

DCF Guidance Order #29
Frequently Asked Questions on Administrative Rule Suspension
Issued Wednesday April 15, 2020

The purpose of this memo is to provide guidance on frequently asked questions for:

- The order issued by Governor Evers, under the authority of Wis. Stat § 323.12(4) and the public health emergency declared in Executive Order #72, [to suspend certain Department of Children and Families administrative rules and order companion directives](#).
- [DCF Guidance Order #2](#): Child Care, Head Start and 3 and 4-year-old Kindergarten Programs and their Workforce, issued Wednesday, March 18, 2020
- [DCF Guidance Order #3](#): Wisconsin Shares Child Care Subsidy Information for local agencies related to COVID-19
- [Emergency Order #6](#): Restricting the Size of Child Care Settings
- [DCF Guidance Order #6](#): Frequently Asked Question on Scaling Down Operations
- [DCF Guidance Order#16](#): Guidance for Providers Operating Under Safer at Home Order
- [Emergency Order #26](#): Relating to Department of Children and Families Administrative Rule Suspensions

Frequently Asked Questions

Child Care Program Closure Questions

1. Will DCF order all child care programs to close?

At this time, the Governor has not issued an executive order directing the Department of Health Services to close all child care centers. We are responding to a fluid and flexible environment.

2. Why are schools closed but child care programs remain open?

Child care remains a critical service and is needed for health care related, first responder, and other service industries that continue during this emergency. Child Care providers will make the determination of whether to remain open or to close based on an assessment of the community needs and the safety of children and families served. Programs that are able to remain open are asked to prioritize their available slots to help families that are providing these essential services to our communities. Please see [DCF Guidance Order #16](#) for further information.

3. Will DCF issue anything in writing to show support for programs that close?

The Department recognizes that child care programs are assessing their ability to provide care and making decisions they feel are best for their program and community in response to COVID-19. These decisions are made on an individual basis and the Department is seeking to provide support and resources for programs that remain open and for those that decide to close.

If your program is closing or in danger of closing because of lack of available supplies and resources, please first check your local community retailers. Supplies are flowing back into Wisconsin regularly. Then contact [211 Wisconsin](#). 211 Wisconsin can help connect you with resources in your local community. If you still cannot find what you need, please enter your supply needs into [Child Care Provider Portal](#). If you do not have access to Child Care Provider

Portal, contact DCF at dcfmbcovid19@wisconsin.gov and provide your contact information and a general idea of your needs. Additionally, DCF is working with the Federal Emergency Management Agency to secure supplies in the event of widescale shortages.

If your status changes, please update your child care provider open/close status in the [Child Care Provider Portal](#) and contact your licensor or certification worker.

4. If a child care program closes, will they still need to pay their staff for the time that the staff are unable to work at the center?

Continuation of Wisconsin Shares funding during this emergency period is intended to help support child care programs to maintain compensation and benefits to child care staff and to support the infrastructure of programming to reopen following this emergency. Continuation of Wisconsin Shares funding for closed providers will be reevaluated on a month by month basis. We encourage child care programs to continue to review the [Covid-19 website](#) to receive the most current information.

5. If a child care program decides to close, can teachers still care for children legally somewhere else?

A teacher, for compensation, could care for no more than three children under the age of seven that are unrelated to that teacher without a license. Detailed information on regulation information can be found on [DCF's child care website](#).

Teachers who are looking for employment or who want to help are encouraged to submit their information through the [iChildCare Portal](#). Teachers may be matched with children of the essential workforce to meet the current need for care.

Child Care Program Space Questions

1. Is DCF allowing child care programs to expand or relocate in temporary locations to serve those in *essential workforce professions*?

The Department encourages child care programs, community stakeholders, and community members to identify how to best provide needed child care services for health care-related, first responder, and other critical service industries that must continue working during this emergency. Child care programs can open additional space as long as it meets building codes and in the case of repurposing space (e.g. multiple child care groups at the same location) as long as it follows guidelines outlined in [DCF Guidance Document #6](#). Child care programs should contact their regional licensing office to discuss options and if they have any questions.

Providers who are staying open and/or willing to help with other centers are encouraged to submit or update their child care provider information (open/close status, available slots) in the [Child Care Provider Portal](#).

2. What is DCF's guidance for child care programs that share a physical space with a school?

DCF encourages child care directors reach out to the local educational agency (ie. your school district or private school) to collaborate on strategies for operating child care programs in alternate locations to meet the needs of families that continue to have a child care need during this emergency. Child care programs should observe the 50 children and 10 staff rule outlined

in [Emergency Order #6](#). Be sure to contact your regional licensing office regarding any changes to your program's operation.

3. What space information should a child care program give to DCF?

Communicate all program changes directly to your regional licensing office/certification worker. Child care programs are also encouraged to update their child care provider information (open/close status, available slots) in the [Child Care Provider Portal](#).

Child Care Program Rules Questions

1. How do Executive Order #72 and Emergency Order #26 impact each other?

[Executive Order #72](#) and [Emergency Order #26](#) both outline child care administrative rules that have been waived/suspended during the State of Emergency. Both orders are still in effect. To the extent they conflict, Emergency Order #26 controls. DCF is working on a chart that identifies all current changes to child care administrative rules and will inform providers when that tool is available.

2. Which child care providers does Emergency Order #26 apply to?

[Emergency Order #26](#) includes waived/suspended rule language for the following:

- Certified Family Providers (DCF 202)
- Licensed Family Providers (DCF 250)
- Licensed Group Providers (DCF 251)
- Licensed Day Camp Providers (DCF 252)
- Child Care Subsidy Program (DCF 201)

3. How is waived/suspended language identified in Emergency Order #26?

In [Emergency Order #26](#), any rule language that has a strike-through is waived/suspended, while the language that remains with no strike-through is still in effect. An example is provided below:

Wis. Admin. Code § DCF 202.08(2)(b)

Sets building requirements for certified child care operators.  In effect
Suspended in part, as follows: "(b) All areas used for child care shall have adequate and safe heat, light and ventilation, ~~including all of the following: 1. The inside temperature of the home may not be less than 67 degrees Fahrenheit. 2. If the inside temperature exceeds 80 degrees Fahrenheit, a child care provider shall provide for air circulation with safe fans, air conditioning, or other means.~~"  waived

4. What are the new child care program capacity and age group standards?

[Emergency Order #6](#) limits regulated child care settings to no more than 50 children at one time and no more than ten staff members at one time. These new standards only pertain to regulated child care programs. Unregulated providers must still follow current law and cannot provide care for more than three children under the age of seven that are unrelated.

The following answers help clarify these new standards for regulated providers.

Rule waivers surrounding supervision, groups size, and staff-to-child ratios apply to children five and older. It is required that staff-to-child ratios still be met for children under age 5.

Please consult with your regional licensing office or certification agency. It is DCF's every intention that the health, safety, and welfare of children is the priority when making decisions to increase group size.

Licensed Family – Temporarily suspending the limit of eight children, the licensed capacity, and grouping of children for ages five and older.

Licensed Group – Rules requirements have been waived for group size and ratio for children five and older.

Certified – Certified operators may request to care for more than 6 children and may exceed group size limits based on the number of children under age 2. An operator may not care for a licensable number of children, however, due to statutory restriction under s. 48.65, meaning they may not care for more than 3 children under age 7 who are not related to the provider. Although the waiver is in place, certified operators and certification workers should consider the health, safety and welfare of children. A request to care for 8 children may be considered reasonable, while a request to care for 18 children at one time will place the health, safety and welfare of children at risk.

In-Home Care (care in the child's home) - if agreeable to the family, a certified operator may temporarily care for additional children in an in-home child care setting. For example, the provider may be allowed to bring his/her own child into the home. Or perhaps the provider is asked to also provide care for a cousin of the children in care. These types of arrangements are negotiated and agreed upon by the two parties.

5. Which licensing forms are still required for staff training?

The following forms are still required for staff training:

- 251.05(3)(b) and (c) - Documentation of Shaken Baby Syndrome Training and CPR training.
- 251.05(4)(a) Documentation of staff orientation.

The following record requirement was not waived:

- 251.05(2)(a)1. - The employee's name, address, date of birth, education, position, previous work experience in child care, including the reason for leaving previous positions, and the name, address, and telephone numbers of persons to be notified in

an emergency. – Could be on the department’s form *Staff Record – Child Care Centers* or on a center’s own form.

6. Which individuals are included in [Emergency Order #6](#) when referring to 10 or fewer staff?

As stated in [DCF Guidance Document #6](#):

The goal is to limit the number of adults and children that interact, both daily and over time. Staff that interact or work in the same space as the kids count toward the limit. For example, if the Director and cook share the space, then they count. If they work in a discrete space, drop the food off, and don’t physically interact with children or staff, then they don’t. Part and fulltime volunteers, therapists and support staff count toward the limit.

7. Do child care programs still need to request rule waivers?

Child care programs should communicate all programmatic changes directly to their regional licensing office/certification worker.

8. Do new employees in licensed centers still need orientation?

Yes, all new employees need an orientation.

9. Will background checks still be required for any staff hired after the Executive Order was issued on March 15, 2020?

DCF has temporarily suspended the child care fingerprint requirement during the State of Emergency. Beginning March 31, 2020, the Department implemented a name-based check for any new individuals added to the Child Care Provider Portal or iChildCare. This means that all eligibility granted during the State of Emergency will require name-based checks only, and the eligibility is temporary. Once the State of Emergency is lifted, FBI fingerprint requirements will begin for everyone previously granted temporary eligibility. Individuals will no longer be able to work or reside in a center until the fingerprint check is initiated.

Health and Safety Questions

1. Has DCF considered requiring mandatory isolation for staff or children due to COVID-19 exposure?

Please follow the current recommendations and requirements from the [Department of Health Services](#), your local public health office and the [Center for Disease Control](#).

Children and staff exposed to COVID-19 will be required to be under quarantine for 14 days. Quarantine means the separation of a person or group of people reasonably believed to have been exposed to a communicable disease but not yet symptomatic, from others who have not been so exposed, to prevent the possible spread of the communicable disease.

2. If a child gets sick, what steps will DCF take to keep a child care program’s name out of the media?

While DCF will not post on its website or release information regarding the health of children, DCF does not have authority regarding media requests submitted to or released by DHS. Child care programs and medical facilities must report cases of COVID-19 to DHS in order to track data on patients.

Payment Questions

- 1. Can a child care program still charge tuition to a family when the center is informing the parent they cannot care for their child due to the executive order or when a family is unable to send their children to the program for care?**

Centers and parents need to review the center's written policies and parent contract regarding fee payments.

- 2. What assistance can be provided to child care programs that do not have any families enrolled that participate in Wisconsin Shares?**

The Department is exploring what other funding sources may be available to support child care programs that do not currently serve children with Wisconsin Shares authorizations. The [Consumer Financial Protection Bureau](#) offers guidance and resources to individuals who may experience financial difficulties during this time. To find local supports for financial and other essential needs, call 2.1.1. or visit <http://211.org/services/covid19>. We also encourage child care programs to continue to review the [Covid-19 website](#) to receive the most current information and access additional resources under [Covid-19 resources](#).