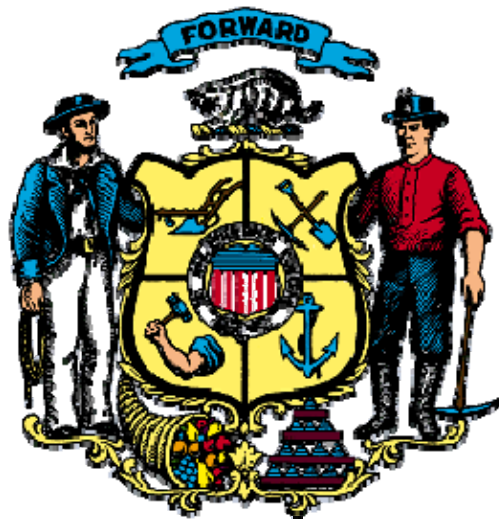


Department of Children and Families (DCF)

Division of Early Care and Education

Bureau of Early Childhood Education



Child Care Certification Policy Manual

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1. Introduction

This chapter contains policies for child care provider certification.

State law ([48.651](#) state statutes) requires counties and tribes to certify providers and school age programs that receive public funding if the provider/program is not licensed by the Department of Children and Families (DCF) or operated by a public school district. Certification is voluntary for providers who are not mandated by law to be licensed. See Section [2. Licensing](#) for further information about the licensing law.

“Regulated” means child care either certified by the county/tribal agency, licensed by the state or operated by a public school board.

“Certified Operator/Provider” or “operator” means an individual, corporation, partnership, limited liability corporation, non–incorporated association, or cooperative that has legal and financial responsibility for the operation of a child care program and for meeting the requirements under DCF 202. The operator is the person who has been granted the regulatory approval to be certified in a specific location. The operator can hold either a school age or family certification. The name of the operator is displayed on the Certificate of Approval. The operator is responsible for the child care operation and must make sure that the program complies with the applicable rules during hours of operation even if a substitute or another qualified person is left in charge of the operation.

“Child care provider” or “provider” means a certified child care operator or an employee or volunteer of the child care operator who provides care and supervision for infant, preschool, or school–age children on behalf of the operator.

The new rule revision differentiates between an operator and provider. The provider is any caregiver (could be the operator or any other qualified adult) who provides care for children in the home/facility.

2. Licensing

Under s. [48.65 \(1\)](#), Stats., (1) No person may for compensation provide care and supervision for 4 or more children under the age of 7 for less than 24 hours a day unless that person obtains a license to operate a family or group child care center from the Department of Children and Families.

“Person” above refers to an entity. If two (2) individuals are providing care in one residence, the total number of children under 7 years of age cannot exceed 4 unless the home is licensed.

Licensing is administered by the Bureau of Early Care and Regulation through its [regional offices](#).

The following scenarios are exempt from the licensing law:

1. A parent, grandparent, great-grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, and supervision for the child.
2. A guardian of a child who provides care and supervision for the child.
3. A public or parochial school.
4. A person employed to come to the home of the child’s parent or guardian.
5. A county, city, village, town, school district or library that provides programs primarily intended for recreational or social purposes.

Note: The Wisconsin Shares Child Care Subsidy Program may pay subsidy to programs operated by a public school district. If a child receiving subsidy attends a program operated by a private or parochial school, the program must obtain a license before subsidy payments can be made.

There are three categories of licensed child care:

1. Group child care centers are licensed to provide care and supervision to nine (9) or more children. Usually, this is care in a more formal setting outside the home. The rules for licensed group centers are listed in [DCF 251](#).
2. Family child care centers serve four (4) to eight (8) children. The rules for licensed family centers are listed in [DCF 250](#).
3. Day camps providing care for four (4) or more children under the age of seven (7) years, require a license. In order for a day camp to receive Wisconsin Shares Child Care Subsidy, it must be licensed by the state or certified by the county. The rules for licensed day camps are found in [DCF 252](#).

3. County Certification

State law requires counties/tribes to certify providers who receive public funding, unless the provider is state licensed or established and operated by a public school board. The Department of Children and Families establishes the standards for child care certification. The counties/tribes may make certification available to all family child care providers, whether or not public funding is involved.

Counties and tribes have the authority to contract with another agency to certify providers. Certification administrative rules are listed in DCF 202. The certification rules are posted at <http://www.legis.state.wi.us/rsb/code/dcf/dcf202.pdf>.

Copies of the certification rules can be ordered from DCF. See [11. Forms](#) for further information.

Agencies may certify homes and school age programs for other purposes such as:

1. USDA Child Care Food Program.
2. To develop a resource pool of regulated child care providers.
3. To increase parental options for regulated child care.

The county or tribal agency responsible for certification of a provider is determined by the geographic area in which the child care setting is located.

Example: Subsidy administrative agency in County A approves in-home care for a family (care in the child's home). The parent has a friend who is interested in providing the care for the children in their home. The friend lives in county B. The County A must certify the home because the physical care is done in County A even though the provider resides in county B.

Counties do not have the jurisdiction to certify providers in neighboring counties. Some tribes are spread over several counties. Those tribes can certify providers located in those counties if the provider lives within tribal land. Also, the county may certify tribal providers in their geographical area.

Certification issued to a provider by a county/tribe shall be accepted as valid by all other agencies authorized to certify providers and to agencies responsible for authorizing Wisconsin Shares Child Care Subsidy. The provider cannot be certified by two agencies for the same location.

Example:

County A has a subsidized parent who works in County B. The parent wants to enroll his/her child with a provider who lives in County B. If the provider is already certified by County B, County A must accept the certification and should issue an authorization. If the provider is unregulated, county B is responsible for certifying the provider.

If a provider certified in County A moves to County C, she has to reapply for certification, however, certain documents can be shared if they are not outdated. Examples of documents are: Background checks, TB test results, references, training documentation. The provider must submit new application and standards and checklist and any other documents that pertain to the new home (water well tests, etc) and must have a home inspection completed.

3.1. Types of Certified Providers

Below are the types of certified providers:

3.1.1. Certified Family Child Care Providers

Certified family providers provide care in their own homes. The provider can care for up to three (3) children under age of seven (7) years, unrelated to the provider. Additional children related to the child care provider and children ages 7 and older may be cared for as long as the maximum number of children in care is not over six (6). These homes must meet the standards under DCF 202.08. See [4.1 Group Rules](#) for further information.

These providers are certified under one of the following classifications:

- Provisionally Certified (level II) – meets all standards, but has not completed the [entry level](#) training.
- Regularly Certified (level I) – meets all standards and has completed the [entry level](#) training.

3.1.2. Certified In-Home Providers

Certified in-home care is provided in the child's own home, not the provider's. The application process for these providers is almost identical to the family providers, however, when a provider cares for children in the children's own home, the requirements marked with a star (*) on the standards and checklist do not apply. The agency must conduct a background check on the provider only. There is no need to conduct a check on the individuals residing in the home. Also, the [Landlord Permission](#) form is not needed.

The licensing law does not apply to in-home situations. This means that the provider may care for more than three (3) children under age seven (7) years, unrelated to the provider. Also, the group size can be more than six (6). The provider may not bring other children to the care setting.

Note: When certifying the provider in the child's home, the location address must be the physical address where the care is being provided. This address must be on the certificate of approval. If the provider wants the mail to be sent to her own address, the certifier can enter the mailing address in the Alternate Address screen in CCPC.

The in-home provider is certified under one of the following categories (just like the family providers):

- In-home Provisionally Certified (level II) – meets all standards, but has not completed the [entry level](#) training.
- In-home Regularly Certified (level I) – meets all standards and has completed the [entry level](#) training

3.1.3. School Age Child Care Programs

School age child care programs serve seven (7) or more school age children ages 7 and older. Since these programs do not care four (4) or more children under the age of seven (7), they are not mandated to be licensed. If the program has subsidized children enrolled, the program must be certified.

The certification period for any provider type cannot exceed 24 months and must be renewed upon application if the program continues to comply with the standards under DCF 202.

3.2. Certification Administration

3.2.1. Certification New Worker Training

DCF 202 requires certification workers to attend a department approved training, within six (6) months of hire or taking over certification duties. “Day care certification worker” is defined as a person employed by a county/tribe or an agency, under contract with a county or tribe, whose duties include determination of eligibility for day care certification. The trainings are offered twice a year. Contact Childcare@wisconsin.gov for training dates.

3.2.2. Certification Round-Table Meetings

The DCF staff arranges certification round-table meetings for certification agency staff every 6 months in coordination with the child care licensing networking meetings. The topics covered in these meetings include, but are not limited to, child care policy/automation updates, rule revisions, and other topics brought forward by local agencies. The meeting locations are: Eau Claire, Merrill, Appleton, Madison and Milwaukee. Please contact childcare@wisconsin.gov if you want to be added to the meeting announcement list. In your email, please indicate the county/tribe that you work for.

3.2.3. Certification Fees

A county/tribal agency may charge a fee for certification as follows:

- **Family and In-home Certification:**

The certifying agency may charge a fee for family certification, not to exceed 150% of the licensing fee for a family child care center plus the costs of criminal record checks.

The current licensing fee for a family center is \$60.50. The maximum amount that a certifying agency may charge for family certification is \$90.75 plus the cost for background checks. The fee may be charged at initial application and/or for the re-certification application.

- **School Age Certification:**

The certifying agency may charge a fee for school-age certification, not to exceed the licensing fee for a group child care center, plus the costs of criminal record checks.

The licensing fee is \$30.25 plus \$10.33 for every child the center is licensed to serve plus the cost for background checks.

3.3. Certification Application Process – Family Child Care

The process usually starts by the applicant contacting the agency for an application packet. Some agencies mail the required forms, some agencies hold regular start-up meetings where the applicants receive an orientation on the certification system.

3.3.1. Orientation

DCF 202 requires the certifying agencies to provide information on child care and the certification system to all applicants prior to initial certification. The information must include materials on sudden infant death syndrome (SIDS) prevention, shaken baby syndrome prevention (SBS), child development, positive discipline, health and safety, and nutrition. See [Resources](#), for information on where to get background materials on the topics mentioned above.

This information can be shared during the first site visit so that the materials can be explained verbally or handed out during orientation meetings for new applicants.

The certification information should include the following:

1. Certification materials, including the rule book, application form, background check forms, Certification Standards and Checklist and other forms.
2. References (county/tribal discretion): The importance of giving names of references who are familiar with the caregiver's ability to care for children. The references must be non-related to the provider.
3. Information on how to obtain training.
4. Home or site health and safety standard requirements, including smoke detectors, well-water tests, exit requirements and pet vaccinations, etc
5. Number of children allowed in care during one time period.

The applicant must return the items listed below:

- [Application for Family and In-Home Child Care Certification](#) (Also available in Spanish, Hmong and Russian)
Make sure that the form is fully completed and signed.
- [Background Information Disclosure \(BID\) form](#) (Also available in Spanish, Hmong and Russian)
This form is needed for the applicant, substitutes, employees, volunteers, and household members age 10 and older. The BID forms must be submitted every two years.
- TB test results (provider and approved employees who work with children)
- Background Check Fee (County/tribal discretion)
- Certification Fee (County/tribal discretion)
- Water test (if the home does not have public water) . See [DCF 202.08 \(2\) \(k\)](#) for further details.
- [Regulatory Agency Approval/Acknowledgement to Operate Child Care Business](#)
This is required if the applicant is also a foster parent or holds a child care license or other license to care for adults or children.
- [Landlord Permission to Operate Child Care Business](#)
This form is required if the home is a rental property. This does not apply to providers who provide care in the child's home.
- Training Verification (SIDS, SBS, Initial training for regularly certified providers)

3.3.2. Application – Required Documents

Use the following to evaluate provider qualifications:

3.3.2.1. Child Abuse and Neglect Files

DCF 202 and the caregiver law requires the certifying agencies to check child abuse and neglect files on applicants, non-client residents 10 years and older, employees, etc. prior to certification and at re-certification. Contact your county Child Protective Services (CPS) for records on child abuse and neglect. The information in CPS files is of confidential nature. Counties or tribes that contract certification to non-county agency must develop a procedure on how this information can be shared with the certifying agency. See Caregiver Manual, Chapter 8, at <http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf> for further information. The CPS files must be checked every two years per DCF 202.

3.3.2.2. Caregiver Background Check

The applicant and their employees, contractors and non-client residents 10 years of age or older must complete a [Background Information Disclosure](#) (BID) Form (HFS-64). This form identifies criminal convictions and pending criminal charges which may affect the care of children or activities in the home. For persons under 18, either the parent or the minor may sign the form. The BID form must be submitted every 2 years.

The certifying agency is responsible for conducting a background investigation of the applicant, any employee or prospective employee of the provider, contractor and all non-client residents 18 years of age or older. If the BID form indicates concerns with a minor between the ages 10 and 18, or if the minor works in the certified home as an assistant or helper, the agency must conduct the check on the minor. If none of the above applies to a minor, only CPS check is required until the minor turns 18.

The background check is completed through the Department of Justice (DOJ) and the Department of Health Services (DHS). See Caregiver Manual, chapter 5. <http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>

If the BID indicates an applicant, resident, etc has had a [rehabilitation review](#), the agency must request, from the applicant, a copy of the rehabilitation decision. The agency shall verify this information with the DHS Office of Legal Counsel. Contact information for OLC is:

Office of Legal Counsel
1 West Wilson St., Rm 651
Madison, WI 53707-7850
Telephone: 608-266-8428

The agency shall determine if an approval is acceptable as applicable for certification. If there was not an approval of rehabilitation, the agency shall determine whether the applicant is eligible for and may seek another rehabilitation review and inform the applicant. For further information on the rehabilitation reviews, please review chapter 12 of the Caregiver Manual at <http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>.

Per the caregiver law, the DOJ/DHS checks must be conducted every 4 years at a minimum. The agency may conduct the checks more often than what is required by the

law. The certifying agency may charge a fee for obtaining the background check information. The fee may not exceed the reasonable cost of obtaining the information.

The cost for the background checks are as follows:

Internet Requests:

- Non-profit organization \$ 2
- Governmental agency \$ 5
- Any other requester \$ 13

In addition to the above fees, there is a \$3 charge for the DHS data base query.

The certifying agency must maintain, on file, the most recent Background Information Disclosure form and information gathered from the background check. Information gathered from the background check on juvenile records shall be kept confidential in compliance with federal and state confidentiality laws.

Penalties

A provider who fails to give the certifying agency the names of all the persons that require a background check completed or who knowingly and intentionally provides false information or who omits information on the BID may be subject to denial, revocation or suspension of certification.

3.3.2.2.1. Background Check Process

The Caregiver background check can be completed online. If your agency has not applied for the online account, please contact the DOJ Crime Information Bureau (CIB) at <http://wi-recordcheck.org/> for further information on opening an account.

When applying for the online access, your agency must supply DOJ with a county/tribal ID. That ID is the DCF county/tribal number. Example: Adams County is C1, Ashland is C2, etc. The tribes will have a T and the agency number. Example: Red Cliff is T85. The agency numbers are listed below the county/tribal name in the certifier report: <http://dcf.wisconsin.gov/childcare/certification/pdf/certifiers.pdf>.

Once the access is set up, the agency is able to receive the criminal history on the same day as requested. If the individual has older records, those will be mailed to the agency in a few days. The DOJ records check automatically triggers a check in DHS and the Integrated Background Information System (IBIS) results are displayed. Note: The agency must print both the CIB and IBIS letter for the provider file.

The DOJ/DHS process is thoroughly explained in the Caregiver Manual, Chapter 6. The manual is posted at <http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>.

Out-of-State Checks

If a person who is the subject of a background history search is not a resident of this state or if at any time within the last three years preceding the date of the search has not been a resident of this state, the certifying agency shall make a good faith effort to obtain from the state(s) in which the person was a resident, within the past three years, information that is equivalent to the criminal history information that is provided by the Wisconsin DOJ.

See Chapter 9 of the Caregiver Manual for further information: <http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>. After receiving conviction information from another state, the certifying agency must make the determination if the conviction compares to any crimes on the [serious crimes list](#) or if there is substantial relatedness to the care of children or activities of the program.

FBI check

It is very hard to conduct a background record check in some states, especially in the 'closed' states. The Volunteers for Children Act (VCA) allows qualified agencies to receive criminal history information from the FBI National Database which will include information on serious crimes from any state in the USA. All law enforcement units in the USA are mandated to send information on serious misdemeanor and felony offenses to this national database. This database also includes information from "closed" states.

Agencies who are interested in qualifying for the Volunteers for Children Act (VCA) must submit an application to DOJ. The form is available at: www.doj.state.wi.us/dles/cib/forms. Click on the "VCA Account Information" link. According to the CIB, child care certifying agencies do qualify to run the VCA checks.

To run checks through this database, a print of the right index finger is needed. After the agency is approved as a "qualifying agency", the DOJ will provide the agency with fingerprint cards. The fingerprinting should be done at a local police station. The cost for the entire check is \$39.00. DOJ will send the request to the FBI and once the check is returned to DOJ, they will send the requesting agency a copy of a "rap sheet" or "no record" response. The time line for a request is usually 1-2 weeks. See Chapter 9 of the Caregiver Manual for further information:

<http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>.

Military

If a person, who is the subject of a background history search, was in a branch of the U.S. armed forces, including any reserve component within the past three years, the agency must make good faith effort to obtain the discharge status of that person. The discharge status can be in the form of discharge papers (DD214) issued to the person or from the armed forces branch in which the person served. If the discharge status is other than honorable, the agency must obtain information on the nature and circumstances of the discharge. See Chapter 9 of the Caregiver Manual for further information:

<http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>.

Other countries

If the applicant (resident, employee, etc.) has resided in another country, there is no requirement for the agency to conduct background checks in those countries.

Circuit Court check

Arrest and conviction records are public records. Agencies may wish to use local law enforcement agencies to check criminal backgrounds as a supplement to the DOJ checks.

Arrest and conviction information is also available at the Wisconsin Circuit Court Automation Program (CCAP) web site at <http://wcca.wicourts.gov/index.xsl>. This web site provides Criminal Summary Reports for most Wisconsin counties. It is an easy-to-use system that allows access with the individual's first and last name. The records include the individual's date of birth, address, charge description, associated statute, severity (felony or misdemeanor), disposition date, case status and more.

A search on CCAP that fails to find a criminal record does not mean the person does not have a record. Information obtained via the Circuit Court Automation Program shall not be used in lieu of the caregiver background checks which are required by law.

3.3.2.3. References (optional)

Effective 6/1/08, references are a county/tribal option. If your agency requires the applicant to provide references, ask the applicant to submit names, addresses and phone numbers of at least two separate persons unrelated to the applicant who can attest to the applicant's good character and ability to care for children. These help ensure s/he is appropriate to care for children. Contact references by letter or phone. Invite them to comment on the applicant's ability to care for children and the safety of the home.

3.3.2.4. Statement from Other Regulating Agencies

If an applicant holds a license and/or certificate to care for children or adults, a statement that indicates the regulating agency approves child care operations from the home is required. Samples of these types of licenses include, but are not limited to, foster care, adult care, child care license, etc. The statement must include permission for the caregiver to release information necessary for a criminal history record search for residents and clients in the applicant's home. The intent of this rule is to make sure that each regulatory agency is aware of the fact that the individual is seeking another license. Example: A foster parent is applying for child care certification. It is important that the foster care licensing agency knows that child care is being provided in the home so they can take this into consideration when placing foster care children in the home.

3.3.2.5. Landlord Notification

If the child care is provided at a rental property, the provider shall obtain permission from his/her landlord to operate a child care business.

Some landlords do not want to sign an official statement but are willing to give the permission verbally over the phone. This is allowable, however, it is important that the certifying agency make accurate and complete case comments in the applicant's file such as the date of the conversation, name and contact information of the landlord.

A new Landlord Notification form is required, if the provider is relocating to a different rental property. This permission is not required at renewal, unless the provider is relocating. This rule does not apply to providers who apply for certification to be provided in the child's home.

3.3.2.6. TB Test Results

DCF 202, certification rules, requires the applicant to demonstrate that s/he is free from tuberculosis prior to initial and re-certification. The applicant must send in proof of a TB test conducted by a health professional prior to initial certification and at renewal. If the physician does not recommend the TB-test due to pregnancy or other health condition, have the applicant/operator submit a statement from his/her doctor confirming that s/he is free from tuberculosis. The agency may accept a test that was administered up to 12 months in the past.

If the TB skin test is positive, the person must be evaluated by a physician. This evaluation must conclude that the person does not have active TB that is potentially contagious. There are cases when the applicant may have latent TB. In these cases, the physician's statement should mention note that the person does not pose a risk of infecting individuals who have contact with the applicant.

3.3.3. Application – Screening the Applicant

3.3.3.1. Determination if an applicant is “fit” for child care

DCF 202.04 (3)(e) *Approval* states that within 60 days after receiving a completed application for certification or recertification and satisfactory investigation and determination that the applicant is fit, the county or tribal agency shall either approve the application and issue a certificate or deny the application. Fit means the applicant displays the capacity to successfully nurture and care for children.

The certified provider shall be a responsible, mature individual who is fit to care for children and manage a child care program. In determining whether an applicant is fit, the agency shall consider any history of civil or criminal violations or other offenses substantially related to the care of children by the applicant, owner, manager, representative, employee, center resident or other individual directly or indirectly participating in the operation of a child care operation.

When making the determination of “fit,” the agency may consider any of the following:

1. Abuse of alcohol or drugs. If an applicant has a history of DUI (Driving Under Influence) or DWI (Driving While Intoxicated) traffic offenses, there is a potential concern of alcohol abuse. In these cases, the agency may require an AODA (Alcohol and Other Drug Abuse) assessment.
2. A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children as described in ch. HFS 12. Licensing has developed a tool that is very helpful when making this determination. The form is posted at <http://dhs.wisconsin.gov/forms/DCF/CFS2261.pdf>. Note: This form uses ‘employee’ because the form is intended to be used in child care centers, however, the method of making the substantial relationship works for certifiers when screening an individual’s background. An example of an administrative rule violation can be, but not limited to, an applicant who also is/was a licensed foster care parent where the foster parent licensing file shows history of violations.
3. Exercise of unsound judgment. Examples of these situations include, but are not limited to:
 - People who have a long history of financial problems including money judgments, evictions, etc.
 - People who have not followed the rules of their regulation standards while holding other licenses/certification or other agreements.
4. A history of civil or criminal offenses or any other actions that demonstrate an inability to manage the activities of a child care program. Examples of actions may include, but are not limited to, fraud, forgery or welfare fraud related offenses. Financial responsibility is important when managing a family child care program because the self-employment as a certified provider requires the provider to keep accurate child care subsidy, food program and attendance records. Eviction history may be another example that demonstrates a person’s inability to manage finances and may be an indication that the applicant cannot provide a stable child care environment.

If an agency wants to deny or revoke an applicant because s/he is not 'fit', the agency should use 55.04(3)(e) as the basis for the denial/revocation. However, as the rule defines "fit", the agency may also use the behavior that makes the person unfit as a basis for denial/revocation or other action under 55.06. Example: If a person has a history of alcohol/drug abuse, the could be denied as not "fit" under 55.04(3)(e) and could be denied/revoked under 55.06(b) or (c). Or, a person with a history of convictions that are substantially related could be denied under 55.04(3)(e) as not "fit" and/or could be denied/revoked under 55.06(i)

3.3.3.2. Background Check Screening

The certification caregiver manual explains the background check process in great detail. The manual is posted at <http://dcf.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>. The certifier should review the entire manual to gain understanding on the process. The background check process is briefly explained below:

After receiving the results from DOJ/CIB, DHS (IBIS letter) and local CPS unit, carefully review the documents. If the DOJ/CIB check indicates pending charges, or convictions within the last 5 years for the following crimes, the agency **must** contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to the offense. It is recommended that the agency takes a closer look at potentially substantially related offenses that are older than 5 years.

940.19 (1)	Misdemeanor battery
940.195	Battery to an unborn child
940.20	Battery, special circumstances
941.30	Reckless endangerment
942.08	Invasion of privacy
947.01	Disorderly conduct
947.013	Harassment

See http://www.legis.state.wi.us/rsb/code/hfs/hfs012_app_a.pdf for further details.

3.3.3.2.1. Barred Offenses

If the applicant or a non-client resident has one of the following offenses, certification is not allowed until the person has been approved rehabilitation. See [Chapter 10](#) for further details:

1. The 'rap sheet' from DOJ/CIB or CPS juvenile delinquency record indicates a conviction/adjudication of one of the serious offenses listed on the Offenses list below. If an employee, substitute, volunteer, etc has this conviction, the agency may not approve the person to work as a substitute, volunteer, helper, etc.
2. If CPS check indicates a substantial finding of child abuse or neglect against the applicant, resident, etc.
3. The IBIS letter indicates the following:
Denial to the person of a license, continuation of a license, certification or a contract, approval to operate an entity, or denial to the person of employment at a contract with or permission to reside at an entity for any of the following reasons:

- The person has been convicted of a serious crime or adjudicated delinquent on or after his or her 10th birthday for committing a serious crime.
- A unit of government or a state agency has made a finding that the person has abused or neglected any client or misappropriated property of any client.
- A determination has been made that the person has abused or neglected a child.
- In the case of a position for which the person must have credentials by the Department of Regulation and Licensing, the person’s credentials involve direct client care or treatment services and are not current or are limited, so as to restrict the person from providing adequate care to a client.

Below is the list of crimes/offenses that bars a person from certification.

II. Entities and Programs Serving Any Clients Under the Age of 18	
CONVICTIONS	
Regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are prohibited until rehabilitation approval is received, for all entities and programs that serve any clients who are under the age of 18.	
Wis. Stats.	Crime
940.01	First degree intentional homicide
940.02	1st degree reckless homicide
940.03	Felony murder
940.05	2nd degree intentional homicide
940.12	Assisting suicide
940.19 (2) through (6)	Battery (felony)
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault
940.285	Abuse of vulnerable adults (misdemeanor or felony)
940.29	Abuse of residents of a penal facility
940.295	Abuse or neglect of patients & residents (misdemeanor or felony)
948.02 (1) or (2)	1st or 2nd degree sexual assault of a child
948.025	Repeated acts of sexual assault of same child
948.03 (2) (a), (b), or (c)	Physical abuse of a child – intentional causation of bodily harm
948.05	Sexual exploitation of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07	Child enticement
948.08	Soliciting a child for prostitution
948.11 (2)(a) or (am)	Exposing child to harmful material or harmful descriptions or narrations (felony)
948.12	Possession of child pornography

948.13	Child sex offender working with children
948.21 (1)	Neglect of a child – resulting in death (felony)
948.30	Abduction of another’s child; constructive custody
OTHER OFFENSE	
---	Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client’s property
---	Finding by a governmental agency of child abuse or neglect

The agency must deny the application if any of the above applies. See Chapter 10 in the [Caregiver Manual](#) for further information.

When an applicant or current provider is denied or revoked, due to an offense on the Offenses list above, the certifying agencies must report these cases to the DCF BECE by using the CFS-2191 “HFS 12 Negative Action” form. A copy of this form is at: <http://dhs.wisconsin.gov/forms/dcfs/cfs2191.pdf>. DCF staff enters these denials/revocations into the denial database, so they will be included in the caregiver check in the future and will be listed on the IBIS letter if another agency conducts a caregiver check on the individual. NOTE: If an applicant is denied/revoked due to a resident living in the home who has offense listed in the above list, the provider’s information must be entered onto the HFS 12 Negative Action form.

The individual with above offenses may be approved if s/he is approved rehabilitation. The rehabilitation review process is explained in Chapter 12 in the [Caregiver Manual](#).

3.3.3.2.2. Substantially Related Offenses

After reviewing the CIB rap sheets and documents from the clerk of courts, etc, the agency must make determination if the offense(s) substantially relate to the care of children or activities of the program. Chapter 11 of the [Caregiver Manual](#) explains how to make the substantially related determination in more detail.

Criteria used to determine if the crime, act or offense substantially relates to the care of children or the activities and operation of child care program minimally includes:

1. How the crime, act or offense relates to the job of caring for children. The nature and scope of the person’s contact, discretionary authority and degree of independence in judgment relating to decisions or actions which affect the care of children. The opportunity the person has to commit similar offenses. The extent to which acceptable job performance requires the trust and confidence of children and their parent or guardian. The amount and type of supervision received, while children are being cared for.
2. What the crime, act or offense was and the elements or circumstances. Whether intent is an element of the offense. Whether the elements or circumstances of the offense are substantially related to the job duties involved with caring for children. Whether there is a pattern and the extent to which the offense relates to vulnerable persons. Whether the crime involves violence or the threat of violence or is of a sexual nature.
3. The individual’s background. The number and type of offenses for which the individual has been convicted, the length between conviction(s), the employment history, including references, if available, the participation in or completion of pertinent programs of a rehabilitative nature, the probation or parole status, the ability of the

individual to provide care consistent with the safe and efficient operation of certification rules and requirements, and the confidence of children served, including parents and guardians, and the age of the individual on the date of the conviction.

3.3.3.2.3. Pending Charges

The Caregiver Law does not cover pending charges. If a new applicant (or a resident in the home) has a pending charge of a serious crime or crime that substantially relates to childcare, the agency may deny certification by quoting DCF 202.06 certification rules. A reference to HFS 12.06 and/or 48.685 should be made how the charge relates to care of children or activities of the program. If a currently certified provider (or a resident in the home) is charged with a serious crime or a crime that substantially relates to the care of children, the agency may suspend the provider, until the outcome of the charge has been established.

Child care licensing has developed a form for licensed centers to be used when determining the substantial relatedness. The wording on this form is geared towards employees, however, the form can be used as a tool by certifying agencies. The form is found at <http://dhs.wisconsin.gov/forms/DCFS/CFS2261.pdf>.

3.3.3.2.3. Other Offenses

If the caregiver check documents indicate no convictions of serious or substantially related offenses, but there are other concerning behaviors included in the documents, the agency may deny quoting DCF 202.06. Examples of cases include, but are not limited to, CPS record indicates dysfunctional behavior by the individual such as, lack of supervision, mental health/AODA concerns, etc. DCF 202.06 sanctions are explained in the Commentary Manual at <http://dcf.wisconsin.gov/childcare/certification/pdf/commentarymanual.pdf>.

3.3.4. Conditions/Limitations/Restrictions

When denial of certification would be inappropriate for lesser crimes, acts, or offenses, the certifying agency can attach restrictions to a provider's certification. Such precautionary measures may include, but are not limited to:

- Conditions that must be met for certification to be maintained. These conditions can cover prohibitions on specific activities, no repeat of crimes, offenses, or acts, submission of necessary and relevant statements from therapists or counselors as to the applicant's being fit and qualified for the function or job at hand, or set limits on contact or supervised contact with children in care.
- Closer or special supervision arrangements, such as partnering with a person who has no background history problems (works with group settings).
- Medication monitoring.
- Prior evaluation and recommendations from appropriate professionals (psychiatrists, psychologists, etc.).
- Restrictions to certain on-premises activities, locations, or time periods. Example: A husband has a history of concerning behavior. The certifier may create a condition that prohibits the husband from being on site during hours of child care.
- Not transporting children in care.

- Periodic alcohol and/or drug testing.

It is important that any special conditions or restrictions are in writing. If a stipulation is used, the stipulation should be signed by the involved parties, as well as the certifier. The conditions may be printed on the certificate of approval, however, the agency should not disclose any information that might be protected by the confidentiality laws such as the juvenile records, CPS records, Alcohol or Drug or mental health related information.

3.4. Site Visits

DCF 202 requires a site visit to be conducted prior to granting regulatory approval to a new applicant and at renewal (every 2 years). The rule also requires a visit within 30 days after a provider has moved to a new address.

Usually, the certifiers do not conduct site visits to new providers until all above materials are collected and no concerns are found during the background investigation. The home, where the care will be provided, must be inspected and found to comply with every standard in DCF 202 prior to granting the certificate. The [standards and checklist](#) must be included in the application packet sent to the applicant so s/he can become familiar with the standards prior to the site visit.

Once the applicant (and other individuals associated with the home/operation) has been screened, the certifier schedules an appointment for a site visit. The first appointment usually takes several hours because the certifier must make sure that the applicant is aware of the expectations and understands the intent of the rules. The [Commentary Manual](#) explains the standards in detail.

3.4.1. Provider Bill of Rights Pertaining to Site Visits

Summer 2008, the state and the Wisconsin Child Care Providers Together union signed an agreement. The text in italics below includes the language in the agreement that pertains to certification site visits. The provider has:

- *The right to have due consideration given to the non-interruption of normal child care operations whenever an unannounced visit occurs. Nothing in this provision shall require the certifier to leave the family child care home once the certifier has arrived for the unannounced visit.*
- *The right to be advised as to the type of visit by the certifier.* Note: almost all visits are monitoring visits; however, CCPC has several visit types, such as ‘technical assistance, drop in, complaint, etc’.
- *The right to require the certifier to provide photo identification prior to all visits, as well as to leave a business card that includes his/her contact information.*
- *The right to be informed of the name and contact information of the certifier’s supervisor and to discuss the certifier’s performance and findings.*
- *The right to have a witness of the provider’s choosing present to observe and document any visit, provided the visit starts when the certifier arrives.* Note: The witness can be there only to document and observe the visit. S/he may not interfere with the visit. Also, if confidential issues are discussed between the provider and the certifier (usually pertaining to a child in care, etc), the certifier may ask the witness to step away so the confidential issues can be discussed.
- *The right to have an exit interview, at the conclusion of a certifier’s monitoring visit, which communicates in writing any violations noted, and to be informed of any changes to this report in advance of a final written report being sent.* When documenting violations, most agencies issue a non-compliance statement on the spot. This form is considered an exit interview. If the agency chooses to type up the non-compliance statement in the office and mail it to the provider after the visit, the agency must leave some type of document in writing

of the categories of rules violated. A form is being developed for this purpose and will be available in the DOA forms warehouse by end of 2008.

- *The right to receive a written report of certifier's findings listing each observed violation and the specific rule violated, within ten (10) business days of the visit.* This means that if the agency chooses to mail the non-compliance statement, the agency must do so within 10 days.

3.4.2. Communication of Non-Compliance

The certifier must identify to the provider, in writing, the items that are out of compliance and cite the rule from the standards and checklist. The certifier should work with the provider to establish a reasonable date the provider must come into compliance. The certifier must use the [Non-Compliance Statement and Correction Plan](#) (DES-11548) to facilitate this process. On the Correction Plan, the provider must write a plan how s/he will correct the violation and prevent the violation from occurring again.

3.5. Application Approval.

Within 60 days after receiving a completed application for certification or recertification and satisfactory investigation and determination that the applicant is fit, the county or tribal agency shall either approve the application and issue a certificate or deny the application.

Certification can only be issued after the child care provider has demonstrated compliance with all certification standards, including the caregiver law. The 60-day-period starts once all application materials above have been received by the agency. Both regular and provisional certification shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards.

3.5.1. Certificate of Approval

When the certifying agency receives an application from a provider, the agency must enter the application into the [Child Care Provider Certification \(CCPC\)](#) system. Once the application is complete, the certifier will approve it and is able to grant a certification category (provisional, regular, in-home provisional or in-home regular). The system will generate the Certificate of Approval and automatically inserts the following information:

1. Certification category, identifying if it is provisional or regular (in-home vs. family)
2. Provider's name and address where the physical care is provided.
3. Any restrictions on care. Restrictions may limit:
 - Ages of children in care.
 - Numbers of children to be cared for.
 - Hours during which care is provided.
4. Conditions. Certifying agency may impose conditions on the certification. These usually include safety-related issues.
5. Exceptions.

Certification acknowledges the provider and the home meet established standards. If a provider moves to a different home, the provider's qualifications are transferable, but the home must be reassessed at the new location.

If the circumstances of a certificate change, the certificate must be re-issued, indicating the correct information and the effective begin date that reflects the change in circumstance. A change in circumstance could include any of the following:

- certification type change (provisional to regular)
- restrictions added or eliminated from the certification
- provider name change

If the provider moves to a new location, a new application is necessary.

3.5.2. Backdating Certification

Once eligibility for certification has been made, payment for services provided can be backdated to the date of application (up to 90 days). This can be done, if care was provided for a family that was determined eligible for child care subsidy and chose an unregulated provider who was willing to become certified and the certification determination was completed within 60 days of the date the application materials were submitted. If the provider has cooperated with providing all information and the certification agency is not able to complete the certification within 60 days, an extension can be made to allow time to complete the process. This allows certification to be backdated to the date of application (maximum of 90 days in the past).

3.6. Sanctions

The new certification rules include revised and new language around sanctions.

3.6.1. Denials

The definition of denial is the refusal to grant regulatory approval to an applicant. DCF 202 requires that within 60 days after receiving a completed application for certification or recertification and satisfactory investigation and determination that the applicant is fit, the county or tribal agency shall either approve the application and issue a certificate or deny the application.

If the applicant (or non-client resident subject to the background check) does not pass the background check or if the home does not meet the standards listed in DCF 202, a denial is necessary. When denying/revoking a provider's certification, the applicant must be informed about the decision in writing. Also, the provider has the right to know the steps for an appeal. The applicant may also withdraw her/his application in lieu of denial.

Below are scenarios for denials:

1. Non-Compliance issues:
The provider/home does not meet the standards listed in DCF 202. Use appropriate rule(s) under DWDD 55.06 as the reason for denial.
2. Barred Offenses:
The agency must deny an applicant if the applicant (or non-client resident) has an offense that bars the person from being a caregiver or a resident of a certified home. See the Caregiver Manual, [Chapter 10](#) for further details. In the barred cases, the basis for the denial is s.48.685(4m), Wis. Stats. These denials must be reposted to DCF by using the HFS [12 Negative Action Notice](#). Also, see [3.3.3.2. Background Check Process](#) above.
3. Substantially related offenses:
The agency may deny an applicant if the applicant (or non-client resident) has been convicted of a crime that substantially relates to the care of children. Use s.48.685(5m), Wis. Stats as the basis for denial and list the substantially related criteria indicated in HFS 12. See the Caregiver Manual, [Chapter 11](#) for further details. Also, see [3.3.3.2. Background Check Screening](#) above.

3.6.2. Suspension

Suspension” means a temporary interruption in the regulatory approval during which the certified child care operator may not be paid by the child care subsidy program.

Suspension is often used when a provider (or a resident in the home) has a charge of a serious crime or is under the investigation of child abuse/neglect. Suspension is also justified when the circumstances in the home/facility are so serious that the agency determines that there is immediate threat to health, safety and wellbeing of children in care. If the certifying agency decides to suspend the certification, the agency must notify the provider in writing and give reasons for the enforcement (DCF 202.06 is usually listed as the reason). Suspension is a temporary regulatory status and is limited to 60 days. Within that time frame, the agency must make the decision to either revoke or re-instate the certification. While the provider is suspended, no subsidy payments can be made to the provider.

3.6.4 Other Actions

If the provider violates any of the certification rules or the caregiver law, the certifying agency must issue a non-compliance statement listing the rule violation and require the provider to submit a plan of correction for the specific violation in writing. On the form, the agency must give the provider a time frame the violation has to be corrected by.

In the correction plan, the provider must indicate how s/he will prevent the violation from occurring again. The certifying agency will review the plan and may accept it or refuse the plan. If the provider does not return the correction plan by the date given by the agency or if the correction plan does not assure the agency that the violation won't occur again, the agency has the authority to revoke or issue sanctions as described below. The Non-Compliance form can be found at: [Non-Compliance Statement and Correction Plan](#) (DES-11548).

Note: The certifying agency must enter the violations into the Child Care Provider Certification (CCPC) database.

If the provider fails to correct the violation or has repeated violations, the agency may do the following:

1. Forbid the operator to enroll any new children until all violations have been corrected.
2. Issue a warning of revocation in writing. In the letter, the agency should indicate a time-frame in which the certificate will be revoked if no corrective action is taken by the operator.
3. Suspend the provider's certification for not more than 60 days. The agency shall either reinstate or revoke the certification by the date that the suspension expires. See Suspensions above for further detail.

3.6.3. Revocations

Revocation means that the provider's certificate to operate a certified child care program is terminated.

The reasons for revocations are the same as the reasons listed under 'Denials' above.

3.7. Appeals

Certification appeals follow Chapter 68 found at <http://www.legis.state.wi.us/statutes/Stat0068.pdf>
The agency should establish a process for appeals in consultation with its Corporation Counsel.

3.7.1. Appeal Process Chart

Below is a chart that illustrates reasons for denials/revocations and which rule and the appeal method the certifying agency should use.

Rule text	Reason for sanction		Appeal process	
	Caregiver Law	DCF 202	Rehab. Review	Chapter 68
Offense listed on the serious crime list (bar with rehab)	48.685(4m)(a) 1.	N/A	X	N/A
A unit of government or a state agency has made a finding that the person has abused or neglected any client or misappropriated property of any client.	48.685(4m)(a) 3.	N/A	X	N/A
A determination has been made that the person has abused or neglected a child.	48.685(4m)(a) 4.	N/A	X	N/A
In the case of a position for which the person must have credentials by the Department of Regulation and Licensing, the person's credentials involve direct client care or treatment services and are not current or are limited, so as to restrict the person from providing adequate care to a client.	48.685(4m)(a) 5.	N/A	X	N/A
Offense that substantially relate to child care	48.685(5m)		N/A	X
Hires, employs, or contracts with a caregiver, or permits to reside at an entity a non-client resident, where the entity knows or should have known the caregiver or non-client resident is barred under s. 48.685 (4m) (b)	HFS 12.05(3)(a)	DCF 202.06(1) (a)	N/A	X
Violates any provision of initial background information gathering or periodic background information gathering required by s. 48.685	HFS 12.05(3)(b)	DCF 202.06(1) (a)	N/A	X
After submitting a BID form to an agency, subsequently fails to report any information about a conviction for a crime or other act or offense requested on the BID form, about a substantiated finding of abuse or neglect or a client or of misappropriation of a client's property	HFS 12.05(3)(c)	DCF 202.06(1) (a) and (i)	N/A	X
Failure to report a new resident	HFS 12.07(2)(a)	DCF 202.06(1) (a)	N/A	X
The person has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.	HFS 12.07(2)(b)	DCF 202.06(1) (a)	N/A	X
Non-compliance with certification rules	N/A	DCF 202.06(1)(a)	N/A	X
References and community information does not support provider's declaration that s/he can provide acceptable level of child care.	N/A	DCF 202.06(1) (b)	N/A	X
Danger to the health, safety or well-being of the children in care.	N/A	DCF 202.06(1)	N/A	X

		(c)		
Provider submits false attendance records to the child care subsidy administrative agency.	N/A	DCF 202.06(1) (d)	N/A	X
The provider fails to cooperate with the certifying agency.	N/A	DCF 202.06(1) (e)	N/A	X
The applicant's license or certificate to care for children or adults has been denied or revoked.	N/A	DCF 202.06(1) (f)	N/A	X
The provider misrepresents or withholds information.	N/A	DCF 202.06(1) (g)	N/A	X
The provider or an employee or volunteer denies the day care certification worker access to the premises to monitor compliance with the certification standards.	N/A	DCF 202.06(1) (h)	N/A	X
The provider, an employee, a volunteer, or any other person having regular contact with the children in care is or has been any of the following: 1. The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the program. 2. Convicted of a felony, misdemeanor, or other offense that substantially relates to the care of children or activities of the program.	N/A	DCF 202.06(1) (i)	N/A	X
The evaluation under s. DCF 202.04 (7) (b) 3. e. gives the county or tribal agency reasonable concern that the person's physical or mental health may endanger children in care.	N/A	DCF 202.06(1) (j)	N/A	X

NOTE: When the agency is using DCF 202.06(1)(a) Non-compliance as the reason for a sanction, the letter must indicate the rules violated. For caregiver related sanctions, use DCF 202.04(3)(c) (Criminal background. The applicant shall comply with the background information requirements of s. 48.685, Stats.).

3.7.2. Appeal Rights

The provider may appeal any negative action taken by the certifying agency. This includes denials, suspensions, revocations and refusals to renew, as well as conditions and restrictions. There is no appeal process for issuance of non-compliances. If a provider wants to dispute a non-compliance statement, s/he should contact the certifier's supervisor in his/her county/tribe.

3.7.3. Appeal process

The provider has 30 days to make written request for a review of the negative action taken by the certifier. The request for review shall state the ground or grounds upon which the person aggrieved contends that the decision should be modified or reversed. It is the county/tribe's responsibility to review the decision of the certifier within 15 days of the receipt of the provider's written appeal.

3.7.3.1. Initial Appeal

The county/tribe may affirm, reverse or modify the initial determination. The decision must advise the provider of their right to appeal the decision. Many agencies choose to skip the Initial Appeal and go directly to Administrative Appeal explained below.

3.7.3.2. Administrative Appeal

The provider has 30 days to make a written request to appeal. As described in Ch. 68, Stats, when the written request to appeal has been received, the county/tribe must provide a hearing within 15 days. Note: These dates are guidelines. Both parties should make reasonable effort to meet the time frames, however, since the rule does not impose penalties if the timelines are missed for various reasons, this does not reverse the decision. If one of the parties will not be able to meet the time frame, the parties should communicate and agree on a date that is agreeable for both parties.

The provider should receive written notice of the hearing ten days prior to the hearing. An attorney may represent the provider and the county/tribe. Subpoenas may be issued. The county/tribe must provide an impartial decision-maker to decide on the appeal. The decision-maker, acting as a hearing officer, may be an officer, committee, board commission, or governing body who did not participate in the initial decision or the review of that decision.

A record of the hearing must be made and all exhibits must be marked and preserved. Expenses to record the hearing and mark and preserve exhibits are to be paid by the county/tribe.

The determination from this hearing is the final determination. The determination states the reason of the finding and must be mailed or delivered to the provider within 20 days of the hearing.

3.7.3.3. Judicial Review

As described in Ch. 68 Stats., the provider may request a judicial review within 30 days of the receipt of the final determination. The court may affirm or reverse the final determination or remand to the decision-maker for further proceedings.

This is the language in Chapter 68 about the Judicial Review:

“68.13 Judicial review. (1) Any party to a proceeding resulting in a final determination may seek review thereof by certiorari within 30 days of receipt of the final determination. The court may affirm or reverse the final determination, or remand to the decision maker for further proceedings consistent with the court’s decision.”

Note: The procedure for commencing an action by certiorari is found in s. 801.02(5) of the Wisconsin Statutes. If the applicant/provider has any further questions about the procedure, the applicant/provider should consult with an attorney

“(2) If review is sought of a final determination, the record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at the requester’s expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the municipality and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.”

A record of the proceeding must be kept at the expense of the provider. If the provider is determined “not able to pay” by the court, the cost will be paid by the county/tribe.

3.7.4. Payment During the Appeal Process

Providers are considered regulated, until the appeals period is exhausted. Authorizations and payments may continue during the appeals process.

3.7.5. Agency Decision Reversed

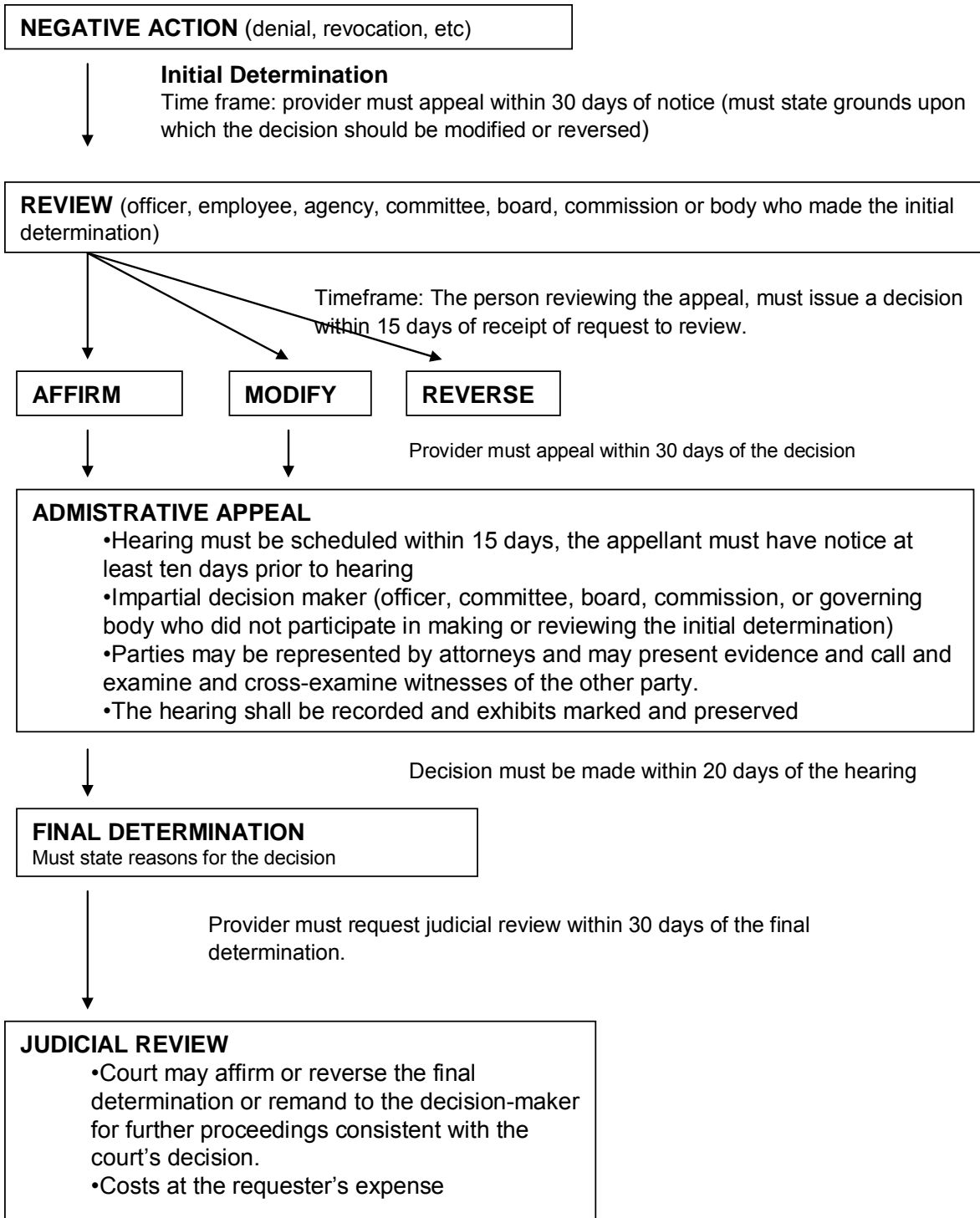
If a denial, revocation, suspension, or refusal to renew a certification is reversed, during the appeal process, the certificate must be issued with an effective begin date back to the date of the negative action. If authorizations and or payment to the provider were stopped and the provider was caring for a family that was eligible for the child care subsidy, the child care agency must authorize and make payment to the provider back to the effective begin date on the new certificate. This information needs to be communicated to the child care agency that enters authorizations onto the Child Care Subsidy System in a timely manner.

If the provider wants to reapply after being denied, revoked or refused to renew, the provider must submit a new application. The certifying agency may refuse to accept a new application for certification until two years after the date of denial, revocation or refusal to renew has passed.

A provider whose certification has been revoked twice for noncompliance with the certification standards in s. DCF 202.08 or 55.09 shall be permanently barred from certification.

3.7.6. Appeal Flow Chart

Certification Appeal Process – Chapter 68



4. Certification Standards – Family Care

The [Commentary Manual](#) explains the standards in great detail. Below is additional information on the most commonly asked topics:

4.1. Group Rules

A certified provider may care for 3 children under the age of 7 years who are not related to the provider at any given time. See the Definition for related in the above cited Commentary Manual. The maximum group size can be 6. This means that in addition to 3 unrelated children, the provider can have 1) up to 3 related children under the age of 7 years, or 2) up to 3 unrelated school age children (over age 7), or 3) up to 3 children who reside with the provider, or any combination of 1, 2 and 3 as long as the group size does not exceed 6. Residential children over age 7 years are not included.

During summer months, there are many teens attending certified care. If the teen works as a helper, s/he will not be counted in the group size of 6. In these cases, the certifier should get a statement from the parent indicating that the teen is helping the provider, whether paid or unpaid. Also, the provider must give the certifier a job description for the helper so the certifying agency can assess whether the teen is a helper or a client. If a teen is determined to be a helper, s/he can never be left in charge of the children in care. If it appears that the teen is in care and not a helper, then the teen is counted in the group size and there should be a file for him/her just like the younger children who are enrolled in the program.

The certification [Group Size Estimator](#) was developed to help providers to comply with the group rules. The Estimator is a simulation tool and does not save the entered information into a database.

The table below explains the maximum group size rules graphically:

MAXIMUM NUMBER OF CHILDREN IN CERTIFIED CHILD CARE			
Related or Provider's Own Children Under 7 Years of Age	Non-related Children Under 7 years of age	Additional Children Ages 7 and older	Maximum Number of Children*
0	3	Additional children ages 7 and older may be cared for as long as the maximum total number of children is not exceeded.	6
1	3		6
2	3		6
3	3		6
4	2		6
5	1		6
6	0		6

WHEN CHILDREN UNDER THE AGE OF 2 YEARS ARE PRESENT	
Number of Children Under 2 Years of Age	Maximum Number of Children*
0	6
1	6
2	6
3	5
4	4

*The maximum number does not include the provider's certified child care operator's natural, adopted, step or foster children 7 years of age and older or any children 7 and older who live in the residence.

The state law, s. 48.65 (1), Stats., states: If a provider takes care of 4 or more children under the age of 7 who are not related to the provider, for compensation, the provider must obtain from the Department of Children and Families, Bureau of Early Care and Regulation a license to operate a child care center. This means that if a certification applicant is caring for 4 or more children under the age of 7 years, that are unrelated to the provider, the agency does not have the authority to approve the applicant because s/he is violating the licensing law. These applicants should be reported to the licensing regional office for follow up.

The definition for 'provider' in the statutes refers to 'entity', not an individual provider. This means, if two individuals care for children in one setting, the law does not allow the number of children to be doubled.

Group rules above do not apply to in-home care (care provided in the child's home). The provider may care for more than 3 unrelated children while certified in the child's home, however, the provider may not bring other children to that care setting.

4.2. One Provider Per Location

DCF 202.04 (7) (b) 2.g. 'Required procedures' states the following: A county or tribal agency shall limit certification to one child care operator for each family residence. This means that only one person can apply for certification in one address. The provider may hire a helper, substitute or an employee to assist her with the child care operation (After receiving an approval from the certifying agency. See [Substitute](#) chapter below), however, having an assistant does not allow the provider to enroll more children than specified in DCF 202.08(6). If the agency has approved two providers in one residence prior to 6/1/08, the agency must inactivate the 2nd certificate at the next renewal.

Only one operator will be included on the Certificate of Approval.

Note: An individual may be approved to operate child care in two different addresses. An example is when the provider is providing care in her own home during the week, but is also providing care at a child's home during weekends. In these situations, the agency must specify on the certificate the operation days and hours for each location. The days and hours cannot overlap.

4.3. 16-Hour Rule

No individual provider may take care of children for more than 16 hours in any 24-hour period. The 16-hour period includes any combination of care by a provider who is both licensed as a family day care provider and certified as a family day care provider.

The maximum length of care provided cannot exceed 16 hours in a 24-hour period. Certifying agencies may grant exemptions to this rule on a case by case basis, if the certifying agency determines that an alternative means meets the intent of the requirement.

The rationale for the 16-hour rule is to assure that the responsible certified provider is alert and attentive, that children are not in care for excessive hours, and to allow for hours in the certified home during which the provider can relax and sleep.

A provider who requests to be approved for 24-hour care must meet the following guidelines in order to be considered for an exemption:

- The request must be in writing
- There must be a second provider (substitute) approved by the certifying agency, who will be in charge for the hours beyond 16. The substitute does not have to be certified but must meet similar

qualifications as the primary provider (initial training after 240 work hours met. See [Substitute](#) chapter below), continuing education, SIDS/SBS training, clear caregiver background check).

- The operator must submit work schedules indicating when the primary provider and the substitute are in charge. The schedule must include days and times.
- The operator must submit schedules for enrolled children, including name, date of birth, days and hours of care.
- The operator must document that the substitute understands the certification rules and agrees to follow them.

The certification group size estimator can be used to simulate if a provider is complying with the 16-hour rule. See <https://www.dwd.state.wi.us/dwscpc/groupSizeEstimator/>.

The operator will be responsible for any violations or liability issues in the certified home, even if the violations occur during hours when the substitute provider is in charge. Only the operator will be entered into the child care subsidy system and all authorizations will be made to this provider.

4.4. Substitutes

“Substitute” is defined as “A provider who replaces the certified child care operator or staff in a school age program on a **pre-arranged or planned** basis.” The new rule requires the provider to notify the certifying agency before a substitute starts working with children. The provider must submit a BID form and proof of SIDS/SBS training completed by the substitute as well as TB test results. The provider must also document that the substitute is knowledgeable of the certification standards by having the substitute complete and sign the Standards and Checklist. Once the materials have been reviewed by the certifying agency, the agency will either approve or disapprove the substitute. If the agency refuses to approve the substitute, the decision is not appealable under Chapter 69. The agency may have an ‘informal’ review of the case, usually conducted by the certifier’s supervisor.

If the substitute is approved and will be working in a regularly certified home, the primary provider must keep track of the hours that the substitute is in charge. The substitute must complete the entry level training before 240 work hours (about 24-30 days). The 240 hours is cumulative, not each year. Documentation of the hours worked must be kept on file at site and available for the certifying agency to review if requested.

If the agency has continuing education requirement, the substitute must also comply with that requirement.

The primary provider will be responsible for any violations or liability issues in the certified home, even if the violations occur during hours when the substitute provider is in charge.

4.5. Emergency Back-Up

Prior to applying for certification, the applicant must have a designated adult who can provide care in the event of an unexpected emergency. It is recommended that the provider has more than one person available if possible. When the person agrees to serve as an emergency back-up, the provider should orient the emergency back up provider(s) of the following:

- Names of all children in care.
- Arrival and departure information for each child in care including the names of people authorized to pick up the child (this should be included on the enrollment sheet).
- Location of children’s files.
- Encourage the emergency providers to take training on SBS and SIDS.

NY state has an online training that covers both SBS and SIDS

<http://www.ocfs.state.ny.us/main/prevention/tips.asp>.

The intent of this rule is to prepare the provider for an unexpected emergency and to assure that the children are supervised by an adult. If the designated back-up providers are not available during the emergency, the provider should call another person such as neighbor or other individual who can quickly come to the provider's home to take over the child care operation.

Note: Emergency back-up providers should not be used on a planned basis, but instead only if an emergency arises. See the Definition for an Emergency in the rule.

<http://www.legis.state.wi.us/rsb/code/dwd/dwd055.pdf>.

4.6. Provider Training

4.6.1. Entry Level Training

The provider cannot be granted regular certified status without documentation of completion of department approved training.

Department approved courses that meet the above requirement are:

1. Introduction to Child Care Profession, Module A **and** Fundamentals of Family Child Care.
2. Child care certification course offered by any of the technical colleges or Child Care Resource and Referral agencies that follow the competency based curriculum that was rolled out in 2003. This can also be offered online or in correspondence format.
3. A broad-based university or technical college credit course (2 or more credits) on an area that applies to early childhood/child development. Examples of courses that meet this requirement include, but are not limited to, Child Development, Child Psychology, etc.
4. College degree in early childhood. If the applicant has a degree in another area, the applicant should submit a transcript to the agency if s/he has completed any credit based training as indicated above.

Agencies that have been approved to offer the non-credit entry level trainings are listed at:

<http://dcf.wisconsin.gov/childcare/licensed/pdf/AgencyList.pdf>

NOTE: If the applicant has completed the 15 or 40 hour course prior to 2003 (Early Childhood 1, the certification or licensing course), the provider is grandfathered to have met the certification training requirement. In these cases, the provider has to document that s/he has taken the SBS and SBS training.

4.6.2. Sudden Infant Death Syndrome (SIDS)

All providers, substitutes, volunteers, employees and helpers must complete training on SIDS prevention before they can provide care or be supervising children under age 12 months. This training has been included in the entry level trainings offered by the technical colleges and Child Care Resource and Referral (CCRR) agencies since September 2001.

There is not a statewide curriculum for this training. It is up to the certifying agency's discretion whether to required certified providers to take an in-person training on SIDS or some other form of training such as online, correspondence, etc. Also, the certifier may train the provider during a technical assistance home visit.

Below is a listing of SIDS resource materials:

- American Academy of Pediatrics has a very thorough **Reducing the Risk of SIDS in Child Care** PowerPoint on the Healthy Child Care America website at: http://www.healthychildcare.org/section_SIDS.cfm#train
- WCCIC has SIDS materials posted at: <http://www.dpi.state.wi.us/rll/ccic/ccicpack.html#sids> or by calling (800) 441-4563.
- New York has posted a video that covers the SIDS and SBS prevention. The video can be found at: <http://www.ocfs.state.ny.us/main/prevention/tips.asp>
- SIDS informational brochure in several languages are available at: <http://www.ocfs.state.ny.us/main/publications/Pub5006text.asp>.

4.6.3. Shaken Baby Syndrome (SBS) Prevention Training

The provider, substitute, employee, helper, volunteer, etc must complete the department approved training on SBS prevention. The department approved training curriculum was added to all entry level trainings offered by the technical colleges and the CCRR agencies beginning 7/1/08. Individuals who have completed this training already meet the requirement of the law. Individuals, who have not taken child care related training or completed it prior to 7/1/05, must complete it as follows:

4.6.3.1. Video Training on SBS

The certifying agency may allow the operator (substitute, employee, etc) to watch a video on SBS prevention and then complete in-person training **within 6 months**. The approved videos are:

1. **Portrait of Promise** Available from Midwest Children's Resource Center at 651-220-6703. Ask for Jane Swenson. Portrait of Promise can also be ordered from the St. Paul Children's Hospital, 651-220-6750. Available in English, Spanish, Hmong, Somali.
2. **Never Shake a Baby – What Parents and Caregivers Need to Know** The video is available online at: <http://www.ottawakiwanis.org/video/nevershakeababy.mov>. This file is very large. It will take several minutes to download even with the fastest connection. The video Never Shake a Baby is available from the Ottawa Kiwanis for \$10.95 + shipping, with discounts for 25 copies or more: <http://www.nevershakeababy.org>.
3. **New York Loves Safe Babies** <http://www.ocfs.state.ny.us/main/prevention/tips.asp>. This video also includes information on SIDS. The video can be ordered from New York State or watched as a web cast (fast internet connection needed). Available in English and Spanish.

After watching the video, the individual must write a statement stating the name of the video that s/he watched and the date of completion.

If the provider, etc fails to take the in-person SBS training within 6 months, the certifying agency must enter an age-restriction preventing the provider, substitute, etc from taking care of children under age 5 years.

The certifying agencies may refuse to allow providers (substitutes, etc) to complete the video training explained above and require them to complete an in-person training prior to granting regulatory approval.

4.6.3.2. In-Person Training

The providers, employees, helpers, assistants and substitutes must complete training on SBS **before** s/he cares for children and/or is left in charge of children under the age of 5 years of age. This also applies to volunteers if s/he is left solely in charge of children in care. The in-person training must be conducted by one of the approved trainers listed at http://www.dpi.state.wi.us/ccic/sbs_trainers.html. If the certifier has questions about the training, s/he is encouraged to contact the trainer listed on provider's certificate. When the state trained the SBS trainers, they were all told to issue a certificate that has the trainer's name clearly printed and readable. The trainers are also asked to keep lists of individuals that they have trained on SBS.

High schools offer two types of SBS trainings; SBS information included in the general health class and SBS information included in early childhood course work. The SBS training included in the early childhood course meets the requirement of the law for child care providers. The information included in the health class does not.

Note: New applicant: The certificate of approval cannot be backdated any further than to the date the SBS training (or pre-training) was completed even if the applicant submitted a completed application prior to that date. This means that if a provider cared for children under age 5 who are receiving subsidy, the subsidy program will not pay for the care provided prior to completion of the SBS training

4.6.4. Annual Continuing Education

It is at the certifying agency's discretion whether to require annual continuing education to be completed by the regularly certified providers or not. NOTE: The rule does not allow the agencies to require this training on provisional providers.

Suggested continuing education trainings are:

- Formal classes, lectures or workshops on child development, guidance, programming, activities, etc offered by a technical college, public school, Child Care Resource and Referral (CCRR) agency, etc.
- Child CPR and other safety training.
- Attending child care conferences offered by the Wisconsin Family Child Care Association (WFCCA), Wisconsin Early Childhood Association (WECA), local Child Care Resource and Referral (CCRR) agency, Child and Adult Care Food Program, etc.
- Trainings listed in the Child Care Training Network at <http://www.t-net.org/>
- Online/correspondence courses on early childhood.
- Business aspects of child care.
- Curriculum, assessment and environment training opportunities for child care programs.
- Training offered by the Cooperative Educational Service Agency (CESA).
- Other training opportunities that improve the provider as a caregiver.

It is recommended that the provider takes a variety of trainings throughout the years. If a provider continuously takes trainings on one topic, the agency may require the provider to complete training hours in another topic to improve the provider's skills as a caregiver. Example: Year after year, the provider takes nutrition trainings. In this case, the agency may require the provider to complete 5 hours in another topic, such as child guidance, etc. The provider must submit proof of the completed training to the certifying agency.

4.6.5. High School Diploma or GED

The new rule gives the agencies the authority to require a provider to document high school competency prior to approving certification. This applies to regularly certified providers only. The agency has the authority to require the provider submit proof of a high-school diploma or GED prior to granting regulatory approval.

4.7. Exceptions

“DCF 202.04(8) Exceptions to particular certification requirements. A county or tribal agency may grant an exception to any standard in s. DCF 202.08 or 55.09 if the county or tribal agency determines that an alternative means meets the intent of the requirement, except for rules related to criminal background investigation required under s. 48.685, Stats.”

Example on the rules that the county/tribe CANNOT grant exceptions to:

1. Caregiver Law: An applicant has a record of child neglect 25 years ago in Sunshine County. The agency does not have the authority to approve certification until the applicant has been approved by a rehabilitation review panel.
2. Licensing law: The certifying agency does not have the authority to grant exemption to the licensing law. This means, that the agency cannot allow a certified provider to care for 4 or more children under the age of 7 who are unrelated to the provider, at one time.

The agency may grant exception to the standards in this chapter if the provider can demonstrate that the exception does not jeopardize the health, safety or welfare of any child in care. The provider must request the exception in writing and the request must include justification for the requested action and a description of any alternative means to meet the intent of the rule. Before an agency may grant exception to any of the rules, the agency must make the determination regarding what is the intent of the rule the provider is asking for an exception. Usually the intent is to assure an acceptable level of safety and minimum level quality is met. Example: The intent of the group size rules is to assure adequate supervision of the children in care. Intent of supervision is safety, etc. If the agency grants exception to a rule, the agency must put it in writing and enter the exception into the certification database (CCPC).

4.8. Relative's Care

A provider who is a relative of the child in care is expected to meet the same standards as other providers. Follow all family child care standards.

A provider who provides child care for only relatives can become regularly certified if training requirements are met, but can only be reimbursed at a provisional rate. When this provider begins to care for one or more non-related children, s/he can be reimbursed at the regularly certified rate.

4.9. Technical Assistance

The certification rules require the certifying agency to help the provider comply with the certification rules.

If a provider struggles in complying with the certification standards, the certifier should give the provider contact information to various agencies in the community that can help him/her. Examples of those agencies are: the local Child Care Resource and Referral (CCRR) agency (offers trainings on various child care topics), Child and Adult Care Food Program consultants (for nutrition related concerns), technical college (offers early childhood trainings), Wisconsin Child Care Improvement Project and Wisconsin Child Care Information Center for resource materials related to early care and education programming, etc.

If the agency has staff resources available, it is recommended that the agency conduct extra visits to the provider to help him/her comply with the standards.

5. Complaints

A complaint means an alleged violation of the certification or the caregiver rules. Investigate any complaint that indicates a possible violation of the certification rules within 10 working days of receipt of the allegation. There are situations when it is impossible to complete the entire investigation within that time frame, however, it must at least be started within 10 days and the steps carefully documented. If there is a possibility of immediate danger to the safety, health or welfare of a child in care, start the investigation as soon as possible, or at the latest during the next working day.

The complaints can be reported to the agency by phone, email, postal mail, in person, etc. Regardless of how the complaint is brought to the attention of the certification agency or if the complainant wants to remain anonymous, the agency must investigate it if there is an allegation of rule violation. Note: if a provider self-reports a non-compliance, do not treat it as a complaint. If a parent (or any other individual) reports the same concern, then the concern is recorded as a complaint.

The complainant is the person who actually makes the complaint to the agency. This may be a parent or other family member, a neighbor, center staff, another member of the community or a representative of another agency, for example, a social service staff person or law enforcement personnel. The complainant may have first hand knowledge of the allegation or may not.

5.1. Screening of Complaints

Screen the complaint to determine the appropriate unit or agency to conduct the investigation.

- Refer child abuse and neglect complaints to the child protective services unit (CPS) immediately. If abuse/neglect is suspected, the certifier should not investigate the case until CPS unit has given the agency an okay to do so. This is because the certifier might interfere with the CPS investigation if the certifier conducts a site visit to the provider and accidentally releases sensitive information. In these cases, the certifier should closely work with the CPS unit and once they have completed their investigation, then the certifier should re-evaluate the provider's eligibility for certification. Sometimes, CPS workers prefer conducting the investigation together with the certifier.

There are CPS situations when a suspension might be justified, however, since the decision to suspend must be given to the provider in writing, it is advisable that the certifier works with the CPS unit to make sure the letter does not contain any information that can interfere with the CPS investigation.

- Refer criminal investigations to law enforcement. Allegations of illegal drug use should be referred to the Narcotics area.
- When investigation indicates a certified provider is violating licensing laws, issue a non-compliance statement and order the provider to reduce the number of children in care. If the provider refuses to reduce the number of children, issue a revocation notice and then refer the provider to the [regional licensing office](#).
- If the agency receives a complaint about a provider who is both certified and licensed, contact the regional licensing office to inform them about the complaint. It is encouraged that the agencies investigate these complaints together.

5.2. Recording Complaints

Enter the complaint intake information into the CCPC complaint module. Record the name, address and phone number of the complainant, unless s/he wishes to remain anonymous. The intake form can be printed off the system and put into the provider's file.

5.3. Complaint Investigations

Conduct investigations by interviewing the complainant and others involved. Usually an unannounced visit is necessary. Once the investigation has started, enter investigation steps/results into CCPC.

If the findings could be substantiated upon investigation, the complaint has been determined to be true. If upon investigation, the complaint was found to be baseless, the complaint is considered unfounded. If, upon investigation of the complaint, the complaint could not be substantiated, but it cannot be established there was not a violation, the complaint is considered unsubstantiated.

The investigation report can be printed off CCPC and sent to the provider and the complainant (if known). File copies of the complaint forms in the provider's file. The agency must send information on the results of the complaint to the provider within 20 business days of the conclusion of the complaint investigation.

If the agency receives a complaint on a provider who is both licensed and certified, it is recommended that the certifier contact the provider's licensor about the concerns. The agencies are encouraged to conduct the investigation visit together.

6. Provider Records

For all provider files, include the individual provider records which demonstrate compliance with the standards for ability, age and health. Include:

- Application for Certification.
- Background Information Disclosure form and results from the background check, as well as abuse and neglect findings.
- Certification Standards and Checklist.
- Certificate of Approval.
- Any complaint intake and investigation reports.
- Records of exceptions granted and notice of noncompliance issued.
- Summary Assessments, case action sheets or other records which document completion of requirements and agency actions.
- Verification of training completed.
- TB test results.
- Well water test results, if no public water supply is available.
- References (if applicable)
- Substitute information (if applicable)
- Notes of interactions with provider. The comments can be entered into CCPC, however, if they are of confidential nature, the agency is encouraged to enter them into the paper file.

6.1. Record Confidentiality

Provider records are considered public records. This includes complaint information (both the complaint and the investigation), criminal history record (except for juvenile records) and any other background information (with the exception of juvenile records, AODA and mental health issues and the details of abuse and neglect investigations and findings). Individuals, providers, parents, reporters, or others can request to view the provider case file.

If the agency receives a request to review a provider's file (either from the provider or the public), the agency does not have to release the file immediately but within a reasonable time frame to give the agency time to review the file for any potentially confidential information. The agency may charge a fee for making copies of the records.

7. Re-Certification

The certification rules state that the certification period cannot exceed 24 months in length and the provider must submit an application if s/he wants to continue being certified. Send a re-certification application packet to the providers 2-3 months prior to the expiration date. The mailing labels can be generated from CCPC. The following items must be submitted:

- Application for Family and In-Home Child Care Certification
Make sure that the form is completed and signed.
- Caregiver Background Check Information:
HFS-64 Background Information Disclosure (BID) form for the applicant, substitutes, employees, volunteers, and household members age 10 and older.
- Background Check fee (If applicable)
- Well water test (if no public water available)
- TB-test results
- Re-Certification fee (If applicable)
- Continuing education (County/tribal option. Applies for regularly certified providers only)

It is important that the provider is made aware that s/he must submit a complete application PRIOR TO expiration of the certification. The certification can be backdated to the date of application, however, if the recertification application was received after the expiration date, there will be a gap in the certification period and subsidy and food program payments cannot be issued for that time period.

Once the re-certification materials have been received, the agency must conduct a CPS check and a site visit to confirm that the provider continues meeting the standards. If the standards are met, the agency will issue a new 2-year certificate of approval.

8. Relocations

If a provider moves from one address to another, the provider must submit a new application listing the new address. If the residents in the home have changed, the provider must submit BID forms for them. Below is a list of forms needed to process a relocation certification request:

- [Application for Family and In-Home Child Care Certification](#)
Make sure that the form is completed and signed.
- [Standards and Checklist](#) (DWSW-49). Some agencies collect this checklist at the home visit.
- Well water test (if no public water available)
- [Landlord permission to operate child care business](#) (if the new home is a rental property)
- Re-location fee (If applicable)

A site visit must be conducted within 30 days of the address change. It is important that the provider submits a new application PRIOR TO the move in order for the certificate to the new address be backdated to the date of the move. If the provider fails to submit the application prior to the move, the subsidy payments cannot be back dated beyond the date the agency received the relocation application. The standards pertaining to the new home must be verified at the visit.

NOTE: When the agency conducts a site visit for a provider who relocates to a new address, only the section under 'home safety' is required to be completed in the standards and checklist.

9. Provider Responsibilities

The provider must:

- Comply with all certification standards at all times.
- Provide care in compliance with the certification standards.

Establish a file for children in care that includes the following:

- [Enrollment and Health History](#)
- [Child Health Report](#) (required for children who are not enrolled in school)
- [Day Care Immunization Record](#) (required for all children in care)
- [Authorization to Administer Medication](#) (if medication is administered)
- [Day Care Intake for Child Under 2 Years Old](#) (required for children under 2 years of age)
- [Parent Checklist for Certified Family Day Care Providers](#) (One for each family enrolled)
- Written contract signed by the provider and the parent. [Written Policies sample](#)

Most of the above forms are available also in Hmong, Russian and Spanish at <http://dcf.wisconsin.gov/childcare/certification/forms.htm>

10. Rehabilitation Review

Any person who has committed an offense on the [Offenses List](#), is barred from regulatory approval, employment as a caregiver, or non-client residency in a certified program until that person has received approval through the rehabilitation review (RR) process. Rehabilitation review approval allows the bar to be lifted when the person has demonstrated by “clear and convincing evidence” that s/he has been rehabilitated in accordance with the procedures established by the DHS. The rehabilitation review approval lifts the bar to regulatory approval, employment or non-client residency. The entire process is thoroughly explained in the [Caregiver Manual](#), chapter 12.

10.1. Rehabilitation Review Authority

The county is responsible for conducting the rehabilitation review process for the provider and persons employed by, contracted with and who reside with the provider who has a bar with a rehabilitation offense as indicated in the Offenses Affecting Caregiver Eligibility list and who meets the eligibility requirements. Rehabilitation reviews must be completed in accordance with the provisions of HFS 12.12.

Native American Tribes

Any tribe that chooses to conduct rehabilitation reviews shall submit to the Department of Health Services (DHS) a rehabilitation review plan that includes all of the following:

- The criteria to be used to determine if a person has been rehabilitated.
- The title of the person or body designated by the tribe to whom a request for review must be made.
- The title of the person or body designated by the tribe to determine whether a person has been rehabilitated.
- The title of the person or body designated by the tribe to whom a person may appeal an adverse decision made by the person specified under subd. 3 and whether the tribe provides any further rights to appeal.
- The manner in which the tribe will submit information relating to a rehabilitation review to the Department, so the Department may include that information in its report to the legislature.
- A copy of the form to be used to request a review and a copy of the form on which a written decision is to be made regarding whether a person has demonstrated rehabilitation.

If, within 90 days after receiving the plan, the Department does not disapprove of the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the Department disapproves of the plan, the Department shall provide notice of that disapproval to the tribe in writing, together with the reasons for the disapproval. The Department may not disapprove of a plan, unless the Department finds the plan is not rationally related to the protection of clients. If the Department does disapprove of the

plan, the tribe may, within 30 days after receiving notice of the disapproval, request the Secretary review the Department's decision.

10.2. Request for Rehabilitation

A person who has been convicted of, or who was adjudicated delinquent on/after his/her 10th birthday for committing a serious crime listed on the offenses list shall be offered by the certifying agency and may request a rehabilitation review. A person eligible for rehabilitation review and who wishes to seek rehabilitation review must make a written request to a county department on a DHS Rehabilitation Review Application Request form and show under his/her burden of proof, by clear and convincing evidence, that s/he is rehabilitated from all reasons applicable. Use the Rehabilitation Review Application Form (EXS-263). If the person wants to become eligible to be approved employment or regulatory approval for other licenses/certificates, the person must apply rehabilitation by DHS. The county/tribe does not have the authority to approve rehabilitation for any other programs but certification.

10.3. Eligibility for Rehabilitation Review

The rehabilitation review process is applicable only if:

- The person has been convicted of a serious crime identified on the offense list as a crime where rehabilitation review is required. See the [3.3.3.2.1 Barred Offenses](#).
- The person has a substantiated finding of abuse or neglect of a client or misappropriation of the property of a client as determined by a government or state agency.
- The person has a substantiated finding of abuse or neglect of a child.
- Where a credential is required by the Department of Regulation and Licensing or other similar authority and the person's credentials are not current or are limited, so as to restrict the person from providing adequate care.

When the rehabilitation process is applicable, a person may request rehabilitation review, if s/he has not requested a rehabilitation review for a similar type of regulatory approval or job function or activity or non-client resident status within the last year.

10.4. Review Procedures

Upon receipt of a complete rehabilitation application review request, the agency shall appoint a review panel of at least two persons to inquire, gather and review, as necessary, any other relevant information from agencies and persons identified in the written application.

Representatives will be selected by the county department. At least one panel member should be familiar with child care rules and regulations. Other members can be chosen based on the type of offense the applicant indicates in the application materials. Example: If an application indicates AODA issues, there should be one panel member who is familiar with those issues.

The review panel shall give the applicant requester an opportunity to appear before the review panel to provide answers to questions the review panel may have that may be needed in rendering a rehabilitation decision.

10.5 Rehabilitation Decision

The review panel shall render a decision based upon the applicant requester's ability to present under his/her own burden of proof clear and convincing evidence of his/her rehabilitation based upon, but not limited to, as applicable, the following guidelines:

- Favorable personal reference checks and favorable comments from other persons and agencies identified in the written application of the requester.
- Successful completion of parole, probation, incarceration, or work release privileges.
- Person is free from encounter with law enforcement or civil enforcement agencies.

- Aggravating or mitigating circumstances to the reason or reasons for the crime, act or offense.
- Further evidence of rehabilitation, such as public or community service, volunteer work, recognition by other public or private authorities for accomplishments or efforts, and so on.
- Favorable statements from therapists, counselors and other professionals.
 1. Attempts or efforts at restitution.
 2. Victim's impact statement.
 3. Ability to remain employed evidences ability to develop positive social interaction and increased independence or autonomy of daily living and so on.

10.6. Decision Response

The agency's review panel shall render a written decision in accordance with the criteria used to make the rehabilitation decision to the requester.

If the decision is an approval, it shall describe the scope of the rehabilitation approval with any conditions or limitations that may be prescribed. For example, whether the approval is only for certain job functions, activities or arrangements. The decision shall also identify what type of regulatory approval has been given and any conditions or limitations that may be prescribed.

If the decision is not to approve the rehabilitation request, the agency review panel's written response must explain the reasons for non-approval and inform the applicant s/he has the right to file an appeal on the decision as follows:

Any person who is permitted but fails to demonstrate to the review panel that he/she has been rehabilitated may appeal to the director of the county department or designee. The appeal must be submitted in writing within ten days of receipt of the decision.

Any person adversely affected by a decision of the director or designee has the right to appeal the decision under Ch. 68.

The review panel shall maintain, on file, the rehabilitation review request application and all materials requested in that application and any other materials or information or notes obtained as a part of the rehabilitation review decision and a copy of the written decision, along with any decisions from filed appeals that may result.

The agency must also report all applicable steps of rehabilitation review process to the Office of Legal Counsel using the Rehabilitation Review Panel Decision Report (EXS-264). This includes:

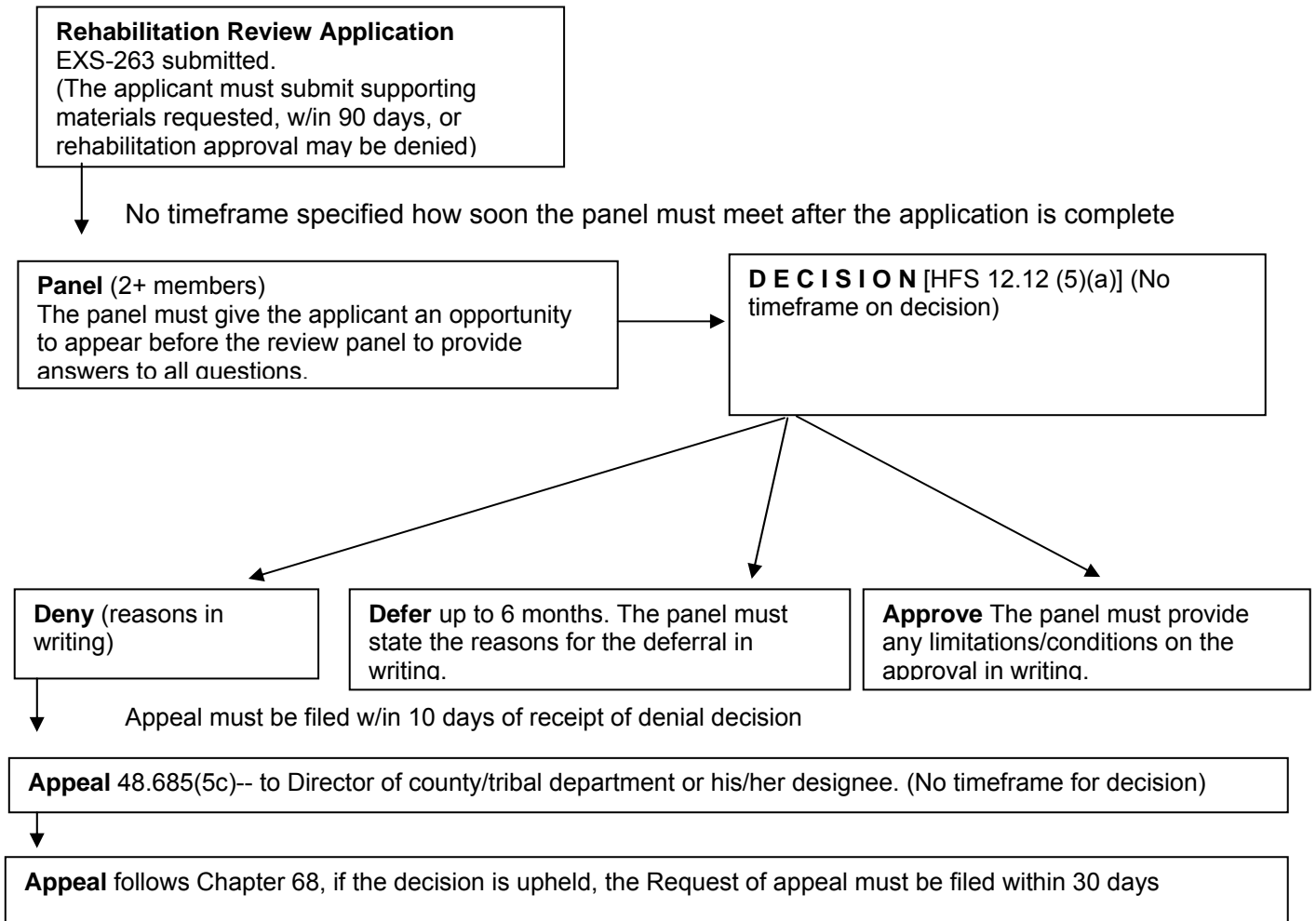
- The receipt of the Rehabilitation Review Application.
- The rehabilitation review results (decision).
- Any conditions or limitations to the rehabilitation approval.
- Any request to transfer rehabilitation and the result.
- Whenever rehabilitation approval has been withdrawn.

The agency must also report any request for appeals to the rehabilitation denial and the results, using the Rehabilitation Review Appeals Report (EXS-265)

The address for the Office of Legal Counsel is:

Office of Legal Counsel, DHS
P.O. Box 7850, Room 651
Madison, WI 53701-7850.

10.7. Rehabilitation Review Flow



10.8. Rehabilitation Approval Compliance

A person who has had his/her rehabilitation request review application approved shall comply with all conditions and limitations, as may be imposed with that approval. The applicable approving agency may deny or rescind a rehabilitation approval of a person when the agency has knowledge the person has done any one or more of the following:

- The person failed to comply or abide to the conditions or limitations of an approval granted.
- The person commits another crime, act or offense related to his/her rehabilitation approval or to another reason for a bar.
- The person knowingly submitted false information or withheld pertinent information relevant to the rehabilitation request that otherwise would or could have affected the review panel's decision to approve the person's rehabilitation.

10.9. Violation of Approval

A provider aware of any violation of a rehabilitation approval violation committed by themselves or their employee, contractor or non-client resident 10 years old or older shall inform the certifying agency immediately. If at any time, a certifying agency becomes aware of any provider or their employee, contractor or non-client resident (10 years old and older) who has violated their rehabilitation approval for a reason listed under Rehabilitation Approval Compliance (10.5), that certifying agency shall consider whether the new information received is valid and represents a risk of harm to the children in care. If so, they may rescind rehabilitation approval, thereby reinstating the provider's bar to certification. This will impose a temporary regulatory condition that will protect children from potential harm, until any appeals are exhausted. If the new information does not represent a risk of harm to children, the certifying agency should work with the certified provider and consider, as necessary, any measures to mitigate the situation, such as appropriate limitations on the certificate.

Any person who has had his/her rehabilitation approval withdrawn may file an appeal of this decision, as described above in the rehabilitation review decision response.

10.10. Scope of Approval

An agency may only grant rehabilitation approval for day care certification for the county for which they are responsible for certifying day care providers. The county approval does not lift the bar for licensed child care or foster care approval or employment in any caregiving facility.

A rehabilitation approval from one agency is transferable to another agency only with the approval of the receiving agency. If the regulatory agency is the DHS, it shall be the receiving regulatory sub-unit of the department that will decide whether a rehabilitation approval is transferable.

Examples of the above could include, but are not limited to, a rehabilitation approval allowing a person to be a provider or their employee, contractor or non-client resident 10 years old or older by one county is not, unless approved by the other county, transferable to the other county. A rehabilitation approval for the purposes of certification is not transferable to a child caring institution or to a hospital or nursing home.

10.11 Training

DHFS created a web cast on the RR process. The webcast can be viewed at:
<http://media1.wi.gov/DHFS/Viewer?peid=b334112d-847d-4622-a139-5f029827bf68>

11.0. Forms

The certification forms can be found at <http://dcf.wisconsin.gov/childcare/certification/forms.htm>. Instructions on how to order paper copies of the forms are listed at: <http://dcf.wisconsin.gov/memos/pdf/2004/04032.pdf>. The actual order form is found at: http://www.doa.state.wi.us/docs_view2.asp?docid=740

DCF licensing no longer mails paper copies of their forms. Licensing forms are listed at: <http://dcf.wisconsin.gov/childcare/licensed/Forms.htm>

12.0. Resources

- [The Wisconsin Child Care Information Center \(WCCIC\)](#).
Phone 1-800-362-7353.

WCCIC is a mail-order lending library and information center serving anyone in Wisconsin working in the field of child care and early childhood education. WCCIC provides free information services, library services and adult learning services to help Wisconsin child care professionals

give the best possible start to Wisconsin's children. CCIC is sponsored by the Wisconsin Department of Children and Families and is administered by the Department of Public Instruction's Reference and Loan Library.

WCCIC has informational materials on several topics related to the new certification rules. There also is a page that lists many valuable resources for certifiers in various topics at <http://dpi.wi.gov/ccic/cciccert.html>

- [National Association for the Education of Young Children \(NAEYC\)](#)

The new certification rules include many quality-related rules, such as activities that enhance certain important skills. Also, many new rules were added regarding discipline. NAEYC has many wonderful and inexpensive brochures on these topics. On the NAEYC web site, go to "Publications", browse "NAEYC online store" and browse "Brochures".

The following brochures are handy and cost only \$.50 each, or \$.15 for orders of 100+.

[A caring place for your infant](#)

[A caring place for your toddler](#)

[A good preschool for your child](#)

[Helping children learn self-control](#)

[Love and learn: positive guidance for young children](#)

[So many goodbyes \(separation anxiety\)](#)

[Toys: tools for learning](#)

[Play is FUNdamental](#)

[Playgrounds: Safe and Sound](#)

13. Certified School Age Programs

"Certified school-age child care program" means a program providing care and supervision in other than an operator's home for fewer than 24 hours a day for 7 or more school-age children and which is exempt from being licensed as a child care center.

The school age child care standards are intended for center-based programs which are not required to be licensed, because they do not provide care for four (4) or more children under the age of seven (7) years. A certified school-age program may enroll three (3) children that are under the age of seven (7) years. The children under age seven would have to be at least five (5) years old and in kindergarten or a higher grade. School age certification is not to be applied to family day care settings.

School age programs are paid at the licensed group rate, if they are caring for children funded by the subsidy program.

13.1. Application Process

School age programs requesting certification under DWD [55.09](#) must apply to the certifying agency. The application process for a school age certification program is the same as the application process for certified family day care.

The certifying agency will gather:

1. Written application form and standards and checklist for school age programs. The forms can be found on <http://dwd.wisconsin.gov/childcare/certification/forms.htm>.

2. Complete Background Information Disclosure (BID) forms for the applicants and all staff and substitutes/volunteers
3. References for the applicant (optional)
4. Verification of liability insurance. See DCF 202.09(14)
5. Verification of vehicle liability insurance (if children are transported). See DCF 202.09(14)(b) and (c).
6. Building inspection report. See DCF 202.09 (4)(a) 1. and 2.
7. Water test (if water is not from a public water system). See DCF 202.09(8)(c)
8. Written policies (recommended). DCF 202.09 does not require written policies, however, it is recommended that the applicant creates written policies including the following items:
 - Health and safety (illness policy, etc)
 - Staff orientation
 - Staffing and grouping
 - Activities
 - Insurance information

The applicant may order a written policy sample packet from the Wisconsin Child Care Information Center (WCCIC) at <http://www.dpi.state.wi.us/ccic/ccicres.html#group>. This sample packet was intended for licensed group centers but is useful for certified school age programs.

13.2. Site Visit

When all of the appropriate items in the list above have been gathered and the program is ready for a site visit, the certifying agency will contact the [regional licensing office](#) and send them a copy of the application and the checklist.

A licensing specialist will conduct the initial site visit prior to certification and determine whether the applicant is in compliance with all standards under DCF 202.09. Specifically, the licensing specialist will verify that staff files are complete, with the following information (See 55.09(2)(e):

- Name, address, date of birth of employee, and position
- Education, including documentation of education requirements for the position. See 55.09(2) (a), (b), (c) and (d)
- TB skin test
- Background Information Disclosure form (HFS 64) completed within the last four years
- Name, address and telephone number of person to contact in case of an emergency
- Name and address of employers in previous work experience in child care

School age programs are encouraged to use the [Child Care – Staff Record](#) (CFS-53) as a tool to keep staff information.

Certifiers are strongly encouraged to join the licensing specialist when the site visit is conducted. If there were any non-compliance issues, it would be helpful for the certifier to be aware of them in order to be able to later verify the violation has been corrected satisfactorily.

The licensing specialist will report the outcome of the site visit to the certifying agency in writing by submitting [Certified School-Age Program Site Inspection Verification - DES-12539](#) form. If violations are noted, the licensing special will issue a Non-compliance Statement and Correction Plan, CFS-294.

13.3. Certification Approval

The certifying agency is responsible for issuing a certificate based on the licensing specialist's report. If the licensing specialist has reported any non-compliance issues, it will be the responsibility of the certifying agency to conduct any other follow up site visits in order to verify the program is in compliance before a certificate may be issued.

13.4. Recertification

The school age certification program must be re-certified every two years and it is the responsibility of the certifying agency to initiate this process. The application, standards and checklist, etc. must be completed. The certifying agency is responsible for all other site visits. The licensing specialist may be contacted as a resource when the certifier has questions or concerns regarding the school age program meeting any of the requirements. The renewal visits are conducted by the certifying agency.

13.5. Complaints

When a complaint is received against a school age program, the complaint should be documented using the Child Care Provider Certification (CCPC) system. The certifying agency will be responsible for the investigation of all complaints. The process is the same as for family providers. The regional licensing office may be contacted regarding the complaint and the licensing specialist and certifier may coordinate in the investigation. The investigation details must be entered into CCPC.

13.6. School-Age Program Forms

The application, standards and checklist, certificate, and site visit report forms that are specific to school age certification are now available at <http://dcf.wisconsin.gov/childcare/certification/forms.htm>. The forms can be ordered in paper copy from the DOA forms warehouse. [See 11. Forms](#) for instructions on how to order paper copies.