.

(2) Materials dangerous to children must be secured in a manner making them inaccessible to children and away from food storage or preparation areas.

(3) All garbage and refuse receptacles in kitchens and in outdoor areas will have a tight fitting lid, be durable and constructed of materials that will not absorb liquids.

**B. PEST CONTROL:**

(1) All licensed child care homes must use a New Mexico licensed pest applicator whenever applying pesticides on the home's buildings and grounds.

(2) The pest control company may not apply pesticides when children are on the premises.

(3) Parents, guardians, and staff must be notified at least two days prior to spraying or applying pesticides and insecticides.

(4) All food storage, preparation, and serving areas must be covered and protected from spraying or application of pesticides.

C. MECHANICAL SYSTEMS:

(1) A home will maintain comfortable temperatures (68 degrees through 82 degrees Fahrenheit) in all rooms used by children. A home may use portable fans if the fans are secured and inaccessible to children and do not present any tripping, safety or fire hazards. In the event air temperature in a home exceeds the 82 degrees Fahrenheit in the summer months because of evaporative cooler temperature limitations, it will be verified that cooling equipment is functioning, is being maintained, and that supplemental aides have been employed, such as, but not limited to: ceiling fans, portable fans, or portable evaporative coolers.

(2) A home will not use unvented heaters, open flame heaters or portable heaters. A home will install barriers or take other steps to ensure heating units, are inaccessible to children. Heating units include hot water pipes, hot water baseboard heaters hotter than 110 degrees Fahrenheit, fireplaces, fireplace inserts and wood stoves.

(3) A home must maintain all heating and cooling equipment so that it is in good working order.

(4) A home will provide fresh air and control odors by either mechanical or natural ventilation. If a home uses a window for ventilation, it will have a screen. If a door is used for fresh air ventilation, it must have a screen door.

(5) Water coming from a faucet will be below 110 degrees Fahrenheit. A home will install a tempering valve ahead of all domestic water-heater piping.

(6) All food preparation areas, sinks, washrooms, laundries and bathrooms will have hot and cold running water under pressure.

D. LIGHTING, LIGHTING FIXTURES AND ELECTRICAL:

(1) A home will use U/L approved equipment only and will properly maintain this equipment.

(2) All electrical outlets within reach of children will be safety outlets or will have protective covers.

(3) The use of multi-prong or gang plugs is not allowed. Surge protectors are not gang plugs under these regulations.

E. EXITS: When an activity area does not have a door directly to the outside, at least one window in each activity area must be useable for an emergency exit.

F. TOILET AND BATHING FACILITIES:

(1) All toilet rooms will have toilet paper, soap and disposable towels at a height accessible to children. A home will not use a common towel or wash cloth.

(2) All closets and bathroom locks must have an outside release. A home will enclose all bathrooms.

G. SAFETY COMPLIANCE:

(1) A home will have an operating smoke detector in each child-activity room and in each room in which a child sleeps.

(2) A home will have a 210ABC extinguisher mounted in the kitchen in a visible and easily accessible place. A professional will inspect each fire extinguisher once a year and fire extinguishers will have official tags noting the date of inspection.

(3) A home will conduct at least one fire drill each month and an emergency preparedness practice drill at least quarterly beginning January of each calendar year. A home will hold the drills at different times of the day and will keep a record of the drills with the date, time, number of adults and children participating, and any problems.

(4) A home will keep a telephone in an easily accessible place for calling for help in an emergency and will post emergency phone numbers for fire, police, ambulance and the poison control center next to the phone.

H. SMOKING, FIREARMS, ALCOHOLIC BEVERAGES, ILLEGAL DRUGS AND CONTROLLED SUBSTANCES: A home will prohibit smoking and the drinking of alcoholic beverages in all areas, including vehicles, when children are present. A home will unload all guns, such as pellet or BB guns, rifles and handguns, and keep them in a locked area inaccessible to children. Possessing or knowingly permitting illegal drugs or non-prescription controlled substances to be possessed or sold on the premises at any time regardless of whether children are present is prohibited.

I. PETS:

(1) A home will inform parents or guardians in writing before pets are in the home.

(2) A home will inoculate any pets as prescribed by a veterinarian and keep a record of proof of inoculation prior to the pet's presence in the home.

(3) A home will not allow on the premises pets or other animals that are undomesticated, dangerous, contagious or vicious in nature.

(4) Areas of confinement, such as cages and pens, and outdoor areas are cleaned of excrement daily. Animals shall be properly housed, fed and maintained in a safe, clean sanitary and humane condition at all times.

(5) An educator must be physically present during the handling of all pets or other animals.

[8.16.2.38 NMAC - Rp, 8.16.2.38 NMAC, 10/01/16]