

WISCONSIN ADMINISTRATIVE CODE



Wisconsin Department of
Children and Families

Division of Early Care and Education

DCF 251

LICENSING RULES FOR GROUP CHILD CARE CENTERS AND CHILD CARE PROGRAMS ESTABLISHED OR CONTRACTED FOR BY SCHOOL BOARDS With Commentary

effective March 2023

PREFACE

DCF 251
LICENSING RULES FOR GROUP CHILD CARE CENTERS
With Commentary

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Section 48.65, Stats., requires that persons operating child care centers which provide care and supervision for 4 or more children under 7 years of age for less than 24 hours a day be licensed by the Department of Children and Families. The statutes also require the department to establish rules which must be met in order to qualify for a license and which protect and promote the health, safety, and welfare of the children in the care of the child care center.

Chapter DCF 251 is the administrative code governing group child care centers, which provide care and supervision to 9 or more children for less than 24 hours a day.

Although prepared primarily as a tool for licensing specialists, the purpose of the DCF 251 Group Child Care Rules with Commentary is to help all users of DCF 251 understand the intent and application of the rule. An attempt has been made to offer commentary for those rules where experience indicates clarification would be helpful. However, commentary cannot be written to cover every situation encountered. Providers who require additional information should contact their regional licensing specialist.

The portion of this publication that is numbered and in regular print is the administrative code DCF 251. The portion of the publication that is within boxes and in *italicized print* is commentary that was prepared by staff of the Bureau of Early Care Regulation.

There is a header on each page that contains the rule cite for the section of the rule beginning on that page. A table of contents and an index are also included, as are appendices that contain key statutes related to the child care rules, a copy of DCF 13 (administrative rules governing child care background checks), and other appendices referenced in the rule.

This publication may be duplicated and is also available on the department's website:
<https://dcf.wisconsin.gov/cclicensing/rules>

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TABLE OF CONTENTS

DCF 251.01 AUTHORITY AND PURPOSE.....	1
DCF 251.02 APPLICABILITY.....	2
(1) Included and excluded care arrangements.....	2
(2) Exception to a requirement	3
DCF 251.03 DEFINITIONS.....	4
DCF 251.04 OPERATIONAL REQUIREMENTS.....	11
(1) Terms of a license	11
(2) Administration.....	11
(3) Reports	16
(4) Parents	20
(6) Children's records	20
(7) Confidentiality	26
(8) Reporting child abuse or neglect	27
DCF 251.05 STAFF.....	27
(1) Definitions	27
(2) Staff Records	29
(3) Qualifications of staff.....	30
(4) Staff development.	45
DCF 251.055 SUPERVISION AND GROUPING OF CHILDREN.....	51
(1) Supervision.....	51
(2) Grouping of children.	50
DCF 251.06 PHYSICAL PLANT AND EQUIPMENT.....	56
(1) Building.....	56
(2) Protective measures.....	58
(3) Emergency plans and drills.....	61
(4) Fire protection.....	63
(6) Water.....	65
(7) Indoor space.....	66
(9) Kitchens.....	71
(10) Washroom and toilet facilities.....	71
(11) Outdoor play space.....	72
(12) Swimming areas.....	75
DCF 251.07 PROGRAM.	78
(1) Program planning and scheduling.....	78
(2) Child guidance.....	81
(3) Equipment and furnishings.	84
(4) Rest periods.	86
(5) Meals, snacks, and food service.....	88
(6) Health.	90
(7) Pets and animals.	96
(8) Miscellaneous activities.....	97
DCF 251.08 TRANSPORTATION.....	98
(1) Applicability.....	98
(2) Permission and emergency information.....	98
(3) Required information for each trip.	99
(4) Driver.....	99
(5) Vehicle.	100
(6) Seat belts and child safety restraints.....	101
(7) Vehicle capacity and supervision.	103

WISCONSIN ADMINISTRATIVE CODE

(8) Child care vehicle safety alarm.....	103
DCF 251.09 ADDITIONAL REQUIREMENTS FOR INFANT AND TODDLER CARE.	105
(1) Applicability and general requirements.	105
(2) Daily program.....	107
(3) Feeding.....	108
(4) Diapering and toileting.	109
DCF 251.094 STAFF IN SCHOOL-AGE PROGRAMS.....	111
(1) Applicability.....	111
(2) School-age administrator.....	111
(2m) School-age administrator and school-age director.....	111
(3) School-age director.....	112
(4) School-age program leader.....	113
(5) School-age group leader.....	114
(6) School-age program aide.....	114
DCF 251.095 ADDITIONAL REQUIREMENTS, MODIFICATIONS, AND EXCEPTIONS FOR SCHOOL-AGE PROGRAMS.	115
(1m) Applicability.....	115
(2m) Supervision.	116
(3m) Additional requirements for meals and snacks.	117
(4m) Exceptions for school-age programs.....	117
(5m) Exceptions and modifications for school-age programs in school buildings....	117
DCF 251.10 ADDITIONAL REQUIREMENTS FOR NIGHT CARE.	119
(1) Applicability.....	119
(2) General requirements.	119
(3) Program.....	119
(4) Preventive measures.....	119
(5) Feeding.....	119
(6) Sleep.	119
DCF 251.11 LICENSING ADMINISTRATION.	120
(1) General conditions for approval of license.....	120
(2) Initial application for a probationary license.	120
(3) Obtaining a regular license.	121
(4) Continuing a regular license.	122
(5) Amending a license.	122
(6) Additional license.....	123
(7) License denial or revocation.....	123
(8) Effect of notice to deny or revoke a license.	124
(9) Summary suspension of a license.	124
(10) Appeal of decision to deny or revoke a license.....	125
DCF 251.12 COMPLAINTS, INSPECTIONS AND ENFORCEMENT ACTIONS.	126
(1) Complaints.	126
(2) Inspection.	126
(3) Enforcement action.	126
DCF 251.13 PROGRAMS CONTRACTED FOR BY SCHOOL BOARDS.	127
APPENDIX A REGIONAL OFFICES OF DECE	128
APPENDIX B KEY STATUTES RELATED TO LICENSING CHILD CARE CENTERS	129
APPENDIX C DCF 13 BACKGROUND CHECKS FOR CHILD CARE PROGRAMS	147
APPENDIX D RESOURCES LIST	156
INDEX.....	157

DCF 251.01 Authority and purpose. This chapter is promulgated under the authority of s. 48.67, Stats., to establish licensing requirements under s. 48.65, Stats., for group child care centers for children. The purpose of this chapter is to protect the health, safety and welfare of children being cared for in group child care centers.

DCF 251.02 Applicability.

(1) INCLUDED AND EXCLUDED CARE ARRANGEMENTS. This chapter applies to all group child care centers, whether the facility in which the child care and supervision are provided is known as a day care center, nursery school or preschool, head start or school-age child care program, or by any other designation, but it does not apply to the following:

(a) Care and supervision of children in a program, including religious education classes, which operates no more than 4 hours a week.

Centers occasionally offering after-hours care / activities for children on the premises of a licensed center (such as parent date nights, shopping, etc.) may do so provided that the parents are notified in writing that the center is not licensed during that time period. If the center wishes to operate during this time as a licensed facility, an exception must be requested. Note: Centers should also check with their insurance company to ensure coverage during this time.

(b) Group lessons to develop a talent or skill, such as dance or music lessons, social group meetings and activities and group athletic activities.

(c) Care and supervision while the child's parent is on the premises and is engaged in shopping, recreation or other non-work activities.

Non-working parents on the premises means a care situation in which a parent of every child in care is on the premises. Centers serving industry, college, university, or employer-based child care where parents may be employed or attending classes on the same premises must be licensed.

An organization may use the premises of a licensed child care center for occasional care for conferences or other activities when the center is not in operation. An example of this usage would be occasional weekends or evenings. An exception is not required.

(d) Care and supervision provided at the site to the child of a recipient of temporary assistance to needy families or Wisconsin works who is involved in orientation, enrollment or initial assessment prior to the development of an employability plan or the child care is provided where parents are provided training or counseling.

(e) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible schools and holiday child care programs.

(f) Care and supervision in emergency situations.

"Emergency situation" means a scenario where there is an unforeseen circumstance that poses a significant risk or threat to the safety or wellbeing of individuals involved that requires immediate attention. Examples can include but are not limited to severe weather, national emergency, natural disasters, and security threats.

(g) Care and supervision while the child's parent is employed on the premises if the child receives care and supervision for no more than 3 hours a day.

Note: Section 48.65, Stats., exempts parents, guardians and certain other relatives; public and parochial (private) schools; persons who come to the home of the child's parent to provide care for less than 24 hours per day; and counties, cities, towns, villages, school districts, and libraries that provide programs for children primarily intended for social or recreational purposes from the requirement of a license.

(2) EXCEPTION TO A REQUIREMENT. The department may grant an exception to a requirement of this chapter when it is demonstrated to the satisfaction of the department that granting the exception will not jeopardize the health, safety or welfare of any child served by the center. A request for an exception shall be in writing, shall be sent to the department and shall include justification for the requested action and a description of any alternative provision planned to meet the intent of the requirement.

Note: A request for an exception to a requirement of this chapter should be sent to the licensing representative at the appropriate field office of the Department's Division of Early Care and Education. See Appendix A for addresses of the regional offices.

The Exception Request form is the preferred format for the request. A request in the form of correspondence will be accepted as an alternative. The exception request must include the rule number for which the exception is being requested; the signature of the licensee or the person previously delegated in writing by the licensee to have the authority to sign official documents or correspondence; and the alternative plan to meet the intent of the rule.

The exception to the rule may not be implemented until the exception request has been approved by the department.

Failure to comply with the conditions of the exception may result in withdrawal of the exception and/or initiation of other enforcement actions, such as forfeiture or revocation of the license.

DCF 251.03 Definitions. In this chapter:

(1g) "Abusive head trauma" means a serious type of head injury, including shaken baby syndrome, that is caused by shaking, throwing, hitting, slamming, or jerking.

(1r) "Administrator" means the person responsible to the licensee for management of the group child care center.

(2) "Assistant child care teacher" means a child care worker who works under the supervision of a child care teacher and who meets the qualifications under s. DCF 251.05 (3) (g).

(2m) "Background check request form" means a form prescribed by the department on which a person completes required information for the child care background check under s. 48.686, Stats., and ch. DCF 13.

Note: Form DCF-F-5296, Background Check Request, is available on the department's website, <https://DCF.wisconsin.gov/cclicensing/ccformspubs>.

(3) "Care" means providing for the safety and the developmental needs of a child in a group child care center.

(4) "Center director" means the person who is responsible to the licensee for the supervision of the center's program for children and for the supervision of the center's staff and who meets the qualifications under s. DCF 251.05 (3) (e).

(4g) "Center-provided transportation" means transportation provided in a vehicle owned, leased or contracted for by the center or in volunteer or staff-owned vehicles regardless of whether the driver is reimbursed for the use of the vehicle.

Transportation provided by rideshare companies, such as Uber or Lyft, is contracted transportation and therefore is considered to be center-provided transportation.

(4m) "Center-provided vehicle" means a vehicle owned or leased by the center or a vehicle owned by the licensee or an employee that is used to transport children, but does not include a vehicle owned and driven by a parent or volunteer.

(4r) "Child care background check" means the requirements in s. 48.686, Stats., and ch. DCF 13.

(5) "Child care teacher" means a child care worker who plans, implements, and supervises the daily activities for a designated group of children and who meets the qualifications under s. DCF 251.05(3)(f).

(6) "Child care worker" means in a group child care center, a child care teacher or assistant child care teacher, or in a school-age program, a school-age program leader or school-age group leader.

(8) "Complaint" means an allegation that a provision of this chapter or of ch. 48, Stats., has been violated.

(8g) "Credit" means recognition for completing a course from an institution of higher education.

See Appendix D Resources List: Credit to Hours Conversion – Technical Colleges and Universities.

(8r) "Crib" means a bed for an infant or young child that is enclosed on 4 sides including play pens and portable cribs.

(9) "Department" means the Wisconsin department of children and families.

(10) "Division" means the department's division of early care and education.

(10g) "Early childhood education" means the teaching of children who are 8 years of age or less.

(10m) "Emergency" means unforeseen circumstances that require immediate attention.

(10s) "EPSDT provider" means a provider of health assessment and evaluation services that is eligible to be certified under s. DHS 105.37 (1) (a).

DHS 105.37 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) providers. (1) EPSDT Health Assessment and Evaluation Services. (a) Eligible providers. The following providers are eligible for certification as providers of EPSDT health assessment and evaluation services:

1. *Physicians*
2. *Outpatient hospital facilities*
3. *Health maintenance organizations*
4. *Visiting nurse associations*
5. *Clinics operated under a physician's supervision*
6. *Local public health agencies*
7. *Home health agencies*
8. *Rural health clinics*
9. *Native American health agencies*
10. *Neighborhood health centers*

See DCF 251.03 (23) – DEFINITION - PHYSICIAN.

(11) "Field trip" means any experience a child has away from the premises of the center, while under the care of center staff, whether a child walks or is transported.

(11g) "Fit and qualified" means displaying the capacity to successfully nurture and care for children and may include consideration of any of the following:

- (a) Abuse of alcohol or drugs.
- (b) A history of a civil or criminal conviction or administrative rule violation that is substantially related to the care of children, as determined under s. DCF 13.05.
- (c) Exercise of unsound judgment.
- (d) A history of civil or criminal offenses or any other action that demonstrate an inability to manage financial resources or the activities of a center.

(11r) "Full day center" means a center that accepts children for care for 5 or more consecutive hours in a day.

See DCF 251.03(22g) – DEFINITION – PART DAY CENTER.

(12) "Group" means a specific number of children who have a regularly assigned child care worker and who are cared for in the same self-contained room or area at the center.

DCF 251.03(13)

(13) "Group child care center" or "center" means a facility where a person for less than 24 hours a day provides care and supervision for 9 or more children who are not related to the provider.

See Wis. Stats. 48.65.

Centers may be licensed for 24-hour care. See DCF 251.055 (1) (D) – PROVIDER – 12 HOUR CARE LIMIT and DCF 251.055 (1) (E) – CHILD – 14 HOUR CARE LIMIT.

(13m) "Hazard" means a potential source of harm that can jeopardize the health, safety or well-being of children in care.

(14) "Hours of operation" means the hours within the terms of the license during which children are actually in the care of the center.

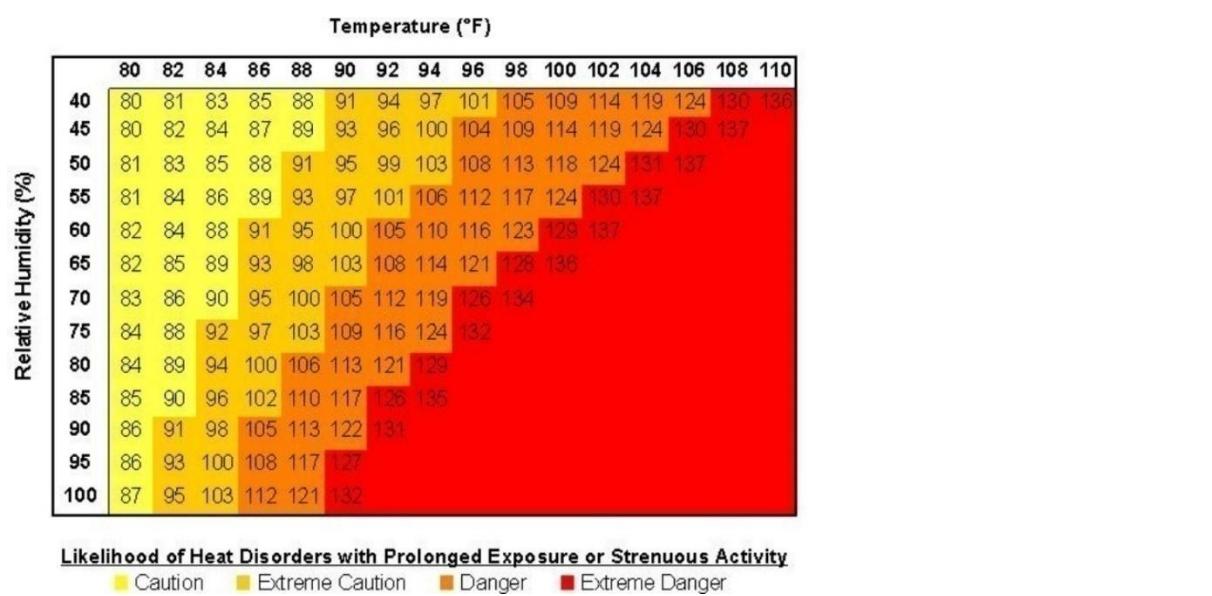
(14g) "In care" means the center is providing supervision, either on or off the premises, including during center-provided transportation, for the safety and the developmental needs of the child or children.

(14r) "Inclement weather" means stormy or severe weather such as any of the following:

- (a) Heavy rain.
- (b) Temperatures above 90 degrees Fahrenheit.

The heat index (HI) is an index that combines air temperature and relative humidity in an attempt to determine the human-perceived equivalent temperature – how hot it feels – termed the felt air temperature.

NOAA's National Weather Service Heat Index

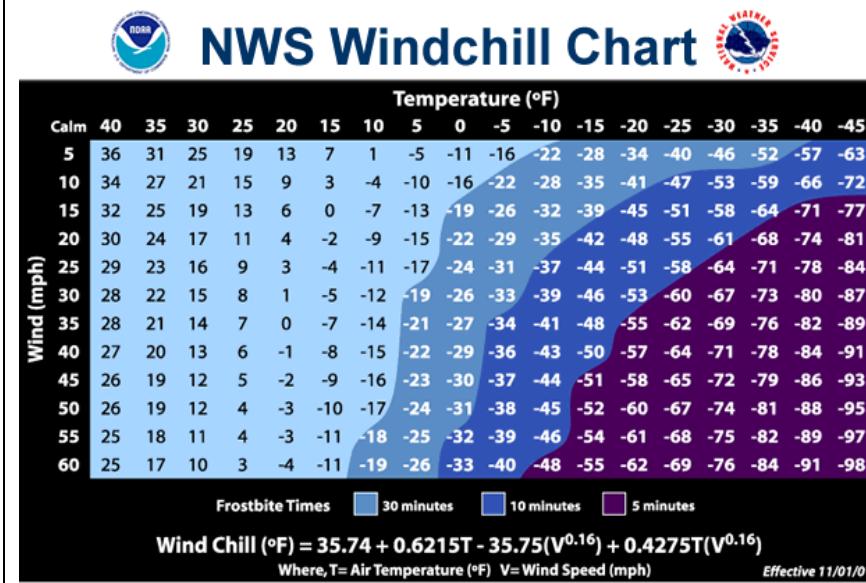


- (c) Wind chills of 0 degrees Fahrenheit or below for children age 2 and above.

This rule is applicable for 18 months and above and will go into effect summer of 2026.

- (d) Wind chills of 20 degrees Fahrenheit or below for children under age 2.

This rule is applicable for 18 months and under and will go into effect summer of 2026.



(15) "Infant" means a child under one year of age.

(16) "Institution of higher education" means an educational institution which meets all of the following criteria except, in the case of a business school or technical institution, par. (c):

- (a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
- (b) Is legally authorized to provide a program of education beyond secondary education;
- (c) Provides an education program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward that degree; and
- (d) Is accredited by a nationally recognized accrediting agency or association or, if not accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are accredited, for credit on the same basis as if transferred from an institution that is accredited.

(16m) "Licensed hours" means the authorized hours specified on the license certificate and letter of transmittal within which the center may provide child care services.

(17) "Licensee" means the corporation, individual, partnership, limited liability company, or non-incorporated association or cooperative that has legal and financial responsibility for the operation of a child care center and for meeting the requirements of this chapter.

(18) "Licensing representative" means a department employee responsible for licensing group child care centers.

A person monitoring a group child care center for purposes of department initiatives (such as child care subsidy) is also considered a licensing representative.

(19) "Night care" means any care that is offered by a licensed group child care center between 10:00 p.m. and 5:00 a.m.

(20) "Parent" means either "parent" as defined in s. 48.02 (13), Stats., or "guardian" as defined in s. 48.02 (8), Stats.

251.03(21)

(21) "Parent cooperative" means a center organized by parents for their preschool children in which the parents have decision-making authority to establish and change policy, program and personnel practices.

(22) "Parochial or private school" means an educational program which meets all the criteria specified under s. 118.165 (1), Stats., or as determined by the superintendent of public instruction under s. 118.167, Stats.

s. 118.165, Wis. Stats., Private Schools

(1) *An institution is a private school if its education program meets all of the following criteria:*

(a) The primary purpose of the program is to provide private or religious-based education.

(b) The program is privately controlled.

(c) The program provides at least 875 hours of instruction each school year.

(d) The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. The subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic or practice consistent with the program's religious doctrines.

(e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 188.15(1)(a) and (am), Wis. Stats.

(f) The pupils in the institution's educational program, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than 2 months of summer vacation, or the institution is licensed as a child welfare agency under s. 48.60(1), Wis. Stats.

(2) *An institution may request the state superintendent to approve the institution's educational program as a private school. The state superintendent shall base its approval solely on the criteria under sub. (1).*

s. 118.167, Wis. Stats., Private school determination by state superintendent. If an association that regulates or accredits private education institutions in this state submits an affidavit to the state superintendent attesting that the institution meets or exceeds all of the criteria under s. 118.165 and the state superintendent finds that the institution does meet or exceeds all of the criteria under s. 118.165, the state superintendent shall determine that the institution is a private school. If at any time the state superintendent finds that an institution determined to be a private school under this section no longer meets the criteria under s. 118.165, the state superintendent may withdraw the determination.

(22g) "Part day center" means a center where a defined group of children attend for a specified period of time that is less than 5 consecutive hours in length.

For example: A group of children are enrolled for a session that operates from 9:00 a.m. to 12:00 p.m. and a different group of children are enrolled for a session that is scheduled from 12:00 p.m. to 3:00 p.m. This program is considered a part-day program because no session lasts longer than 5 hours and a different and distinct group of children are enrolled in each session.

(22r) "Physical Restraint" means the use of physical force to restrict the free movement of all or part of a child's body.

(23) "Physician" has the meaning prescribed in s. 448.01 (5), Stats.

Physician means an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the board and holding a license granted by the board. A chiropractor or physician assistant does not meet the definition for physician.

(24) "Physician assistant" has the meaning prescribed in s. 448.01 (6), Stats.

(25) "Premises" means the tract of land on which a center is located, including all buildings and structures on that land.

(25m) "Program aide" means a person who works under the supervision of a child care teacher and assists with daily activities and maintenance of the program, such as preparing and participating in program activities and cleaning the premises.

(26) "Regularly assigned child care worker" means a child care worker who is assigned to a specific group of children in a self-contained room or area.

"Regularly assigned child care worker" applies to assistant child care teachers and child care teachers.

(26m) "Representative of the department" means a department employee or a representative from an agency the department contracts with to provide pre-licensing services.

(26r) "School-age administrator" means a person who is responsible for the overall organizational management, including personnel, finance, physical plant, and the implementation of policies and procedures for a school-age program.

(27) "School-age child" means a child 5 years of age or older who is enrolled in a public school or a parochial or other private school.

(27c) "School-age director" means a person who is responsible for the management and implementation of the program for the school-age children; supervision of the staff, including recruitment, hiring, and training; oversight for regulatory compliance; and development of policies and procedures.

(27g) "School-age group leader" means a person who works under the supervision of a school-age program leader and helps plan, implement, and supervise daily activities for a designated group of school-age children.

(27n) "School-age program" means a program in a group child care center that serves only school-age children before and after school, on non-school days, and during the summer.

(27r) "School-age program aide" means a person who works under the direct supervision of a school-age program leader and assists with daily activities and maintenance of the school-age program, such as preparing and participating in program activities and cleaning the premises.

(27w) "School-age program leader" means a person who plans, implements, and supervises the daily activities for a designated group of school-age children, communicates with families, works with the community, and coordinates staff in a school-age program.

251.03(28)

(28) "Self-contained room or area" means a room separated by permanent walls or an area separated by permanent or portable partitions or dividers acting as a visual barrier for children which is reserved for a group of children and contains the indoor equipment and furnishings required for that group.

Following are some of the ways a self-contained room or area may be used.

- *All the equipment and furnishings (both in variety and quantity) required for a group of children are available in the room or area with consideration to the ages of children in care. See DCF 251.09 (4) (B) – INFANT & TODDLER – SINKS IN SELF-CONTAINED AREA.*
- *The room or area is set up with a number of interest centers and the quantity of equipment required for the group is met. Moreover, additional rooms or areas are available to the group on a daily basis to meet the variety requirement. Groups may rotate between two or more self-contained rooms or areas. Maximum group size and staff-to-child ratios must be maintained.*

(28m) "Shaken baby syndrome" or "SBS" means a severe form of brain injury that occurs when an infant or young child is shaken or thrown forcibly enough to cause the brain to rebound against his or her skull.

See DCF 251.03(1G) – DEFINITION – ABUSIVE HEAD TRAUMA.

(29) "Sleeping bag" means a padded fabric bag that is closed or capable of being closed on three sides.

(29g) "Substitute" means a person who replaces a regularly scheduled person and meets the requirements under s. DCF 251.05 (3) (i).

Individuals who are hired as float staff are not considered substitutes as float staff are regularly scheduled staff.

(29m) "Sudden infant death syndrome" or "SIDS" means the sudden death of an infant under one year of age that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene and a review of the clinical history.

(30) "Supervision of children" means guidance of the behavior and activities of children for their health, safety and well-being by child care workers who are within sight and sound of the children.

(31) "Supervision of staff" means guidance of the behavior and activities of center employees which may include provision of instructions to carry out activities for limited periods of time out of sight or hearing of the supervisor.

(32) "Toddler" means a child at least one year of age but less than 2 years of age.

(33) "Universal precautions" means measures taken to prevent transmission of infection from contact with blood or other potentially infectious material, as recommended by the U.S. public health services centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

Note: "Standard precautions" for infection control measures incorporate universal precautions. Information on the OSHA requirements related to standard or universal precautions is available on the OSHA web site at <http://www.osha.gov>. Information is also available from the Child Care Information Center, 1-800-362-7353.

(34) "Volunteer" means a person who is not paid, but agrees to give time, with or without reimbursement for expenses, to transport children attending a group child care center or to work in a group child care center.

(35) "Wading pool" means a shallow pool, with sides 15 inches or less in height, capable of being dumped to change water and used primarily for small children.

DCF 251.04 Operational requirements.**(1) TERMS OF A LICENSE.**

See Appendix D Resources List: Collaborative Child Care Program – Frequently Asked Questions for information on how and when the licensing rules affect collaborations between child care centers, public or private schools, and/or Head Start programs.

See DCF 251.11 (5) – AMENDING A LICENSE.

(a) The number of children in care at any one time may not exceed the licensed capacity of the center.

(b) The age of children served by a center may not be younger or older than the age range specified in the license.

LICENSING A PROGRAM THAT SERVES CHILDREN OVER AGE 7. Section 48.65, Wis. Stats., requires programs that provide care to 4 or more children under age 7 to be licensed. Centers who serve a mix of children both under and over age 7 must decide whether to license the entire program or only the portion of the program that serves children under age 7. If the center chooses to license the entire program, the entire program is subject to the licensing rules. If the center chooses to license only the portion of the program that serves children under age 7, the program must provide separate space and staff for the group of children over age 7. The groups of children under age 7 and the groups of children age 7 and over may not be mingled because the care of the older children impacts health, safety, and welfare of children in licensed care.

If children 7 years of age and older are served in the same space with children less than 7 years of age, a license for the actual age range to be served within the licensed capacity is issued.

Developmentally appropriate equipment and supplies must be available. See DCF 251.095 – EXCEPTIONS AND ADDITIONAL REQUIREMENTS FOR CARE OF SCHOOL-AGE CHILDREN.

A license may be granted for the care of children through age 17. If a provider wishes to care for a child above or below the specified age on the license, an exception should be requested or the license should be amended. For example, if a provider who is licensed up to age 12 wishes to care for one child age 14, the exception or amendment must be approved by the center's assigned Licensing Specialist prior to caring for a child above or below the ages specified on the license.

(c) The hours, days and months of a center's operation may not exceed those specified in the license.

See DCF 251.03(14) – DEFINITION – HOURS OF OPERATION.

See DCF 251.03(16m) – DEFINITION – LICENSED HOURS.

(2) ADMINISTRATION. A group child care center licensee shall do all of the following:

(a) Comply with all laws governing the facility and its operation.

Note: Under the state public accommodation law s. 106.52 (3), Stats., federal law related to use of federal funding, and some local anti-discrimination ordinances, denying admission on the basis of race, disability, religion, or certain other characteristics may be illegal.

WISCONSIN SHARES COMPLIANCE: This rule requires centers to comply with the subsidy requirements found in Ch. 49, Wis. Stats., and DCF 201.

251.04(2)(a) Note: continued

DISCRIMINATION: The DCF Equal Opportunity Office investigates all discrimination complaints that are submitted to DCF by its clients and customers that are based on practices prohibited by relevant state and federal civil rights laws. Contact the DCF Equal Opportunity Office at 608-422-6889 or the US Department of Health and Human Services, Office for Civil Rights 800-368-1019 (voice) or 800-537-7697 (TDD) or see the ADA website https://www.ada.gov/filing_complaint.htm to file a complaint.

- (b) Comply with all requirements of this chapter.
- (bm) Comply with all conditions placed on the license.
- (c) Ensure that all information provided to the department is current and accurate.
- (d) If residing in another state, designate in writing, as part of the application under s. DCF 251.11 (2) and (3), a Wisconsin resident who is responsible on behalf of the licensee for ensuring compliance with all requirements of this chapter.

See DCF 251.11 (2) – INITIAL APPLICATION FOR A PROBATIONARY LICENSE. In circumstances where the Governor's Council on Migrant Labor operate licensed programs in Wisconsin on a seasonal basis, the person representing the Governor's Council on Migrant Labor may be considered to be a Wisconsin resident during the period of time that program operates in Wisconsin. The Wisconsin residence address must be provided.

- (e) Meet, upon request of the department, with a licensing representative on matters pertaining to the license.
- (f) Prior to receiving or continuing a license, complete all application forms and pay all fees and forfeitures due to the department.
- (g) Submit to the department a certificate of insurance that meets the following conditions:

An insurance binder has the same intent as a certificate of insurance but may be issued by the insurance company prior to initial licensing and will be accepted until the certificate is issued.

An ACORD certificate of insurance is a document summarizing key information about your business insurance policy. The document can be used to prove that the business has general liability insurance coverage and is typically provided by your insurance company. You can request a certificate of general liability insurance from your insurance company.

It is recommended that the department be listed as a certificate holder so automatic notice will be sent to the department if coverage is canceled by the insurance firm or subsequent coverage is not obtained through failure of the licensee to pay the premiums.

Child care centers operated by the University of Wisconsin system and technical colleges are not required to submit certificates of insurance to the department since coverage is provided by statute for programs, employees, and agents.

1. The certificate of insurance shall have coverage dates for all of the following types of insurance:
 - a. General liability insurance with limits of not less than \$25,000 for each person and not less than \$75,000 for each occurrence.
 - b. Vehicle liability insurance with minimums not less than the amounts specified under s. 121.53, Stats., if transportation is provided by the center.

See DCF 251.03 (4g) DEFINITION – CENTER-PROVIDED TRANSPORTATION.

251.04(2)(g)1.c.

c. Vehicle liability insurance for non-owned vehicles with minimums not less than the amounts specified under s. 121.53, Stats., if transportation is provided in vehicles that are not owned by the center and are not public transportation vehicles or chartered vehicles.

Examples of non-owned vehicle transportation are:

- *Children transported in personal vehicle of employee for field trip, portal-to-portal or for emergency situations.*
- *Children transported in personal vehicles of parents or other persons for field trips. If parents transport only their own children for a field trip, non-owned insurance coverage is not required.*
- *Children transported in vehicles donated by other agencies, but not owned by the center, such as churches, community groups, or the Red Cross.*
- *Children transported in rideshare vehicles, such as Uber or Lyft.*

The Commissioner of Insurance recommends that centers carry a non-owned vehicle liability policy / rider even when the center only uses public transportation for field trips or portal-to-portal transportation.

Non-owned insurance coverage may be obtained as a rider to vehicle insurance coverage or may be obtained as an extension to general liability coverage without vehicle insurance coverage but must specifically appear on the certificate as such. A common practice of insurance carriers is to issue a multi-peril policy covering general liability, property and non-owned vehicle coverage.

A written contract between a private transportation or bus company is recommended.

2. The certificate of insurance shall indicate that pets are included in the liability coverage if cats or dogs are permitted in areas of the center accessible to children during the hours of operation.

(h) Develop, submit to the department, and implement written policies consistent with the requirements of this chapter on all of the following subjects:

The Policy Checklist – Group Child Care Centers is available to assist in writing policies and contains items that are both required and recommended to be included in center policies. The policy checklist is available on the department's website, www.dcf.wisconsin.gov.

Centers should periodically review their existing policies and procedures to determine whether they conflict with the licensing rules or to determine whether any changes are required to reflect current procedure. Any conflicts must be resolved.

Copies of policy changes must be submitted to the department at the time the policy is changed. Licensees are reminded at continuation that if they have not previously submitted policy changes, they should do so with the continuation materials. The Policy Checklist – Group Child Care Centers must be sent to the department at the time the policies are submitted.

It is recommended that policy revisions be dated.

1. Fee payments and refunds.

It is recommended that centers utilize a contract that includes the requirements for payment of fees.

Per DCF 201.038 (5) (a), a provider must have a written payment agreement with each parent that receives Wisconsin Shares Child Care Subsidy.

2. Personnel, including job descriptions, hours of work, lunch and break times, holidays, vacations, sick leaves, leaves of absence, probationary periods, performance evaluations, grievance procedures and the disciplinary process. The personnel policy shall contain a procedure that requires staff to notify the licensee and the licensee to notify the department as soon as possible but no later than the next business day when any of the following occurs:

- a. The employee has been convicted of a crime.
- b. The employee 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.
- c. The employee has a substantiated governmental finding against them for abuse or neglect of a child or adult or for misappropriation of a client's property.
- d. When a professional license held by an employee has been denied, revoked, restricted or otherwise limited.

3. Discharge of enrolled children.

DISCRIMINATION: The DCF Equal Opportunity Office investigates all discrimination complaints that are submitted to DCF by its clients and customers that are based on practices prohibited by relevant state and federal civil rights laws. Contact the DCF Equal Opportunity Office at 608-422-6889 or the U.S. Department of Health and Human Services, Office for Civil Rights 800-368-1019 (voice) or 800-537-7697 (TDD) or see the ADA website https://www.ada.gov/filing_complaint.htm to file a complaint.

4. Admission.
5. Health care. If the center is licensed to care for children under one year of age, the policies shall include procedures to reduce the risk of sudden infant death syndrome.

See 251.09 (1) (k) INFANT & TODDLER – BEDDING, 251.09 (1) (L) INFANT & TODDLER – SOFT MATERIALS IN CRIBS; DCF 251.09 (2) (b) INFANT & TODDLER – INDIVIDUAL SLEEP PATTERNS; and DCF 251.09 (2) (bm) INFANT & TODDLER – SLEEP POSITION

6. Education.
7. Nutrition, including accommodating children with food allergies.
8. Child guidance, including appropriate ways to manage crying, fussing, or distraught children.

See Appendix D Resources List: *Managing Crying, Fussing or Distraught Children.*

9. Emergency plans to be followed in the event of a fire, tornado, missing child, or other emergency.

See DCF 251.03 (10m) DEFINITIONS – EMERGENCY. For more information on emergency plans, see:

- Wisconsin Department of Military Affairs, Division of Emergency Management, <https://dma.wi.gov/DMA/wem>.
- Wisconsin Department of Children and Families, Emergency Preparedness and Response in Child Care webpage, www.dcf.wisconsin.gov/ccregulation/emergencyprep.
- Child Care Information Center, <https://dcf.wisconsin.gov/ccic>, 1-800-362-7353.

10. Continuing education for staff.
11. Orientation of new staff and volunteers.

251.04(2)(h)12.

12. Transportation, if the center will transport children either on field trips or on a regular schedule. The policy shall include a procedure to ensure that no child is left unattended in a vehicle.

Pursuant to DCF 251.08 (4) (b), at a minimum, the transportation policy should include the following:

- *Procedure for inspecting vehicle for safety and for ensuring that any required vehicle safety alarm is in operating condition*
- *Procedure for loading, unloading and tracking children being transported*
- *Procedure for ensuring the child is released to a responsible adult*
- *Procedure for tracking children during an emergency*
- *Behavior management techniques for use with children being transported*
- *Procedure on the use of a cellular phone or other wireless communication device by the driver*
- *Procedure for sharing information with the driver on any special needs that a child being transported may have and the plan for how those needs are to be met*

(j) Ensure that all published statements such as brochures and publicity releases are accurate.

(k) Post the child care license near the entrance or in some other conspicuous area of the center that is visible to the public.

(L)1. Post next to the child care license all of the following:

- a. The current licensing statement of compliance or a noncompliance statement and correction plan, including any rule violations the department has not verified as corrected and in compliance.
- b. Any notice from the department regarding rule violations, such as a warning letter or enforcement action.
- c. Any stipulations, conditions, temporary closures, exceptions, or exemptions that affect the license.

2. All items posted as required under this paragraph shall be visible to parents.

(m) Ensure that any action, by commission or omission, or any condition or occurrence relating to the operation or maintenance of the child care center does not adversely affect the health, safety or welfare of any child under the care of the licensee.

(n) Submit to the department by the department's next business day a completed background check request form if any of the following occurs:

Licensees submit a Background Check Request (BCR) for themselves to their regional offices. Licensees submit BCRs and others through the Child Care Provider Portal (CCPP).

Per s. 48.686 (2) (ab), Wis. Stats., each child care program shall submit a request to the department for a background check prior to the date on which the individual becomes a caregiver or household member.

Per s. 48.686 (4m) (c) individuals may not begin working or residing at the child care center until they receive preliminary eligibility. New employees or new household members may begin working or residing at a child care center with preliminary eligibility results but they must be under supervision of someone with final eligibility until the new employee or household member receives final eligibility.

Licensees are reminded to remove an individual from their facility's profile in the CCPP when the individual no longer resides or is employed at the center. Failure to do so may result in the facility being charged for subsequent automated child care background checks being conducted on inactive individuals.

In the event of a name change, individuals should submit a new BCR including any alias used in the past.

1. A change in the board president or chairperson.

Licensees must submit a Background Check Request (BCR) form to their regional office when there is a change in board president. Licensees must submit a BCR for all other employees through the Child Care Provider Portal (CCPP).

2. A corporation or limited liability company designates a new person to be subject to the background check.
3. A household member turns 18 years of age, unless the household member has previously submitted a background check request form.
4. A household member turns age 10 years of age.

Licensees should enter all household members into the Child Care Provider Portal (CCPP). When a household member turns 10 years of age, DCF will then contact the licensee and request a Background Check Request form be completed. Licensees should verify that Background Check Request form information for all household members age 10 years and older are entered in the CCPP.

- (o) Submit to the department a completed background check request form for each potential household member prior to the date on which the person becomes a household member, unless the person is less than 10 years of age.

Licensees should enter all household members into the Child Care Provider Portal (CCPP). When a household member turns 10 years of age, DCF will then contact the licensee and request a Background Check Request form be completed. Licensees should verify that Background Check Request form information for all household members age 10 years and older are entered in the CCPP.

Note: The Background Check Request form is available electronically through the Child Care Provider Portal or at <https://dcf.wisconsin.gov/forms>. A paper version is available from any regional licensing office listed in Appendix A.

- (p) Submit a current delegation of administrative authority signed by the licensee that outlines the organizational structure and designates, in a chain of command form, those persons on the premises in charge of the center for all hours of operation.

(3) REPORTS. The licensee shall report to the department all of the following. If the report is made by telephone, the licensee shall submit a written report to the appropriate regional licensing office within 5 business days of the incident. Fax, e-mail, and letter are acceptable ways of filing a written report:

- (a) Any incident or accident that occurs while the child is in the care of the center that results in professional medical evaluation within 24 hours of the licensee becoming aware of the medical evaluation.

Note: The licensee may use either the department's form, Incident Report – Child Care Centers, or the licensee's own form to report incidents or accidents. The form is available on the department's website, <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

The Incident Report Form – Regulated Child Care is the preferred format for the report; however, other forms will be accepted as alternatives. It is recommended that a center include information on the details of what happened to cause the injury when making the written report. Examples of details that should be included in this report are: date and time, the child's name and date of birth, the parent's information, a detailed description of what caused the injury, any witnesses, and what action was taken by the provider at the time of the incident or accident.

251.04(3)(am)

(am) Any death of a child in care, within 24 hours after the death.

Note: The licensee may use either the department's form, *Incident Report - Child Care Centers*, or the licensee's own form to report the death of a child in care. The department's form is available at <https://DCF.wisconsin.gov/cclicensing/ccformspubs>.

(ar) Any injury caused by an animal to a child in care, within 24 hours after the incident.

If an animal bites a child, whether the animal is owned by the center or not, the parent shall be notified and procedures for treatment of an injury shall be followed. It is recommended a veterinarian be contacted by center personnel to determine a course of action in the diagnosis of possible rabies in the animal. It is also recommended parents be notified of any action taken by the veterinarian, as well as the name, address, and telephone number of the veterinarian who was consulted.

(b) Any damage to the premises that may affect compliance with this chapter, or any incident at the premises that results in the loss of utility services, within 24 hours after the occurrence.

Damage to any child care space on the premises that might affect the use of child care space must be reported. Examples of such damage includes storm damage, flooding, and power outages.

(c) A change in the administrator or center director of a child care center, within 30 days after the change.

(d) A change of any program service, including expected temporary closures lasting more than 2 weeks, at least 5 days prior to the change.

Temporary closings lasting more than 2 weeks are considered a change in program service.

(dm) Unexpected closures lasting more than 2 weeks, within 24 hours after the center has been closed for a 2-week period.

(e) Statistical data required by the department on forms provided by the department.

Other state agencies, such as the Department of Health Services, may also occasionally request statistical data.

(f) If requested by the department, a plan of correction for cited violations of this chapter or ch. 48, Stats., in a format specified by the department. The department shall receive the plan of correction by the date the department specifies and be approved by the department licensing representative.

Note: The licensing representative will notify the licensee if a plan of correction is required and provide the plan of correction format with the notification.

(g) Any known convictions, pending charges or other offenses of the licensee, group child care center employees or other person subject to a child care background check that could potentially relate to the care of children at the center or activities of the center by the department's next business day.

(h) Any change in room usage, such as changing the way rooms are primarily used by children or using rooms not previously approved for use at least 20 working days prior to the change. Changes in room usage shall be approved by the department prior to the change.

(i) Any incident related to a child who leaves the premises of the center without the knowledge of the provider or any incident that results in a provider not knowing the whereabouts of a child in attendance at the center within 24 hours of the occurrence.

(j) Any suspected abuse or neglect of a child by an employee or volunteer that was reported under s. DCF 251.04 (8), including any incident that results in a child being forcefully shaken or thrown against a surface, hard or soft, during the child's hours of attendance, within 24 hours after the occurrence.

251.04(3)(jm)

(jm) Any prohibited actions specified in s. DCF 251.07 (2) (e) by an employee or volunteer to a child in care, within 24 hours after the incident.

(k) Any incident involving law enforcement within 24 hours after the occurrence that:

1. Involves a licensee, a household resident or an employee of the center in an incident that causes, or threatens to cause, physical or serious emotional harm to an individual, including a child in the care of the center.

2. Involves any traffic-related incident where a person responsible for the violation transports children in the care of the center.

(L) Any construction or remodeling on the premises that has the potential to affect an area accessible to children or a condition of the license. Notification shall be provided in writing before the construction or remodeling begins.

Note: See s. DCF 251.11 (5) (a) for items that affect a condition of the license.

Note: Alterations, additions, or changes of use to commercial buildings may require submittal of plans to and approval by the Department of Safety and Professional Services or its agent before commencing construction. It is recommended that an architect or engineer be consulted prior to the beginning of any construction or remodeling to determine whether plans must be submitted.

Remodeling that involves a kitchen or remodeling that includes any mechanical modification may require a plan review by the Department of Safety and Professional Services plan reviewers.

The addition or removal of playground structures is considered remodeling or construction that must be reported.

(m) Any confirmed case of a communicable disease reportable under ch. DHS 145 in a child enrolled at the center or a person in contact with children at the center, within 24 hours after the center is notified of the diagnosis. The licensee shall also notify the local health department within 24 hours after the center is notified of the diagnosis.

See DCF 251.04 (4) (a) 1. – PARENT NOTIFICATION OF A COMMUNICABLE DISEASE and DCF 251.07 (6) (e) – COMMUNICABLE DISEASE. See Appendix D Resources List: Childhood Communicable Diseases Chart, which identifies the diseases that must be reported to the local public health department. The Department of Health Services' website also contains the current list of reportable diseases: <https://www.dhs.wisconsin.gov/disease/reporting.htm>.

COVID-19 is considered a communicable disease. If there is a case of COVID-19 in the center that is associated with a hospitalization or pediatric death, providers must follow all reporting requirements.

Names of children with communicable diseases may not be shared with other families. There are penalties for disclosure of HIV antibody test results without consent. See s. 146.025, Wis. Stats. A person's HIV status is confidential and may not be shared with others.

The center must work with the health department to ensure that all necessary measures are taken to protect the children in care.

(n) Any change in meal preparation arrangements, at least 5 calendar days before the change. Centers adding meal preparation after an initial license has been issued shall document compliance with building codes related to kitchens before beginning to prepare meals on the premises.

See DCF 251.06 (9) (C) 3M – FOOD PREPARATION LOCATION REQUIREMENTS.

(o) Any change in transportation services, at least 5 calendar days prior to the change.

This also includes providing or contracting transportation services for field trips.

251.04(4)**(4) PARENTS.**

(a) The center administrator shall notify the parents of an enrolled child of all of the following:

1. The child has been exposed to a confirmed case of a communicable disease reportable under ch. DHS 145 and transmitted through normal contact. Notification shall occur when the information becomes known to the center.

See DCF 251.04 (3) (m) – *REPORTING COMMUNICABLE DISEASES TO THE DEPARTMENT* and DCF 251.07 (6) (e) – *COMMUNICABLE DISEASE*. See Appendix D Resources List: Wisconsin Communicable Diseases Chart. The Department of Health Services’ website also contains the current list of reportable diseases: <https://www.dhs.wisconsin.gov/disease/reporting.htm>.

Names of children with communicable disease may not be shared with other families.

Examples of those diseases not transmitted through normal contact are HIV/AIDS, Hepatitis B and C, and sexually transmitted diseases.

Contact the local health department for further information.

2. Notification shall be made immediately and shall provide sufficient detail to reasonably apprise the parent in all of the following situations:

a. The child becomes ill.

b. The child needs professional evaluation of an injury.

c. The child experiences a head injury, has a seizure, consumes incorrect breastmilk, consumes food or drink that may contain the child’s allergen, consumes or comes in contact with poisonous materials, or is given incorrect medication. For purposes of this subd. 2. C., a “head injury” means a bump, blow, or jolt to the head.

Incorrect medication includes the wrong type of medication, the wrong dose of medication, and medication not given at the correct time.

d. The child’s whereabouts are unknown to the assigned provider.

See DCF 251.03 (26) – *DEFINITION – REGULARLY ASSIGNED CHILD CARE WORKER*.

e. The child was subject to child guidance that is prohibited under s. DCF 251.07 (2) (e) and (f).

3. The child has sustained a minor injury that does not appear to require professional medical evaluation. Notification may be made when the child is picked up at the center or delivered to the parent or other authorized person.

4. The child will be going on a field trip that is not part of the regularly scheduled program. Notification of the date, time, and destination shall be prior to the field trip.

The options for meeting this rule are:

1. *The Field Trip or Other Activity Notification/Permission – Child Care Centers form or a similar center-created form that will be used for each child on each field trip.*

OR

2. *A blanket permission form, such as the Child Care Enrollment form used to meet the requirement under DCF 251.04(6)(a), signed by parents that covers all field trips involving use of a vehicle; and notification to parents of the date, time, and destination of the field trip for each child prior to each trip.*

(b) The center shall permit parents to visit and observe at any time during the center’s hours of operation, unless access is prohibited or restricted by court order.

251.04(4)(b) continued

When access is prohibited or restricted by court order, permission to pick up or contact the child is also affected. To prohibit or restrict access, the center must have a copy of the court order on file at the center. It is recommended that the policies should include notification to parents that they are permitted to visit and observe during hours of operation. Refer also to DCF 251.04(7)(b) ACCESS TO RECORDS & REPORTS – PARENTS.

(c) The center shall offer conferences at least twice each year for parent and staff communication regarding the child's adjustment to the program and the child's growth and development.

Note: When a child care worker or a parent has concerns about a child's growth or development, a referral to a Birth-to-Three agency or the local public school should be considered to determine if the child is eligible for special services. Wisconsin has an information and referral service for persons with questions or concerns about a child's development called Well Badger Resource Center that is available to the public 24 hours a day, 7 days a week. When a call is placed to Well Badger Resource Center at 1-800-642-7837, the caller will learn about early intervention services as well as other related services in the area.

See Appendix D Resources List: Together Children Grow – Quality Child Care for Children with Special Needs.

(d) The center shall notify parents of any religious training that is part of the center's program. The reference to the religious component shall be included in any publicity and in the education policy.

(e) The center shall provide a summary of this chapter to the parents of each child upon the child's enrollment.

Note: Copies of a summary of this chapter may be obtained from the Child Care Information Center, www.ccic.wi.gov, 1-800-362-7353.

The document titled "Your Guide to Regulated Child Care Programs" is the summary referenced in this rule. It is available on the department's website at: www.dcf.wisconsin.gov.

(f) A copy of this chapter shall be posted or available in an area of the center where parents are likely to see it.

(g) A copy of the child care policies of the center shall be made available to the parents in an area of the center accessible to parents. Personnel policies need not be included.

(6) CHILDREN'S RECORDS.

(a) The licensee shall maintain a current written record obtained prior to the child's first day of attendance or subsequent re-enrollment at the center on each child enrolled and shall make the record available to the licensing representative on request. Each record shall include all of the following:

A child care center must have all required information on children enrolled in the program, including those children who attend only for 4K. This includes enrollment information, immunization records, health examination reports, and other information required under the licensing rules. Records may be shared between the child care center and the school district, but they must be available for review at the child care site by the DCF licensing specialist. The DCF licensing specialist will monitor a center's compliance with children's records.

See Appendix D Resources List: Collaborative Child Care Programs – Frequently Asked Questions.

251.04(6)(a) continued

See Appendix D Resources List for Required Items for Group Child Care Centers and Instructions for Obtaining Department Forms. In some instances, the rule allows centers to develop and use their own forms. If a center chooses to develop its own forms, all the information specified in the rule is required to be collected. Forms are available from DCF website: <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

Administrative rules do not relate to the office management or record-keeping techniques of a center. Required records must be maintained for the length of time the child is enrolled and be available to the licensing specialist for review.

It is recommended that the date of discharge be added to the child's record and that the center retain records for 3 years after a child is discharged.

See Wis. Stat. s. 49.155 (6m); Wisconsin child care subsidy rules require child care providers retain the written daily attendance records for at least 3 years after the child's last day of attendance.

1. Enrollment information consisting of:

- a. The name and birthdate of the child.
- b. The full names of the child's parents.

Enrollment information should include both parents, if applicable. When access is prohibited or restricted by court order, permission to call for the child is also affected. To prohibit or restrict access, the center must have a copy of the court order on file at the center.

c. The child's home address and telephone number.

d. An address and telephone number where a parent can be reached while the child is in care.

e. The name, address, telephone number and relationship to the child of a person to be notified in an emergency when a parent cannot be reached immediately.

f. The name, address and telephone number of a physician or medical facility caring for the child.

g. The names, addresses and telephone numbers of persons other than a parent authorized to call for the child or to accept the child who is dropped off.

If no one is authorized to pick up a child, a notation of "none" should be indicated.

A center may not stop a non-custodial parent from picking up a child. If parental access is denied, a current copy of the court order must be on file at the center.

h. The child's first day of attendance at the center.

In part-day preschool or before and after school care situations where children may be enrolled on a 9- or 10-month basis, the first day of attendance shall be the first time the child attends (initial enrollment) and is considered the first date of attendance regardless of subsequent re-enrollments.

If the center practice is to secure a new enrollment form once per year or each fall, the center should maintain the child's original enrollment form with the initial attendance date in the current file. The first day of attendance needs to be maintained in the child's file for as long as the child is enrolled in the program so that licensing representative can make an accurate measurement of compliance with immunization and physical examination rules.

2. Written consent from the parent for emergency medical care or treatment.

Note: The licensee may use either the department's form, Child Care Enrollment, or the licensee's own form to obtain consent of the child's parent for emergency medical treatment. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

251.04(6)(a)4.

4. Authorization from the parent for the child to participate in field trips and other off-premises activities, if these are part of the center's program.

Note: The licensee may use either the department's form, *Field Trip or Other Activity Notification / Permission*, the department's form, *Child Care Enrollment*, or the licensee's own form for securing parental permission. Forms are available on the department's website, <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

The options for meeting this rule are:

1. *The Field Trip or Other Activity Notification/Permission – Child Care Centers form or a similar center-created form that will be used for each child on each field trip.*

OR

2. *A blanket permission form, such as the Child Care Enrollment form used to meet the requirement under DCF 251.04(6)(a), signed by parents that covers all field trips involving use of a vehicle; and notification to parents of the date, time, and destination of the field trip for each child prior to each trip.*

Emergency information should be carried for the children during walking field trips.

5. Authorization from the parent outlining the plan for a child to come to the center from school, home or other activities or to go from the center to school, home or other activities unless the child is accompanied by a parent or other authorized person or transported by the center.

Note: The licensee may use either the department's form, *Alternate Arrival/Release Agreement – Child Care Centers*, or the licensee's own form for securing the parent's authorization. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

A parent may authorize other persons to drop-off or pick-up a child through a note or on the Child Care Enrollment form. If a child is transported by a school bus, taxi, or transportation agency that may have various individuals providing the transportation, the written agreement should specify the transportation agency as the authorized pick-up or drop-off "person."

Children coming to the center from school or going from the center to school within the same school building do not need this authorization. Going to and from any other activity within the school requires an authorization.

6. Health history information that includes all the following:

- a. The name and birthdate of the child.
- b. The full names of the child's parents.
- c. A telephone number where the parent can be reached while the child is in care.
- d. The name, address, and telephone number of the physician or medical facility caring for the child.
- e. The child's medical conditions, such as asthma, cerebral palsy, diabetes, epilepsy, food allergies, or gastrointestinal or feeding concerns. If the child has a milk allergy, a statement from a medical professional indicating an acceptable alternative.
- f. If the child has a medical condition, triggers that may cause a problem, signs or symptoms for the child care worker to watch for, steps a child care worker should follow, when to call a parent regarding symptoms, when the condition requires emergency medical care, and identification of all child care workers who have received specialized training or instructions to help treat symptoms.

Note: The licensee may use the department's form, *DCF-F-CFS2345, Health History and Emergency Care Plan*, or the licensee's own form for obtaining the information.

251.04(6)(a)6.f. continued

Recommended methods for sharing a child's health history information with staff include but are not limited to reviewing files during new staff orientation, staff meetings, reviewing child information with staff when they are moved to a new classroom, etc.

6m. Documentation that indicates the child's immunization history is in compliance with s. 252.04, Stats., and ch. DHS 144.

Note: To record immunization information, use either an electronic printout from the Wisconsin Immunization Registry or other registry maintained by a health care provider or the Department of Health Services Form F-44192, *Child Care Immunization Record*. The form is available on the department's website at <https://DCF.Wisconsin.gov/CCLicensing/CCFormSPubs>.

Under s. 252.04, Wis. Stats., and ch. DHS 144, the immunization record for each child must be on file no later than 30 school days (6 calendar weeks) after the first day of a child's attendance.

Immunization records are required to be on file for school-age children unless the child care center is operated on the school's premises and the child care center has approved access to the school's vaccination records.

The Student Immunization Law s. 252.04 (2), Stats., sets minimum requirements for children attending child care centers. The immunization history must indicate that the child has received at least the first dose of each immunization required for the child's age or that the immunization requirement is waived for that child.

If a parent claims a religious or personal conviction exemption, the parent may check the appropriate box and sign the Child Care Immunization Record form in place of providing an immunization history. Immunization requirements may also be waived upon signature of a physician that the child should not be immunized for health reasons, as indicated on the Child Care Immunization Record form.

For children whose immunization record is not submitted within 30 school days of admission; whose record at 30 school days after admission indicates that they do not have at least the first dose of each required vaccine; or who fall behind schedule (i.e., do not obtain an immunization which their health care provider has indicated is due on a certain date), there are two courses of action for the center:

1. *As required by Wisconsin law and administrative rule, the center will notify the district attorney that a child has failed to comply with immunization requirements.*

OR

2. *The child who fails to comply with immunization requirements will be discharged (excluded) from the center until such time as immunization requirements are met.*

7. Specific informed written consent from the parent for each incident of participation by a child in any research or testing project.

Note: The licensee may use either the department's form, Informed Consent for Observation or Testing by an Outside Agency – Child Care Centers, or the licensee's own form for securing the parent's written consent. Information on how to obtain the department's form is available on the department's website, <http://DCF.Wisconsin.gov>, or from any regional licensing office in Appendix A.

8. Documentation of each child's most recent physical examination in accordance with the following schedule:

If a center changes ownership, a child enrolled for care under the previous owner who remains in care at the same location under the new owner is not required to obtain a new physical exam.

- a. Each child under 2 years of age shall have an initial health examination not more than 6 months prior to not more than 3 months after being admitted to the center, and a follow-up examination at least once every 6 months thereafter.
- b. Each child who is at least 2 years of age but who is not 5 years of age or older shall have an initial health examination not more than one year prior to nor later than 3 months after being admitted to a center, and a follow-up health examination at least once every 2 years thereafter.
- c. Children 5 years of age and older are not required to have a health exam.
- d. A health examination report shall be made on an electronic printout from a licensed physician, physician assistant, or other EPSDT provider or on a form provided by the department that is signed and dated by a licensed physician, physician assistant, or other EPSDT provider.

See DCF 251.03 (10s) – DEFINITION – EPSDT PROVIDER.

Note: To document a health examination, use either an electronic printout from a medical professional or the department's Form DCF-F-CFS0060, *Child Health Report – Child Care Centers*. The department's form is available at <https://DCF.wisconsin.gov/cclicensing/ccformspubs>.

(b) The licensee shall maintain a current, accurate written record of the daily attendance and date of birth of each child for the length of time the child is enrolled in the program. The actual time of arrival and departure for each child shall be recorded if hours of arrival and departure vary among children.

Note: The form, Daily Attendance Record – Child Care, may be used to record a child's daily attendance. Information on how to obtain the department's form is available on the department's website, <http://DCF.wisconsin.gov>, or from any regional licensing office in Appendix A.

See DCF 251.055 (1) (f) CHILD TRACKING PROCEDURE.

A child must be signed in when the child arrives and signed out when the parent arrives to pick up the child. The center is responsible for children (i.e., knowing their whereabouts) from the time the parent, guardian, or responsible person brings the child to a center staff. Parents or legal guardians are responsible for the child until the child is safely in the classroom or received by center staff.

A center may use the department's Daily Attendance Record – Child Care Centers form, may choose to use their own paper form, or may use an electronic form or system to capture the same information included on the department's Daily Attendance Record form. No exception is necessary. The daily attendance record could be a sign-in / sign-out book completed by either the parents or the center; however, the center is responsible for ensuring that this record is accurate. Centers may have a central sign-in/sign-out book and another method to track children by room or provider. It is the child care program/provider's responsibility to be able to access the electronic form to respond to the Licensing Specialist's request to review information.

Regardless of the format of the record, it is recommended that the date of discharge be added to the child's record and that the center retain records for 3 years after a child is discharged.

Each enrolled child's date of birth must be included on each daily attendance record to ensure appropriate staff-to-child ratios.

The attendance record must be up-to-date and must include each time a child is checked in and out of care at the facility throughout the day (e.g., preschool, swim lessons, etc.).

It is recommended that entries on the Daily Attendance Record be made in ink. If a time was entered incorrectly or by mistake, it is recommended that the incorrect information be struck through and initialed by the person correcting the error.

251.04(6)(b) Note: continued

The child should be signed in for actual hours of care. If a center is licensed for more than 12 hours, times documented should include AM and PM designation.

When the center provides transportation, the attendance tracking requirements apply. There may be 2 attendance records kept when children are transported. One record could reflect attendance during transportation, and the other could reflect attendance while the child is at the center. Attendance records must include the actual time of pick up and/or drop off.

If the child is transported by means other than center-provided transportation, the transporter is responsible for the child once the child is placed in the vehicle or until the child is received by center staff. If a child is not received directly by center or school staff, an authorization for the time the child is moving between the transporter and center staff must be signed by the parent/legal guardian.

Wisconsin Child Care Subsidy rules require child care providers to retain the written daily attendance records for at least 3 years after the child's last day of attendance. For questions related to attendance reporting for WI Shares child care subsidy purposes, contact the local child care coordinator.

(c) If children are transported by the center to or from the child's home or school, the licensee shall maintain a daily attendance record that includes the actual time the child was picked up or dropped off

(7) CONFIDENTIALITY. The licensee is responsible for the compliance of child care center employees and volunteers with s. 48.78, Stats., and this subsection. The licensee shall ensure that:

It is recommended that the center have a policy regarding the use of photos and social or electronic media involving children enrolled at the child care center.

(a) Persons having access to children's records do not discuss or disclose personal information regarding the children and facts learned about the children and their relatives. This does not apply to:

1. The parent or a person authorized in writing by the parent to receive the information.
2. Any agency assisting in planning for the child when informed written parental consent has been given.
3. Agencies authorized under s. 48.78, Stats.

A licensed child care facility may share confidential information regarding an individual in care to a public school, social welfare or law enforcement agency, or the Department of Children and Families. A social welfare agency is a county department of social or human services, an Indian tribal social service agency or agent, or a licensed child welfare agency under contract with the county department. A law enforcement agency is a sheriff or police department.

"Relative" is defined by s. 28.02(15), stats., as a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, step-uncle, step-aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce.

(b) A parent, upon request, has access to all records and reports maintained on his or her child.

Every parent has a right to their child's school, medical, and dental records, and any video recordings of their child. The only exception to this rule is if a court specifically orders that a parent does not have access to the records. To prohibit or restrict access, the center must have a copy of the court order on file at the center.

(c) All records required by the department under this chapter for licensing purposes are available to the licensing representative.

(8) REPORTING CHILD ABUSE OR NEGLECT. A licensee, employee or volunteer at a child care center who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in ss. 48.02 (1) and 48.981 (1), Stats., shall immediately contact the county department of social services or human services or a local law enforcement agency, as required by s. 48.981, Stats.

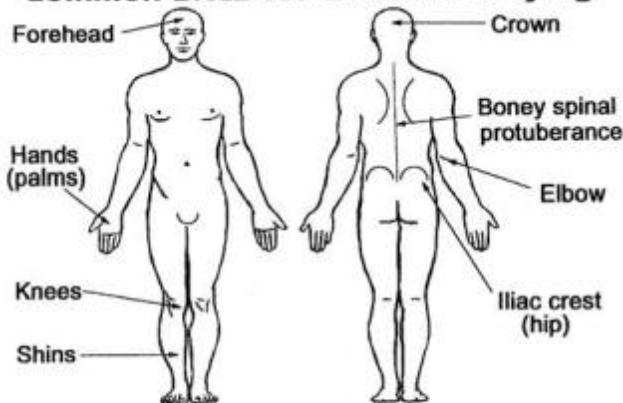
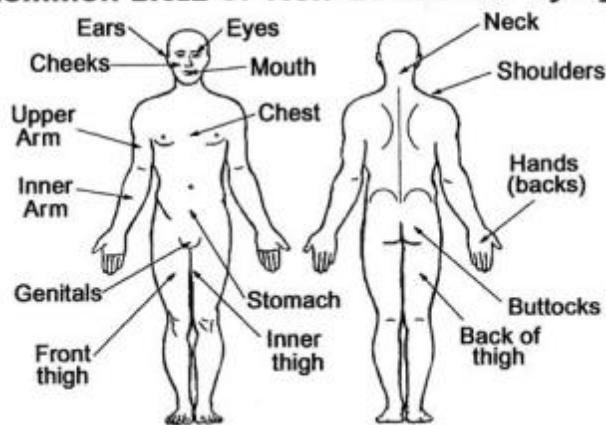
Licensees, employees, and volunteers are mandated reporters under the law.

- *A mandated reporter who witnesses or who has reasonable knowledge to suspect that a child has been abused or neglected is required to immediately contact the proper authority (county department of social or health and human services or law enforcement).*
- *The witness or the person who has reasonable knowledge to suspect that a child has been abused or neglected should be the person to make the report.*
- *Because child to child contact may be determined to be abuse, child to child sexual contact must be reported.*

When in doubt, report the suspected abuse or neglect. Section 48.981 (6), Wis. Stats., states that if a mandated reporter fails to report suspected child abuse or neglect, you may be fined up to \$1,000, imprisoned for up to 6 months, or both. In addition, a mandated reporter who fails to report suspected child abuse or neglect may receive a bar to owning and/or working in a licensed child care and future licensing applications may be denied.

A report to the licensing specialist does not meet this requirement.

Note: Child care workers are required to report known or suspected child abuse or neglect as specified above. Reporting to the licensee does not lessen this legal duty if the licensee fails to report as specified above. Information related to child abuse or neglect may be obtained from the Child Care Information Center, <https://dcf.wisconsin.gov/ccic>, 1-800-362-7353.

251.04(8) Note: continued**Common sites for accidental injury****Common sites of Non-accidental injury**

Note 2: See s. DCF 251.04 (3) (j) on reporting suspected abuse of a child by a staff member to the department.

DCF 251.05 Staff.

(1) DEFINITION. In this section, the "Wisconsin Registry" means a brand of The Registry, Inc., a professional development recognition agency.

Note: For further information, see <https://www.wiregistry.org>.

(2) STAFF RECORDS.

(a) The licensee shall maintain a file on each employee or contracted employee. The file shall be available for examination by the licensing representative at the center and shall include all of the following:

Files for staff must be available on the employee's first day of work. When a center utilizes substitutes from an agency that is not the licensee, the agency may be responsible for collecting and maintaining the required staff file information on the substitute. The licensee is responsible for ensuring that the required information is present in the file and that the file is available for review by the licensing representative.

Information contained in a staff file may be transferred with a staff person if they started to work at a new/different location operated by the same licensee. An orientation specific to the new location is required. If an employee has not worked at a specific location for more than 6 months, a new orientation is required.

At the time of initial licensure, staff files including documentation of educational requirements are required for the person who is identified as the center administrator and the person who is identified as the center director.

Background check information required under subdivision 2. below, documentation of the days and hours a person is included in the staff-to-child ratios required under subdivision 6. below, and continuing education documentation required under subdivision 7. below are not required to be kept in the individual's personnel file; however, these records must be readily available for review by the licensing specialist. There is no retention requirement for staff files. Licensees are encouraged to consult with an attorney and/or an accountant for other potential record retention requirements.

Licensees wishing to maintain electronic files or an electronic system for staff should ensure all of the following: the files must be available for review by the licensing specialist during a licensing visit and the files must contain all the required information including the appropriate department-required forms if applicable.

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.

Note: The licensee may use the department's form, *Staff Record - Child Care Centers*, or the licensee's own form for recording staff information. The form is available at <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

See s. 111.31 – 111.395 Wis. Statutes Wisconsin Fair Employment Law. It is not illegal to ask for age or date of birth on an employment form. Employers are prohibited from using age as a basis for discharging or failing or refusing to hire an individual and are prohibited from discriminating in compensation, terms, conditions or privileges of employment because of age. See <https://dwd.wisconsin.gov/er/civilrights/discrimination/> for more information.

2. Documentation from the department, either paper or electronic, that indicates a child care background check was completed in compliance with the timelines and requirements specified in s. 48.686, Stats., and ch. DCF 13 and the person is eligible to work in a child care program.

Note: Information on child care background checks is available at <https://dcf.wisconsin.gov/ccbgcheck>.

251.05(2)(a)2. Note: continued

The licensee may submit a Background Check Request (BCR) for new staff through the CCPP. The digital form must be submitted initially and reviewed every five years at the time the five-year fingerprint check is due. The CCPP may be accessed here:

<https://mywicahildcareproviders.wisconsin.gov/>. Per s. 48.686 (4m) (c), individuals may not begin working or residing at the child care center until they receive preliminary eligibility. New employees or new household members may begin working or residing at a group child care center with preliminary eligibility results, but they must be under supervision of someone with final eligibility until the new employee or household member receives final eligibility.

As of 09/30/2018, the Preliminary Eligibility Determination and/or Final Eligibility Determination notices are the documentation accepted as the results of a complete child care background check.

3. a. A report on a physical examination that was completed not more than 12 months prior to nor more than 30 days after the person was hired. The physical examination report may be a printout of an electronic record from a medical professional or on a form provided by the department. The report shall be signed and dated by a licensed physician, physician's assistant, or other EPSDT provider. The report shall indicate that the person is free from illnesses detrimental to children, including tuberculosis, and that the person is physically able to work with young children.

See DCF 251.03 (10s) – DEFINITION – EPSDT PROVIDER.

An initial physical exam is required; subsequent physical exams are not required.

An employee who works for a single licensee with multiple sites may use the original physical exam; no exception is necessary.

b. The health examination requirement in subd. 3. a. does not apply to a provider who requests an exemption based on the provider's adherence to religious belief in exclusive use of prayer or spiritual means for healing in accordance with a bona fide religious sect or denomination.

Note: The department's form, *Staff Health Report - Child Care Centers*, is used for recording physical examination information. Forms are available on the department's website, <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

4. a. A certificate from the Wisconsin Registry documenting that the person has met the educational qualifications for the position under sub. (3) if the person has worked as a teacher, director, or administrator at the center for at least 6 months. A copy of an educator's license issued by the department of public instruction as a teacher may substitute for a certificate from the Wisconsin Registry.

For the purposes of this rule, 6 months is calculated as total employment for an individual employed at child care programs operated by the same licensee and same location. If the licensee has more than one child care program at the same location, such as a year-round group child care and a summer day camp, employees moving between programs are considered continuously employed.

Information about obtaining a Wisconsin Registry certificate can be found on the Wisconsin Registry's website: <http://www.wiregistry.org>.

Course completion post cards for department-approved, non-credit entry-level training may not replace a Wisconsin Registry certificate that indicates a person's placement level on the career ladder. An individual's Wisconsin Registry learning record will be accepted if it documents the individual's Wisconsin Registry level and the position(s) for which the individual is qualified.

251.05(2)(a)4.a. continued

A teaching license issued by the Wisconsin Department of Public Instruction or by another state may be used in place of a Wisconsin Registry certificate. Teaching licenses need not be current.

A person holding a substitute, paraprofessional, or teaching assistant license issued by DPI must have a Wisconsin Registry certificate indicating that they meet the requirements for the position held.

b. For school-age administrators, school-age directors, and school-age program leaders who have been in the position for 6 months or more, a certificate from the Wisconsin Registry.

d. For persons not required to have a certificate from the Wisconsin Registry, including assistant child care teachers, program aides, school-age group leaders, school-age program aides, meal preparation personnel, substitutes, volunteers, and student teachers and a child care teacher, center director, administrator, school-age administrator, school-age director, or school-age program leader who has not worked for the center for more than 6 months, documentation of the person's educational qualifications.

A copy of an individual's learning record obtained from the Wisconsin Registry may be used to document completion of entry-level training for those persons who are not required to have a Wisconsin Registry certificate on file.

Note: Information about how to obtain a certificate may be obtained from the Wisconsin Registry's website, <http://www.wiregistry.org> or by calling 608-222-1123.

5. For persons required to have a high school diploma or its equivalent, documentation of a high school diploma or its equivalent as determined by the Wisconsin department of public instruction.

This requirement only applies to those positions that require a high school diploma, including a child care teacher, center director, and administrator.

Individuals who have earned a Certificate of General Educational Development (GED) or a High School Equivalency Diploma (HSED) may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

Documentation includes a high school graduation date on transcripts from an institution of higher education or verification by the Wisconsin Registry after May 31, 2019. Documentation of a 2 or 4 year degree will meet the requirement of having a high school diploma in the file.

6. Documentation of days and hours worked, and in which classroom, when the person was included in the staff-to-child ratio shall be maintained by the center.

7. Documentation of compliance with continuing education requirements under sub. (4) (c).

The Department forms Staff Continuing Education Record – Child Care Centers or Continuing Education Record – Independent Reading/Video Viewing may be used to document compliance with continuing education requirements. The Wisconsin Registry certificate, or a print-out from the individual's learning record maintained by the Wisconsin Registry, may be used to document continuing education. See Appendix F, Instructions for Obtaining Department Forms.

8. Documentation of compliance with orientation requirements under subd. (4) (a).

(b) A licensee shall maintain a file on each student teacher and each adult who works at the center and is compensated for their work from a source other than the center. The file shall contain the information specified in par. (a) 1., 2., and 3.

District-employed 4K teachers working in a child care center are required to complete a DCF background check unless the district-employed teacher meets ALL of the following criteria:

251.05(2)(b) continued

- Contract and/or center policies specify district-employed teachers are not to have unsupervised access to children in the center.
- District-employed teachers are not used to meet staff-to-child ratios in accordance with requirements under DCF 251.
- District-employed teachers do not meet the definition of caregiver as defined in Wisconsin statute 48.646.
- District-employed teachers work under the supervision of an individual who has received final eligibility.

If the center/district contract and center's policies provide declarations and assurances indicating the district-employed 4K teacher meets all of the criteria, the district-employed teacher may be exempt from the DCF background check requirements. If it is determined the center is in violation of the exemption (by not abiding by the contract or following the center's own policies) the center may be issued a non-compliance statement or subject to enforcement action.

See Appendix D Resources List: Collaborative Child Care Programs – Frequently Asked Questions.

(3) QUALIFICATIONS OF STAFF.

Exceptions will not be granted for staff who do not meet entry-level training qualifications.

(a) **Competency.** A child care worker, center administrator, center director, and volunteers counted in staff-to-child ratio shall be physically, mentally, and emotionally able to provide responsible care for all children, including children with disabilities.

(b) **Training on preventing abusive head trauma.** Each child care worker, center administrator, center director, volunteer counted in staff-to-child ratio, or substitute who provides care and supervision to children under 5 years of age shall document completion of department-approved training in abusive head trauma, and appropriate ways to manage crying, fussing, or distraught children prior to beginning to work with children under 5 years of age.

Note: Department-approved training in the prevention of abusive head trauma is included in the department-approved non-credit courses called *Introduction to the Child Care Profession* and *Fundamentals of Infant and Toddler* or the credit-based course called *Health, Safety and Nutrition* offered by a Wisconsin technical college, if the course was taken after 7/1/05.

As of September 1, 2020, the new training is titled *Abusive Head Trauma Prevention Training for Child Care Providers*. Providers who completed *Shaken Baby Syndrome Prevention* training prior to September 1, 2020 are not required to complete the new AHT Prevention training. AHT Prevention training is not the same as child abuse and neglect training and will not fulfill the biennial child abuse and neglect training requirement.

Completion of the non-credit, department-approved courses called *Introduction to the Child Care Profession* and *Fundamentals of Infant and Toddler Care* taken after July 1, 2005 will meet this requirement. The *Assistant Child Care Teacher* course taken at the high school level that results in a certificate of completion issued by the Department of Public Instruction also meets this requirement. Documentation that one of these courses was completed after 7/1/05 is all that is required to demonstrate that training in shaken baby syndrome prevention was completed.

The credit course "Health, Safety and Nutrition" taken from a Wisconsin Technical College after January 1, 2006 will also meet this requirement. Documentation that the course was completed after January 1, 2006 is all that is required to demonstrate compliance.

251.05(3)(b) Note: continued

A Wisconsin Registry certificate or a print-out of the person's learning record from the Wisconsin Registry may also be used to document completion of training in shaken baby syndrome prevention.

The Department of Children and Families offers a free online AHT Prevention training that can be found at <https://dcf.wisconsin.gov/ccic/aht-training>.

A certificate of completion used to document the required SBS/AHT prevention training must contain all of the following: printed (typed) name of student; printed (typed) name of training agency; printed (typed) date the training was completed; printed (typed) name of approved trainer; printed (typed) name of training; and signature of trainer.

(c) *Cardiopulmonary resuscitation training.* All employees in regular contact with children shall obtain, maintain and place in the employee's file a current certificate of completion for infant and child cardiopulmonary resuscitation and automated external defibrillator use from an agency approved by the department within 3 months after beginning to work with children in care. Volunteers included in determining staff-to-child ratios shall obtain a certificate of completion in infant and child cardiopulmonary resuscitation after volunteering for 240 cumulative hours. The time spent obtaining or renewing cardiopulmonary resuscitation training may be counted towards the required continuing education hours.

Substitutes counted in staff-to-child ratios will need to have CPR/AED training by the time they have worked in a center for 3 months or 240 hours, whichever is later.

All staff (employees) in regular contact with children in care are required to have CPR/AED training. For example, if a cook, maintenance person, or administrative assistant has regular contact with children, then that cook, maintenance person, driver, or administrative assistant would need CPR/AED training. Regular contact means that the person has contact with children on a regular basis, even if that contact is in a classroom supervised by teaching staff. Student teachers and volunteers who are not counted in the staff-to-child ratios are not considered staff and do not need to have CPR/AED training.

The Department of Health Services, Bureau of Emergency Medical Services (BEMS) approves agencies to offer the CPR with Automated External Defibrillator (AED) training as required by statute. A list of currently approved agencies is available on the BEMS website: http://dhs.wisconsin.gov/ems/License_certification/CPR.htm. The training must result in a certificate of completion. If the certificate of completion does not have a date specifying the length of time for which it is valid, the CPR/AED training must be renewed every year.

If the center does not serve infants, the CPR/AED training may be child/adult CPR/AED.

(cm) Training on child abuse and neglect reporting requirements. Within one week after beginning work at the center and at least every 2 years thereafter, each employee or volunteer who comes in contact with children in care shall complete training in all of the following:

1. Child abuse and neglect laws.
2. How to identify children who have been abused or neglected.
3. The procedure for ensuring that all known or suspected cases of child abuse or neglect are immediately reported to the proper authorities.

A free online mandated reporter training from the University of Wisconsin – Madison is available here: <https://media.wcpds.wisc.edu/mandatedreporter/>.

The Department will no longer accept a review of the brochure "It Shouldn't Hurt to Be a Child" to meet this requirement.

251.05(3)(cm)3. continued

The Department's online training, "Mandated Reporter Online Training," may be used to meet this requirement. "Strengthening Families" or "Darkness to Light" (also known as Stewards of Children) training may also be used to meet this requirement.

Training may also be obtained from local child protective services, local law enforcement agencies, or other agencies that provide continuing education experiences. Documentation could be a certificate of attendance at a formal training or completing the continuing education form, or having the employee initial and date the brochure upon review. Training may be counted as continuing education.

*The Department-approved, entry-level course called *Introduction to the Child Care Profession* contains training in the identification and reporting of child abuse and neglect and may be used to meet the requirement for 2 years after the completion date of the course.*

(d) *Administrator.*

1. The licensee may act as administrator of a group child care center. If the licensee does not act as administrator, the licensee shall designate a person or persons to be the administrator or administrators of the center. The administrator shall be responsible for the center's management, including personnel, finance, physical plant, and the day-to-day operation of the center.

One person could fill more than one position (such as administrator and center director) if that person meets the qualifications for each position and all applicable rules.

If a center wishes to have two persons filling the position of administrator, each with training in only one component (business or early childhood), an exception may be considered based on their plan as to how they will make decisions. Job descriptions should reflect this situation.

The Child Care Information Center has resources available to assist in writing job descriptions <https://dcf.wisconsin.gov/ccic> or toll free at (800) 362-7252.

2. An administrator, including a licensee that is an administrator, shall meet all of the following conditions:

- a. Be at least 21 years of age.
- b. Have completed high school or its equivalent, as determined by the Wisconsin department of public instruction.

A General Education Diploma (GED) or High School Equivalency Diploma (HSED) is equivalent to a high school diploma.

Individuals who have earned a Certificate of General Educational Development or a High School Equivalency Diploma may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

3. Before a person assumes the position of administrator, the person shall have all of the following:

- a. One year of experience as a manager or satisfactory completion of a noncredit department-approved course or of 2 credits in business or program administration.

A course from The Registry Administrator Credential will meet this requirement. The department-approved 10-hour Administrator's course taken prior to January 1, 2009 would also meet this requirement.

- b. One year of experience as a center director, as a child care teacher in a group child care center or kindergarten, or as a licensee of a family child care center under ch. DCF 250; or satisfactory completion of a non-credit department-approved course or of 2 credits in early childhood education or its equivalent.

251.05(3)(d)3.b. continued

See commentary under DCF 251.05 (3) (h) and Appendix D Resources List: Entry Level Courses – Early Childhood Professionals.

4. If the board of a parent cooperative is responsible for management of a center, the requirements under subds. 2. and 3. do not apply.

5. Within one year of assuming the position, each administrator shall complete at least 10 hours of training in supervision or personnel management, if the administrator has not previously received that training. The training may be counted as part of the annual continuing education requirement.

The 10 hours may include the department-approved 10-hour Administrator's course taken prior to January 1, 2009, Course One in The Registry Administrator Credential (Administration/Supervision in Early Childhood Programs: Role and Responsibilities), or a combination of training opportunities such as conferences, workshops, or correspondence courses.

(e) Center director.

1. a. A licensee with the applicable qualifications in this paragraph may act as the center director.

b. If the licensee does not act as center director, the licensee shall designate a person or persons to be the center director.

If a center wishes to have two persons filling the position of director; they both need to be fully qualified. A plan as to how the job duties are assigned should be identified in the job description.

c. No person may act as the center director for more than 2 full-day or 4 part-day centers.

See DCF 251.03 (22g) – DEFINITION – PART-DAY CENTER. All part-day centers must have a designated person who meets the qualifications and fulfills the duties of a center director.

A part-day program remains part day even when operating full time during vacations, including summer.

2. The center director shall be responsible for the supervision of the planning and implementation of the center's program for children, the supervision of staff at the center, staff meetings and orientation, and continuing education for staff.

3. A center director for a program licensed to serve 50 or fewer children shall meet all of the following conditions:

a. Be at least 21 years of age.

b. Have completed high school or its equivalent as determined by the Wisconsin department of public instruction.

A General Education Diploma (GED) or High School Equivalency Diploma (HSED) is equivalent to a high school diploma.

Individuals who have earned a Certificate of General Educational Development or a High School Equivalency Diploma may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

c. Have at least 240 hours of experience as a teacher or assistant teacher in a group child care center or other approved setting or have at least 240 hours of experience as a licensee or provider of a family child care center under ch. DCF 250.

Experience as a licensed family child care provider may be used to meet this requirement.

251.05(3)(e)3.c. continued

Other settings that may be approved as experience are generally positions with regulatory oversight, including:

- *Public, private, or parochial school teacher*
- *Student teacher*
- *Substitute teacher*
- *Employment in ECE programs within schools*
- *Certified child care provider*
- *Out of state experience in any of the above.*

Babysitting and nannying will not be approved.

Please contact the regional licensing office to discuss specific situations; see Appendix A for contact information. Include the name of the program where experience was obtained, the age group worked with, the general description of duties performed, and the approximate number of hours of experience.

d. Have completed at least one of the preservice training requirements in Table 251.05A prior to beginning work as a center director, except as specified in subd. 5. a. The center director shall also complete any additional training requirements in Table 251.05A as provided.

Note: Additional qualifications for school-age only directors are in s. DCF 251.095.

TABLE 251.05A
Director of a center licensed to care for 50 or fewer children

Preservice training	Additional training
Four credits in early childhood education.	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
The Registry Program Development Credential	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
The Registry Preschool Credential	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
The Registry Infant Toddler Credential	Within one year of assuming the position, one course in the Registry Administrator Credential
Two non-credit department-approved courses in early childhood education.	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
One noncredit department-approved course and 2 credits in early childhood education.	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
Forty-eight credits from an accredited institution of higher education with at least 3 credits in early childhood education	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
A Child Development Associate (CDA) credential issued by the Council for Professional Recognition	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
A certificate from the Wisconsin Registry indicating the person is preliminarily qualified as a director for a center licensed to care for 50 or fewer children	Within one year of assuming the position, one course in the Registry Administrator Credential or its equivalent
A one-year diploma in child care or early childhood education from an accredited institution of higher education	No additional training required

Preservice training	Additional training
An associate degree in early childhood education or child care from an accredited institution of higher education	No additional training required
A bachelor's degree from an accredited institution of higher education in early childhood education, education, or child development	No additional training required
A license issued by the Wisconsin department of public instruction or the appropriate authority in another state indicating that the person is qualified to act as a pre-kindergarten, kindergarten, or early childhood regular or special education teacher. The license may not be a one-year license with stipulations (formerly known as an emergency license); a 3-year, short-term substitute license; or a 5-year long-term substitute license, as defined by the Wisconsin department of public instruction.	No additional training required

A license to be a pre-kindergarten, kindergarten, or early childhood regular or special education teacher issued by the appropriate authority in another state is also accepted.

Introduction to the Child Care Profession and Skills and Strategies for the Child Care Teacher are the names of the two non-credit department-approved courses that may be used to meet this requirement. The entry-level courses that meet the requirements for family child care may be counted when evaluating the entry-level education requirements for a director of a center serving 50 or fewer children. See Appendix D Resources List: Entry Level – Early Childhood Professionals and Entry Level School-Age Professionals.

Correspondence courses and online courses are available from technical colleges and private agencies approved to offer non-credit courses. See Appendix D Resources List: Agencies Approved to Offer Non-Credit, Department-Approved Courses.

The Wisconsin Child Care Administrator Credential is now titled The Registry Administrator Credential.

The Wisconsin Program Development Credential is now titled The Registry Program Development Credential.

The Wisconsin Preschool Credential is now titled The Registry Preschool Credential.

The Wisconsin Infant-Toddler Credential is now titled The Registry Infant Toddler Credential.

Any of the first 5 courses in The Registry Administrator Credential may be used to meet the requirement for one additional course. Child Care Administrator or Director Credentials that are credit based and issued by another state are considered equivalent to the Wisconsin credential. When one course is required, a course in program administration taken as part of an associate or bachelor's degree in early childhood education may be taken in place of a course in The Registry Administrator Credential. No exception is necessary. See Appendix D Resources List: The Registry Administrator Credential.

4. A center director for a program licensed to serve 51 or more children shall meet all of the following conditions:

- a. Be at least 21 years of age.
- b. Have completed high school or its equivalent, as determined by the Wisconsin department of public instruction.

250.05(3)(e)4.b. continued

Individuals who have earned a Certificate of General Educational Development (GED) or a High School Equivalency Diploma (HSED) may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

c. Have at least 2 years of experience as a child care teacher or center director in a group child care center or other approved setting.

Experience in a family child care center may be counted toward the experience requirement for the center director of a center licensed to care for 51 or more children.

Other settings that may be approved as experience are generally positions with regulatory oversight, including:

- *Public, private, or parochial school teacher*
- *Student teacher*
- *Substitute teacher*
- *Employment in ECE programs within schools*
- *Certified child care provider*
- *Mentoring or tutoring through a community-based organization*
- *Out of state experience in any of the above.*

Babysitting and nannying will not be approved.

Please contact the regional licensing office to discuss specific situations; see Appendix A for contact information. Include the name of the program where experience was obtained, the age group worked with, the general description of duties performed, and the approximate number of hours of experience.

d. Have completed one of the preservice training requirements in Table 251.05B prior to beginning work as a center director, except as specified in subd. 5. b. The center director shall also complete any additional training requirements in Table 251.05B as provided.

TABLE 251.05B
Director of a center licensed to care for 51 or more children

Preservice Training	Additional Training
Eight credits in early childhood education from an institution of higher education. Up to 2 courses in the Registry Administrator Credential series may be used to meet the early childhood education requirement if taken prior to beginning to work as a center director	Within 3 years of assuming the position the Registry Administrator Credential
The Registry Program Development Credential	Within 3 years of assuming the position, the Registry Administrator Credential
The Registry Preschool Credential	Within 3 years of assuming the position, the Registry Administrator Credential
The Wisconsin Infant – Toddler Credential	Within 3 years of assuming the position, the Registry Administrator Credential
A combination of 4 credits and 2 noncredit department-approved courses in early childhood education. Up to 2 courses in the Registry Administrator Credential series may be used to meet the early childhood education requirement if taken prior to beginning to work as a center director	Within 3 years of assuming the position, the Registry Administrator Credential

251.05(3)(e)4.d. continued

Preservice training	Additional training
A certificate from The Wisconsin Registry indicating that the person is preliminarily qualified as a director for a center licensed to care for 51 or more children	Within 3 years of assuming the position, the Registry Administrator Credential
An associate degree in early childhood education or child care from an accredited institution of higher education.	No additional training required
A bachelor's degree in early childhood education, education, or child development from an accredited institution of higher education	No additional training required
A license issued by the Wisconsin department of public instruction or the appropriate authority in another state to be a pre-kindergarten, kindergarten, or early childhood regular or special education teacher. The license may not be a one-year license with stipulations (formerly known as an emergency license); a 3-year, short-term substitute license; or a 5-year long-term substitute license, as defined by the Wisconsin department of public instruction	No additional training required

Introduction to the Child Care Profession and Skills and Strategies for the Child Care Teacher are the non-credit, department-approved courses that will meet the requirement for 2 of the 4 courses in this rule. Prior to January 1, 2009, there were 2 additional non-credit, department-approved courses called Center Administrator and Center Director that could be taken to meet the requirement for four non-credit, department-approved courses. The Center Director and Center Administrator courses, taken prior to January 1, 2009, may continue to be used to meet the requirement for four courses. However, after January 1, 2009, the non-credit Center Director and Center Administrator courses are no longer approved.

Transcripts alone do not indicate a person has obtained an administrator credential. The person must have an indication on the Registry Certificate or a copy of the credential certificate to indicate that the credential has been obtained.

The Wisconsin Child Care Administrator Credential is now titled The Registry Administrator Credential. The Wisconsin Program Development Credential is now titled The Registry Program Development Credential.

The Wisconsin Preschool Credential is now titled The Registry Preschool Credential.

The Wisconsin Infant-Toddler Credential is now titled The Registry Infant Toddler Credential.

See Appendix D Resources List: Agencies Approved to Offer Non-Credit, Department-Approved Courses; Entry Level Courses – Early Childhood Professionals; and Entry Level Courses – School-Age Professionals.

5. a. Notwithstanding subd. 3. d., a person is not required to complete preservice training under Table 251.05A if the person was employed as the director of a center licensed to serve 50 or fewer children prior to September 30, 2019, and met the preservice training requirement with a certificate from the Wisconsin Registry indicating the person was on Registry Level 12 or above.

b. Notwithstanding subd. 4. d., a person is not required to complete preservice training specified in Table 251.05B if the person was employed as the director of a center licensed to serve 51 or more children prior to September 30, 2019, and met the preservice training requirement with a certificate from the Wisconsin Registry indicating the person was on Registry Level 14 or above.

251.05(3)(f)

(f) Child care teacher.

1. A child care teacher shall plan, implement, and supervise the daily activities for a group of children.

2. A person who is a child care teacher shall meet all of the following conditions:

a. Be at least 18 years of age.

b. Have completed high school or its equivalent, as determined by the Wisconsin department of public instruction.

A General Education Diploma (GED) or High School Equivalency Diploma (HSED) is equivalent to a high school diploma.

Individuals who have earned a Certificate of General Educational Development or a High School Equivalency Diploma may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>

c. Have at least 240 hours of experience as an assistant child care teacher in a group child care center, as a licensed family child care provider, or in another approved early childhood setting.

Experience as a licensed family child care provider may be used to meet this requirement. Experience in unregulated care settings is not acceptable.

Other settings that may be approved as experience are generally positions with regulatory oversight, including:

- *Public, private, or parochial school teacher*
- *Student teacher*
- *Substitute teacher*
- *Employment in ECE and school-age programs within schools*
- *Certified child care provider*
- *Mentoring or tutoring through a community-based organization*
- *Out of state experience in any of the above.*

Babysitting and nannying will not be approved.

Please contact the regional licensing office to discuss specific situations; see Appendix A for contact information. Include the name of the program where experience was obtained, the age group worked with, the general description of duties performed, and the approximate number of hours of experience.

3. Prior to assuming the position, a person hired to be a child care teacher shall complete or obtain one of the following:

a. Four credits in early childhood education or its equivalent.

See Appendix D Resources List for Entry Level Courses – Early Childhood Professionals and Entry-Level Courses – School-Age Professionals.

b. Two non-credit department-approved courses in early childhood education.

Note The non-credit courses approved by the department to meet the entry level training requirements for a child care teacher are *Introduction to the Child Care Profession and Skills and Strategies for the Child Care Teacher* or the assistant child care teacher or child care teacher training programs approved by the Wisconsin department of public instruction.

Correspondence courses and online courses are available from technical colleges and private agencies approved to offer non-credit courses.

The Department of Public Instruction programs are titled Assistant Child Care Teacher Certificate Program and the Child Care Services Certificate Program.

251.05(3)(f)3.b. continued

See Appendix D Resources List: Agencies Approved to Offer Non-Credit, Department-Approved Courses.

bm. Two credits in early childhood education and one noncredit department-approved course in early childhood education.

c. A certificate from the Wisconsin Registry indicating that the person is qualified as a child care teacher.

d. The Registry Preschool Credential.

The Wisconsin Preschool Credential is now titled The Registry Preschool Credential.

e. The Registry Infant Toddler Credential.

The Wisconsin Infant-Toddler Credential is now titled The Registry Infant Toddler Credential.

f. Forty-eight credits from an institution of higher education with at least 3 credits in early childhood education or its equivalent.

See Appendix D Resources List: Entry Level – Early Childhood Professionals and Entry-Level – School-Age Professionals.

g. A one-year child care diploma in child care or early childhood education from an institution of higher education.

h. An associate degree in early childhood education or child care from an institution of higher education.

i. A Child Development Associate credential issued by the Council for Professional Recognition.

The Child Development Associate credential offered by the Lac Courte Oreilles Ojibwe College also meets this requirement.

j. Certificate from American Montessori Society, Association Montessori International, or Montessori Accreditation Council for Teacher Education.

Other Montessori teacher training organizations approved by the Montessori Accreditation Council (MACTE) include: National Center for Montessori Education, Association Montessori Internationale (AMI), Montessori St. Nicholas, London Montessori Center, Montessori Institute of America, International Association Montessorians, and Pan American Montessori Society. If program staff received training from a training organization approved by MACTE, this training would be acceptable.

k. A license issued by the Wisconsin department of public instruction or the appropriate authority in another state to be a pre-kindergarten, kindergarten, or early childhood regular or special education teacher. The license may not be a one-year license with stipulations (formerly known as an emergency license); a 3-year, short-term substitute license; or a 5-year long-term substitute license, as defined by the Wisconsin department of public instruction.

Note: Information on how to obtain or renew a Wisconsin department of public instruction teacher license is available on the DPI website, <http://dpi.wi.gov/tepdl>.

L. A certificate from the department of workforce development, bureau of apprenticeship standards, as a child development specialist.

(g) Assistant child care teacher.

1. An assistant child care teacher shall work under the supervision of a child care teacher with a group of children.

2. Except as provided under subd. 3., a person hired to be assistant child care teacher shall be qualified in one of the following ways:

251.05(3)(g)2.a.

a. Be at least 18 years old and have satisfactorily completed 2 credits in early childhood education or its equivalent within 6 months after assuming the position.

See Appendix D Resources List for Entry Level Courses – Early Childhood Professionals and Entry-Level Courses – School-Age Professionals.

b. Be at least 18 years old and have satisfactorily completed one, non-credit department-approved course in early childhood education within 6 months after assuming the position.

Note: *Introduction to the Child Care Profession* is the non-credit course that is approved by the department to meet the entry level training requirements for a child care assistant teacher. Information on agencies offering the department-approved course is available on the department's website at <http://dcf.wisconsin.gov>.

See Appendix D Resources List: Agencies Approved to Offer Non-Credit, Department-Approved Courses.

The Wisconsin Registry maintains a database that lists available training opportunities, including entry-level courses, which can be found at www.wiregistry.org.

Evidence of completion of an early childhood education course must be available within 6 months after assuming the position.

The 40-hour Family Child Care Course (or module 1 – Family Child Care Certification and module 2 – Family Child Care Licensing) taken prior to September 1, 2003, may be accepted in place of the *Introduction to the Child Care Profession* course.

c. Be at least 17 years of age and have satisfactorily completed an assistant child care teacher training program approved by the Wisconsin department of public instruction, 2 credits in early childhood education or its equivalent, or a noncredit department-approved course in early childhood education.

High school courses that meet the preservice training requirements will result in a certificate issued by the Department of Public Instruction (DPI); a grade report or high school transcript will not be accepted. A certificate will be issued when both grade and attendance meet the specifications designated by DPI.

If a person believes they took the DPI course while in high school, but no longer has the certificate, the person should submit an application for a Wisconsin Registry certificate. The Wisconsin Registry has a list of all students who completed the DPI-approved course since the program's inception in 1999. The Wisconsin Registry certificate will indicate that the person is qualified as an assistant and the person's learning record will include the DPI-approved course.

Individuals at least 17 years of age may work as an assistant upon completion of a DPI-approved course. These individuals may never be left in sole supervision of children including the first and last 2 hours of operation.

SEE DCF 251.055 (1) (i) – PERSON IN SOLE CHARGE OF CHILDREN – MINIMUM AGE and DCF 251.055 (1) (c) – SUPERVISION – OPENING AND CLOSING HOURS.

3. A parent serving as an assistant child care teacher in a center operated by a parent cooperative is exempt from the training requirements under subd. 2.

Parents serving as assistant child care teachers in centers other than parent co-op must meet the requirements under 251.05(3)(g).

See DCF 251.03(21) – DEFINITION – PARENT COOPERATIVE

(gm) Program aide. A program aide shall work under the direction and supervision of a child care teacher.

2. A person who is a program aide shall be at least 16 years of age.
3. A person hired as a program aide shall have satisfactorily completed at least one of the following no later than 6 months after assuming the position:
 - a. An assistant child care teacher training program approved by the Wisconsin department of public instruction.

17-year-olds may work as a program aide if they meet all educational qualifications for an assistant child care teacher.

Coursework completed in a high school outside the state of Wisconsin is not acceptable as an equivalent to the Assistant Child Care Teacher (ACCT) Skills Certificate Program, as the coursework will not include regulatory information specific to Wisconsin.

Coursework for Credit is acceptable towards qualifying as a program aide.

- b. A noncredit department-approved course in early childhood education.

Note: Introduction to the Child Care Profession is the noncredit course approved by the department to meet the entry-level training requirements for a program aide.

The Assistant Child Care Teacher (ACCT) Skills Certificate Program offered by the Department of Public Instruction is an equivalent course to Introduction to the Child Care Profession. Abusive head trauma is covered in the curriculum.

4. A program aide may not be counted in the required staff-to-child ratios under Table DCF 251.055.

Some examples of program aide responsibilities can include but are not limited to cleaning and organizing child care equipment, toys, and premises; setting up art projects and small and large group activities; and running errands for staff.

(gr) Meal preparation personnel. Personnel who help prepare meals shall meet all the following conditions:

1. Be at least 17 years of age.
2. Participate in the orientation under sub. (4) (a).
3. a. Except as provided in subd. 3. b., complete and document at least 4 hours of training in kitchen sanitation, food handling, and nutrition prior to beginning work, and one hour of training in kitchen sanitation, food handling, and nutrition annually thereafter.
 - b. Staff in school-age program who help prepare meals shall complete one hour of annual training in kitchen sanitation, food handling, and nutrition.

The requirement for annual training in kitchen sanitation, food handling and nutrition applies to individuals who prepare food. Individuals who only serve food are not required to obtain this training.

A formal course in food handling is not required. Technical Colleges offer food handler courses. The USDA Child and Adult Care Food Program (CACFP) offers training to centers who are receiving CACFP funding that will meet this requirement. Continuing education in excess of the 4 hours required per year may be used to meet the annual requirement in the 2 years following completion. See DCF 251.05 (4) (c) 3. – CONTINUING EDUCATION – CARRY OVER HOURS.

(h) Non-credit course criteria. Non-credit courses offered to meet the non-credit course requirements specified in this subsection shall contain the components prescribed by the department and shall be approved by the department before being offered. The department may at any time withdraw its approval of a non-credit course. Instructors of non-credit department-approved courses shall be approved by the department prior to teaching a course.

251.05(3)(h) Note:

Note: Information on the process for obtaining department approval for noncredit courses may be obtained from the Wisconsin Registry at <http://www.wiregistry.org> or 608-222-1123. A list of agencies approved to offer noncredit department-approved courses is available on the department's website at <http://dcf.wisconsin.gov>.

The department has approved the following non-credit courses as meeting the requirements for entry-level training for a child care provider:

- 10-hour Administrator course (meets the 10 hours of training in supervision or personnel management for administrators or center directors).
- Center Administrator (40 hours or more). No longer approved. Taken prior to January 1, 2009, this course may be used as one of the 4 courses required for a center director of a large child care center licensed to care for 51 or more children or as the one course in business required for a center administrator.
- Center (Program) Director (40 hours or more). No longer approved. Taken prior to January 1, 2009, this course may be used as one of the 4 courses required for a center director of a large child care center licensed to care for 51 or more children.
- Fundamentals of Infant and Toddler Care (persons working with children under age 2).
- Introduction to the Child Care Profession (course for administrators, assistant teachers, substitutes, volunteer counted in staff-to-child ratios, and the 1st course for teachers and center directors). The 40-hour family child care course taken prior to Sept 1, 2003 may be accepted in place of the Introduction to the Child Care Profession course.
- Introduction to the School Age Care Profession (meets the requirements for an assistant teacher, child care teacher, and center director in a school-age only program).
- Skills and Strategies for the Child Care Teacher (2nd course for teachers and directors in a licensed center).
- Skills and Strategies for the School Age Care Teacher (meets the requirements for the second course for a child care teacher, and center director in a school-age only program).

Beginning July 1, 2000, all persons who complete a department-approved non-credit course offered by a private agency used to meet entry-level qualifications are issued a certificate of completion from the Wisconsin Registry. The certificate of completion issued by the Wisconsin Registry, information contained on the individual's learning record maintained by the Wisconsin Registry, or a Wisconsin Registry certificate indicating the person has met the qualifications for the position held are the only documentation of successful course completion that will be accepted for department-approved courses offered by private agencies taken after July 1, 2000.

Successful completion of entry-level courses taken through an institution of higher education will be documented on a transcript.

High school courses that meet the entry-level training requirements will result in a certificate issued by the Department of Public Instruction; a grade report or high school transcript will not be accepted. A person holding a DPI paraprofessional or teacher aide license will need to document that they have completed the appropriate entry level training.

See Appendix D Resources List: Agencies Approved to Offer Non-Credit, Department-Approved Courses.

(i) Substitutes.

1. When a regular required staff member is absent from a center, there shall be a substitute who is at least 18 years of age.

251.05(3)(i)1. continued

If someone is scheduled to work in a classroom on a regular basis, they must be qualified. If an individual is replacing a regularly scheduled employee as a substitute, the center must be able to demonstrate who the regularly scheduled person in that classroom is during those hours. If there is no regularly scheduled person except the "substitute," then, by default, the "substitute" is the regularly scheduled person and must meet the qualifications for that position.

2. A substitute who is employed by the same licensee for more than 240 hours shall complete at least 2 credits or one noncredit, department-approved course in early childhood education before completing 240 cumulative hours of work as a substitute.

Note: The course for credit called *Health, Safety and Nutrition* offered by a Wisconsin technical college or the department-approved, non-credit course called *Introduction to the Child Care Profession* may be used to meet this requirement and if taken after July 1, 2005 also contains the department-approved training on preventing abusive head trauma. Information on agencies offering the department-approved course is available on the department's website at <http://dcf.wisconsin.gov>.

3. The center director or designee shall maintain a record of the days and hours worked by each substitute.

(j) Volunteers and student teachers.

1. Volunteers and student teachers shall participate in the orientation required under sub. (4) (a).

2. A volunteer who is used to meet a center's required staff-to-child ratios under s. DCF 251.055 shall complete at least 2 credits or one noncredit, department-approved course in early childhood education before completing 240 cumulative hours of work as a volunteer.

Note: The 3-credit course called *Health, Safety and Nutrition* offered by a Wisconsin technical college or the department-approved, noncredit course called *Introduction to the Child Care Profession* may be used to meet this requirement and if taken after 7/1/05 also contain the department-approved training in shaken baby syndrome prevention. Information on agencies offering the department-approved course is available on the department's website at <http://dcf.wisconsin.gov>.

3. A volunteer who is not included in determining the center's required staff-to-child ratios under s. DCF 251.055 shall have training in child care programming and procedures before working with children in care. The training shall include the responsibilities of the volunteer, general child supervision techniques, a review of the daily schedule and general health and safety practices including meal or snack preparation, dishwashing, toileting, personal hygiene and emergency evacuation procedures. This includes volunteers working in a center operated by a parent cooperative.

To determine background check requirements for volunteers, see the Department's website: <https://dcf.wisconsin.gov/cclicensing/cbc>.

*The form titled *Volunteer Training Confirmation – Group Child Care Centers* is not a required form; however, use of this form will help the licensee ensure compliance with this section. Documentation of training should be kept on file at the center.*

4. The center director or designee shall coordinate the volunteer program and keep on file documentation of the hours worked by volunteers who are used to meet staff-to-child ratios.

5. A volunteer used to meet the required staff-to-child ratios under s. DCF 251.055 shall be at least 18 years of age.

(k) Provider health.

1. No licensee, employee, volunteer, visitor, or other person with symptoms of serious illness that presents a safety or health risk to children or a communicable disease that is reportable under ch. DHS 145 and transmitted through normal contact may be in contact with children in care.

2. No licensee, employee, volunteer, visitor, or other person whose behavior gives reasonable concern for the safety of children may be in contact with the children in care.

251.05(3)(k)3.

3. The department may require a licensee, employee, or other person in contact with the children whose behavior gives reasonable concern for the safety of children to submit to an examination by a licensed mental health professional as a condition of licensure or employment.

Note: See also s. DCF 251.11 (1) (f), which requires a written statement from a physician or licensed mental health professional when there is reason to believe that the physical or mental health of a person may endanger children in care.

4. No person with a health history of typhoid, paratyphoid, dysentery, or other diarrheal disease may work in a center until it is determined by appropriate tests that the person is not a carrier of the disease.

(4) STAFF DEVELOPMENT.

(a) *Orientation.* Except as provided under subd. 14., each center shall develop and implement a written orientation program that all new employees, substitutes, and regular volunteers shall complete and document within their first week at the center. The orientation program shall cover all of the following:

Completion must be documented on an orientation form which is initialed and dated by the staff person and trainer. The department's form Staff Orientation Checklist – Group Child Care Centers will meet this requirement but is not required.

In addition to the items specified in this section, orientation may be modified to address specific jobs. For example, orientation for a cook might include safe food handling procedures, sanitizing food contact surfaces, portion sizing, and menu planning.

Note: See DCF 251.08 (4) (b) for orientation requirements for persons transporting children.

1. A review of this chapter.
2. A review of center policies and procedures required under s. DCF 251.04 (2) (h).
3. A review of the center emergency plans required under s. DCF 251.04 (2) (h) 9., including fire and tornado evacuation plans and the operation of fire extinguishers.
4. Prevention and response to emergencies due to food and allergic reactions.
5. First aid procedure.

Procedures that should be addressed include:

- *Emergency procedures followed in obtaining emergency medical care.*
- *Routine procedures for treatment of minor injuries.*
- *First aid measures for serious accidents.*
- *Planned source of emergency medical care.*

Training in first aid procedures does not mean a formal first aid course is required. Appropriate training tools include the First Aid Guide for Parents and Caregivers created by the American Academy of Pediatrics, available at <https://www.healthychildren.org/English/safety-prevention/at-home/Pages/First-Aid-Guide.aspx>, or the First Aid Chart prepared by the Committee on Accident Prevention and the Subcommittee on Accidental Poisoning, American Academy of Pediatrics, available at www.aap.org/bookstore.

6. Administration of medications.
7. Job responsibilities in relation to the job description.
8. Training in the recognition of childhood illnesses and infectious disease control, including handwashing procedures, universal precautions for handling bodily fluids, and immunizations.

Note: Information on universal precautions may be obtained from the Child Care Information Center website, <https://dcf.wisconsin.gov/ccic>, or by calling 800-362-7353.

9. A schedule of activities of the center.
11. The procedure for ensuring that all child care workers know the children assigned to their care and their whereabouts at all times, including during center-provided transportation.

251.05(4)(a)11. continued

General tracking: procedure should include how the center will ensure that staff have a process to know the whereabouts of children throughout the day, including transitions, bathroom times, outdoor times, and emergency drills. The procedure should include name-to-face verification of the children using the attendance roster or a similar listing.

Transportation tracking: procedure should include how center will ensure that all children have exited the vehicle into the physical care of a staff person or another responsible person (e.g., physical walk through of the vehicle, alarms at the rear of the vehicle that require a person to walk to the back to manually shut off alarm, check off list of children who are on the vehicle and who have left the vehicle and been delivered to a caregiver, which should include name-to-face verification of the children using the attendance roster or a similar listing); and should be followed whenever children are being transported.

12. Child management techniques.
13. The procedure for sharing information related to a child's special health care needs including any physical, emotional, social, or cognitive disabilities with any child care worker who may be assigned to care for that child throughout the day.
14. If the center is licensed to care for children under one year of age, a review of procedures to reduce the risk of sudden infant death syndrome prior to an employee's or volunteer's first day of work.
15. The procedure to contact a parent if a child is absent from the center without prior notification from the parent.

This procedure must include how and when parents will be notified and should include how long after a child's normal or scheduled starting time the notification will be attempted (e.g., a child is scheduled to arrive at 7:30 a.m., center waits until 8 a.m. to contact parent if the child did not arrive). The procedure does not require that the center talk with or track down a parent to notify. Messages can be left on an answering machine or voice mail or with an emergency contact person. It is recommended that the center document attempts to notify a parent.

If the center provides transportation services from home to center, the procedure should address how the center is to be notified that a child is not attending that day (e.g., sign in the window of the home that child is not attending, prior notification to the center that child not attending, a second adult on the vehicle walks to the door to pick up the child, told at the door that child is not attending, etc.).

16. Information on any special needs that a child enrolled in the center may have and the plan for how those needs will be met.
17. Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic.
18. The handling and storage of hazardous materials and the appropriate disposal of biocontaminants. In this subdivision, "biocontaminants" includes blood, body fluids, or excretions that may spread infectious disease.

Note: The licensee may use the department's form, *Staff Orientation Checklist - Group Child Care Centers*, for documenting staff orientation. The form is available on the department's website at <https://DCF.Wisconsin.gov/CLicensing/CCFormSPUBS>.

(b) Staff meetings. To ensure that staff have the opportunity to receive pertinent information and clarification of problems and issues, each center shall conduct in-person staff meetings at least 9 times in a calendar year or one time for each month of center operation and shall document that staff meetings have been held.

Centers that operate for 10-12 months shall conduct staff meetings a minimum of 9 times in a calendar year. Centers that operate for 9 months or less shall conduct a staff meeting for each month of operation.

251.05(4)(b) continued

Staff meeting dates shall be available to the licensing specialist. It is recommended that staff meeting documentation includes the date, time, list of staff in attendance, and topics covered.

Only that portion of a staff meeting related to training of child care staff may be counted as continuing education. This may be documented through individual certificates or through an attendance sign-in sheet for that meeting. Center business topics do not count towards continuing education hours. It is recommended that the center have a process for sharing information with staff who are unable to attend the meeting.

(c) Continuing education.

1. Each administrator, center director, child care worker, school-age administrator, and school-age director shall participate in at least 15 hours of continuing education annually.

There is no formal approval process through licensing for continuing education. If the licensing specialist has a question about the appropriateness of a continuing education experience, the decision on whether to count that experience should be based on the individual's response to the question, "How does this continuing education experience/course apply to your position?" Continuing education that relates to another position with the center (such as a director's responsibilities) may be counted as continuing education even if it does not directly relate to the care of children.

Continuing education experiences that help qualify staff for a position in a center may be counted as part of the required continuing education.

Technical assistance and/or coaching received as part of the YoungStar program may be counted as continuing education for the individual(s) who participated in the technical assistance or coaching, verified by documentation from the technical consultant or coach. For example, if the technical consultant or coach met with the director, only the director may count the technical assistance or coaching as continuing education. If the technical consultant or coach met with staff of a particular age group or classroom, only those staff may count the technical assistance or coaching as continuing education. The formal rating observation for YoungStar may not be counted as continuing education.

The director may count the courses in The Registry Administrator Credential as continuing education.

The department does not approve agencies or trainers for continuing education. However, the Wisconsin Registry's Professional Development Approval System (PDAS) provides a platform for ensuring that trainers have met certain qualifications and that training topics are taught by qualified instructors. To find continuing education training see the Wisconsin Registry's website: www.wiregistry.org.

2m. Each administrator, center director, child care worker, school-age administrator, or school-age director who works fewer than 8 months per year shall participate in the equivalent of at least 2 hours of continuing education per month of employment as an administrator, center director, child care worker, school-age administrator, or school-age director.

In determining the number of hours an employee works, all paid hours should be used.

3. Any continuing education hours completed that exceed the annual requirement for the year may be used to meet the annual requirement in the 2 years following completion.

251.05(4)(c)4.

4. Continuing education courses completed for credit that exceed the annual requirement for the year may be used to meet the annual requirement in the 2 years following completion.

See Appendix D Resources List: Credit to Hours Conversion – Technical Colleges and Universities.

5. Assistant child care teachers who are currently enrolled in their first entry level course are not required to earn continuing education for that year.

6. The types of training acceptable to meet continuing education requirements shall be limited to any of the following:

a. Formal courses resulting in credits or continuing education units.

See Appendix D Resources List: Credit to Hours Conversion – Technical Colleges and Universities.

b. Workshops, conferences, seminars, lectures, correspondence courses, and home study courses.

c. Training offered by the child care center through the use of guest or staff trainers.

d. Documented observation time in other early childhood programs.

e. Web-based training.

f. Independent reading.

g. Viewing educational materials, including videos, lesson plans, and websites.

h. For participants in the YoungStar program, technical assistance under s. 48.659, Stats.

7. Continuing education may be in any of the following topics:

a. Prevention and control of infectious diseases.

b. Medication administration.

c. Prevention of and response to emergencies due to food and allergic reactions.

d. Identification of and protection from hazards.

e. Building and physical premises safety.

f. Emergency preparedness and response planning.

g. Handling and storage of hazardous materials.

h. Handling and disposal of biocontaminants.

i. Child growth and development.

j. Caring for children with disabilities.

k. Guiding children's behavior.

L. Nutrition.

m. Physical activity.

n. Transportation safety.

o. Identification and reporting of suspected child abuse or neglect.

p. Cardiopulmonary resuscitation.

q. First aid.

r. Business operations.

s. Any other topic that promotes child development or protects children's health or safety.

A report on the video, book, etc., that includes at least the information requested on the form, Continuing Education Record – Independent Reading/Video Viewing, must be completed and placed in the employee file. While not required, this form may be used to document independent reading and watching of educational materials.

Time spent doing research in the Child Development Associate (CDA) process can be counted as a part of these allowed hours. Time spent putting together the portfolio in the CDA process does not count toward continuing education.

251.05(4)(c)7.s. continued

A staff trainer is one who has received training or who has developed expertise in a special area and who shares that expertise with other staff through a formal presentation. A staff trainer may not count the time spent providing a presentation towards the continuing education requirement, but the time spent gathering information for use during the presentation may be counted.

9. Each administrator, center director, and child care worker shall have documentation of the 12-month period included in his or her training year for meeting continuing education requirements and begin a new training year in the same month each year.

Centers may choose to use a continuing education year individual to each staff (e.g., 1 year from date of hire) or they may choose to use a common continuing education year (e.g., the fiscal year or the calendar year).

Note: The licensee may use either the department's form, *Staff Continuing Education Record - Child Care Centers*, or the licensee's own form to document the completion of continuing education. Forms are available on the department's website at <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

DCF 251.055 Supervision and grouping of children.**(1) SUPERVISION.**

(a) Each child shall be supervised by a child care worker who is within the sight and sound of the children to guide the children's behavior and activities, prevent harm, and ensure safety.

See DCF 251.03(30) – DEFINITION – SUPERVISION OF CHILDREN and DCF 251.055(2)(g) – NAPTIME – SUPERVISION.

Exceptions will be considered for reasonable accommodations for providers with visual or audio impairment. Requests for exception must be submitted to the provider's regional licensing office. The Exception Request form is available on the department's website at <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

Video cameras may not be used in place of staff to supervise children.

(b) At least one child care teacher shall supervise each group of children, except as provided in par. (c).

This rule must be used in relation to the definition of group. When only one child care worker is required for the number of children in care, that person must meet the qualifications of a child care teacher. When ratios require a second child care worker with a group, that person must meet at least the qualifications of an assistant child care teacher. See DCF 251.05(3)(g)3. – ASSISTANT TEACHER QUALIFICATIONS IN PARENT COOPERATIVE.

A qualified assistant child care teacher may temporarily supervise a group of children outside the direct supervision of a child care teacher under certain situations, such as taking children to the bathroom, taking children to the bus, taking a group of children to the outdoor play space while the other children are still getting ready. See 251.03(31) – DEFINITION – SUPERVISION OF STAFF.

(c) Assistant child care teachers who are at least 18 years of age and have completed the training required for the position may provide sole supervision to a group of children in full-day centers for opening and closing hours, not to exceed the first 2 hours and the last 2 hours of center operation, and during the center's designated naptime, not to exceed 2 hours.

(d) A child care worker may not provide care for children at the center for more than 12 hours in any 24-hour period.

(e) A child may not be in care for more than 14 hours in any 24-hour period.

An exception may be granted to a child care center for a child or children to be in care for more than 14 hours in a 24-hour period if the Department determines that granting an exception would support the circumstances and the family. The exception does not need to be individual to each child if the exception is granted in relation to employees of a specific business. A written parental request for care in excess of 14 hours must be on file at the center.

(f) The center shall implement and adhere to a procedure to ensure that the number, names, and whereabouts of children in care are known to assigned child care workers at all times.

At all times during the center's hours of operation, each classroom staff must have a written or documented system to determine how many children are present and the names of the children that are present. This includes during transportation and field trips. Ensure that staff have a process to know the whereabouts of children throughout the day, including transitions, bathroom times, outdoor times, and emergency drills. The procedure should include name-to-face verification of the children using the attendance roster or a similar listing.

251.055(1)(f) continued

See DCF 251.04 (3) (i) – REPORT – LOST OR MISSING CHILD.

(g) A child may not be released to any person who has not been previously authorized by the parent.

The Department recommends the center document any verbal authorizations. It is also recommended that the center check the photo identification of the person picking up the child.

(h) The center shall implement a procedure to contact a parent if a child is absent from the center without prior notification from the parent.

(i) No person under 18 years of age shall be left in sole charge of a child.

(j) No licensee, employee, volunteer, or other individual in contact with children may consume alcoholic beverages or any non-prescribed controlled substance specified in ch. 961, Stats., on the premises of the center or be under the influence of any alcohol or non-prescribed controlled substance, during the hours of the center's operation.

Section 961.01 (4), Wis. Stats., defines "controlled substance" as a drug, substance or immediate precursor in schedules I through V of subchapter II. Broadly, this covers marijuana, narcotic drugs, opium and opiates, opium poppy, and poppy straw. For definitions of terms and a list of pharmaceuticals which are specifically controlled, see Chapter 961, Wis. Stats.

(2) GROUPING OF CHILDREN.

(a) The maximum number of children in a group may not exceed the number specified in Table 251.055.

(b) The ratio of child care workers to children may not be less than the minimum number of child care workers to children specified in Table 251.055.

TABLE DCF 251.055
Maximum Group Size and Minimum Number of Child Care Workers
in Group Child Care Centers

Age of Children	Minimum Number of Child Care Workers to Children	Maximum Number of Children in a Group
Birth to 18 months	1:4	8
18 months to 2½ Years	1:7	14
2½ Years to 3 Years	1:8	16
3 Years to 4 Years	1:10	20
4 Years to 5 Years	1:13	26
5 Years and Over	1:18	36

(c) When there is a mixed-age group, the required staff-to-child ratios in Table 251.055 shall be adjusted on a pro rata basis in accordance with the ages of the children in the group.

Note: The licensee may use the department's form, *Child Care Staff-To-Child Ratio Worksheet - Group Child Care Centers*, to adjust the staff-to-child ratio. Forms are available on the department's website at <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

See Appendix D Resources List: Staff-to-Child Ratio Worksheet Group Child Care Centers.

(d) When infants and toddlers are part of a mixed-age group, the size of the group may not exceed 8.

251.055(2)(d) continued

Children under age 2 may transition into an older age group as long as the new group size does not exceed 8 children and the child's second birthday is no more than 2 weeks prior to the transition date. Transition of a child to a new age group needs to be planned and discussed with parents prior to the transition if the room has been approved for children under 2 years of age.

See DCF 251.09 (1) (D) – INFANT & TODDLER – ASSIGNMENT TO A ROOM & CAREGIVER.

(e) When the group of children is a mixed age group of children 18 months and older, the group size shall be determined by the number of children that can be cared for by 2 child care workers with the required staff-to-child ratios in Table 251.055 adjusted on a pro rata basis in accordance with the ages of the children in the group.

(f) Maximum group size does not apply to field trips, outdoor play areas, and areas of the center reserved exclusively for eating. Staff-to-child ratios shall be maintained in those settings.

This rule applies to all age groups, including infants and toddlers.

An area of the center that is used for other purposes (i.e. a classroom or large motor room) throughout the day may be reserved exclusively for eating at designated times. Maximum group size does not apply when the room is used for eating.

(g) During naptime, an adjustment in group size and staff-to-child ratios in Table 251.055 may be made as follows:

1. One child care worker shall be within sight or sound of each group of sleeping children, except as provided in s. DCF 251.09 (1) (m).

Electronic listening devices may be allowed for supervising sleeping children under 2 years of age who sleep in cribs. Consideration should be given to the quality of the device, proximity/accessibility of staff, and noise levels in other areas that may interfere with staff's ability to hear. Video cameras are not allowed in place of staff supervision.

Dark sleeping rooms that play loud music do not meet sight and sound supervision requirements.

2. Staff-to-child ratios shall be maintained in the center during naptime.

See DCF 251.03 (30) – DEFINITION – SUPERVISION OF CHILDREN and DCF 251.055 (2) (k) – STAFF-TO-CHILD RATIOS – COUNTING SUPPORT STAFF

Support staff, such as cooks, clerical staff, custodians, or the center director, may be counted in the adult-to-child ratios during naptime providing the staff person is aware that they may be called upon, has been oriented to his/her responsibilities, and agrees to be available during that time. A support staff used to maintain ratios during naptime may be counted for one position at a time. Verification of a person's awareness that the center is using that person to count in the staff-to-child ratio during naptime may be made through interview or written documentation.

As children wake up from a nap, child care workers must provide supervision to the awake children and maximum group size and staff-to-child ratios must be met at all times. For example, when a group of 3-year-old children are napping, only 1 person is required when 10 or fewer children are awake. As soon as the 11th child wakes up, 2 staff persons (at least 1 person must be a child care teacher) must be present to provide supervision.

3. Maximum group size requirements do not apply to napping groups.

251.055(2)(g)3. continued

When a center has a separate nap room for infants and toddlers, maximum group size does not apply and one child care worker must be within sight or sound when all children are sleeping. See DCF 251.055 (2) (g) 1. – NAPTIME – STAFF-TO-CHILD RATIO AND SUPERVISION.

4. As children wake, sight and sound supervision and staff-to-child ratios in Table 251.055 shall be maintained for awake children.

(h) When 8 or fewer children are present in a center, there shall be a second adult available to come to the center within 5 minutes for emergencies. The center shall maintain a signed and dated statement from that person, including an address and telephone number, certifying that the person is available and agrees to serve if needed.

Current availability should be updated periodically to confirm the person's continuing availability. The address should be evaluated in terms of distance and length of time that would be required to reach center in an emergency. Staff members must be informed about and have access to current contact information for the emergency contact person. Telephone confirmation with the second adult may be utilized as a compliance check.

If the emergency contact person is not an employee of the center and the qualified staff person must leave the premises, parents should be called and children should be picked up.

(i) In a center with 9 or more children present, there shall be at least 2 adults available in the center at all times. At least one of the adults shall be a child care worker directly involved in the supervision and care of the children.

When 9 or more children are present in a center, but a second worker is not required by the staff-to-child ratio, a second adult must be available in the building, such as secretary, minister, cook, etc. The second adult should be aware that they may be asked for assistance in the case of an emergency.

(j) When 9 or more children are on a field trip there shall be at least 2 child care workers accompanying the children and the staff-to-child ratios in Table DCF 251.055 shall be maintained. At least one of the child care workers shall be a child care teacher.

(k) Support staff, such as clerical, housekeeping, and food service staff, may only be considered in determining whether the required staff-to-child ratios are met at any of the following times:

1. During those hours when they give full attention to the care and supervision of children if they meet the qualifications of a child care worker.

2. During naptime when children are sleeping.

(L) Child care workers shall be free of non-classroom duties when they are counted in meeting the staff-to-child ratios.

Classroom duties could include routine daily housekeeping in the classroom, such as dusting, floor sweeping, table/chair washing, straightening the room, putting out bag lunches with milk, preparing snack in the room, etc., if these are part of the job responsibility prescribed by the center and the staff person is able to maintain supervision as required under DCF 251.055 (1) (a).

In centers where space used by children is used for other purposes after the hours of operation, prohibited non-classroom duties include moving furnishings and equipment into storage before children have departed.

251.055(2)(L) continued

If support staff are used as child care workers, the schedule of differing job responsibilities in relation to staff-to-child ratios must be determined. An example may be a child care worker who prepares a snack or meal which requires no more than 10 minutes time and who is immediately accessible in case of emergency is still considered to be a child care worker while performing these tasks. If food preparation takes more than 10 minutes and/or removes the child care worker from immediate availability, the child care worker is considered to be support staff for that time period and does not count in determining staff-to-child ratios.

(m) Children of staff who attend the center and who are on the premises for supervision and care shall be included in determining group size and staff-to-child ratios.

DCF 251.06 Physical plant and equipment.**(1) BUILDING.**

(a) The building in which a center is located shall comply with applicable state and local building codes. The licensee shall maintain a building inspection report that specifies that the building meets the applicable Wisconsin commercial building codes for use as a group child care center.

Note: Local authorities should be consulted to obtain any required zoning clearances or building permits.

Any buildings in the premises that are used or constructed primarily for child care purposes must comply with the applicable Wisconsin Commercial Building Code and applicable local ordinances.

Inspections can be obtained from a commercial building inspector certified by the Department of Safety and Professional Services (DSPS) in accordance with ch. SPS 305, "Licenses, Certifications, and Registration." A map of commercial building inspection districts and contact information can be found at

<https://dspc.wi.gov/Documents/Programs/Maps/CommercialBuildings.pdf>.

A license may not be issued until the building is in compliance with all applicable commercial building codes as evidenced by a copy of the Building Inspection Report form. The Building Inspection Report or letter must indicate that all applicable commercial building codes have been met. If any codes listed are designated "not met," all necessary modifications must be completed before the license is issued. The correct Occupancy category (usually Group E or Group I-4) must be identified on the inspection report. It is the applicant/licensee's responsibility to make arrangement for inspections and reports.

Licensees are encouraged to request the building inspector to inspect all potential classroom spaces to be able to care for the greatest age range of children possible. For example, in a center that intends to care for children 6 weeks to 12 years, it is recommended all classrooms be inspected to determine if children 6 weeks through 12 years could be cared for in those rooms.

It is also recommended that licensees ask the building inspector to identify the greatest number of children who could be cared for in the building, rather than telling the inspector how many children they will initially be requesting to be licensed for.

This served two purposes:

1. *It will allow the licensee greater flexibility for mixed-age grouping of children.*
2. *It will alleviate the need for an additional building inspection in the future, should the licensee wish to change how they are using the space.*

The applicant should contact DSPS to determine if plan submittal is necessary prior to requesting an inspection or engaging in any building renovations. Contact the DSPS Plan Review office at <http://dspc.wi.gov/Plan-Review> or email questions to DspcSbPlanSchedule@wi.gov.

The person requesting an inspection should ask for assistance in determining whether any modifications are necessary to ensure that the building meets the applicable commercial building codes. Group child care centers will typically need to meet the "I-4" building codes. Under certain circumstances, a building may meet the "E" codes.

A building inspection is required in public school buildings serving children of any age under 4 years old.

A building inspection is not required for 4-year-olds served in a school that also has a 4-year-old kindergarten.

251.06(1)(a) Note: continued

Programs should consult with a commercial building inspector regarding kitchen venting requirements.

CHANGE OF USE: A change of use in a building may require that modifications be made depending on the type of change that will occur. Depending on the size of the building, plans may need to be submitted to the DSPS Plan Approval section prior to the modifications being made. Only plans affecting those areas being altered must be submitted for a plan review. The International Existing Building Code chapter of the Commercial Building Codes may provide guidance on change of use situations.

Some situations, such as those listed below, might require the building owner to consult with an architect or engineer to determine whether any modifications are necessary.

A program not previously licensed to care for children under age 2 ½ would like to modify their license to care for infants and toddlers.

A program proposes to expand or move into a previously unused part of a building. The part of the building that will be newly designated for child care center use must be inspected for compliance with the current applicable Commercial Building Codes and this rule.

A program intends to remodel existing child care space and the remodeling will affect structural strength, fire hazard, internal circulation, or exits of existing building or structure, electrical systems, or plumbing additions.

The installation of a wood burning stove, carpeting, or other materials into an existing child care center must be done in conformance with the building code requirements.

Amendments to the license or approval of any new space may not be granted until compliance with the Commercial Building Codes is verified by an updated building inspection from a municipality or an architect, engineer, or DSPS certified commercial building inspector.

FOR CONSTRUCTION OF NEW BUILDINGS TO BE USED AS CHILD CARE CENTERS: A plans approval application (SB-1 & 8) with instructions for plans approval must be obtained from and submitted to a DSPS plan reviewer with appropriate fees. Certified cities are authorized by DSPS to do plans approval for buildings containing 50,000 cubic feet total volume and alterations to buildings containing less than 100,000 cubic feet total volume. See the DSPS website for information about plan reviews <http://dspc.wi.gov/Plan-Review>.

The City of Milwaukee is certified for examination and approval of all buildings and structures regardless of size, with the exception of State-owned buildings.

In some communities, in addition to the approved building inspection, an occupancy permit demonstrating compliance with building and zoning codes may be required.

(c) Space designated for use by children may only be used by children and staff and may not be used for other purposes while the center is open.

The rule is intended to cover a wide variety of situations, including, but not limited to:

Space used by children may not be used as access for other places of business or other programs like organizations that may use the same building when the children are present.

Parking lots used as outdoor play space may not be used as parking lots with moving vehicles while children are using the space.

Space allocated as self-contained classrooms or areas may not be used for meetings or other purposes by outside groups during hours of operation.

Bathrooms allocated for children's use during hours of operation may be used by children, including school children, and center personnel only.

251.06(1)(c) continued

School-age programs in school buildings where space may be used for other functions alternate space must be pre-approved by the Department and available for use during operation hours. No exception necessary.

(d) The inside temperature may not be less than 67°F.

The licensing specialist may determine the temperature in a room as follows:

Temperature is measured at 24 inches above the floor level.

Infant and Toddler Rooms: Measure 6 inches above the floor.

Room without windows: Temperature taken in center of a room.

Room with windows: Temperature taken one foot away from windows and at the center of room and then averaged.

All rooms designated as child care space must comply with the 67 degrees Fahrenheit minimum.

According to the Commercial Building Code, the installation of portable space heaters shall not be used to achieve compliance with the minimum indoor temperature of 67 degrees Fahrenheit under 2018 IMC 309.1 Space-heating systems.

(e) If the inside temperature exceeds 80°F., the licensee shall provide for air circulation with fans, with air conditioning, or by other means.

Caution should be exercised regarding fan placement to prevent lacerations and toppling hazards. Windows may be opened if there is sufficient breeze to circulate the air.

(2) PROTECTIVE MEASURES.

(a) The indoor and outdoor premises shall be free of hazards including any recalled products.

See DCF 251.03 (13m) – DEFINITION – HAZARD. It is the licensee's responsibility to ensure that they are aware of any recalled products and to remove them from the areas occupied by children. Licensing staff will not conduct a detailed review of equipment and materials to determine whether items in the center have been recalled. Current recall information may be received at <https://www.cpsc.gov/recalls>.

"Free of hazards" is a discretionary rule to cover a wide variety of hazardous conditions which may occur including, but not limited to, basement stairwells not protected by a fence or gate, lawn sprinkler valve boxes recessed several inches below ground with no cover, broken glass or cans, holes, fences or enclosures with an opening that allows passage of an object that is larger than 4 inches in diameter, sharp edges or points near adjacent climbing equipment, etc.

Certain pull toys may have a cord or string the length of which may present a strangling hazard to a child. According to the Consumer Product Safety Commission, strings on pull toys should not be longer than 12 inches so that cords cannot be wrapped around necks. Strings or cords on window blinds must be short to prevent choking, must not hang in loops, and must be made inaccessible to children when blinds are raised.

Roof-top playgrounds must always be inspected and approved prior to use by a Department of Safety and Professional Services inspector or designated certified commercial building inspector.

ASBESTOS: If there is suspicion of asbestos, providers should contact the Wisconsin Department of Health Services for asbestos treatment and abatement procedures. For more information, see <https://www.dhs.wisconsin.gov/asbestos/index.htm>.

251.06(2)(a) continued

MOLD: If there is a musty odor or you can see mold growth, steps should be taken to identify the source of the moisture causing the mold. The local public health department or the Wisconsin Department of Health Services may be able to help find a consultant who specializes in building assessments to analyze the building and suggest remediation remedies. For more information, see <https://www.dhs.wisconsin.gov/mold/index.htm>.

WATER TEMPERATURE: A temperature between 100- and 105-degrees Fahrenheit is recommended. The maximum hot water temperature should not exceed 120 degrees Fahrenheit. Scald prevention devices are recommended.

POISONOUS PLANTS: See Appendix D Resources List: Common Plants – What's Poisonous and What's Not? Outdoor play spaces must be free of poisonous plants.

See DCF 251.06 (11) (b) 6. – CCA TREATED LUMBER and DCF 251.06 (11) (b) 6m. – CREOSOTE OR PCP TREATED WOOD.

Note: Lists of recalled products are available on the Department of Agriculture, Trade and Consumer Protection website at https://datcp.wi.gov/Pages/Programs_Services/ChildProductRecallsAdvice.aspx or by contacting the United States Consumer Products Safety Commission (US CPSC) at 1-800-638-2772.

(b) Steam radiators, fireplaces, wood burning stoves, electric fans, electric outlets, electrical heating units and hot surfaces, such as pipes, shall be protected by screens or guards so that children cannot touch them.

Tamper resistant electrical outlets do not need to be covered by guards. No exception is necessary.

(c) Firearms, ammunition and other potentially dangerous items may not be kept on the premises.

When group child care for 9 or more children occurs in a residence, an exception may be granted for the storage of guns / rifles and ammunition belonging to the home / residents when alternative protections are provided – e.g., locked storage or area totally inaccessible to children at all times.

(d) Materials harmful to children, including power tools, flammable or combustible materials, insecticides, matches, drugs, cleaning supplies, bleaches, and other hazardous, toxic, or poisonous articles shall be appropriately labeled and stored in areas inaccessible to children.

It is recommended that child care programs operating in buildings used for other purposes where others may have access to the environment during non-licensed hours (school buildings, churches, etc.) have staff routinely check classrooms for materials harmful to children before children arrive.

Inaccessible is defined as unable to reach. Safety latches are an acceptable method to make them inaccessible.

Any items labeled "poisonous" or "keep out of reach of children" and items in spray cans are considered harmful to children and may not be accessible to children.

Antibacterial hand soap is not recommended. Refill containers of antibacterial soap may not be accessible to children.

251.06(2)(d) continued

There may be times when a program wishes to use an item labeled "keep out of reach of children" for an organized art/science activity. These types of activities are permitted as long as the activity is closely supervised by a child care worker who is readily available to assist the children if necessary. The use of these materials for art/science projects should be based on the ages and developmental levels of children using the materials (e.g. it would not be appropriate for infants or toddlers to use shaving cream as a finger painting medium because they may put their hands in their mouths to "taste" the shaving cream).

See Appendix D Resources List: Common Plants – What's Poisonous and What's Not?

(e) A motor vehicle shall be immediately available at the center at all times in case of an emergency if a public or private rescue or emergency vehicle cannot arrive at the center within 10 minutes of a phone call.

(f) The center shall have a working telephone or access to a working telephone on the premises during hours of operation, with a list of emergency telephone numbers, including telephone numbers for the local fire department, police department or other law enforcement agency, poison control center and emergency medical service in a location known to all providers. In this paragraph, "telephone" does not include a pay telephone requiring payment to reach the operator or a telephone in a locked room.

If a center is located in a community with 911 services, the only phone numbers required to be posted are 911 and poison control. The statewide toll-free phone number for poison control is 1-800-222-1222.

It is recommended that the street address for the center be posted near the telephone, and it is recommended that the phone number for the local child protective services agency be available as well.

A working telephone is defined as a phone that can make and receive phone calls. Cell phones and cordless phones may be used as the only phone in a center if the phone is charged and there are no dead spots in the center that would prohibit calls from being received or made. All center staff must have access to the designated phone and knowledge of the passcode, if applicable. Cell phones must remain at the center when children are present at the center. When all the children are on a field trip, the cell phone may be taken on the field trip.

It is recommended that emergency numbers be saved in the cell phone.

(g) Stairs, walks, ramps and porches shall be maintained in a safe condition and free from the accumulation of water, ice or snow.

(gm) The premises shall be well drained, free from litter, clean, and in good repair. The premises shall be maintained to prevent the entrance or harborage of vermin.

"Well-drained" means no standing water; considerations may be given to the time of year and current weather conditions.

Vermin is defined as any of various insects, bugs, or disease carrying animals such as mice, rats, weasels, flies, or roaches. This list is illustrative and should not be considered all-inclusive.

The exterior of the building should be free of openings around cables and utilities, under doors, or broken windows. The garbage storage area should be free of litter, rubbish piles, burrow holes, and animal droppings, and should be rodent proof.

"In good repair" means that there are no situations such as, but not limited to, broken windows, doors, door latches, steps and railings; torn linoleum or missing tiles; leaking roofs; holes in walls; or flooding or leaking basements.

251.06(2)(gm) continued

Suspected infestations may require the services of a commercial pest control service. Proof of service may be documented by a written contract or receipt.

An integrated pest management program is recommended to reduce exposure to pesticides. See <https://www.epa.gov/managing-pests-schools/introduction-integrated-pest-management> for more information.

(h) Smoking is prohibited on the premises of the center or in a vehicle used to transport children when the children are in care.

2009 WI Act 12 banned smoking in all public places and workplaces, regardless of whether the building is publicly or privately owned.

Use of vapes, electronic cigarettes or other smoking devices is prohibited on the premises when children are present.

When a child care center is in a building that houses other separate businesses or is used during child care hours for other purposes, the premises includes the indoor and outdoor spaces that have been specifically identified as part of the child care program.

Note: See s. DCF 251.03 (25) for the definition of premises.

(i) There shall be no flaking or deteriorating paint on exterior or interior surfaces in areas accessible to children.

The rule does not require that the whole room or total outside wall be refinished. The area of flaking or deteriorating paint should be refinished in a manner that protects the children in care.

(im) No lead-based paint or other toxic finishing material may be used on indoor or outdoor furnishings and equipment.

Administrative Rule DHS 163 applies to child care centers when renovation or repair is made to any surface where 6 sq. ft. or more of interior paint or 20 sq. ft. of exterior paint is disturbed in a building that was built prior to 1978. Any renovation or repair that involves windows in a building built prior to 1978 must also be conducted in accordance with DHS 163.

See Appendix D Resources List: Guidance for Child Care Providers Regarding Lead-Based Paint Hazards in Child Care Settings.

When painted surfaces (built-ins, walls, ceilings, floors, stairs) are torn out or old paint is sanded, it is strongly recommended that abatement practices be initiated. When painted surfaces are peeling or deteriorating, samples of paint chips may be analyzed by the Laboratory of Hygiene in Madison or another certified laboratory.

For more information on asbestos or lead regulations, training, certification, work practices, inspections, or other related questions, please contact the Division of Public Health, Bureau of Environmental & Occupational Health, Asbestos And Lead Unit, phone: (608) 261-6876, fax: (608) 266-9711, email: dhsasbestoslead@dhs.wisconsin.gov, website: <https://www.dhs.wisconsin.gov/asbestos/overview.htm>.

(j) Children may not be allowed in an area where power tools are in use.

(k) A hot tub located in a room or area accessible to children shall have a visible, locked, rigid cover or be enclosed by a locked fence at least 4 feet tall. The lock shall be installed so that the lock is inaccessible to children.

(L) If a hot tub is located in a room or area not intended for use by children, access to the room or area shall be controlled through the use of a visibly locked door. The lock shall be installed so that the lock is inaccessible to children.

(m) Cleaning aids such as mops and brooms shall be clean. Buckets used with mops shall be emptied and stored in areas inaccessible to children.

251.06(2)(n)

(n) Garbage containers in the building shall be rigid, covered, watertight, and emptied daily or more often as needed. Compactors need not be emptied daily. Garbage and refuse stored out of doors shall be kept in leak-proof containers equipped with tight-fitting covers and shall be disposed of as necessary to prevent decomposition or overflow.

Garbage refers to food waste. Containers for non-food waste do not require covers.

Garbage containers should be impervious to vermin. Metal containers are recommended.

(o) Windows and doors that are used for ventilation shall be screened.

If a window is locked, it is not used for ventilation and does not need a screen.

(p) 1. a. Each licensee shall test or have a test conducted for radon gas levels in the lowest level of the center that is used by children in care for at least 7 hours per week. The test shall be conducted for a minimum of 48 hours with the center's windows closed.

Many group child care centers are located in commercial buildings. This means a building that is not a residential building and meets the definition of "place of employment" or a "public building" in s. 101.01(11) or 101.01(12), Wis. Stats. To test for radon in commercial buildings, it is recommended by the American Association of Radon Scientists and Technologists (AARST) standards to use a certified measurement professional who holds a certification from the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB). Testing a commercial building with a certified measurement professional can range from \$500 to \$1,500. The cost of testing may vary depending on the size of the facility. Test in lowest level of a building that is used by children in care for at least 7 hours per week. Best practices for testing for radon in schools and large buildings varies depending on the building. Use a certified measurement professional, or refer to the AARST standards for specific guidance here: <https://standards.aarst.org/MALB-2014/index.html>. If you choose to hire a certified radon professional to conduct the radon test in your center, it is recommended to follow all recommendations made by the certified radon professional. If your group child care center is operated in a residential building, see commentary under DCF 250.06(2)(n).

According to AARST standards, the number of tests recommended is based on the square footage and individual room requirements provided in the current radon measurement standards for schools and large buildings. 100% of the lower level and "ground contact" classrooms and common areas should be tested under the current standards of practice. At least 10% of the upper-level classrooms should also be tested under the current standards of practice. In larger common areas, such as a gym or a cafeteria, at least one sample will be taken per 2,000 square feet.

The best time to test is during the fall or winter months when the home or building is closed, and windows are not kept open. Radon levels will be the highest during these cold months. However, radon tests can be conducted any time of year if the windows and doors remain shut for 12 hours before and the entire duration of the test (minimum of 48 hours). Radon levels can go up and down due to weather patterns and home use like running HVAC, opening windows, and turning on fans. Avoid testing for radon during snow, rain, or windstorms as this can impact the test results and cause short term spikes/elevations in radon levels. It is recommended to test over a weekend so that the test is not disturbed.

251.06(2)(p)1.a. continued

Radon tests should be conducted in all dwellings and all nonresidential rooms that are occupied, or intended to be occupied, that have floors or walls in contact with the ground or are the lowest level of the building over a crawl space, utility tunnel, parking garage or other non-habitable space that is in contact with ground. For non-residential ground-contact locations, conduct a test in all ground-contact rooms, offices, classrooms, and other general use areas that are occupied or intended to be occupied. On each upper floor, test in at least one and not less than 10% of all dwellings and nonresidential rooms that are occupied or intended to be occupied. These measurements should be taken in addition to the tests performed in ground-contact locations and rooms. Unless for investigative purposes, do not test for radon in hallways, closets, bathroom, or shower areas unless they are open to other rooms that are occupied for other purposes.

If you care for children in a residential or commercial building that already has a radon mitigation system or a continuous radon detection monitor, it is still required to test the building for radon every 2 years (residential) or 5 years (commercial), or after any renovations are made on the home or building. This ensures that the mitigation system and/or radon detection monitor is properly installed and working. The only way to know if the building has high levels of radon is to test.

If you care for children in a school building that is currently in use as a school building, you are not required to test for radon.

- b. In a center licensed prior to the effective date of this subd. 1. [March 1, 2023], the test for radon gas levels shall be conducted no later than 6 months after the effective date of this subd. 1. [September 1, 2023].
- c. In a center licensed on or after the effective date of this subd. 1. [March 1, 2023], the test for radon gas levels shall be conducted within 6 months prior to providing care for children.
2. The licensee shall submit a copy of the radon test results under subds. 1. and 5. To the department within 5 days after receipt.
3. The lowest level of a center that is used by children in care for at least 7 hours per week may not have radon gas levels that exceed 4 picocuries per liter of air, except as provided in subd. 4. b.
4. If the levels of radon gases exceed 4 picocuries per liter of air in the lowest level of the center, the licensee shall do all of the following:

For the purposes of licensing, the overall average of the radon test is the measurement used to determine the threshold for mitigation.

- a. Notify the parents of children in care.
- b. Have a radon mitigation system installed, test for radon gas levels following the procedures specified in subd. 1. a., and submit radon test results that meet the standards in subd. 3. to the department within 12 months after the date of the test under subd. 1.

251.06(2)(p)4.b. continued

When mitigating a building for radon, the state of Wisconsin recommends using a certified measurement or mitigation professional who holds a certification from the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB). Certified contractors are more likely to understand best practices for radon mitigation. In the state of Wisconsin there are no laws requiring radon mitigation companies to be certified. This can result in uncertified and inexperienced contractors throughout the state offering low priced radon systems that are installed incorrectly, leaving the consumer at risk of paying for a poorly installed system that doesn't effectively remove radon. Using a certified contractor will reduce the risk of having a radon mitigation system installed incorrectly. A list of certified radon measurement and mitigation contractors can be found on the Department of Health Services' website here: <https://www.dhs.wisconsin.gov/radon/radon-proficiency.htm>.

Child care centers will not be required to close if radon test results exceed 4 picocuries per liter of air. Licensees will be required to follow all other requirements specified in subd. 4.

Radon Information Centers are located across the state and are available to providers as a resource. Find your local Radon Information Center here: <https://dhs.wisconsin.gov/radon/infocenters.htm>.

5. a. In this subdivision, "commercial building" means a building that is not a residential building and that meets the definition of a "place of employment" or a "public building" in s. 101.01 (11) or (12), Stats.

b. In this subdivision, "residential building" means a building that meets the definition of a "dwelling" in s. 101.61 (1), Stats.

c. The licensee of a center in a commercial building shall test for radon gas levels every 5 years after the test under subd. 1. or, if a radon mitigation system was installed, every 5 years after the test under subd. 4. b. The test shall be conducted following the procedures specified in subd. 1. a.

d. The licensee of a center in a residential building shall test for radon gas levels every 2 years after the test under subd. 1. or, if a radon mitigation system was installed, every 2 years after the test under subd. 4. b. The test shall be conducted following the procedures specified in subd. 1. a.

Note: For more information, contact the state radon office or local radon information center at <https://www.dhs.wisconsin.gov/radon/infocenters.htm>.

(3) EMERGENCY PLANS AND DRILLS.

(a) Each center shall have a written plan for taking appropriate action in the event of an emergency, including fire, tornado, or flood; extreme heat or cold; loss of building services, including heat, water, electricity, or telephone; human- caused events, such as threats to the building or its occupants; allergic reactions; lost or missing children; vehicle accidents; or other circumstances requiring immediate attention. The plan shall include procedures for all of the following:

1. Evacuation, relocation, shelter-in-place, and lock-down.
2. Ensuring the needs of children under 2 years of age and children with disabilities are met.
3. Communication with parents.
4. Connecting children with their parents if the center is required to evacuate the building.

251.06(3)(a)4. continued

The center emergency plan should address all the emergencies identified above that might occur at the center (e.g., if the center is not located in an area that is subject to floods, the emergency plan does not need to address floods). The plan should include staff member duties and responsibilities; exiting on all levels used by children in care; and identifying items that are recommended to be with the staff, such as attendance list, emergency cards, flashlight, and battery-operated radio, or cell phone. Information on developing emergency plans can be obtained from local fire departments, local emergency management, or on the Department's website at <https://DCF.Wisconsin.gov>.

Use of a one-exit basement as an emergency shelter during tornadoes and similar emergencies is allowed. Use of a one-exit level is prohibited for any other purpose.

Licensing specialists may ask centers to conduct a fire and/or tornado drill during a licensing visit.

(b) Each center shall do all of the following:

1. Post the fire evacuation route and tornado shelter areas.

It is recommended that the evacuation diagram (fire and tornado) be posted in every room near the exit door.

2. Practice the fire evacuation plan monthly, and tornado drills monthly from April through October.

Evacuation drills must be practiced using the appropriate warning device—i.e., local alarm or interconnected or battery-operated smoke detectors. If a building has a fire protection system (sprinklers) that does not have an audible signaling device, the use of a battery-operated smoke detector is recommended. Other types of manual signaling devices are not recommended as the goal is to accustom the children to hearing a sound that might be triggered in a real emergency. The tornado evacuation area should be accessible and free of hazards during tornado season.

Children are not required to exit the building completely during a fire drill in winter or inclement weather; however, they should be directed to proceed to the nearest exit and staff should review with the children how an actual fire would affect the program. Children shall not take the time to put on their coats before evacuating a building.

Both fire and tornado evacuations should be practiced on a varied schedule developed by the center.

Tornadoes can occur at any time of year, but peak months in Wisconsin are during the summer. The National Weather Service continuously broadcasts updated weather warnings and forecasts that can be received by NOAA Weather Radios. Television and radio are also excellent sources of warning information. Contact the local fire department or emergency government to determine the safest place in the building during a tornado warning.

See DCF 251.10 (4) (c) – NIGHT CARE – FIRE EVACUATION DRILLS.

3. Ensure that all staff members know what their duties are if there is an emergency.

Staff responsibilities during fire, tornado, and other emergencies should be defined in the emergency plans required under DCF 251.04 (2) (h) 9. Licensing specialists may verify that staff know what their duties are in a fire, tornado, or other emergency by reviewing the orientation checklist, interviews with staff, or having the center conduct a drill while the licensing specialist is present.

251.06(3)(b)4.

4. Keep a written record of dates and times all fire and tornado drills practiced.

The written record must contain the time of day and length of the time the drill took to complete. The recommended goal for exiting time is less than 2 minutes.

Note: The licensee may use the department's form *Safety and Emergency Response Documentation - Group Child Care Centers*, to document the results of the monthly testing of fire alarms and smoke detectors. Forms are available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(4) FIRE PROTECTION.

(a) Each fire extinguisher on the premises of a center shall be operable at all times, inspected once a year by a qualified person and bear a label indicating its present condition and date of the last inspection.

For questions regarding the type and numbers of fire extinguishers, the center may consult the local fire department. It is the responsibility of the licensee to ensure that the extinguishers are inspected by a commercial fire safety company or fire department and appropriately tagged.

BEEPING OR CHIRPING ALARMS: *If a smoke detector beeps or sounds another type of signal indicating a potential malfunction, the detector must be replaced or repaired and is not considered in operating condition at that time.*

(b) All staff members shall be instructed in and knowledgeable about the use of the fire extinguishers.

Priority should be given to immediate evacuation of children. Get out and stay out.

(c) Each floor used by children shall have at least 2 exits.

(d) Exits and exit passageways shall have a minimum clear width of 3 feet and be unobstructed by furniture or other objects.

Marked exits that require more than a one-hand, one-motion are considered an obstructed exit.

(e) An extension cord may not be used permanently with an appliance.

"Extension cord" means a cord set consisting of a length of flexible cord with an attachment plug at one end and a cord connector, which permits the connection of one or more attachment plugs, at the other end. Extension cords shall only be permitted for temporary use with portable appliances, hand tools, or fixtures; shall be of a 3-wire grounding type when used in conjunction with devices equipped with 3-prong grounding-type attachment plugs; and shall serve only one portable appliance, hand tool, or fixture.

Small "portable" appliances such as computers, televisions, microwaves, aquariums, etc. may use UL listed surge suppression devices having the ability to limit an electric current above the appliance's rating.

"Surge suppression devices" (e.g., surge protectors, circuit breaker bars) means an electrical device designed to protect a piece of equipment against the harmful effects of power surges, spikes, and sudden outages consisting of an attachment plug and a length of flexible cord terminating in an enclosure in which are mounted one or more receptacles with supplementary over-current protection, switches, indicator lights, transient voltage surge suppressors, or electromagnetic interference filters.

Not all power strips are UL listed surge suppression devices.

251.06(4)(e) continued

Extension cords and surge suppression devices must be listed by UL or another approved nationally recognized testing agency; may not be used with large appliances, such as full-size refrigerators; shall be protected from physical impact and environmental damage; may not be multiplied or plugged into one another; and may not be attached to structures or placed under doors or floor coverings.

(f) No more than 2 electrical appliances may be plugged into any one wall outlet.

See par. (e) above for information regarding surge suppression devices, such as circuit breaker bars and surge protectors.

(g) The door to the basement and furnace room shall be closed.

(h) Areas under stairs may not be used for storage.

Metal objects such as chairs and certain toys may be stored under stairs. Combustible materials such as paper, cardboard, wood, cloth, rubber, and many plastics and hazardous equipment holding or conveying flammable liquids, gases, or toxic gases are prohibited under stairs unless the fire inspector provides written authorization to permit storage under stairs.

(i) All exit lights shall be lit at all times.

(j) 1. Fire detection and prevention systems, including smoke detectors, heat or flame detectors, pull stations, and sprinkler systems shall be installed and operated in accordance with ch. SPS 316 and chs. SPS 361 to 366, the Wisconsin Commercial Building Code; applicable local ordinances; and the manufacturer's instructions.

2. All fire detection and prevention systems, including smoke detectors, heat or flame detectors, pull stations, and sprinkler systems shall be maintained in operating condition and shall be immediately repaired or replaced if any unit or part of a unit is found to be inoperative.

(jm) 1. A signaling device, such as a smoke, heat, or flame detector, shall be used to conduct monthly fire evacuation drills.

2. The licensee shall document that the fire detection and prevention systems are monitored by a fire prevention agency or that the detectors and alarms have been tested monthly.

Note: The licensee may use the department's form, DCF-F-CFS0543, Safety and Emergency Response Documentation – Group Child Care Centers, to document the results of the monthly testing of fire alarms and smoke detectors. The form is available at <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

When a building has sprinklers, there may or may not be pull stations or individual alarms in the building. Fire detection and prevention systems must be monitored for operating order by a qualified monitoring agency. Evidence of operating condition could be a monitoring record obtained from the qualified monitoring agency.

If the building has smoke detectors or individual alarm stations, those smoke detectors or alarm stations must be used during fire drills and tested monthly to ensure they remain in operating condition.

The fire evacuation drill can be the monthly test of the smoke detection system provided the building system is used to sound the alert.

Individual alarm units in a multi-station interconnected fire alarm system should be tested on a rotating basis. The requirement for testing applies regardless of a connection to a local fire station or other monitoring service.

251.06(4)(jm)2. Note: continued

It is recommended that if there is no audible alarm present in the building, a battery-operated smoke detector or similar device be used to conduct fire drills so that children become familiar with the sound of a fire or smoke signaling device.

Requests for exceptions will be considered on a case by case basis when using a building fire alarm or smoke detection system would disrupt a larger organization such as a nursing home, school, or community center.

SEE DCF 251.095 (5m) (a) 7. – SCHOOL-AGE RULE EXEMPTIONS – TESTING ALARMS IN SCHOOL BUILDINGS.

(k) Unvented gas, oil or kerosene space heaters are prohibited.

If there are concerns regarding the installation of vented gas, oil, or kerosene space heaters, providers may be asked to obtain written documentation that it was properly installed.

Electric space heaters should have an automatic shut off.

Flammable materials should be kept away from space heaters.

See DCF 251.06 (2) (b) – ELECTRICAL OR HOT SURFACE PROTECTION.

(6) WATER.

(a) A safe supply of drinking water shall be available to children and staff at all times from a drinking fountain of the angle jet type or by use of a disposable or reusable cup or water bottle. Common use of drinkware is prohibited.

When a drinking fountain is used, the water supply shall be of sufficient volume and height so the person's mouth does not come in contact with the fountain's spout.

Reusable water bottles are an acceptable alternative. We highly recommend labeling bottles with the child's name. It is also recommended that single-use water bottles not be reused.

If a building is closed and unused for an extended period (i.e., one week or longer), the Environmental Protection Agency (EPA) recommends flushing the building's plumbing before reopening. Flushing involves opening taps and letting the water run to remove stagnant water from the interior pipes. More information can be found at <https://www.epa.gov/>.

Some municipalities may have differing recommendations based on the period the building was closed. It is recommended that you contact your local municipality to check recommendations.

It is recommended that any drinking or cooking water outlets are flushed for at least 30 seconds before use. Water fountains with a refrigeration cooler are recommended to be flushed for at least 15 minutes.

Flushing water systems can increase the amount of debris found in faucet aerators. It is recommended to remove and clean aerators after flushing water systems.

(b) If a center gets its water from a private well, the center shall comply with all of the following:

1. a. The center shall have water samples from the well tested for total coliform and Escherichia coli (E. coli) bacteria annually using a laboratory certified by the department of agriculture, trade and consumer protection as specified in ch. ATCP 77. The laboratory report shall be available to the department upon request.

b. If the water test results indicate the presence of total coliform or E. coli bacteria, the water system shall be appropriately disinfected or treated and retested until it is determined to be free of bacteria. An alternative source of water shall be used for drinking and preparing food or infant formula until the well is free from bacteria.

251.06(6)(b)1.b. Note 1:

Note 1: A list of laboratories certified to test for bacteria can be found on the Department of Natural Resources website: www.dnr.wi.gov.

Note 2: Alternative sources of drinking water can include bottled water and water from a public water system that meets drinking water standards.

Total coliform and E. coli tests are sometimes run concurrently. If the sample test is negative for total coliform, the sample is also negative for E. coli.

2. a. The center shall have water samples from the well tested for nitrate annually using a laboratory certified under ch. NR 149. The laboratory report shall be available to the department upon request.

b. If water test results indicate nitrate levels are above 10 mg/L, an alternative source of water shall be used for drinking and preparing food or infant formula until nitrate levels are below 10 mg/L.

Note 1: A list of laboratories certified to test for nitrate can be found on DNR's website: www.dnr.wi.gov.

Note 2: Alternative sources of drinking water include bottled water, water that has been treated with a device certified by the department of safety and professional services to remove nitrate, and water from a public water system that meets drinking water standards.

3. a. The center shall have the well tested for lead every 5 years using a laboratory certified by the department of natural resources under ch. NR 149. The laboratory report shall be available to the department upon request.

b. If water test results indicate lead levels are above 15 micrograms per liter ($\mu\text{g}/\text{L}$), an alternative source of water shall be used for drinking and preparing food or infant formula until action is taken to reduce lead levels below 15 $\mu\text{g}/\text{L}$ as confirmed by an additional water test.

Note 1: A list of laboratories certified to test for lead can be found on DNR's website: www.dnr.wi.gov.

Note 2: Alternative sources of drinking water include, but are not limited to, bottled water and water from a source known to be low in lead, such as a public water system that meets drinking water standards.

The State Plumbing Codes require that any plumbing system in any building be provided with water from a known potable and bacteriologically safe source [SPS 382.10 (2) (a) Every building intended for human occupancy shall be provided with an adequate, safe and potable water supply]. The use of bottled water is allowed only on a very temporary basis until a complying water supply is provided.

If the water tests high in nitrates, the center must still obtain an annual water test for nitrates.

If the water is bacteriologically positive or has high lead levels, it must be treated and retested.

If water is bacteriologically positive, bottled water shall be used for hand washing and laundering in addition to drinking and cooking.

Contact the DNR Bureau of Drinking Water and Groundwater for more information at <https://dnr.wisconsin.gov/topic/DrinkingWater>.

(7) INDOOR SPACE.

(a) The space used by children shall be no less than 35 square feet of usable floor space for each child, exclusive of passageways, kitchens, bathrooms, coat storage areas, offices, storage areas, isolation quarters, staff room, furnace room, parts of rooms occupied by stationary equipment, and areas not at all times available to children, including areas used exclusively for large muscle activity, napping or eating.

251.06(7)(a) continued

USABLE SPACE: Self-contained rooms or areas are used to determine licensed maximum capacity. Other space in the center, as specified in rule, is not used to determine licensed capacity. See DCF 251.03 (28) – DEFINITION – SELF-CONTAINED ROOM OR AREA and DCF 251.03 (12) – DEFINITION – GROUP.

CALCULATIONS TO DETERMINE AVAILABLE INDOOR SPACE FOR CAPACITY: To determine the licensable capacity based on indoor square footage, measurements of the spaces used by the children must be taken. Measurements should be calculated using a length times width ($L \times W$) formula. Inches will be converted to a decimal for ease of multiplication. If the space to be measured does not easily adapt to $L \times W$ formula, the space should be broken down into more easily defined squares and rectangles. Triangle-shaped spaces can be calculated using a $1/2L \times W$ formula.

Each room will be measured with a maximum room capacity determined. If the calculations result in a number with a decimal point, the number of children to be accommodated in that space should reflect the whole number with the decimal amount dropped. To obtain the maximum allowable children in the center, based on indoor space only, the individual room capacities are added together. Actual capacity may be different from the maximum capacity taking into account numbers 1 – 9 below.

In measuring the space, the area under the stairs of the room should not be counted.

LOFTS: Lofts that are connected or attached to the building may not be counted as additional play space for determination of licensed capacity unless the loft has been inspected and approved by a private or certified building inspector under SPS 321.22 Wood Frame Floors.

PASSAGEWAYS AND HALLS: In passageways and halls that exceed the minimum required width for a passageway or hall (3 feet or larger depending on number of occupants in building), the additional space may not be counted as space to increase the licensed capacity.

Documentation of licensable capacity for the facility file and the licensee should be in the form of a letter outlining the measurements taken, deductions made and calculations done or a diagram of the indoor space including measurements, deductions and calculations.

The licensable capacity of a center is based on a number of determinations. The actual licensed capacity of a center will take all determinations into account. Following are the items that must be considered when determining the maximum capacity of a center:

- Amount of square footage of self-contained rooms or areas used by the children
- Number of toilets and washbasins available to children [See DCF 251.06 (10) (a)]
- Staff-to-child ratio and maximum group size [See DCF 251.055 (2) (a) and (b)]
- Amount of equipment present [See DCF 251.07 (3) (c)]
- Number of cots, mats, or sleeping bags available, if applicable [See DCF 251.07 (4) (c)]
- Space occupied by all cribs, including play pens, portable cribs, or pack and plays, regardless of whether the cribs are taken down to make additional room when not in use [See DCF 251.09 (1) (h)]
- Square footage of outdoor play space unless an exemption has been requested and approval given [See DCF 251.06 (11) (b)]
- Storage space for children's clothing and personal belongings so that each child in the licensed capacity has a storage space [See DCF 251.07 (3) (h)]
- The qualification of the directors [See DCF 251.05 (3) (c)]

Licensees are responsible for reporting changes in room usage and the removal and/or addition of equipment to rooms. A center's capacity may be adjusted based on a recalculation of available space.

251.06(7)(a) continued

Information on the available space should be reviewed by the licensing specialist periodically to ensure that the space available to children has not changed due to the addition or removal of deductible equipment/furnishings from a room or area. Any changes that would reduce a center's capacity based on a recalculation of available space should be discussed with the licensing manager.

(b) There shall be additional storage space for cots, bedding, supplies and equipment not in use.

(9) KITCHENS.

(a) *Equipment and utensils.*

1. When meals are prepared or heated on the premises, the kitchen shall be equipped with a microwave or stove with an oven, a refrigerator, a sink and utensils that are necessary to prepare and serve meals. The sink shall be used exclusively for food preparation and dishwashing.

1m. Centers preparing or serving only snacks are not required to have a sink unless dishes or utensils requiring dishwashing are used. Centers preparing or serving only snacks are not required to have a microwave or stove unless the snacks served require heating. Refrigerators are required if the center serves milk or other perishable snacks.

2. All equipment and utensils shall have smooth, hard surfaces, be easily cleanable, in good repair, durable, non-toxic and free of cracks, seams, chips and roughened areas, and shall be maintained in a clean and sanitary condition.

See Appendix D Resources List: Cleaning, Sanitizing and Disinfecting in Child Care Centers.

It is recommended that eating utensils be age and developmentally appropriate to the children.

3. Food preparation tables shall be durable, and surfaces shall be smooth, non-absorbent and easily cleanable.

4. After cleaning, utensils shall be stored in a clean, dry place and protected from contamination.

5. Single-service utensils shall be non-toxic, stored in a clean, dry place, kept covered, and may not be reused.

Single service refers to cups, containers, lids or closures, plates, knives, forks, spoons, etc. intended by the manufacturer for one-time, one-person use and then to be discarded.

(b) *Dishwashing procedures.*

1. All kitchen utensils and food contact surfaces used for preparation, storage or serving of food shall be thoroughly cleaned and sanitized after each use.

2. All utensils and dishes shall be scraped, sorted and prewashed under running water.

3. For manual washing of dishes and utensils, a 3-step procedure shall be used:

a. Wash in water between 110° and 125°F., using an effective soap or detergent.

b. Rinse by immersing dishes and utensils in clean, hot water to remove soap or detergent.

c. Sanitize by using a product that is registered with the U.S. environmental protection agency as a sanitizer and has instructions for use as a sanitizer on the label. The sanitizer shall be used in a manner consistent with the label instructions.

See Appendix D Resources List: Cleaning, Sanitizing and Disinfecting in Child Care Settings.

4. a. If a center uses a commercial dishwasher to clean dishes and utensils, the dishwasher shall have a readily visible temperature gauge located in the wash compartment. If the dishwasher is a spray type or immersion type dishwasher, a temperature gauge shall also be located in the rinse water line.

b. Wash at 130 degrees Fahrenheit to 150 degrees Fahrenheit for at least 20 seconds, using an effective cleaning agent, and rinse and sanitize at 180 degrees Fahrenheit for 10 seconds or more, using an automatic rinse injector.

251.06(9)(b)4.b. continued

Dishes washed in a commercial dishwasher are sanitized using a chemical sanitizer in the rinse cycle or by heat. In these instances, if a chemical sanitizer is used, the 180-degree Fahrenheit sanitizing cycle is not required.

c. When using a spray-type dishwashing machine, the dishes and utensils shall be washed, rinsed and sanitized in the dishwasher according to the manufacturer's operating instructions. A chemical sanitizer shall be used in the final rinse.

5. If the center uses a home-type dishwasher to clean dishes and utensils, the dishes and utensils shall be washed and rinsed in the dishwasher and by using a product that is registered with the U.S. environmental protection agency as a sanitizer and has instructions for use as a sanitizer on the label. The sanitizer shall be used in a manner consistent with the label instructions.

Sani-cycles may not substitute for the requirement for sanitizing dishes unless the center can document that the hot water (Sani-cycle) booster with the home-type dishwasher can raise the temperature of the rinse water to no less than 180 degrees Fahrenheit for ten seconds or more.

6. All dishes and utensils shall be air-dried in racks or baskets or on drain boards.

(c) *Food sources.*

1. Food shall be clean, wholesome, free from spoilage, free from adulteration or misbranding and safe for human consumption. Meat, poultry, fish, molluscan shellfish, eggs and dairy products shall be from an inspected source.

Meat and poultry must be processed in a facility inspected by the USDA or the state.

Home-frozen foods are acceptable.

Home-canned foods may not be used for children in care except for high-acid foods including apples, apricots, berries, cherries, grapefruit, peaches, pineapple, rhubarb, and tomatoes.

Fresh produce may be purchased from farmers markets or grown by the center. Home-raised eggs are acceptable with parental notification and food program permission, if participating in CACFP.

Food served from a single-use container may not be saved for later consumption.

See Appendix D Resources List: Food Storage Chart.

2. Only milk and milk products which are pasteurized and meet the Grade A milk standards of the Wisconsin department of agriculture, trade, and consumer protection may be served or used.

3m. Meals shall be prepared on the premises, in a central kitchen operated by the child care center or in another location that has been inspected by a representative of a state agency.

Note: Chapter ATCP 75, subch. III addresses restaurants and other public eating establishments. Chapter ATCP 75, subch. II, addresses retail food establishments.

The Division of Public Health conducts inspections of public school kitchens for the Department of Public Instruction. Private school kitchens might not be inspected by another state agency unless that kitchen holds a restaurant license. Restaurants, hospitals and nursing homes and other residential agencies licensed by the Department of Health Services or the Department of Children and Families have their kitchens inspected by the licensing agency. A copy of any applicable license and the most recent inspection report is required.

251.06(9)(c)3m. Note: continued

The licensing specialist is the representative of the Department of Children and Families who conducts the inspection when a central kitchen operated by the licensee prepares food for other centers owned by the licensee. Agencies preparing, transporting, and serving food may need a retail food establishment license. Contact the Department of Agriculture, Trade and Consumer Protection for information about obtaining a retail food establishment license www.datcp.wisconsin.gov.

See DCF 251.06 (9) (f) 4. – FOOD – DELIVERY VEHICLES & CONTAINERS.

4. Food in dented, bulging or leaking cans, or cans without labels, may not be used.
5. Hermetically sealed, non-acid or low-acid food which has been processed in a place other than a commercial food processing establishment may not be used.

(d) *Food storage.*

1. Foods shall be stored at temperatures which protect against spoilage. The following measures shall be taken to prevent spoilage:
 - a. Perishable and potentially hazardous food which includes all custard-filled and cream-filled pastries, milk and milk products, meat, fish, shellfish, gravy, poultry stuffing and sauces, dressings, salads containing meat, fish, eggs, milk or milk products, and any other food or food product likely to spoil quickly if not kept at the proper temperature shall be continuously maintained at 40°F. or below or 140°F. or above, as appropriate, except during necessary periods of preparation and service.
 - b. Each refrigeration unit shall be maintained at 40°F. or lower and each freezing unit shall be maintained at 0°F. or lower.
 - c. Each cold storage facility shall be equipped with a clearly visible accurate thermometer.

A refrigerator that includes a freezer requires two thermometers—one for the refrigerator portion and one for the freezer portion.

- d. Food shall be covered while refrigerated, except when being cooled.
2. Foods not requiring refrigeration shall be stored in clean, dry, ventilated and lighted storerooms or areas which shall be protected from contamination by sewage, wastewater backflow, condensation, leakage or vermin. In addition:
 - a. Dry foods, such as flour, sugar, cereals and beans shall be stored in bags with zip-type closures or metal, glass or food-grade plastic containers with tight-fitting covers and shall be labeled. In this paragraph, “food grade plastic” means any plastic material used in the manufacture of dishes or utensils which has been found not harmful to human health by the national sanitation foundation.

Labels must include contents. Containers holding food that can be reliably and unmistakably identified, such as dry pasta, is not required to be labeled with the contents.

It is acceptable to store bread and buns in their original containers.

Reusing milk jugs for food or beverage storage is not acceptable.

A plastic container that originally contained nonfood products may not be food-grade plastic. A single-use plastic container used by the processor to package food may be reused for food storage if container is smooth, easily cleanable and durable (e.g., Cool Whip and deli containers).

- b. Foods stored in the basement shall be stored at least 8 inches above the floor, and food stored in other areas shall be stored high enough above the floor to provide for air circulation and to facilitate cleaning.

(f) *Food handling.*

1. Raw fruits and vegetables shall be washed before being served or cooked.
2. Food returned from individual plates or from dining tables shall be discarded.

251.06(9)(f)3.

3. Food that was prepared but not served shall be dated, refrigerated promptly, and used within 36 hours, or frozen immediately for use within 6 months.

See Appendix D Resources List: Food Storage Chart for more information.

Food that has been removed from the kitchen is considered served and may not be reused. Milk that is in the original container may be reused.

4. Food delivery vehicles shall be equipped with clean containers or cabinets to store food while in transit. Containers for cold food shall be capable of maintaining the temperature at or below 40°F. and containers for hot food shall be capable of maintaining the temperature at or above 140°F.

5. Potentially hazardous frozen foods shall be thawed in the refrigerator, under cold running water or on the defrost setting in a microwave oven. No potentially hazardous frozen food may be thawed by leaving it at room temperature.

Potentially hazardous frozen food includes all of the following: custard-filled and cream-filled pastries; milk and milk products; meat; fish; shellfish; gravy; poultry stuffing and sauces; dressings; salads containing meat, fish, eggs, milk, or milk products; and any other food or food product likely to spoil quickly if not kept at the proper temperature.

See Appendix D Resources List: Food Storage Chart.

(g) Meal preparation personnel.

1. Personnel who help prepare meals shall:

b. Wear clean clothing and effective hair restraints such as hair nets or caps.

Persons preparing food must use a hair net or cap or beard net, if applicable, to prevent hair from coming in contact with food during preparation.

c. Wash their hands with soap and warm running water before starting work, before and after handling food, and after using the toilet. Hands shall be dried with single use towels.

Individual cloth towels shall only be used once and then must be laundered.

2. No one with an open or infected wound or sore may work in the food preparation area unless the wound or sore is covered and, if it is on a hand, a nonporous glove is worn on that hand.

(10) WASHROOM AND TOILET FACILITIES.

(a) A group child care center shall provide at least the number of washbasins and toilets with plumbing indicated in Table 251.06. Urinals may be substituted for up to 1/3 of the total required toilets.

Sinks must have plumbing. If a center would like to use a portable sink, they must receive a variance from their local building inspector.

TABLE 251.06
Minimum Number of Washbasins and Toilets
Required in Group Child Care Centers

Maximum Number of Children for Which the Center is Licensed	Number of Toilets	Number of Washbasins
9 or 10	1	1
11 to 25	2	1
26 to 40	3	2
41 to 55	4	2
56 to 70	5	3

251.06(10)(b)

(b) When a center is licensed for more than 70 children, one additional toilet shall be provided for each additional 15 children or fraction thereof and washbasins shall be provided in the ratio of one for every 2 additional toilets and urinals or fraction thereof.

(c) Children under the age of 30 months need not be included when determining the required fixtures under par. (a). However, in all cases, at least one toilet and one washbasin shall be provided.

(d) If potty chairs are used for children under 30 months of age, the potty chairs shall be provided in a ratio of one for every 4 children or fraction thereof.

(dm) 1. Toilet rooms and fixtures shall be in a sanitary condition at all times.

2. Potty chair receptacles shall be emptied and rinsed after use and the potty chair and receptacle shall be disinfected immediately using a product registered with the U.S. environmental protection agency as a disinfectant that has instructions for use as a disinfectant on the label. The disinfectant shall be used according to label instructions.

(e) Steps or blocks shall be provided if washbasins and toilets are not proportioned to the size of the children.

(f) Soap, toilet paper, disposable paper towels or blower-type air dryers and a wastepaper container shall be provided and accessible to children using the facilities.

Liquid soap that is not labeled "keep out of reach of children" is recommended. See DCF 251.07 (6) (i) 3. – CONDITION & SHARING OF PERSONAL CARE ITEMS.

(g) Toilet room door locks shall be openable from the outside and the opening device shall be readily accessible to the staff.

Tape may not be used to keep a lock open.

The phrase "toilet room door locks" refers to the outside exit toilet room door. Individual stalls should have crawl space underneath the door.

(h) The hot water temperature may not exceed 120 degrees Fahrenheit for sinks, showers, or bathtubs used by or accessible to children in care.

(11) OUTDOOR PLAY SPACE.

(a) *Requirement for outdoor play space.* A center shall have outdoor play space if children are present for more than 3 hours per day or if outdoor play is included in the center program.

Three hours means three consecutive hours of operation with the same children in care.

Part-day preschools, nursery schools, and school-age programs are not required to have outdoor play space if each session is 3 hours or less in length. If a part-day program chooses to provide an outdoor play experience, all the requirements of this section must be met.

(b) *Required features of outdoor play space.* Except when an exemption is requested and is approved by the department under par. (c), a center shall comply with all of the following requirements for outdoor play space:

1. The outdoor play space shall be on the premises of the center.
2. There shall be at least 75 square feet of outdoor play space for each child 2 years of age or older using the space at a given time.
3. There shall be at least 35 square feet of outdoor play space for each child under 2 years of age using the space at a given time except as provided in subd. 4.

251.06(11)(b)4.

4. The total outdoor play space of a center shall accommodate not less than 1/3 of the number of children for which the center is licensed or shall be a minimum of 750 square feet, whichever is greater. The number of children under one year of age need not be included for purposes of computing the minimum required outdoor play space if the center provides spaces in wheeled vehicles such as strollers and wagons equal to the number of children under one year of age.

5. An energy-absorbing surface, such as loose sand, pea gravel, or pine or bark mulch, in a depth of at least 9 inches is required under climbing equipment, swings, and slides whenever the play equipment is 4 feet or more in height and in a fall zone of 4 feet beyond the equipment. Shredded rubber and poured surfacing shall be installed to the manufacturer's specifications based on the height of the equipment.

ENERGY-ABSORBING SURFACES: *A loose energy-absorbing surface of at least 9 inches in depth is required underneath and within a 4-foot fall zone around each piece of playground equipment if the distance between the designated play space on each piece of playground equipment and the surface below is 4 feet or more.*

If swings are present on the playground, the highest point in the trajectory of an occupied swing shall be considered when determining whether an energy-absorbing surface is required.

Information on safety specifications for playground equipment can be found in the standards of the American Society for Testing and Materials (ASTM F1487-95).

Close supervision is critical when children are using playground equipment because children may climb to areas other than the designated play space on each piece of playground equipment.

6. Structures such as playground equipment, railings, decks, and porches accessible to children that have been constructed with CCA treated lumber shall be sealed with an exterior oil based sealant or stain at least every 2 years.

If your wood structure was built before 2004 and is not made of cedar or redwood, it was most likely constructed with CCA-treated lumber. If you are unsure if the structure is CCA-treated lumber, it is recommended to stain the structure.

It is recommended that providers document in their center records when the structure was sealed.

See Appendix D Resources List: What You Should Know About CCA-Pressure Treated Wood for Decks, Playgrounds, and Picnic Tables.

6m. Wood containing creosote or pentachlorophenol (PCP), including railroad ties, may not be accessible to children.

Wood treated with the oil-based products creosote and pentachlorophenol (PCP) can also be toxic. These chemicals are typically found in railroad ties and utility poles. Structures made with these materials cannot be adequately sealed and will be considered a hazard. Children should not be permitted to come in contact with wood treated with either of these products.

7. The boundaries of the outdoor play space shall be defined by a permanent enclosure not less than 4 feet high to protect the children. Fencing, plants, or landscaping may be used to create a permanent enclosure. The permanent enclosure may not have any open areas that are greater than 4 inches.

251.06(11)(b)7. continued

The 4-foot minimum height requirement must be maintained. A fence or other permanent enclosure that has settled over time and is no longer a minimum of 4-feet in height must be repaired to meet the 4-foot requirement, as measured from inside the enclosure. Materials added to the ground on the inside of the fence may affect the 4-foot minimum height requirement by decreasing the height of the fence. The Department recommends a fence higher than 4-feet due to settlement during Wisconsin weather.

8. Concrete and asphalt are prohibited under climbing equipment, swings and slides.

Asphalt and concrete are unsuitable for use under and around playground equipment UNLESS required as a base for a shock-absorbing unitary material that meets ASTM requirements and manufacturer recommendations.

Note: The Consumer Products Safety Commission has a publication entitled Handbook for Public Playground Safety, Pub. No. 325 which provides information on playground safety guidelines designed to help child care centers build safe playgrounds. To obtain copies of this publication and a related public playground safety checklist, contact the Consumer Products Safety Commission at www.cpsc.gov or 1-800-638-2772.

(bm) *Equipment.* Outdoor equipment shall be safe and durable. The outdoor equipment shall be all of the following:

1. Used in accordance with all manufacturer's instructions and any manufacturer's recommendations that may affect the safety of children in care.

It is recommended that the licensee maintain manufacturer's instruction regarding the equipment.

2. Scaled to the developmental level, size, and ability of the children.

3. Of sturdy construction with no sharp, rough, loose, protruding, pinching, or pointed edges, or areas of entrapment, in good operating condition, and anchored when necessary.

4. Placed to avoid danger of injury or collision and to permit freedom of action.

(c) *Exemption for off-premises play space.*

1. In this paragraph, "main thoroughfare" means a heavily traveled street or road used by vehicles as a principal route of travel.

1m. If a center has no outdoor play space available on the premises of the center, the licensee may request an exemption from the requirements under par. (b) for a center's outdoor play space.

If on-premises play space is available, an exemption to use off-premises play space will not be approved.

2. A request for an exemption under subd. 1m. shall be in writing and shall be accompanied by a plan for outdoor play space which does all the following:

a. Identifies and describes the location to be used, the travel distance from the center to that location and the means of transporting the children to that location.

b. Provides for adequate supervision of the children as specified in Table 251.055.

c. Provides for daily vigorous exercise in the out-of-doors for the children.

d. Describes the arrangements to meet the toileting and diapering needs of the children.

e. Affirms the center's compliance with the requirements included in subds. 3. to 6.

Note: Send the request for an exemption and the off-premises outdoor play space plan to the appropriate regional office in Appendix A.

3. The off-premises outdoor play space shall be free of hazards such as bodies of water, railroad tracks, unfenced in-ground swimming pools, heavily wooded areas and nearby highways and main thoroughfares.

251.06(11)(c)4.

4. There shall be at least 75 square feet of outdoor play space for each child 2 years of age or older using the space at a given time, and at least 35 square feet of outdoor play space for each child under 2 years of age using the space at a given time.

5. No climbing equipment, swing or slide in the play space may have concrete or asphalt under it.

6. When the off-premises outdoor play space is reached by walking, the center shall transport children under 3 years of age in wheeled vehicles, such as strollers or wagons, with a seating capacity equal to the number of children under 3 years of age to be transported.

7. A center's plan for use of an off-premises outdoor play space is subject to approval by the department. Within 30 days after receipt of a plan and request for an exemption from the requirements of par. (b), the department shall either approve the plan and grant the exemption or not approve the plan and therefore deny the request for exemption. The department shall notify the center in writing of its decision and, if it does not grant an exemption, shall state its reasons for not granting the exemption.

8. If any circumstance described in an approved plan for use of off-premises outdoor play space changes or if any condition for plan approval is not met or is no longer met, the department may withdraw its approval of the plan and cancel the exemption. A center with an approved plan shall immediately report to the department's licensing representative any significant change in any circumstance described in the plan.

(12) SWIMMING AREAS.

(a) 1. Aboveground and in-ground swimming pools on the premises may not be used by children in care.

2. Swimming pools shall be enclosed by a 4-foot fence with a self-closing, self-latching door. Spaces between the vertical posts of the fence shall be 4 inches or less.

"Self-closing" means that the door is weighted so that it will close and latch on its own without assistance.

A swimming pool located in a self-containing room with four walls and a latching door will not need a 4-foot fence.

3. If access to the pool is through a gate, the gate shall be closed and visibly locked during the licensed hours of the center.

4. If access to the pool is through a door, the door shall be closed, visibly locked, and equipped with an alarm at the door that signals when someone has entered the pool area. The door may not be used as an exit.

5. Locks shall be located so that the locks cannot be opened by children.

6. The free-standing wall of an aboveground pool may not serve as an enclosure unless it is at least 4 feet in height and not climbable. If a ladder is present, the ladder shall be removed or raised up so that it is inaccessible to children.

7. The area around the pool enclosure shall be free of toys or equipment that would allow a child to climb or otherwise gain access to the pool.

To adequately protect children when a pool is on the child care center premises, the following steps must be taken:

- *If access to the pool is through a gate, the gate must be closed and visibly locked during the licensed hours of the center.*

251.06(12)(a)7. Continued

- *If the pool is accessible through a door from the child care building, that door must be closed with a visible lock during the licensed hours of the center, and an alarm must be in place at the door to signal that someone has entered the pool area. Above-ground and in-ground swimming pools on the premises may not be used by children in care and shall be enclosed by a 6-foot fence with a self-closing, self-latching door. Spaces between the vertical posts of the fence shall be 4 inches or less.*
- *Locks shall be located so that the locks cannot be opened by the children. Floating pool alarm devices are not acceptable in place of the above protections because they only work AFTER a disturbance to the pool's surface.*

The area around the pool must be kept free of toys or equipment that would allow a child to climb or otherwise gain access to the pool area.

An exception shall be signed and posted specifying the protections that will always be in place during hours of operation.

There may be some programs, such as YMCAs, that have a swimming pool on the premises of the center. The pool is designed primarily for community or member use. These programs may also have a swimming component as part of the child care program. An exception for the use of these pools may be granted on a case-by-case basis with the approval of the licensing manager/supervisor. Criteria for considering an exception request to allow the use of these pools must include assurances that all the items under DCF 251.06 (12) (c) will be met and that an appropriate supervision plan is in place.

The free-standing wall of an above-ground pool may not serve as an enclosure unless it is 4 feet in height and not climbable. If the pool is located inside the fenced area of the outdoor play space, it must be enclosed as described above unless an exception under DCF 251.06 (12) (a) has been requested and approved. If a ladder is present, the ladder must be removed or raised up so that it is inaccessible to the children.

Centers that have a beach on the premises should consult with the licensing specialist to determine the best way to restrict the children's access to the beach. An exception may be issued after review of the alternative protections proposed by the center to meet the intent of the rule.

(am) A beach on the premises may not be used by children in care. Access to a beach shall be controlled so that children may not enter the area.

(b) A wading pool on the premises may be used if the water is changed and the pool is disinfected daily. Supervision and staff-to-child ratio requirements under s. DCF 251.055 (1) and (2) shall be met.

See DCF 251.03 (35) – DEFINITION – WADING POOL.

The provider must be able to demonstrate that the pool can be easily dumped, appropriately cleaned and disinfected daily.

The American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, in the collaborative book [Caring for Our Children: National Health and Safety Performance Standards, Guidelines for Early Care and Education Programs](#), state that the use of wading pools for children is not recommended. Standing water is a breeding source of bacteria and disease-carrying insects. Instead, sprinklers, hoses, or water tables may be used as an alternative for water play.

(c) A wading pool, pool, water attraction or beach that is not located on the center premises may be used by children, if all the following conditions are met:

251.06(12)(c) continued

ATCP 76.04 (53) "Water attraction" means a public facility with design and operational features that provide patron recreational activity other than conventional swimming and involves partial or total immersion of the body. Types of water attractions include activity pools, interactive play attractions, leisure rivers, plunge pools, vortex pools, vanishing edge pools, waterslides, runout slides, drop slides, pool slides, wave pools, zero-depth entry pools, and any public pool with play features except wading pools.

"Water attraction" does not include splash pads.

1. The construction and operation of the pool shall meet the requirements of chs. SPS 390 and ATCP 76 for public swimming pools. A beach shall comply with any applicable local ordinance.

2. Certified lifesaving personnel shall be on duty.

Lifeguards are required when children are in the water. Lifeguards may not be counted in the staff-to-child ratio.

3. While children are in the water of a pool, wading pool, water attraction or beach, staff-to-child ratios for child care workers who can swim shall be:

Swimming ratios do not apply to organized swim lessons, but staff-to-child ratios under TABLE DCF 251.055 must be maintained in or near the pool area.

a. For children under 3 years of age: 1:1.

b. For children 3 years of age: 1:4.

c. For children 4 and 5 years of age: 1:6.

d. For children 6 years of age and older: 1:12.

4. When a mixed age group of children are swimming, the staff-to-child ratio shall be adjusted based on the number of children in the water and each child's age.

Note: A worksheet to help calculate the staff to child ratio for mixed aged groupings during swimming is available from the department. Requests may be made to the licensing representative or regional licensing office listed in Appendix A.

The department's form DCF-F-2465 Staff-to-Child Ratio While Swimming Worksheet is available on the department's website, <http://www.dcf.wisconsin.gov>.

5. A child shall be restricted to the area of the pool or beach that is within the child's swimming ability.

Swimming ability may be determined by the parents or the center.

The center should be able to demonstrate to the licensing specialist how they have assessed the child's swimming ability.

The American Red Cross recommends assessing the following skills to determine swimming ability:

- *Enter the water that is over the individual's head, then return to the surface.*
- *Float or tread water for at least 1 minute.*
- *Turn over and turn around in the water.*
- *Swim at least 25 yards.*
- *Exit the water.*

More water safety tips and resources can be found on the American Red Cross' website here: <https://www.redcross.org/get-help/how-to-prepare-for-emergencies/types-of-emergencies/water-safety.html>.

6. If some of the children are in the water and others are not, there shall be at least 2 child care workers supervising the children. One child care worker shall supervise the children who are in the water, and the other child care worker shall supervise children who are not in the water.

It is recommended that centers develop and implement a written policy to specify procedures for supervision of children while using public locker rooms and bathrooms.

DCF 251.07 Program.**(1) PROGRAM PLANNING AND SCHEDULING.**

(a) Each group child care center shall have a written program of daily activities posted that are suitable for the developmental level of each child and each group of children. The program shall provide each child with experiences that will promote all of the following:

Note: The Wisconsin Model Early Learning Standards are voluntary standards that were designed to help centers develop programs and curriculum to help ensure that children are exposed to activities and opportunities that will prepare them for success in school and into the future. The Standards are primarily intended as guidance on developmentally appropriate expectations and are not intended to be used as a checklist to gauge a child's progress. The Standards are based on scientific research. Copies of the Wisconsin Model Early Learning Standards are available on the Wisconsin Early Childhood Collaborating Partners website at <http://www.collaboratingpartners.com/> or through the Child Care Information Center at 1-800-362-7353.

Note: The standards of quality for school-age programs are addressed in the School-Age Curricular Framework course. More information on this course is available at <https://www.wiafterschoolnetwork.org/en/Courses>.

At the time of initial licensing, a written program of activities must be available for review. The program of activities should include all types of activities specified under paragraphs (a), (b), and (c).

The written program of activities may be on a daily, weekly, or monthly basis and based on the planning technique of each center (e.g., unit, goal-oriented, theme, or daily lesson planning). It may also include a daily schedule.

The written program of activities or daily, weekly, or monthly lesson plans should reflect the center education policy and program activities related to the developmental goals within rules.

See Appendix D Resources List: Together Children Grow – Quality Child Care for Children with Special Needs.

1. Self-esteem and positive self-image.

Examples of activities that will encourage self-esteem and positive self-image:

- *Group activities, such as games and songs, where children's names are used.*
- *Use of the child's name when speaking to the child or participating in group activities.*
- *Display of children's art work with names or of photographs of children at a child's eye level.*
- *Activities involving books, pictures, and other authentically representative learning materials relating to minorities as well as majority enrollment of the community, and cultural, ethnic, and sexual differences, and differing abilities.*
- *Dramatic-play activities involving the use of mirrors, multi-cultural dolls, dress up clothes representing both sexes, and other props.*
- *Thoughtful verbal recognition of the child's ideas, expressions, and contributions.*

2. Social interaction.

Examples of activities that will encourage social interaction:

- *Dramatic play, such as housekeeping, store, pretending to cook, restaurant, post office, dress-up, and puppets.*
- *Block building with accessories, such as vehicles, animals, traffic signs, and people.*
- *Self-selected cooperative play experiences which give children opportunities to interact.*
- *Mealtime conversation.*
- *For infants - proximity to one another outside of cribs.*

251.07(1)(a)2. Continued

- *Selected activities for children age 3 and older in small groups such as cooking, science, nature, and circle games.*

3. Self-expression and communication skills.

Examples of activities that will encourage self-expression and communication skills:

- *Non-directed creative-art experiences.*
- *Asking questions to elicit responses from children.*
- *Encouraging children to participate in discussions and give attention to each speaker, including, planning for the day, field trips, etc.*
- *Providing opportunities throughout the day for children to converse and share ideas with others.*
- *Activities which will allow a child to enlarge his/her listening and speaking vocabulary.*
- *Use of stories, poems, nursery rhymes, picture and child-made books.*
- *Language development activities.*
- *Auditory discrimination games and activities.*
- *Labeling of objects, feelings, actions, expressions.*
- *Puppet play, flannel boards.*
- *Creative dramatics.*
- *Meal time conversation.*

4. Creative expression.

Examples of activities that will encourage creative expression:

- *Wide range of music, dance and movement activities.*
- *Sand, water and block play.*
- *Non-directive use of non-limiting materials such as clay, paint, crayons.*
- *Woodworking.*
- *Involvement with a variety of tools, materials, processes and techniques that involve the exploration of line, shape, color and texture.*

5. Large and small muscle development.

Examples of activities that will encourage large and small muscle development:

Large muscle: Use of large muscle equipment, such as wooden hollow blocks, balls, climbing equipment, wheel toys, etc.; group activities (musical or non-musical) involving physical activity such as marching, skipping, jumping, dancing, physical fitness activities, tumbling, running; games that facilitate understanding of how our bodies move and that develop coordination, balance, strength, and endurance.

Small muscle: Use of equipment and materials requiring manipulative skill such as puzzles, small interlocking blocks, peg and lacing boards, etc.

6. Intellectual growth.

Examples of activities that encourage intellectual growth:

- *Science activities.*
- *Sensory experience such as tactile, auditory, smelling activities.*
- *Discrimination activities involving symbols, shapes, colors, serration, categorizing, matching, etc.*
- *Reading and math readiness activities.*
- *Language development activities.*
- *Practical life experiences such as putting on-clothes, tying shoes, sweeping, creating order in the room.*
- *Activities involving problem solving and memory skills.*

251.07(1)(a)6. continued

- Opportunities to explore the environment and find developmentally appropriate challenges.

7. Literacy.

Examples of activities which encourage literacy:

- Reading to children.
- Use of flannel board stories.
- Puppets.
- Reading readiness activities such as letter, name, color and shape recognition.
- Language development activities.
- Book making activities.
- Journaling and other writing opportunities.
- Labeling items in the classroom.

Note: With parental consent and consultation, it is recommended that centers who care for children who have an Individualized Family Service Plan (IFSP) or an Individualized Education Program (IEP) coordinate programming activities with the local school district or Birth to Three agency.

(b) The program schedule shall be planned to provide a flexible balance each day of:

1. Active and quiet activities.
2. Individual and group activities.
3. Indoor and if the center is in operation more than 3 hours per day, outdoor activities.

Daily physical activity is an important part of preventing childhood obesity. Some evidence also suggests that children may be able to learn better during or immediately after bursts of physical activity due to improved attention and focus. It is recommended that the center promote children's active play every day. Children should have ample opportunity to do vigorous activities such as running, climbing, dancing, skipping, and jumping. This could include two or three occasions of active play outdoors each day, weather permitting; two or more structured or adult-led activities or games that promote movement over the course of the day in both indoor and outdoor settings; opportunities during transitions to use movement skills such as hopping like a bunny to the bathroom; and continuous opportunities to develop and practice age-appropriate gross motor and movement skills.

(c) Television may be used only to supplement the daily plan for children. No child may be required to watch television. Other activities shall be available.

If used, screen time should complement daily activities / curriculum, but they should not constitute a major portion of the programming for children. Media should be rated to the age and developmental level of the child. It is recommended that children over 2 years of age be restricted to no more than 30 minutes of "screen time" each day. This includes time spent watching television, videos and sitting by a computer. It is recommended that children under 2 years of age not watch television or videos.

(d) Routines such as toileting and eating and intervals between activities shall be planned to avoid keeping children waiting in lines or assembled in large groups.

(e) The program shall provide all of the following:

1. Reasonable regularity in eating, napping and other routines.
2. Daily periods when a variety of experiences are concurrently available for the children to select their own activities.
3. Protection from excess fatigue and over stimulation.

4. If a center is in operation for more than 3 hours per day, daily outdoor activities except during inclement weather or when not advisable for health reasons.

See DCF 251.03 (14r) – DEFINITION – INCLEMENT WEATHER. *In the written health policy, the center determines the temperatures when children will go outside with no more than a 10-degree variation of the temperatures included in the definition. No exception is necessary as long as the variation is no more than 10 degrees.*

The center may determine what would constitute a situation when it is not advisable to go outside for health reasons. Center policies should reflect what would prohibit a child from going outside for health reasons: i.e., a written request by a parent or a written statement by a medical professional. If a center policy allows children to remain inside for health reasons, the center must ensure that applicable staff-to-child ratios and group size remain in compliance. It is recommended that the center consider the availability of appropriate play materials and activities for the child remaining inside.

Daily physical activity is an important part of preventing excessive weight gain and childhood obesity. Some evidence also suggests that children may be able to learn better during or immediately after bursts of physical activity due to improved attention and focus. It is recommended that the center promote children's active play every day. Children should have ample opportunity for vigorous activities such as running, climbing, dancing, skipping, and jumping. This could include two to three occasions of active play outdoors each day, weather permitting; two or more structured or caregiver/teacher/adult-led activities or games that promote movement over the course of the day—indoor or outdoor, and continuous opportunities to develop and practice age-appropriate gross motor and movement skills. It is recommended that children have time to play outdoors two times each day for at least 30 minutes per session unless the weather is inclement. Consideration must be given to other conditions on the playground and include available shade, drinking water, protection from wind, etc.

Center provided and maintained selection of warm outer garments is recommended for children whose parents do not provide appropriate clothing for out-of-doors.

See DCF 251.07 (1) (a) – WRITTEN PROGRAM OF ACTIVITIES.

See Appendix D Resources List: *Child Care Weather Watch – Wisconsin.*

(f) Child care workers shall give children individual attention.

(g) A center that is open in the early morning and late afternoon shall have a written plan for activities which meet the individual needs of the children during those time periods. The plan shall include:

1. Provision of opportunities for the children to rest and eat.
2. Use of materials and engagement in activities which for the most part do not duplicate materials or activities planned for the major part of the program.

(h) The program as implemented shall reflect the center's written policies.

(2) CHILD GUIDANCE.

(a) 1. In this subsection, a “time-out period” means a break from the large group that a child care worker offers a child to provide the child an opportunity to calm and regain composure while being supported by the child care worker.

See Appendix D Resources List: *Early Years Are Learning Years – Time Out for “Timeout.”*

251.07(2)(a) continued

Time-out periods may be used if:

1. *Use is identified in the center child guidance policy for specified types of behavior which child care workers wish to stop.*
2. *The behaviors are identified to children.*
3. *The child is within sight and sound and under the supervision of an adult.*
4. *The reason for the time out is explained to the child.*
5. *The child care worker has a conversation with the child to reflect on making better choices.*
6. *The child is transitioned back to an activity.*

2. "Redirection" means directing the child's attention to a different program activity.

(b) Each child care center shall develop and implement a written policy that provides for positive guidance, redirection, and the setting of clear-cut limits for the children. The policy shall be designed to help a child develop self-control, self-esteem, and respect for the rights of others.

(c) A center may use a time-out period to handle a child's unacceptable behavior only if all of the following conditions are met:

1. The child is 3 years of age or older.
2. The child care worker offers the child the time-out period in a non-humiliating manner.
3. The time-out period does not exceed 3 minutes.
4. The child is not isolated.
5. The child is not removed from the classroom setting.

6. If the child care worker needs additional adult support, another child care worker comes to the classroom setting.

There are some scenarios in which there are grounds for a child to be removed from the classroom. If the child is putting themselves or others in danger, the child may be removed from the area. Staff must ensure that staff-to-child ratios are being met at all times. After a child is removed, staff will assist the child in regaining their composure. Centers should have a plan in place to ensure that the child is returned to the classroom within 3 minutes.

If the child makes the choice that they would like to leave the classroom to go for a walk or visit the front office, staff may escort the child to that area.

In some circumstances, an exception for the removal of the child from the classroom may be considered if the child has had an evaluation that resulted in an Individualized Family Service Plan (IFSP) or Individual Education Plan (IEP). The following conditions must be met:

- *The IFSP or IEP indicates the removal of the child as one part of a plan to help the child learn to manage their behaviors.*
- *The center identifies a person(s) who will be assigned the responsibility of supervising the child.*
- *The center documents the removal of the child and the situation leading to the removal.*
- *The center notifies the child's parent of the removal of the child and the situation leading to the removal.*
- *A copy of the documentation related to the removal of the child is submitted to the department within 24 hours of the removal of the child.*
- *A copy of the IFSP or the IEP shall be available to all providers working with the child.*
- *The exception is reviewed and reapproved periodically (recommended every 3 – 4 months).*

251.07(2)(e)

(e) Actions that may be psychologically, emotionally or physically painful, discomforting, dangerous or potentially injurious are prohibited. Examples of prohibited actions include all of the following:

1. Spanking, hitting, pinching, shaking, slapping, twisting, throwing or inflicting any other form of corporal punishment.
2. Verbal abuse, threats or derogatory remarks about the child or the child's family.

"Verbal abuse" means profane, insulting, or coarse language sometimes, but not always, delivered in a loud or threatening manner or language which is ego deflating, causing loss of self-esteem.

3. Physical restraint, binding or tying to restrict movement or enclosing in a confined space such as a closet, locked room, box or similar cubicle.

See DCF 251.03 (22r) – DEFINITION – PHYSICAL RESTRAINT.

Physical restraint does not include:

- *Briefly holding a child in order to calm or comfort the child.*
- *Holding a child's hand or arm to escort the child from one area to another.*
- *Moving a disruptive child who is a danger to him/herself/others and is unwilling to leave the area when other methods such as talking to the child have been unsuccessful.*
- *Intervening or breaking up a fight.*
- *Use of a weighted vest or blanket that a child is able to remove him/herself whenever the child chooses.*

Placing a child in a crib or pack and play to restrict the child's movement is prohibited.

A high chair, feeding table, or seat may not to be used as a form of punishment or a method to restrict activity. A child is only to use the chair for meal / snack times or planned activities.

If a child has an outburst that puts him/herself or another person in danger of harm, the center has the responsibility to protect the child and others from danger. In these instances, once the child is no longer a danger to him/herself or others, the restraint must be ended. If a child has an outburst, it is recommended that the center work with the parents to develop a plan to help manage the child's behavior in a way that does not include use of physical restraint. The center may consider referring the child to their pediatrician, the local Birth to 3 program, local public school system, or a mental health professional for an evaluation.

In limited circumstances, an exception for the use of a physical restraint of an individual child may be considered if the child has had an evaluation that resulted in an Individualized Family Service Plan (IFSP) or Individual Educational Plan (IEP). The following conditions must be met:

- *The IFSP or IEP indicates the use of a physical restraint as one part of a plan to help the child learn to manage their behaviors.*
- *The center identifies a person(s) who will be assigned the responsibility of implementing the restraint.*
- *The person assigned to implement the restraint receives appropriate training in use of a restraint.*
- *The center documents the use of the restraint and the situation leading to the use of the restraint.*
- *The center notifies the child's parent of the physical restraint and the situation leading to the use of the restraint.*
- *A copy of the documentation related to a restraint is submitted to the department within 24 hours of the use of the restraint.*
- *A copy of the IFSP or IEP shall be available to staff working with the child.*

251.07(2)(e)3. continued

- *The exception is reviewed and re-approved periodically (recommended every 3 – 4 months).*

4. Withholding or forcing meals, snacks or naps.

Children can be encouraged to try different foods but cannot be forced to try all foods or to finish one food prior to receiving additional servings of other foods. Any component of the meal cannot be withheld until the end of the meal or snack, including milk.

5. Actions that are cruel, aversive, frightening or humiliating to the child.

- (f) A child may not be punished for lapses in toilet training.

Note: Prohibited actions by an employee or volunteer to a child by a staff member must be reported to the department within 24 hours after the occurrence under s. DCF 251.04 (3) (j).

(3) EQUIPMENT AND FURNISHINGS.

(a) Indoor furnishings and equipment shall be safe and durable. The equipment and furnishings shall be:

1. Scaled to the developmental level, size and ability of the children.
2. Of sturdy construction with no sharp, rough, loose, protruding, pinching or pointed edges, or areas of entrapment, in good operating condition, and anchored when necessary.

Examples of unsafe play equipment include toys or equipment that are broken, coming apart, rusting, have protruding screws, or permanently installed outdoor equipment that is not safely anchored.

3. Placed to avoid danger of injury or collision and to permit freedom of action.

4. Placed over an energy-absorbing surface, when equipment is 4 feet or more in height.

Platform height may be no higher than 4 feet if surface below is not impact absorbing.

Manufacturer recommendation for energy absorbing surfaces around and under equipment must be followed. At a minimum, four-inch-thick gymnastic landing mats are recommended, however 2-inch-thick tumbling (panel) mats are acceptable. Carpet is not considered an energy-absorbing surface. Maximum indoor platform height is recommended to be no more than 6 feet or developmentally appropriate for the age of the children using it.

See DCF 251.06 (11) (b) 8. – OUTDOOR PLAY SPACE – PROHIBITED SURFACES.

Lofts that are free standing and not connected or attached to the building are considered to be play equipment. If a loft is used for quiet activities and has steps to reach the upper level, energy-absorbing surface is not required. If the way to get to the loft is other than steps i.e. rung or rope ladder and the landing is 4 feet or more from the floor, then an energy-absorbing surface is required.

If the loft is used as climbing equipment or for active play, energy-absorbing surface is always required.

5. Used in accordance with all manufacturer's instructions and any manufacturer's recommendations that may affect the safety of children in care.

- (b) A center shall provide equipment and supplies according to the following criteria:

1. Child development shall be fostered through selection of a variety of equipment that will:
 - a. Provide large muscle development.
 - b. Provide construction activities and for development of manipulative skills.
 - c. Encourage social interaction.
 - d. Provide intellectual stimulation.

251.07(3)(b)1.d. continued

Age-appropriate books must be available for teachers to use with children and must also be available for children to use themselves. These may be one and the same or different sets of books. These may be center-owned or library-supplied books or a combination of both. The recommended amount is at least one book for every two children.

- e. Encourage creative expression.

Consumable art supplies such as, but not limited to, crayons, paper, paste or glue, paint, clay or play dough, finger paint, collage materials, etc., including the necessary and appropriate non-consumable accessories such as paint brushes, scissors, sponges, etc. should be available to children. Children under the age of 2 years must be allowed to use appropriate art supplies under the close supervision of a child care worker.

- 2. A center shall provide sufficient indoor play equipment to allow each child a choice of at least 3 activities involving equipment when all children are using equipment.
- 3. A center shall provide sufficient outdoor play equipment to allow each child at least one activity involving equipment when all children are using equipment.

Outdoor equipment may be permanently installed, taken outdoors from the inside, or a combination of both.

- (c) The quantity of indoor and outdoor play equipment specified in par. (b) 2. and 3. shall be provided based on the maximum licensed capacity of the center.
- (d) Equipment and materials which reflect an awareness of cultural and ethnic diversity shall be provided.

Examples of equipment and materials that reflect cultural and ethnic diversity include multi-cultural dolls, puzzles and other toys, books, pictures, posters, and music that reflect varying cultures, and exposure to foods from different cultures and ethnic groups.

- (e) Shelves shall be provided for equipment and supplies in rooms used by children. Equipment and supplies shall be arranged in an orderly fashion so that children may select, use, and replace items.

Stable shelving should be supplied in a quantity sufficient to accommodate the amount of play equipment needed to meet the rule for each self-contained classroom / area and group. It is recommended that centers do not use toy boxes with hinged covers because the cover may fall and trap or injure a child.

- (f) Trampolines and inflatable bounce surfaces on the premises shall not be accessible to children and shall not be used by children in care.

Inflatable chairs or inflatable items not intended for bouncing, such as inflatable slides, may be used. Care should be taken to ensure that children are properly supervised, and the item is being used according to the manufacturer's recommendation.

See DCF 251.06 (11) (B) – OUTDOOR PLAY SPACE – REQUIRED FEATURES.

- (g) Tables and seating shall be scaled to the proper height and size for the children's comfort and reach.

It is recommended that the seat on the chair be 10" below the table top.

- (h) There shall be sufficient storage space for the clothing and personal belongings of each child in attendance. For children 2 years of age and older, the space for outer garment storage shall be at child level.

251.07(3)(i)

(i) Furnishings, toys, and other equipment shall be washed or cleaned when they become soiled.

See Appendix D Resources List: *Cleaning, Sanitizing and Disinfecting in Child Care Centers*.

(4) REST PERIODS.

(a) A child under 5 years of age in care for more than 4 hours shall have a nap or rest period.

This rule does not prohibit children 5 years of age or older from having a nap or rest period. If the center provides a nap or rest period for children 5 years of age or older, the rules on rest periods apply.

(b) Child care workers shall permit a child who does not sleep after 30 minutes and a child who awakens to get up and to have quiet time through the use of equipment or activities which will not disturb other children.

See DCF 251.055 (2) (g) – ADJUSTMENT TO GROUP SIZE AND STAFF-TO-CHILD RATIOS DURING NAPTIME.

Children who are awake shall have sight and sound supervision by a child care worker and children who do not sleep or awaken before other children must be allowed off their sleeping surface and given a choice of activities in a reasonably lighted area.

(c) Each child under one year of age who naps or sleeps shall be provided with a safe, washable crib or playpen that meets the applicable safety standards in 16 CFR Part 1219 or 1220 and shall be placed at least 2 feet from the nearest sleeping child. Cribs or playpens may be placed end-to-end if a solid partition separates the crib or playpen and an aisle not less than 2 feet in width is maintained between sleeping surfaces.

All children under 1 year of age must be placed to sleep on their back in a crib or playpen; however, once a child is able to roll over from front to back and back to front unassisted, the child may assume the sleep position that is most comfortable to them. This should be documented on the Intake for Child Under 2 Years form. If a child falls asleep in a swing or car seat, the child must be immediately removed from the swing or car seat and placed to sleep on their back in a crib.

Bassinettes may be used in accordance with the manufacturer's specifications.

Positioning devices should not be used to adjust sleeping surfaces. Positioning devices include but are not limited to wedges, pillows, or any items placed under or over the mattress to elevate or angle the sleeping surface.

Swaddling is not recommended if the infant is exhibiting signs of attempting to roll on their own. Weighted swaddle clothing or weighted objects within swaddles may not be used because an infant is not able to remove weighted objects on their own. Providers can find more information regarding safe sleep practices at the AAP's website here: <https://www.aap.org/en/patient-care/safe-sleep/>.

See DCF 250.03 (8r) – DEFINITION – CRIB and DCF 251.09 – ADDITIONAL REQUIREMENTS FOR INFANT AND TODDLER CARE.

(cm) Each child one year of age and older who has a nap or rest period shall be provided with a sleeping surface that is clean, safe, washable, and placed at least 2 feet from the nearest sleeping child. Sleeping surfaces may be placed end-to-end if a solid partition separates children and an aisle not less than 2 feet in width is maintained between sleeping surfaces. The sleeping surface shall be any of the following:

251.07(4)(cm) continued

Cots, sleeping bags, and padded mats shall be long enough so the child's head or feet do not rest off the pad.

Sleeping bags or padded mats may be provided by the center or the parent.

STACK CRIBS: If stacked cribs are provided, the following conditions must be met:

- *Only children under seven months of age or not yet standing may use a stacked crib.*
- *Cribs must comply with the appropriate standards for safe cribs established by the Consumer Product Safety Commission*

The number of beds, cots, padded mats, and/or cribs must be at least equal to the licensed capacity for children under 5 years of age, unless sleeping bags are provided by parents for children one year and older.

See DCF 251.03 (8r) – DEFINITION – CRIB; DCF 251.03 (29) – DEFINITION – SLEEPING BAG; and DCF 251.09 (2) (bm) – INFANT & TODDLER – SLEEP POSITION.

1. A bed.
2. A cot.
3. A padded mat.
4. A sleeping bag.
5. A crib or playpen.

(d) Each child one year of age and older not using a sleeping bag shall be provided with an individually identified sheet and blanket that may be used only by that child until it is washed.

Children may share bedding if it has been laundered between uses by the different children. Each mat, cot, or crib mattress shall be covered with the child's individual sheet for exclusive use by that child. No child shall sleep on a bare uncovered surface. A towel or other fabric that covers the surface of the cot or mat may be used in place of a sheet. A large, adult-sized blanket may be used as both sheet and blanket on a mat or cot if it is placed under and over the child.

Seasonally appropriate covering such as sheets or blankets that are sufficient to maintain adequate warmth shall be provided to the child while on the bed, cot, or mat. Blanket sleepers or sleep sacks may be used in place of a blanket covering.

Weighted blankets may be used with children over 1 year of age when the provider follows all manufacturer's specifications for the blanket. The child must be able to remove the blanket themselves whenever the child chooses.

See DCF 251.03 (29) – DEFINITION – SLEEPING BAG.

(e) Bedding shall be maintained and stored in a clean and sanitary manner, replaced immediately if wet or soiled, and washed after every 5 uses at a minimum. A crib or playpen shall be washed and disinfected between changes in occupancy.

Bedding includes sheets and blankets and sleeping bags.

Storage in a "clean and sanitary manner" means protection from cross-contamination. Care should be taken so that bedding from one child does not touch another child's bedding.

Cots that are stacked should not have bedding for an individual child hanging over the edge of the cot. If bedding is not stored on the cot, the center must have an alternative way to keep the bedding stored in such a manner that the sleeping surface is not exposed. Cots should be covered with a clean sheet, blanket, or other cover that is not used as bedding for a child during times when the cots are not in use.

251.07(4)(e) continued

Sleeping bags should be rolled up so that the inside sleeping surface is not exposed. Sleeping bags do not need to be stored inside an individual storage bag or container. Pillows should be stored on a child's individual cot or rolled up in the child's sleeping bag.

If bedding is provided by parents, a supply of center-provided sheets and blankets or sleeping bags should be available for backup or emergencies such as illness or soiling.

Bedding used by an ill child is considered soiled.

(5) MEALS, SNACKS, AND FOOD SERVICE.**(a) Food.**

1. Food shall be provided by the center based on the amount of time children are present as specified in Table 251.07.

TABLE 251.07
Meal and Snack Requirements for each Child
in a Group Child Care Center

Time a Child is Present	Number of Meals and Snacks
At least 2½ but less than 4 hours	1 snack
At least 4 but less than 8 hours	1 snack and 1 meal
At least 8 but less than 10 hours	2 snacks and 1 meal
At least 10 or more hours	2 meals and 2 or 3 snacks

2. Center-provided transportation time shall be included in determining the amount of time children are present for the purposes of subd. 1.

3. Food shall be served at flexible intervals, but no child may go without nourishment for longer than 3 hours.

The 3-hour determination is from the beginning of a snack or meal to the beginning of the next snack or meal.

It is recommended that staff document if and when a child refuses food by their own choice and goes more than 3 hours without eating.

4. At a minimum, children shall be provided food for each meal and snack that meets the U.S. department of agriculture child and adult care food program minimum meal requirements for amounts and types of food.

According to changes to the minimum meal requirements specified by the USDA, milk served to children over age 2 must be 1% or fat-free (skim) milk. Only 100% fruit or vegetable juice may be served to meet USDA Child and Adult Care Food Program requirements for a fruit or vegetable serving. Other beverages, such as water, may be served in addition to the required components.

When a program which operates for fewer than 2½ hours chooses to serve a snack or has a snack provided by parents, the snack must meet the requirements for snacks.

If meals are served pre-plated, all the required food items and amounts of food must be served to the child at the same time. For example, a 4-year-old child must receive at the minimal on his/her plate for a noon meal the following: 1 ½ oz meat/meat alternate; a total of ½ cup of at least 2 different fruit/vegetable items (e.g., ¼ cup peaches and ¼ cup mashed potatoes); ½ slice bread; and ¾ cup milk. The milk must be served with the meal and may not be withheld.

251.07(5)(a)4. continued

If meals are served family style, all the required food item amounts must be made available. For example, there are ten 4-year-old children present which requires a total of 2 ½ cups each of two types of fruit/vegetable. The menu has broccoli, so at a minimum there should be 2 ½ cups cooked broccoli available. Since the children may not consume the entire 2 ½ cups, the center may bring 2 cups to the dining area and keep the remaining ½ cup cooked broccoli in the kitchen in case the children want it. Milk must be served with the meal and may not be withheld.

Note: The USDA meal program requirements are found on the website, <http://www.fns.usda.gov/cacfp/meals-and-snacks>.

4m. Additional portions of vegetables, fruits, bread, and milk shall be available.

The amounts indicated on the CACFP minimum meal requirements are used for determining amounts of food that must be prepared and are not considered "helpings." It is recommended that small portions of all food items be served and that seconds be available.

5. Menus for meals and snacks provided by the center shall:

- a. Be posted in the kitchen and in a conspicuous place accessible to parents.
- b. Be planned at least one week in advance, dated and kept on file for 3 months.
- c. Be available for review by the department.

5m. A daily menu may not be repeated within a one-week time period.

6. Any changes in a menu as planned shall be recorded on the copies of the menu kept on file and posted for parents.

If the provider changes items on the menu, those changes must be documented on the meal record no later than the end of the meal.

6m. When snacks are provided by parents for all children, a record of the snack served shall be posted in an area accessible to parents.

8. When food for a child is provided by the child's parent, the center shall provide the parent with information about requirements for food groups and quantities specified by the U.S. department of agriculture child and adult care food program minimum meal requirements.

9. A special diet based on a medical condition, excluding food allergies, but including nutrient concentrates and supplements, may be served only upon written instruction of a child's physician and upon request of the parent.

Examples of special diets are food delivered by feeding tubes, diabetic, gluten free, etc. Pediasure or Ensure may be used as part of a special diet.

9m. A special diet based on a food allergy may be served upon the written request of the parent.

10. Cooks, staff members, child care workers and substitutes having direct contact with the children shall be informed about food allergies and other allergies of specific children.

(b) Food service.

1. Staff shall sit at the table with the children during mealtime.

After providing any assistance necessary to the children, child care workers assigned to the group of children should sit with children during meals. Staff working with infants and young toddlers who must be fed or given a great deal of assistance with self-feeding are not required to sit with the children.

2. Meals shall be served with time allowed for socialization.

3. Except as provided in subd. 4., in a center where meals and snacks are served, seating and table space shall be at least equal to the licensed capacity of the center, excluding infants, so that all children can be served at the same time.

Where only snacks are served, table and chair space for each child is not required if snacks are served in shifts or cafeteria style.

251.07(5)(b)4.

4. In a center where meals are served in a central lunchroom, seating and table space shall be at least equal to the number of children to be served in a shift.

5. Eating surfaces, including high chairs, shall be washed and sanitized before and after each use.

Eating surface includes tables and high chairs. "Washed and sanitized" involves a two-step process. Products including a cleaner and sanitizer must be used two times—the first to clean the surface and the second to sanitize the surface.

Children may not be at the table when staff are sanitizing.

See Appendix D Resources List: Cleaning, Sanitizing and Disinfecting in Child Care Centers. Only approved sanitizers may be used for eating surfaces and food preparation surfaces.

(6) HEALTH.

(a) *Observation.* Each child upon arrival at a center shall be observed by a staff person for symptoms of illness and injury. For an apparently ill child, the procedure under par. (c) shall be followed.

See DCF 251.07 (6) (dm) 3. – MEDICAL LOG.

(b) *Isolation.* A center shall have an isolation area for the care of children who appear to be ill. If the area is not a separate room, it shall be separated from space used by other children by a partition, screen, or other means to keep other children away from the ill child.

(c) *Ill child procedure.* The following procedures shall apply when a child with an illness or condition that has the potential to affect the health of other persons, such as vomiting, diarrhea, unusual lethargy, or uncontrolled coughing, is observed in the child care center:

Examples of illnesses or conditions that may affect the health of other persons and would require a child to be sent home until medical evaluation allows inclusion include fever associated with other symptoms, persistent crying, difficulty breathing, wheezing, or other unusual signs.

[Caring for Our Children: National Health and Safety Performance Standards, Guidelines for Early Care and Education Programs](#), a collaborative project of the American Academy of Pediatrics, American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, states that rectal thermometers are not recommended in early care and education programs due to health and safety concerns. If not used and cleaned correctly, a rectal thermometer could cause injury and spread illness among children and staff.

See Appendix D Resources List: Communicable Diseases Chart. The center's health policy should specify which symptoms would require removal of the child from the facility.

1. The child shall be isolated until the child can be removed from the center.
2. The child in the isolation area shall be within sight and sound supervision of a staff member.
3. The child shall be provided with a bed, crib, playpen, cot, or padded mat and a sheet and blanket or a sleeping bag.

Bedding used by an ill child is considered soiled. It is recommended that the bed, crib, cot, or padded mat be cleaned after use by an ill child.

4. The child's parent or emergency contact shall be contacted as soon as possible after the illness is discovered and arrangements shall be made for the child to be removed from the center.

(d) *Care of a mildly ill child.* A child who is mildly ill may be cared for at the center when all of the following conditions are met:

"Mildly ill" means a child who has a common, temporary illness that is non-progressive in nature and is not listed on the communicable diseases chart in appendix A of ch. DHS 145.

Care of ill children at the center must be specifically authorized as a condition in the letter of license transmittal. Care of ill children may occur in a separate licensed center location or in a separate room which is designed specifically and solely for the care of ill children.

If a program for ill children exists in a hospital, the program need not be licensed if the hospital admits the sick children as outpatients on a daily basis.

1. The space for the care of a mildly ill child shall be a self-contained room and shall be separate from children who are well.
2. The room shall have a sink with hot and cold running water.
3. The parent consents in writing.
4. The written health policy of the center allows a mildly ill child to remain at the center.
5. The center follows and implements procedures in a written plan for the provision of care to mildly ill children approved and signed by a licensed physician, or a pediatric or family nurse practitioner which covers all of the following:
 - a. Admissions and exclusions.
 - b. Staffing.
 - c. Staff training.
 - d. Monitoring and evaluation.
 - e. Programming.
 - f. Infectious disease control.
 - g. Emergency procedures.
6. Medical consultation is available from a physician or local health department in establishing policy for the management of mildly ill children.

(dm) Medical log book.

Entries regarding a specific child made in a medical log book must be available to that child's parent in accordance with DCF 251.04 (7) (b). To protect a child's confidentiality, centers are strongly encouraged to have separate entries for each child involved in an incident, such as biting. When parents ask to review the medical log book, the center should have a procedure for ensuring that a parent reviewing the record for his/her own child does not see information about another child in care.

In addition to providing accountability to the parents and the department, bound books and recordings as specified may be admissible in court as evidence in case of civil suit.

The log should be kept as long as the center is in operation.

See Appendix D Resources List: Medical Log – Directions for Use.

See DCF 251.07 (6) (j) 1. – EMERGENCY MEDICAL AUTHORIZATION & PARENTAL NOTIFICATION.

1. The licensee shall maintain a medical log book that has stitched binding with pages that are lined and numbered.
2. Pages may not be removed from the medical log book under subd. 1. and lines may not be skipped. Each entry in the log book shall be in ink, dated, and signed or initialed by the person making the entry.
3. A child care worker shall record all of the following in the medical log under subd. 1.:

251.07(6)(dm)3.a.

a. Any evidence of unusual bruises, contusions, lacerations, or burns seen on a child, regardless of whether received while in the care of the center.

It is recommended the provider document any comments made by a parent or child regarding injuries or bruises noted.

See Appendix D Resources List: *Medical Log – Directions for Use.*

b. Any injuries received by a child while in the care of the center on the date the injury occurred. The record shall include the child's name, the date and time of the injury, and a brief description of the facts surrounding the injury.

Not every injury will be apparent immediately. It is recommended that centers record every accident / incident. For example, a child bumps his/her head and no mark or bump is readily apparent but there is the potential for a mark, bump or bruise to develop. This accident should be recorded.

c. Any medication dispensed to a child, on the date the medication is dispensed. The record shall include the name of the child, type of medication given, dosage, time, date, and the initials or signature of the person administering the medication.

d. Any incident or accident that occurs when the child is in the care of the center that results in professional medical evaluation.

Note: See s. DCF 250.04 (8) for requirements related to reporting suspected child abuse or neglect.

A "professional medical evaluation" is defined as a medical assessment by a medical professional acting within their licensing capacity, such as a physician, physician's assistant, nurse, Emergency Medical Services (EMTs, paramedics, etc.), and dentist, regardless of the outcome of the evaluation.

4. The director or the director's designee shall review records of injuries with staff every 6 months to ensure that all possible preventive measures are being taken. The reviews shall be documented in the medical log book under subd. 1.

(e) *Communicable disease.*

1. No child or other person with a reportable communicable disease specified in ch. DHS 145 may be admitted to or be permitted to remain in a center during the period when the disease is communicable.

3. An employee, volunteer or a child may be readmitted to the group child care center if there is a statement from a physician that the condition is no longer contagious or if the person has been absent for a period of time equal to the longest usual incubation period for the disease as specified by the department.

Note: The Wisconsin Department of Health Services, Division of Public Health, has developed materials that identify those communicable diseases that are required to be reported to the local public health officer. These materials also provide additional guidance on the symptoms of each disease and information on how long an infected child must be excluded from the center. The materials include a communicable disease chart and exclusion guidelines for child care centers. Copies of the communicable disease chart or the exclusion guidelines for child care centers are available from the Child Care Information Center at 800-362-7353.

(f) *Medications.*

1. Center staff may give prescription or non-prescription medication, such as pain relievers, teething gels or cough syrup, to a child only under the following conditions:

251.07(6)(f)1. continued

These rules allow prescription and non-prescription medication to be administered by the center under controlled circumstances as specified. Center health policy may be more stringent than the rule, allowing no medication or only prescription medication. It is recommended that the medication administration procedures be included in information that is shared with parents upon admission. A written authorization from the parent is required to be on-site for each incident and is time limited. The center should ensure that any requirements of the Americans with Disabilities Act are met.

Any over-the-counter topical, non-medicated lotion, cream, lip balm, or salve preparation may be applied to children upon authorization from the parent. The application information for non-medicated topical preparations does not need to be recorded in the center medical log.

See DCF 251.09 (4) (a) 10. – INFANT & TODDLER – DIAPERING LOTIONS, POWDERS, SALVES.

a. A written authorization that includes the child's name and birthdate, name of medication, administration instructions, medication intervals and length of the authorization dated and signed by the parent is on file. Blanket authorizations that exceed the length of time specified on the label are prohibited.

It is acceptable to keep the original authorization with the medication and a copy in the child's file or vice versa.

It is recommended that medication authorization forms should be kept with the medication during the administration period and maintained in the child's file once the administration period has passed.

Authorizations that exceed the period of time specified on the label are permitted if authorized or prescribed by a physician.

Note: The department's form, Authorization to Administer Medication – Child Care Centers, is used to obtain the parent's authorization to provide medications. Information on how to obtain the department's form is available on the department's website, <http://DCF.Wisconsin.gov>, or from any regional licensing office in Appendix A.

b. The medication is in the original container and labeled with the child's name and the label includes the dosage and directions for administration.

The rule requires that the dosage instructions must be included on the medication label. For some types of over the counter medications, such as Tylenol or cold syrup, the label instructions indicate that a physician should be consulted for children under a certain age (typically under age 2 years).

The Authorization to Administer Medication form includes a statement to be initialed by the child's parent indicating the child's physician has been consulted and the dosage instructions are consistent with the physician's recommendation. A parent's authorization may not exceed the time specified on the label of the medication.

The American Academy of Pediatrics recommends that over-the-counter multi-symptom cold products not be used for children under the age of 4 years.

3. Medication shall be stored so that it is not accessible to the children.

4. Medication requiring refrigeration shall be kept in the refrigerator in a separate, covered container clearly labeled "medication".

Medications should be stored at temperatures in accordance with label instructions.

5. All medication for a child in care shall be administered by the center as directed on the label and as authorized by the parent.

251.07(6)(f)5. continued

If a medication authorization from the parent is in disagreement with the label instructions, the label instructions take precedence unless there is written authorization from the physician indicating a different dose or time frame.

A medication past its expiration date as indicated on the label may not be administered to a child. It is recommended that medications kept on hand for chronic conditions, such as asthma inhalers, allergy epinephrine auto-injectors, seizure medications, etc., be reviewed periodically for expiration dates.

6. No medication intended for use by a child in the care of the center may be kept at the center without a current medication administration authorization from the parent.

Leftover medication or medication past its expiration date should be returned to the parent or discarded in a safe manner after the duration of the illness.

(g) *Health precautions.*

1. Bodily secretions, such as runny noses, eye drainage, and coughed-up matter shall be wiped with a disposable tissue used once and placed in a plastic-lined container.

2. Surfaces exposed to bodily secretions including walls, floors, toys, equipment, and furnishings shall be washed with soap and water and disinfected. The disinfectant solution shall be registered with the U.S. environmental protection agency as a disinfectant and have instructions for use as a disinfectant on the label. The solution shall be prepared and applied as indicated on the label.

See Appendix D Resources List for Prevention of Exposure to Blood and Body Fluids and OSHA Regulations on Bloodborne Pathogens. The Occupational Safety and Health Administration (OSHA) is responsible for enforcing its standards.

See Appendix D Resource List: Cleaning, Sanitizing and Disinfecting in Child Care Settings. Care should be used with the disposal of gloves and soiled items.

3. As appropriate, children shall be protected from sunburn and insect bites with protective clothing, sunscreen, or insect repellent. Sunscreen and insect repellent may only be applied upon the written authorization of the parent. The authorization shall include the ingredient strength and be reviewed and updated every 6 months. If sunscreen or insect repellent is provided by the parent, the sunscreen or repellent shall be labeled with the child's name. Recording the application of sunscreen or insect repellent is not necessary.

Alternatives to traditional insect repellants (e.g. Skin-so-soft, repellants containing citronella or homeopathic ingredients, etc.) may be used if authorized in writing by the parent.

It is recommended the center health policy address at what age children can carry and/or apply sunscreen or insect repellent, and the procedure for supervision so that the application is done in a way that will protect the children.

4. Children shall be clothed to ensure body warmth and comfort.

5. Center staff shall adopt and follow universal precautions when exposed to blood and blood-containing bodily fluids and injury discharges.

6. Single use disposable gloves shall be worn if there is contact with blood-containing bodily fluids or tissue discharges. Gloves shall be discarded in plastic bags.

"Single-use, disposable gloves" means non-porous gloves without obvious seams made out of latex, natural rubber, or plastic in various forms.

7. Wet or soiled clothing shall be changed promptly from an available supply of clean clothing.

(i) *Personal cleanliness.*

1. A child's hands shall be washed with soap and warm running water before meals and snacks, after handling a pet or animal, and after toileting or diapering. A child's hands and face shall be washed when soiled. For children under one year of age, hands may be washed with soap and a wet fabric or paper washcloth that is used once and discarded.

Washing in a common bucket or pan is allowed after certain activities, such as finger painting, if this preliminary washing to eliminate excess paint is immediately followed up by individual hand washing under running water with soap.

Warm water is between 90 and 110 degrees Fahrenheit.

2. Persons working with children shall wash their hands with soap and warm running water before handling food, before and after assisting with toileting and diapering, after wiping bodily secretions from a child with a disposable tissue, and after exposure to blood or bodily fluids. If gloves are used, hands shall be washed after the removal of gloves.

3. Personal use items, such as cups, eating utensils, toothbrushes, combs, and towels may not be shared and shall be kept in a sanitary condition.

4. Wet or soiled clothing and diapers shall be changed promptly from an available supply of clean clothing.

5. Applicable rules under s. DCF 251.09 (4) (a), (c), and (d) shall apply when children 2 years of age and older require attention for diapering and toileting.

6. If running water is not immediately available when outdoors or on field trips, soap and water-based wet wipes may be used. When running water becomes available, hands must be washed immediately with soap and running water.

7. Disinfecting hand sanitizers may not replace the use of soap and water when washing hands.

(j) *Injuries.*

1. Written permission from the parent to call a child's physician or refer the child for medical care in case of injury shall be on file at the center. The center shall contact the parent as soon as possible after an emergency has occurred or, if the injury is minor, when the parent picks up the child.

A minor injury is one that can be treated at the center, such as bruises or scrapes. Slivers that can be removed without the use of a tweezers or other device may be removed. The wound should be washed with soap and water and protected.

It is recommended that a reputable children's first aid manual or chart be readily available in the center for use by staff.

See Appendix D Resources List: Situations That Require Medical Attention Right Away.

Note: The center may use the department's form, *Child Care Enrollment*, or its own form for obtaining medical consent from the parent. The form is available on the department's website, <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

2. A center shall identify a planned source of emergency medical care, such as a hospital emergency room, clinic or other constantly staffed facility, and shall advise parents about the designated emergency medical facility.

The center may advise parents about the designated emergency medical facility by posting this information in a visible place in the center or putting the information in policies or handbooks shared with parents.

3. A center shall establish and follow written procedures for bringing a child to an emergency medical care facility and for treatment of minor injuries.

251.07(6)(j)3. continued

See DCF 251.04 (3) (a) – REPORT – INCIDENT OR ACCIDENT.

See Appendix D Resources List: *Situations That Require Medical Attention Right Away.*

4. First aid procedures shall be followed for serious injuries.
5. Each center shall have a supply of bandages, tape, and Band-Aids.
6. Superficial wounds shall be cleaned with soap and water only and protected with a bandaid or bandage.

See DCF 251.07 (6) (f) – MEDICATION ADMINISTRATION. *Since the administering of non-prescriptive medication must be at specific parent direction for each incident, no medication (including anti-bacterial creams or ointments) may be given to the child by the center for injuries.*

7. Suspected poisoning shall be treated only after consultation with a poison control center.

The statewide Poison Control toll free number is (800) 222-1222. Calling 911 does not automatically connect the caller with poison control.

Activated charcoal or any other vomit-inducing substance may only be used if advised by the poison control center.

See Appendix D Resources List: *Common Plants – What's Poisonous and What's Not?*

Note: See s. DCF 251.04 (6) (c) on maintaining a medical log book.

(7) PETS AND ANIMALS.

This section does not apply to service animals. Therapy animals and emotional support animals are considered pets and this section applies.

- (a) Animals shall be maintained in good health and appropriately immunized against rabies. Rabies vaccinations shall be documented with a current certificate from a veterinarian.

Dogs, cats, and ferrets must be vaccinated against rabies as documented by a current vaccination certificate. Other immunizations frequently given to dogs and cats are to prevent disease that is not communicable to children. Initial rabies immunization for dogs should be administered by five months of age and within one year after the initial immunization. Initial rabies immunization for cats should be administered at 8 – 12 weeks of age and within one year after initial immunization. Initial rabies immunization for ferrets should be administered at 12 weeks. Subsequent immunizations are to be administered at intervals stated on the certificate of vaccination. If no date is specified, the dog shall be vaccinated within three years of the previous vaccination, as specified in s. 95.21 (2) Wis. Stats. Wisconsin law does not allow persons to vaccinate their own animals for rabies.

Pets suspected of being ill or infested with external lice, fleas, and ticks or internal worms shall be removed from the center.

Note: Service animals used to assist persons with a disability are not considered pets when they are used as a service animal.

- (b) Animals that pose any risk to the children shall be restricted from the indoor and outdoor areas used by children.

251.07(7)(b) continued

According to the Centers for Disease Control and Prevention (CDC), due to the risk of exposing children to salmonella and other diseases, chickens and ducks may not be in areas accessible to children under age 5 years unless the parents acknowledge in writing that the children will be allowed to have contact with the animals and the children wash their hands immediately after touching the animals.

(c) Licensees shall ensure that parents are aware of the presence of pets and animals in the center. If pets and animals are allowed to roam in areas of the center occupied by children, written acknowledgement from the parents shall be obtained. If pets are added after a child is enrolled, parents shall be notified in writing prior to the pets' addition to the center.

Documentation may be a signature sheet on the policies or other form developed by the provider. The sheet should contain the name and breed of the animal and what kind of access the animal will have with the children. The licensee may keep this information with the pet records.

Visits to petting zoos are permitted. Having pets or animals brought into the center to expose children to animals needs to be done carefully to ensure that children and animals are protected. It is recommended that parents be notified in advance when an animal will visit.

(d) Reptiles, amphibians, turtles, ferrets, poisonous animals, psittacine birds, exotic and wild animals may not be accessible to children.

Note: Psittacine birds are hooked-billed birds of the parrot family that have 2 toes forward and 2 toes backward and include parrots, macaws, grays, lovebirds and cockatoos.

"Not accessible" means the animal may not have any physical contact with the children, including the children reaching over or through a barrier to touch the animal. A kennel, cage, or gate in the child care area that has any opening large enough for a child's fingers to get through is considered accessible and may not be used to separate an animal from the children.

According to the Centers for Disease Control and Prevention (CDC), some types of birds might not be suitable for young children or people with weakened immune systems.

(e) All contact between pets or animals and children shall be under the close supervision of a child care worker who is close enough to remove the child immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.

Examples of aggressive behaviors are showing teeth, growling, snapping, excessive barking, lunging, hissing, biting, hair standing up on the animals back, or tail between legs.

(f) Pets in classrooms shall be confined in cages while food is being prepared or served in the classroom. Pets, cages and litter boxes are prohibited in kitchens, lunch rooms, and food storage areas. Pet and animal feeding dishes, excluding water dishes, and litter boxes may not be placed in areas accessible to children.

(g) Indoor and outdoor areas accessible to children shall be free of animal excrement.

All areas accessible to children during hours of operation, including entrance/exit areas, must be free of pet and animal excrement.

(h) If dogs or cats are allowed in areas of the center accessible to children, the certificate of insurance required under s. DCF 251.04 (2) (g) shall indicate the number and types of pets covered by the insurance.

(i) Licensees shall ensure that the center is in compliance with all applicable local ordinances regarding the number, types and health status of pets or animals.

251.07(8)

(8) MISCELLANEOUS ACTIVITIES. A center that includes in its program watercraft, riflery, archery, horseback riding, or adventure-based activities shall comply with the applicable requirements under s. DCF 252.44 (8), (9), (11), and (13).

DCF 251.08 Transportation.**(1) APPLICABILITY.**

(a) Except as provided in par. (b), this section applies to all transportation of children in care, including both regularly scheduled transportation to and from the center and field trip transportation if any of the following apply:

If a child care center contracts (either verbally or in writing) with a bus company or other agency and the driver and vehicle are regulated under ch. Trans 300 Transportation of School Children, the driver and vehicle do not need to meet the requirements under subsections (4) DRIVER and (5) VEHICLE. Subsection (8) (a) below will be monitored annually for compliance. A written contact between the center and the transportation company is recommended. The licensee is responsible for ensuring that all applicable rules are met.

This rule does not apply when a center contracts for regularly scheduled transportation to and from the local school district school with the local school district bus company. The Alternate Arrival / Release Agreement form may be used to obtain authorization from the parent to have the local school bus company provide the transportation. See Appendix D Resources List: Instructions for Obtaining Department Forms.

Transportation provided by rideshare companies, such as Uber or Lyft, is contracted transportation and therefore is considered to be center-provided transportation.

See DCF 251.03 (4g) – DEFINITION – CENTER-PROVIDED TRANSPORTATION.

See DCF 251.04 (6) (b) – CURRENT, ACCURATE DAILY ATTENDANCE RECORD.

1. The licensee owns or leases the vehicle used.
2. The licensee contracts with another individual or organization that owns or leases the vehicle used.
3. Employees, parents, or volunteers are transporting children at the direction, at the request, or on behalf of the licensee.
(b) The following requirements do not apply to transportation provided in vehicles owned and driven by parents or volunteers who are not counted in the staff-to-child ratios in s. DCF 251.055 (2) (b):
 1. The requirement that a licensee obtain a copy of the driver's driving record and review it under sub. (4) (c).
 2. The requirement to provide evidence that the vehicle is in safe operating condition at 12-month intervals under sub. (5) (b).
 3. The requirements related to child care vehicle safety alarms under sub. (8).

Individuals employed by the child care center also who have children who are enrolled at the child care center are not considered transportation volunteers.

(c) The licensee shall document in its policies that transportation provided through a written or verbal contract with another individual or organization meets the requirements of this section.

(2) PERMISSION AND EMERGENCY INFORMATION. Before transporting a child, a licensee shall obtain signed permission from the parent for transportation and emergency information for each child. The form shall include all of the following information:

- (a) The purpose of the transportation and the parent or guardian's permission to transport the child for that purpose.
- (b) An address and telephone number where a parent or other adult can be reached in an emergency.
- (c) The name, address, and telephone number of the child's health care provider.
- (d) Written consent from the child's parent or guardian for emergency medical treatment.

251.08(2)(d) continued

A copy of the child's current enrollment form will also contain the information required under this rule.

Note: The licensee may use the department's form, *Child Care Enrollment*, to obtain consent of the child's parent for emergency medical treatment. Information on how to obtain forms is available on the department's website, <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

(3) REQUIRED INFORMATION FOR EACH TRIP. The licensee shall ensure that written documentation of all of the following is maintained at the center and in any vehicle transporting children while the children are being transported:

- (a) A list of the children being transported.
- (b) A copy of the completed permission and emergency information form under sub. (2) for each child being transported.
- (c) For transportation to or from a child's home or school, the transportation route and scheduled stops.

(4) DRIVER.

(a) The driver of a vehicle used to transport children in care shall be at least 18 years of age and shall hold a valid driver's license for the state where the driver resides and for the type of vehicle driven.

This is in conformity with Wisconsin Statutes 121.555, which prohibits anyone under 18 years old from driving children. No exceptions will be granted.

A person may have a driver's license card that has not expired but still have the license suspended or revoked. The only way to ensure that a driver's license has not been suspended or revoked (and is still valid) is through a check of the person's driving record maintained by the Wisconsin Department of Transportation, <https://wisconsindot.gov>, or by the department of transportation for the person's state of residence.

See DCF 251.03 (4m) – DEFINITION – CENTER-PROVIDED VEHICLE.

(b) Before a driver who is not the licensee first transports children, the licensee shall provide the driver with a training. The licensee shall review, document, and update the training as necessary with each driver annually. The training shall include all of the following:

The department's form Driver Training Checklist – Child Care Centers may be used for documenting training.

1. The procedure for ensuring that all children are properly restrained in the appropriate child safety seat.
2. The procedure for loading, unloading, and tracking of children being transported.
3. The procedure for evacuating the children from a vehicle in an emergency.
4. Behavior management techniques for use with children being transported.
5. A review of this chapter and applicable statutes under s. 347.48, Stats.
6. A review of applicable center policies.
7. First aid procedures.
8. A review of child abuse and neglect laws and center reporting procedures.
9. Information on any special needs a child being transported may have and the plan for how those needs will be met.
10. A review of the use of the vehicle alarm, if applicable.
11. Any other job responsibilities as determined by the licensee.

(c) 1. Prior to the day a driver first transports children in care and annually thereafter, the licensee shall obtain a copy of the driving record for each driver and place the record in the staff file. The licensee shall review each driving record to ensure that the driver has no accidents or traffic violations that would indicate that having children ride with the driver could pose a threat to the children.

2. In determining whether a driver may pose a threat to the children, the licensee shall consider the totality of the driver's record, any other relevant facts, and the following factors in combination:

- a. The seriousness of any accidents or violations.
- b. How much time has passed since an accident or violation occurred.
- c. The number of accidents or violations.
- d. The likelihood that a similar incident will occur.

3. A driver whose driving record indicates that the driver poses a threat to the children may not transport children.

Note: Information on how to obtain driving records may be obtained by contacting the Department of Transportation at (608) 261-2566 or <https://wisconsindot.gov/Pages/dmv/vehicles/vhcl-rcd-hst/records.aspx>

(d) 1. Except as provided in subd. 2., a driver of a vehicle that is transporting children in care may not use a cellular phone or other wireless telecommunication device while loading, unloading, or transporting children, except when the vehicle is out of traffic, not in operation, and any of the following applies:

- a. The phone or device is used to call 911.
- b. The phone or device is used to communicate with emergency responders.
- c. The phone or device is used to communicate with the center regarding an emergency situation.

2. A navigation device may be used during transportation if the device is programmed to a destination when the vehicle is out of traffic and not in operation.

(5) VEHICLE.

(a) The licensee shall ensure that each vehicle that is used to transport children is all of the following:

1. Registered with the Wisconsin department of transportation or the appropriate authority in another state.
2. Clean, uncluttered, and free of obstruction on the floors, aisles, and seats.
3. In safe operating condition.

(b) At 12-month intervals the licensee shall provide the department with evidence of a vehicle's safe operating condition on a form provided by the department.

The Vehicle Safety Inspection form is to be signed by the owner/employee of a bona fide repair business, such as garage, auto repair shop, or service station. The name of the repair business should appear on the vehicle inspection form in addition to signature. Signatures of persons not associated with a firm doing repair business with the public will not be acceptable. If inspection report indicates needed repairs, vehicle must be repaired, and the center must provide evidence of the necessary repairs, prior to transporting children.

New and used vehicles purchased from an authorized dealer with inspection report will be accepted for one year.

The State Patrol conducts safety inspections of school buses and a sticker issued by the inspector will be accepted in place of the Vehicle Safety Inspection form. Head Start programs may submit a copy of the Federal Inspection required by the Head Start Performance standards in place of the vehicle safety inspection form. No exception is necessary.

251.08(5)(b) continued

If a vehicle used to transport children has been involved in an accident, the department may request evidence that the vehicle is in safe operating condition.

The use of a 9- to 15-passenger van to transport children is not recommended. Federal law prohibits schools and school systems from purchasing or leasing a new 15-passenger van if it will be used significantly by the school or school system to transport preschool and school-aged children to or from school or school-related events. More information is available on the National Highway Transportation Safety Administration website: <https://www.nhtsa.gov/road-safety/15-passenger-vans>.

See DCF 251.03 (4m) – DEFINITION – CENTER-PROVIDED VEHICLE.

Note: The department's form, *Vehicle Safety Inspection*, is used to record evidence of the vehicle's safe operating condition. Information on how to obtain forms is available on the department's website, <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

(c) At least once per year, the licensee shall make available to the department each vehicle that is required to have a child safety alarm under sub. (8) (a) to determine whether the child safety alarm is in good working order.

(d) Hired or contracted school buses used to transport children shall be in compliance with ch. Trans 300.

(6) SEAT BELTS AND CHILD SAFETY RESTRAINTS.

(a) No person may transport a child under 8 years of age in a motor vehicle, unless the child is restrained in a child safety restraint system that is appropriate to the child's age and size and in accordance with s. 347.48 Stats., and ch. Trans 310.

Most child safety seats have an expiration date embossed in plastic on the bottom of the seat. Child safety seats may not be used past their expiration date.

An integrated child safety seat may be used by children who meet the age, height, and/or weight requirements identified by the manufacturer of the vehicle.

LIST OF RESTRAINTS: A list of currently approved child safety restraints and recalls may be obtained from the Wisconsin Information Network for Safety (715) 843-1890 or from the web site www.safekidswi.org.

All child safety restraints sold in the USA are required to comply with the dynamic testing requirements of the Federal Motor Vehicle Safety Standard (FMVSS) #213, Child Restraint Systems. The National Highway Traffic Safety Administration (NHTSA) has developed an ease of use rating system of child safety restraints to help provide information about which child safety seat may be most appropriate for a child. See <http://www.nhtsa.gov/Safety/CPS> for more information on child safety restraints. Most child safety seats have an expiration date embossed in plastic on the bottom of the seat. Seats may not be used past their expiration date.

Information on Recalled Car Safety Seats can be found at <http://www-odi.nhtsa.dot.gov/owners/SearchChildSeats>.

Information on the Wisconsin Child Passenger Safety Law can be found on the Department of Transportation website: <http://wisconsindot.gov/Documents/safety/education/child-safety/cps-law-card.pdf>.

See Appendix D Resources List: Car Safety Seat Information.

Wisconsin child passenger safety		
Type of seat	Wisconsin law	Safest practice
Rear-facing Car Seat 	Children must ride in a rear-facing car seat until they are 1 year old and weigh 20 pounds.	Children should ride in a rear-facing car seat until at least the age of 2. Keep children rear-facing as long as they are within the height and weight requirements for the car seat.
Forward-facing Car Seat 	Children must ride in a forward-facing car seat with a harness until they are 4 years old and weigh 40 pounds.	Children should ride in a forward-facing car seat with a harness as long as they are within the height and weight requirements for the car seat.
Booster Seat 	Children must ride in a booster seat until they are 8 years old or weigh 80 pounds or are 4 feet 9 inches tall (4'9").	Children should ride in a booster seat until they are tall enough to sit on the vehicle seat without slouching, and the seat belt fits snugly across the top of the thighs and across the shoulder.
Seat Belt 	Children must be restrained in a seat belt when they outgrow the requirements of a booster seat.	Children should ride using a lap and shoulder belt once they have outgrown their car or booster seat.
Back Seat	Children required to ride in a rear-facing or forward-facing car seat must be restrained in the back seat.	Children under 13 years of age should ride in the back seat using a lap and shoulder belt.

Note: For further information on child safety restraints, see <https://wisconsindot.gov/Pages/safety/education/child-safety/default.aspx>.

(b) 1. Each child who is not required to be in an individual child car safety seat or booster seat when being transported under par. (a) shall be properly restrained by a seat belt in accordance with s. 347.48, Stats., and ch. Trans 315.

2. Each adult in the vehicle shall be properly restrained by a seat belt in accordance with s. 347.48, Stats., and ch. Trans 315.

3. Seat belts may not be shared.

(c) Children transported in school buses or vehicles built to school bus standards shall be properly seated according to the manufacturer's specifications.

If a center owns, leases, or contracts for a school bus, seat belts or car safety seats are not required because these vehicles were constructed to carry children without such devices.

For additional information, contact the NHTSA Vehicle Safety Hotline at (888) 327-4236.

(d) Children under 13 years of age who are in the care of the center may not ride in the front seat of a vehicle.

251.08(7)**(7) VEHICLE CAPACITY AND SUPERVISION.**

(a) The center shall be responsible for a child from the time the child is placed in a vehicle until the children reaches his or her destination and is released to a person responsible for the child. A parent of a school age child may authorize a child to enter a building unescorted.

Children are considered in care as soon as they are picked up by center-provided transportation.

See DCF 251.04(6)(b) – CURRENT, ACCURATE DAILY ATTENDANCE RECORD. If the center picks up a child from his/her home or a designated pick-up or drop-off point, the daily attendance record must indicate the actual time the child was picked up and/or dropped off. Daily vehicle attendance records may be separate from the daily attendance record maintained to indicate when the child is at the center.

See DCF 251.055(1)(h) – PROCEDURE TO CONTACT A PARENT IF A CHILD IS ABSENT FROM THE CENTER WITHOUT PRIOR NOTIFICATION. If the center provides transportation services from the child's home to the center, the procedure should address how the center is to be notified that a child is not attending that day (i.e. sign in the window of the home that the child is not attending, prior notification to the center that the child is not attending, a second adult on the vehicle walks to the door to pick up the child and is told that the child is not attending, etc.) If the center is not notified that a child will not attend, the parent must be notified if the child does not arrive at the center as expected.

Note: The form *Transportation Permission - Child Care Centers* may be used to designate an adult to receive a child being transported. Forms are available on the department's website at <https://DCF.Wisconsin.gov/CClicensing/CCFormspubs>.

(b) Children may not be left unattended in a vehicle.

(c) When children are transported in a vehicle, there shall be at least one adult supervisor in addition to the driver whenever there are more than 3 children who are either under 2 years of age or who have a disability that limits their ability to respond to an emergency.

When evaluating the need to have an adult supervisor (in addition to the driver) present in the vehicle, the center needs to consider the ability of the child with a disability to evacuate the vehicle with limited additional help from the driver, the number and ages of other children being transported, and whether any children being transported have a behavioral history that might be disruptive during transportation.

(d) The licensee shall develop and implement a procedure to ensure that all children exit the vehicle after being transported to a destination.

(e) No child may be in a vehicle for transport to or from a center, a field trip, or other center activity for more than 60 minutes for a one-way trip.

(8) CHILD CARE VEHICLE SAFETY ALARM.

This section also applies to hired or contracted school buses. The alarm must be installed in accordance with the manufacturer's specifications.

(a) A vehicle shall be equipped with a child safety alarm that prompts the driver to inspect the vehicle for children before exiting if all of the following conditions apply:

1. The vehicle is owned or leased by a licensee or a contractor of a licensee.
2. The vehicle has a seating capacity of 6 or more passengers plus the driver. The seating capacity of the vehicle shall be determined by the manufacturer.
3. The vehicle is used to transport children in care.

(b) No person may shut off a child safety alarm unless the driver first inspects the vehicle to ensure that no child is left unattended in the vehicle.

251.08(8)(c)

(c) The child safety alarm shall be in good working order each time the vehicle is used for transporting children to or from a center.

Note: Information on the required vehicle safety alarm is available in the "child care licensing/information for providers" section of the department website at <http://DCF.Wisconsin.gov>.

DCF 251.09 Additional requirements for infant and toddler care.**(1) APPLICABILITY AND GENERAL REQUIREMENTS.**

(a) Group child care centers providing care and supervision to infants and toddlers shall comply with the additional requirements of this section.

(am) Prior to admission, the licensee shall obtain written information from a child's parent or guardian to individualize the program of care for the child. Child care workers shall use the information obtained from the parents to provide care to the child. Information shall include all of the following:

1. Schedule of meals and feeding.
2. Types of food introduced and timetable for new foods.
3. Toileting and diapering procedures.
4. Sleep and nap schedule.
5. The child's way of communicating and being comforted.
6. Developmental and health history.

Note: The licensee may use the department's form, Intake for Child Under 2 Years – Child Care Centers, or the licensee's own form to record information for individualizing the program of care for each child. Information on how to obtain the department's form is available on the department's website, <http://DCF.Wisconsin.gov>, or from any regional licensing office in Appendix A.

(b) Admission information for an infant or toddler shall be on file in the room or area to which the child is assigned and shall be known to the child care worker.

(c) Child care workers shall document changes in a child's development and routines every 3 months based on discussion with the parent.

A center may use the department's Intake for Child Under 2 Years – Child Care Centers form, may choose to use their own paper form, or may use an electronic form or system to capture the same information included on the department form. It is the child care program/provider's responsibility to be able to access the electronic form to respond to the licensing specialist's request to review information.

Special emphasis is given to changes in sleeping/nap patterns, dietary needs, i.e., new foods, cup, utensils or self-feeding skills introduced, and introduction of toilet training when age appropriate.

(d) Each infant and toddler shall be cared for by a regularly assigned child care worker in a self-contained room or area.

Children under age 2 may transition into an older age group as long as the new group size does not exceed 8 and the room is approved for children under age 2. Transition to a new age group needs to be planned and discussed with parents prior to the transition.

When groups of children are combined, older children may be transferred to the infant or toddler room with the appropriate play equipment.

See DCF TABLE DCF 251.055 – MAXIMUM GROUP SIZE AND MINIMUM NUMBER OF CHILD CARE WORKERS IN GROUP CHILD CARE CENTERS.

(e) The regularly assigned child care teacher and assistant child care teacher for each group of infants and toddlers shall have a minimum of 10 hours of training in infant and toddler care approved by the department within 6 months after assuming the position. If the training is not part of the required preservice entry-level training under s. DCF 251.05 (3) (f) or (g), it shall be obtained through continuing education.

The non-credit, department-approved course that will meet this requirement is called Fundamentals of Infant and Toddler Care.

See DCF 251.05 (3) (f) – QUALIFICATIONS – CHILD CARE TEACHER and DCF 251.05 (3) (g) – QUALIFICATIONS – ASSISTANT CHILD CARE TEACHER.

See Appendix D Resources List: Agencies Approved to Offer Non-Credit Entry-Level Training.

251.09(1)(f)

(f) Infants and toddlers are restricted to first floors and ground floors having direct grade-level exits unless the building is in compliance with all applicable building codes that permit children to be cared for on other levels. The building inspection report on file with the licensing office shall indicate where care may be provided for children under 30 months of age.

(g) Safety gates shall be provided at open stairways.

Safety gates should be installed at the bottom and/or top of stairs, depending on where children are. Gates may be installed a maximum of 18" from the bottom step, or about 3 steps up, taking into consideration the landing surface.

(h) For centers licensed on or after January 1, 2009, the space occupied by cribs shall be deducted in determining the 35 square feet space requirement under s. DCF 251.06 (7) (a) for each child.

Centers may take cribs down when cribs are not in use, but this will not increase the space available in determining capacity.

(i) The number of children under one year of age admitted at any one time may not exceed the number of cribs and playpens.

(j) Cribs and playpens shall contain a tight-fitting mattress and a mattress covering that fits snugly over the mattress.

After-market mattresses in playpens are not permitted. Individuals should follow all manufacturer specifications.

See DCF 251.07 (3) (a) 5. – MANUFACTURER INSTRUCTIONS AND RECOMMENDATIONS.

(k) Sheets or blankets used to cover a child one year of age or older shall be kept away from the child's mouth and nose, and if sleeping in a crib or playpen shall be tucked tightly under the mattress.

If the child pulls the blanket out during nap time, the provider must ensure that the blanket is kept away from the child's mouth and nose.

(L) A child under one year of age may not sleep in a crib or playpen that contains soft or loose materials, such as sheepskins, pillows, blankets, flat sheets, bumper pads, bibs, pacifiers with attached soft objects, or stuffed animals. No blankets and other items may be hung on the sides of the crib or playpen.

[Caring for Our Children: National Health and Safety Performance Standards, Guidelines for Early Care and Education Programs](#), a collaborative project of the American Academy of Pediatrics, American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, states that swaddling infants is not necessary or recommended.

Swaddling of infants is permitted if requested by the parent, but children may not be swaddled in a blanket. Swaddling an infant is not recommended after one month of age. The use of blanket sleepers or sleep sacks is permitted.

It is recommended the center get written permission from the child's parent if swaddling is requested.

Weighted sleep sacks and other weighted products may not be used because an infant is not able to remove a weighted object on their own.

Crib tents are not permitted for use.

251.09(1)(m)

(m) An audio monitoring device shall be used in any area or room where children under one year of age are placed to sleep.

Audio monitoring devices are to be used to supervise sleeping children only. Devices must be on, working, and in use.

"Area" means a self-contained area separated by permanent walls and has a door or doorway. Audio monitoring devices are not required if the children sleep in the classroom while directly monitored by a caregiver.

Audio monitoring devices do not replace sound supervision.

(n) Waterbeds may not be used by children under 2 years of age.

(2) DAILY PROGRAM. In addition to the requirements under s. DCF 251.07, all of the following apply to the care of infants and toddlers.

(a) Child care workers shall respond promptly to a crying child's needs.

(b) Each infant and each toddler shall be allowed to form and follow his or her own pattern of sleeping and waking.

Meals should be served related to the child's sleeping schedule rather than the schedule of the center. There shall be no specifically scheduled nap time for all infants as a group.

As children begin to mature, a child's schedule will be changed to slowly eliminate the morning nap and slowly integrate the child into the center schedule. Priority shall be given to the individual eating and sleep needs of the child.

(bm) Each child under one year of age shall be placed to sleep on his or her back in a crib unless otherwise specified in writing by the child's physician. The child shall be allowed to assume the position most comfortable to him or her when able to roll over unassisted.

If a child falls asleep in a swing, bouncy seat, car seat, or on the floor, the child must be immediately removed from that area and be placed to sleep on their back in the crib assigned to them.

See the American Academy of Pediatrics recommendations on best safe sleep practices to reduce the risk of sleep-related infant death.

(c) Emphasis in activities shall be given to play as a learning and growth experience.

The center shall individualize the program of care for each child in order to respond to the child's developmental rhythms and the parent's schedule.

Teacher-directed group learning activities is an inappropriate developmental learning technique for infants and toddlers.

Examples of appropriate activities are: peek-a-boo and other object permanence games; pat-a-cake and other imitation games; cause and effect activities; stimulating sensory and body feelings through touching, cuddling, rocking etc.; finger games for finger and hand control; creating barriers for crawling under and over; practical life experiences.

(d) Throughout the day each infant and each toddler shall receive physical contact and attention such as being held, rocked, talked to, sung to and taken on walks inside and outside the center.

(e) Routines relating to activities such as taking a nap, eating, diapering and toileting shall be used as occasions for language development and other learning experiences.

251.09(2)(f)

(f) When a non-mobile child is awake, the child care worker shall change the child's body position and location in the room periodically. Non-mobile children who are awake shall be placed on their stomach occasionally throughout the day.

(g) The non-walking child who can creep or crawl shall be given opportunities during each day to move freely by creeping and crawling in a safe, clean, open, warm and uncluttered area.

(h) Child care workers shall encourage infants and toddlers to play with a wide variety of safe toys and objects.

Infant/toddler rooms are to be equipped with play equipment according to the developmental level of the children in that room. Since children under 2 years of age are not always able to select their own playthings from shelving, this equipment should be made available to them for play.

(j) When infants and toddlers are taken outdoors for a walk, equipment, such as strollers or wagons, shall be provided.

(k) An adult-size rocking chair or other adult-size chair shall be provided for each child care worker.

(3) FEEDING.

(a) Child care workers shall do all of the following:

1. Feed each infant and each toddler on the child's own feeding schedule.

A written authorization signed by the parent and the child's physician is necessary if the child is to be fed on a schedule that is not the child's own schedule.

2. Ensure that food, breast milk, and formula brought from home are labeled with the child's name and the date and are refrigerated, if required.

2m. Ensure each infant and toddler is correctly fed the food, breastmilk, or formula labeled with the infant's or toddler's name.

Breast milk must be labeled with the child's name and dated. A formula container will usually indicate a "use by" date. To ensure that the formula remains in good condition and maintains the required nutritional value, any unused formula MUST be discarded after the "use by" date or by the manufacturer's recommendation on the container, whichever is sooner.

Pre-made bottles should be dated to ensure they are used according to manufacturer's directions.

3. Ensure that food, breast milk, and formula offered to infants and toddlers is consistent with the requirements of the U.S. department of agriculture child and adult care food program.

Note: Information on the meal program requirements of the Child and Adult Care Food Program may be found on the following website, <http://www.fns.usda.gov/cacfp/meals-and-snacks>.

Age-appropriate solid food should not be fed in a bottle unless there is written authorization from the child's physician.

7. Discard leftover milk or formula within 2 hours after each feeding and rinse bottles after use.

At the parent's request, any unused formula or breast milk may be returned to the parent.

Freshly expressed breast milk (not frozen) that has not been served to a child may remain at room temperature for up to 4 hours.

Unused frozen breast milk which has been thawed in the refrigerator should be used within 24 hours; it should never be refrozen.

See Appendix D Resources List: Ten Steps to Breastfeeding Friendly Child Care Centers.

251.09(3)(a)8.

8. Offer drinking water to infants and toddlers, as appropriate, several times daily.

It is recommended that water not be given to infants under six months of age unless authorized by the child's physician. Older infants and toddlers should be offered water several times a day, especially if outside in the summer or in a very hot environment while inside. Offering water at meals, in addition to the required milk or juice, is appropriate.

9. Hold a child who is unable to hold a bottle whenever a bottle is given. Bottles may not be propped.

10. Cover, date and refrigerate commercial baby food containers which are opened and foods prepared in the center which are stored. If not used within 36 hours, leftover food shall be discarded.

11. Hold or place a child too young to sit in a high chair in an infant seat during feeding. Wide-based high chairs, hook-on chairs or infant seats with safety straps shall be provided for children who are not developmentally able to sit at tables and chairs.

Booster seats used in accordance with manufacturer instructions and recommendations meet the highchair requirement.

This requirement for a safety strap is intended to prevent the child from standing up in the high chair and falling out and to prevent a child from slipping down and under the tray. If the highchair or booster seat comes with safety straps, the straps must be used in accordance with manufacturer instructions and recommendations.

12. Encourage children to experiment with self-feeding with their hands and spoons. Eating utensils and cups shall be scaled to the size and developmental level of the children.

13. Offer a variety of nourishing foods to each child according to the child's developmental level and the parent's feeding instructions.

Age-appropriate solid food should not be fed in a bottle unless there is written authorization from the child's physician.

14. Refrain from feeding a child directly from commercial food containers.

If a child is served food directly from a single-use container and only finishes a portion of the food in the container, the leftovers may not be saved for later consumption. Some examples include but are not limited to fruit cups, pudding cups, and applesauce pouches.

15. Refrain from heating breast milk or formula in a microwave oven.

Breast milk should be defrosted in the refrigerator if frozen, and then heated briefly in bottle warmers or under warm running water, so the temperature does not exceed 98.6 degrees F. After warming, bottles should be mixed gently, not shaken.

- (b) Procedures for heating infant formula, milk, and food shall be posted, and child care workers shall follow the posted procedures.

- (c) Infant bottles and nipples may not be reused without first being cleaned and sanitized.

(4) DIAPERING AND TOILETING.

- (a) Child care workers shall do all of the following:

1. Plan toilet training in cooperation with the parent so that a child's toilet routine is consistent between the center and the child's home, except that no routine attempts may be made to toilet train a child under 18 months of age.

2. Change wet or soiled diapers promptly.
3. Change each child on an easily cleanable surface that is cleaned with soap and water and a disinfectant solution after each use. The disinfectant solution shall be registered with the U.S. environmental protection agency as a disinfectant and have instructions for use as a disinfectant on the label. The solution shall be prepared and applied as indicated on the label.

Placement of the diaper changing surface should include consideration of the ability of the person changing the diaper to see the other children in the room or area to be able to provide supervision of all children.

An easily cleanable surface may be a changing table, a plastic covered mat, a plastic covered mattress, or any other surface that is impervious to water and capable of being disinfected. Surfaces that are ripped or torn must be replaced. Providers may not change a child directly on the floor without an easily cleanable protective barrier.

All products must be used in a two-step procedure. First soap and water to rid the surface of any organic material and then the disinfectant is to be used. Products containing both a cleaner and disinfectant, such as Clorox cleanup products, must be applied using the 2-step process. Be sure to follow product label instructions on wait times.

See Appendix D Resources List: Cleaning, Sanitizing and Disinfecting in Child Care Settings.

4. If the diapering surface is above floor level, provide a barrier or restraint to prevent falling. A child may not be left unattended on the diapering surface.
5. Place disposable soiled diapers and gloves, if used, in a plastic-lined, hands-free, covered container immediately.

A hands-free diaper disposal container will prevent the lid of the container from becoming contaminated with bacteria that may be found on the gloves used during the diaper change procedure and in urine and fecal material. Care should be taken to keep children away from the diaper disposal container.

6. Place parent-supplied soiled cloth diapers in labeled plastic bags which are kept separate from other clothing.

Wet bags, bags that are cloth on the outside and plastic-lined on the inside, meet the intent of this rule and no exception is necessary.

Both the Center for Disease Control and the American Academy of Pediatrics recommend that soiled cloth diapers and training pants not be rinsed. The fecal contents may be placed in the toilet, but diapers and training pants should not be rinsed in the toilet.

Bags used for soiled clothes must be kept out of the reach of children.

It is recommended that reusable waterproof coverings (wrap or pullover) used with cloth diapers be changed after every use.

7. Place center-supplied soiled cloth diapers in a plastic-lined, covered container for washing by a commercial diaper service.
8. Remove soiled diapers from containers as needed but at least daily for washing or disposal. Containers shall be washed and disinfected daily.
10. Apply lotions, powders or salves to a child during diapering only at the specific written direction of the child's parent or the child's physician. The directions on use shall be posted in the diaper changing area. Recording the use of lotions, powders or salves during diapering in the medical log book is not required.
11. Wash the child's diaper area before each diapering with a disposable or fabric towel used only once.

251.09(4)(b)

(b) Each self-contained classroom or area serving infants or toddlers who are diapered shall have a sink with hot and cold running water which is not used for food preparation or dishwashing within the room or area.

(c) There shall be a solid barrier between the diapering area and any food preparation area.

The American Academy of Pediatrics recommends that height for a barrier be 8 inches or a distance barrier be 18 inches.

(d) There shall be a supply of diapers sufficient to meet the needs of the children using diapers at the center.

DCF 251.094 Staff in school-age programs.**(1) APPLICABILITY.**

(a) This section applies to group child care centers that serve only school-age children and group child care centers that serve school-age children in groups separate from children who are under 5 years of age.

Children enrolled in a 4-year-old kindergarten as part of a program offered by a local school district may be considered school-age for the purpose of the exceptions to the licensing rule as contained in this section. If the center cares for children under 5 years of age, the staff will be required to complete Abusive Head Trauma Prevention training.

See DCF 251.05 (3) (B) – ABUSIVE HEAD TRAUMA TRAINING.

(b) Except for s. DCF 251.09, all requirements under ss. DCF 251.04 to 251.12 apply to school-age programs in addition to or except as specified in this section and s. DCF 251.095.

(2) SCHOOL-AGE ADMINISTRATOR.

(a) The licensee may act as a school-age administrator. If the licensee does not act as the school-age administrator, the licensee shall designate a person or persons to be the school-age administrator. The school-age administrator shall be responsible for overall organizational management, including personnel, finance, physical plant, and the implementation of policies and procedures.

(b) A school-age administrator, including a licensee that is a school-age administrator, shall meet either the qualifications of an administrator under s. DCF 251.05 (3) (d) 2. to 5. or the qualifications in this subsection.

(c) A school-age administrator shall be at least 21 years of age and have completed high school or its equivalent, as determined by the Wisconsin department of public instruction.

Individuals who have earned a Certificate of General Educational Development (GED) or a High School Equivalency Diploma (HSED) may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

(d) 1. Before a person assumes the position of school-age administrator, the person shall have all the following:

a. At least one year of experience as a manager or satisfactory completion of a department-approved course in business or program administration.

b. One year of experience as a school-age director or satisfactory completion of a noncredit department-approved course or course for credit in school-age child growth and development.

2. Notwithstanding subd. 1., a person is not required to complete the preservice training specified in subd. 1. if the person was employed as an administrator in a school-age program prior to the effective date of this paragraph [March 1, 2023], and met the preservice training requirements at that time.

(e) Within one year after assuming the position, each school-age administrator shall complete at least 10 hours of training in supervision or personnel management if the school-age administrator has not previously received that training. The training may be counted as part of the annual continuing education requirement.

(2m) SCHOOL-AGE ADMINISTRATOR AND SCHOOL-AGE DIRECTOR. An individual may perform the duties of both a school-age administrator under sub. (2) (a) and a school-age director under sub. (3) (a) if the individual meets the qualifications for both positions under subs. (2) (b) to (e) and (3) (b) to (d).

251.094(3)**(3) SCHOOL-AGE DIRECTOR.**

(a) A school-age director shall be responsible for the management and implementation of the program for the school-age children; supervision of the staff, including recruitment, hiring, and training; oversight for regulatory compliance; and development of policies and procedures.

(b) No person may act as the school-age director for more than 5 school-age program sites.

(c) A school-age director shall meet either the qualifications of a center director under s. DCF 251.05 (3) (e) 3. to 5. or all of the following qualifications:

1. Be at least 21 years of age.
2. Have completed high school or its equivalent as determined by the Wisconsin department of public instruction.

Individuals who have earned a Certificate of General Educational Development (GED) or a High School Equivalency Diploma (HSED) may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

3. Have at least 240 hours of experience as a school-age program leader, public or private school teacher, student teacher, coach, camp counselor, mentor in a community-based organization, or equivalent experience in another approved setting.

4. Have completed at least one of the preservice training requirements in Table 251.094 prior to beginning work as a school-age director, except as specified in par. (d). The school-age director shall also complete any additional training requirements in Table 251.094 as provided.

Table 251.094
Director of a school-age program

Preservice training	Additional training
A combination of 2 noncredit department-approved courses in school-age care and 6 credits in leadership, management, education, physical education, community health, child guidance, recreation, psychology, social work, or juvenile justice	Within one year of assuming the position, at least 10 hours in staff supervision or coaching and mentoring
Twelve credits in leadership, management, education, physical education, community health, child guidance, recreation, psychology, social work, or juvenile justice	Within one year of assuming the position, at least 10 hours in staff supervision or coaching and mentoring
Forty-eight credits with at least 2 credits in school-age child growth and development	Within one year of assuming the position, at least 10 hours in staff supervision or coaching and mentoring
The Registry Afterschool & Youth Development Credential	No additional training required
The Registry Child Care Administrator Credential	No additional training required
An associate degree from an accredited institution of higher education	No additional training required
A bachelor's degree from an accredited institution of higher education	No additional training required

Preservice training	Additional training
An educator license issued by the Wisconsin department of public instruction or the appropriate authority in another state to be a kindergarten, early childhood, middle school, or high school regular or special education teacher	No additional training required

Note: The noncredit courses approved by the department to meet the entry-level training requirements for a school-age director are *Introduction to the School-Age Care Profession* and *Skills and Strategies for the School-Age Teacher*. School-age directors may also meet this requirement by completing both *Guiding Behavior of Children in School-Age Programs* and *School-Age Curricular Framework* in place of *Skills and Strategies for the School-Age Teacher*.

(d) A person employed as a director in a school-age program prior to the effective date of this paragraph [March 1, 2023], is not required to complete the preservice training specified in par. (c) 4.

(4) SCHOOL-AGE PROGRAM LEADER.

(a) A school-age program leader shall plan, implement, and supervise the daily activities for a group of children, and is also responsible for communication with families, relations with the community, and coordination with other school-age staff.

(b) A school-age program leader shall meet either the qualifications of a child care teacher under s. DCF 251.05 (3) (f) 2. and 3. or all the following conditions:

1. Be at least 18 years of age.
2. Have completed high school or its equivalent as determined by the Wisconsin department of public instruction.

Individuals who have earned a Certificate of General Educational Development (GED) or a High School Equivalency Diploma (HSED) may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

3. Have at least 240 hours of experience as a group leader, school-age assistant, public or private school teacher, student teacher or practicum, coach, camp counselor, mentor through a community-based organization, or in another approved setting.

(c) Prior to assuming the position, a person hired to be a school-age program leader shall complete or obtain one of the following:

1. Four credits in school-age child growth and development or its equivalent.
2. The first 2 courses of the Registry Afterschool & Youth Development Credential.
3. Two noncredit department-approved courses for school-age program and group leaders.

Note: The noncredit courses approved by the department to meet the entry level training requirements for a school-age program leader are *Introduction to the School-Age Care Profession* and *Skills and Strategies for the School-Age Teacher*. School-age program leaders may also meet this requirement by completing both *Guiding Behavior of Children in School-Age Programs* and *School-Age Curricular Framework* in place of *Skills and Strategies for the School-Age Teacher*.

4. One noncredit department-approved course and 2 credits in education, physical education, community health, child guidance, recreation, psychology, social work, or juvenile justice.

Note: The noncredit course approved by the department to meet the entry level training requirement for a school-age program leader in combination with 2 credits is *Introduction to the School-Age Care Profession*.

A bachelor's degree from an accredited institution of higher education meets the qualifications for a school-age program leader.

251.094(5)**(5) SCHOOL-AGE GROUP LEADER.**

(a) A school-age group leader shall work under the supervision of a school-age program leader.

(b) A school-age group leader shall work with the program leader to plan, implement, and supervise the daily activities for a group of children.

(c) A school-age group leader shall meet either the qualifications of an assistant child care teacher under s. DCF 251.05 (3) (g) 2. or 3. or meet all the following conditions:

1. Be at least 18 years of age.

17-year-olds may work as a school-age group leader if they meet all education qualifications of an Assistant Child Care Teacher.

2. Have completed high school or its equivalent as determined by the Wisconsin department of public instruction.

Individuals who have earned a Certificate of General Educational Development (GED) or a High School Equivalency Diploma (HSED) may obtain a copy of the certificate through the Department of Public Instruction here: <https://dpi.wi.gov/ged/transcripts>.

3. Have satisfactorily completed one of the following within 6 months after assuming the position:

a. A noncredit department-approved course in school-age care.

Note: Introduction to the School-Age Care Profession is the noncredit course approved by the department to meet the entry level training requirements for a school-age group leader.

b. Two credits in school-age child growth and development or its equivalent.

c. The first course of the Registry Afterschool & Youth Development Credential.

A bachelor's degree from an accredited institution of higher education meets the qualifications for a school-age group leader.

(6) SCHOOL-AGE PROGRAM AIDE.

(a) A school-age program aide shall work under the direction and supervision of a school-age program leader.

(b) A person who is a school-age program aide shall be at least 16 years of age.

(c) A school-age program aide shall either meet the qualifications of a program aide under s. DCF 251.05 (3) (gm) 3. or have satisfactorily completed at least one of the following within 6 months after assuming the position:

1. An assistant child care teacher training program approved by the Wisconsin department of public instruction.

2. At least 10 hours of training approved by the department in the care of school-age children.

3. A noncredit department-approved course in school-age care.

Note: Introduction to the School-Age Care Profession is the noncredit course approved by the department to meet the entry-level training requirements for a school-age program aide.

DCF 251.095 Additional requirements, modifications, and exceptions for school-age programs.**(1m) APPLICABILITY.**

(a) This section applies only to group child care centers that serve only school-age children and group child care centers that serve school-age children in groups separate from children who are under 5 years of age.

If the center transports the children, the child is considered in care at the time they get in the vehicle.

(b) Except for s. DCF 251.09, all requirements under ss. DCF 251.04 to 251.12 apply to school-age programs in addition to or except as specified in this section and s. DCF 251.094.

Experience as a paraprofessional in a school may be used to meet the experience requirement.

Department-approved training means training that has been submitted to the regional licensing office and evaluated on a case-by-case basis to determine whether it meets this requirement.

Other settings that may be approved as experience are generally positions with regulatory oversight, including:

- *Public, private, or parochial school teacher*
- *Student teacher*
- *Substitute teacher*
- *Employment in ECE and school-age programs within schools*
- *Certified child care provider*
- *Mentoring or tutoring through a community-based organization*
- *Out of state experience in any of the above*

Babysitting and nannying will not be approved.

Please contact the regional licensing office to discuss specific situations; see Appendix A for contact information. Include the name of the program where experience was obtained, the age group worked with, the general description of duties performed, and the approximate number of hours of experience.

A center director of a school-age only program licensed to care for 50 or fewer children who has a 4-year degree in education or recreation is not required to obtain 1 course in The Registry Administrator Credential.

A center director of a school-age only program licensed to care for 51 or more children who has a 4-year degree in education or recreation is not required to obtain The Registry Administrator Credential.

*A school-age child care teacher may meet entry-level requirements by completing *Introduction to the School-Age Care Profession, Guiding Children's Behavior in Afterschool Programs, and School Age Curricular Framework*. For more information on these courses, visit the Wisconsin Afterschool Network's webpage at <https://www.wiafterschoolnetwork.org/en/Courses>.*

The 10 hours of training in the care of school-age children required for a school-age assistant child care worker may not be used to meet entry-level training requirements for a school-age teacher or center director. Experience gained as a school-age assistant child care worker may be counted towards the experience requirement. See Appendix D Resources List: Entry Level – School-Age Professionals and Entry Level – Early Childhood Professional

251.095(2m)

(2m) SUPERVISION. All of the following modify or are in addition to the requirements in s. DCF 251.055 (1):

(a) A school-age program shall be responsible for the health, safety, and well-being of a school-age child between the time the child arrives at the school-age program and the time the child is released to the child's parent or to another activity that is specifically authorized in writing by the child's parent.

(b) Notwithstanding s. DCF 251.055 (1) (a), each child 7 years of age and older shall be supervised by a school-age program leader or child care teacher who is within sight or sound of the child to guide the child's behavior and activities, prevent harm, and ensure safety, except as provided in pars. (d) to (f).

Note: DCF 251.055 (1) (a) requires sight and sound supervision.

(c) Notwithstanding s. DCF 251.055 (1) (b), at least one school-age program leader or child care teacher shall supervise each group of school-age children, except as provided in pars. (d) and (e).

(d) Notwithstanding s. DCF 251.055 (1) (c), a school-age group leader who has completed the training required under s. DCF 251.094 (5) (c) 3. or an assistant child care teacher who has completed the training required under DCF 251.05 (3) (g) 2. and is age 18 or over may provide sole supervision for a group of school-age children for no more than 45 minutes if there is a qualified school-age program leader or child care teacher on the premises.

(e) A child 7 years of age or older may be authorized by the child care worker supervising the child to participate in program-sponsored activities in a school-age program away from the direct supervision of the assigned child care worker.

See DCF 251.055 (1) (A) – *SUPERVISION OF CHILDREN*.

School-age children under age 7 must be supervised by a child care worker at all times.

This rule permits children 7 years of age or older to be outside the sight and sound supervision of a child care worker if they are engaged in center-sponsored activities, such as using the bathroom, allowing a child to work on homework in an adjacent room, sending a child to another classroom with a message for a child care worker, etc. The licensing rules that require a child care worker to know the whereabouts of children at all times remains in effect. At no time should staff allow any child or group of children to be in jeopardy by not knowing where they are or what they are doing.

(f) A child 7 years of age and older may move between groups of children if a tracking method is implemented to ensure that the assigned child care worker knows the whereabouts of the child.

See DCF 251.055 (1) (F) – *CHILD TRACKING PROCEDURE*.

With a parent's written agreement, a child may be excused from the center to assist a teacher in a classroom or attend a social group meeting, such as scouts, in the school building. The Alternate Arrival/Release Agreement form may be used to secure the parent's agreement for these types of activities.

(g) When 9 or more children are on a field trip, there shall be at least 2 child care workers accompanying the children and the staff-to-child ratios in Table DCF 251.055 shall be maintained. Notwithstanding s. DCF 251.055 (2) (j), at least one of the child care workers shall be a school-age program leader or a child care teacher.

251.095(2m)(h)

(h) A school-age program shall have on file an agreement, signed by the parent, that specifies the attendance schedule to be followed and authorizes the child's release to activities away from the school-age program.

Note: The licensee may use either the department's form, DCF-F-CFS0104-E, Alternate Arrival/Release Agreement – Child Care Centers, or the licensee's own form for securing the parent's signed agreement. The form is available at <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

(3m) ADDITIONAL REQUIREMENTS FOR MEALS AND SNACKS. In addition to the requirements on meals, snacks, and food service in s. DCF 251.07 (5), the following provisions apply to school-age programs:

(a) All children attending a school-age program when a meal or snack is served shall be offered the meal or snack.

(b) School-age children present after school shall be served a snack.

(4m) EXCEPTIONS FOR SCHOOL-AGE PROGRAMS. The following provisions do not apply to school-age programs:

(a) Section DCF 251.06 (2) (b), only regarding protection of electrical outlets. All other protective measures in s. DCF 251.06 (2) (b) apply.

(b) Section DCF 251.06 (11) (b) 7., regarding a permanent enclosure of outdoor play space. If hazards exist, such as traffic or bodies of water, the boundaries of outdoor play space shall be known to the children.

(c) Section DCF 251.07 (3) (e) and (h), regarding shelves and storage space for clothing and personal belongings.

(5m) EXCEPTIONS AND MODIFICATIONS FOR SCHOOL-AGE PROGRAMS IN SCHOOL BUILDINGS.

(a) *Exceptions.* The following requirements do not apply to school-age programs in school buildings that are currently in use as school buildings:

1. Section DCF 251.04 (6) (a) 6m., relating to documentation of a school-age child's immunization records, only if the school-age program has approved access to the school's vaccination records.

2. Section DCF 251.06 (1) (a), relating to maintaining a building inspection report.

3. Section DCF 251.06 (2) (n), relating only to the requirement that garbage containers be covered. All other requirements of s. DCF 251.06 (2) (n) shall be met.

4. Section DCF 251.06 (2) (o), relating to the requirement that windows and doors used for ventilation be screened.

5. Section DCF 251.06 (2) (p), relating to radon testing.

6. Section DCF 251.06 (4) (a), relating to fire extinguishers.

7. Section DCF 251.06 (4) (jm) 2., relating to testing or monitoring smoke detectors and fire alarms.

8. Section DCF 251.06 (6) (b), relating to testing private well water.

9. Section DCF 251.06 (11) (b) 5., relating to the requirement for an energy absorbing surface on playgrounds to a depth of at least 9 inches.

(b) *Modifications.* Notwithstanding ss. DCF 251.04 (3) (h) and (L) and 251.05 (2) (a), the following modified versions of the specified provisions apply to school-age programs in school buildings that are currently in use as school buildings:

1. Section DCF 251.04 (3) (h), except that the licensee shall report 10 days prior to the change instead of 20 days.

2. Section DCF 251.04 (3) (L), except that the licensee shall report any construction or remodeling on the premises that has the potential to affect an area accessible to children or a condition of the license in writing at least 10 working days before the construction or remodeling begins.

251.095(5m)(b)3.

3. Section DCF 251.05 (2) (a), except that the licensee shall maintain a file on each employee or contracted employee. The file shall be available for examination by the licensing representative at the location of the school-age program within 2 hours after the request and shall include all of the following:

Note: The required records may be in an electronic format at the school-age program site.

DCF 251.10 Additional requirements for night care.

(1) APPLICABILITY. Group child care centers that operate during any period of time between 10:00 p.m. and 5:00 a.m. shall comply with the additional requirements of this section.

(2) GENERAL REQUIREMENTS.

(a) A center offering night care may serve no more than 20 children at any one time between 10:00 p.m. and 5:00 a.m. unless the building is equipped with emergency lighting supplied by a stand-by power source.

(b) When the same premises is used for the operation of both day care and night care, the number of children during any overlapping of the day care and night care periods may not exceed the maximum licensed capacity of the center.

(c) Minimum staff-to-child ratios and group sizes as specified in s. DCF 251.055 (2) shall be maintained during night care.

(d) All child care workers on duty shall remain awake, available, within call and able to respond to the needs of the children during night care.

(e) The parent or center shall provide each child in night care with an individually labeled sleeping garment and a toothbrush.

(3) PROGRAM.

(a) Child care staff shall work with a child's parent to coordinate how the child spends his or her time during night care at the center with the family's schedule.

(b) A center offering night care shall provide a self-contained room away from sleeping children where an awake child can engage in activities.

(c) An evening and morning schedule of program activities shall be planned for the hours that children in night care are awake.

(d) School-age children shall have an opportunity to read or do school work.

(4) PREVENTIVE MEASURES.

(a) Child care workers shall be given training in techniques of evacuating sleeping children in an emergency during orientation to the job.

(b) Centers operating during hours of darkness shall provide emergency lighting, such as an operable flashlight, for each self-contained room used by children.

(c) Fire evacuation drills shall be practiced during night care hours at least 2 times per year.

(5) FEEDING.

(a) Breakfast shall be served to all children in care for the night, unless the parent specifies otherwise.

(b) A nighttime snack shall be available to all children in care.

(c) A child present at the time the evening meal is served shall be served the evening meal.

(6) SLEEP.

(a) Children who attend the center for the evening hours but not the whole night shall have an opportunity to sleep, as needed.

(b) Sleep routines for individual children shall be based on information provided by the parents.

(c) A bed, crib or cot with sheets and blankets or a sleeping bag, individual to each child, shall be provided in night care.

(d) The center shall maintain a supply of extra sleeping garments and bedding for emergencies and accidents.

(e) Children under 2 years of age in night care shall sleep in cribs.

See DCF 251.03 (8r) – *DEFINITION – CRIB*. Manufacturer's specifications for height and weight of children using cribs must be followed.

DCF 251.11 Licensing administration.**(1) GENERAL CONDITIONS FOR APPROVAL OF LICENSE.**

(a) A facility that provides care on a regular basis to 9 or more children under the age of 7 years shall be deemed to be providing care for compensation and shall be licensed as a group child care center.

(b) Prior to receiving a license, an applicant for a license under this chapter shall complete all application forms truthfully and accurately and pay all fees and forfeitures due to the department.

(c) The department may refuse to issue or continue a license if another center operated by the licensee is in substantial non-compliance with the licensing rules or has any outstanding fine or forfeitures.

(d) Persons licensed to operate a group child care center shall be responsible, mature individuals who are fit and qualified. In determining whether an applicant is fit and qualified, the department 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 the group child care center. A determination of being unfit and unqualified includes substantiated findings of child abuse or neglect under ch. 48, Stats., or substantiated abuse under ch. 50, Stats., or under similar statutes in another state or territory whether or not it results in a criminal charge or conviction.

(e) The department shall issue a group child care license to an applicant within 60 working days after receipt and department approval of a properly completed application, satisfactory department investigation and determination that the applicant is fit and qualified. Continued licensure requires a licensee to remain fit and qualified.

(f) If the department has reason to believe that the physical or mental health of any person associated with the care of children at the center or any household resident of the center might endanger children in care, the department may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional that shall certify the condition of the individual and the possible effect of that condition on the group child care center or the children in care.

(g) The department may deny or revoke the license if the examination specified under par. (f) gives the department reasonable concern for the care of children.

(h) The department may not process an application for a license if the applicant has had a license or certification to operate a child care center revoked or denied within the last 2 years. An applicant is deemed ineligible to submit an application for a license and a licensee may not hire an employee within 2 years from the date an applicant or employee had a child care license revoked or denied.

(i) The department shall consider a licensee who fails to submit any of the materials described in sub. (3) or (4) by the expiration or continuation date of a license to have surrendered his or her license and to no longer hold title to the license. The former licensee may not continue to operate the child care center.

(2) INITIAL APPLICATION FOR A PROBATIONARY LICENSE.

(a) An applicant for a license shall participate in pre-licensing technical assistance towards the completion of the initial licensing study checklist with a representative of the department prior to submitting an application for a license.

Note: 1. Information on how to obtain pre-licensing technical assistance is available from the appropriate Division of Early Care and Education regional office in Appendix A. The department will provide the application form to a license applicant upon completion of the pre-licensing technical assistance.

2. An initial licensing study checklist includes a list of those licensing rules that must be met before a license can be issued. A copy of the checklist is available from a representative of the department or from the appropriate regional office in Appendix A.

251.11(2)(b)

(b) An applicant for a license shall submit an application at least 60 days before the date proposed for the center to begin operating.

(c) An applicant for an initial license shall include all the following with the application form:

1. The license fee required under s. 48.65 (3) (a), Stats.
2. a. A background check request form completed by the applicant.
- b. If the applicant is a limited liability company, background check request forms completed by all members of the limited liability company.
- c. If the center is or will be located in a residence, background check request forms completed by all household members 10 years of age and above.
3. A statement from a representative of the department that details the results of any pre-licensing technical assistance.
4. A statement from the applicant that indicates the center is in compliance with all applicable items in this chapter.
5. A copy of all the policies required under s. DCF 251.04 (2) (h) and a completed copy of the group child care policy checklist provided by the department.

Note: Information on how to obtain a copy of the Group Child Care Policy Checklist is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

5g. The articles of incorporation and by-laws if the licensee is organized as a corporation, association or cooperative. If the licensee is a limited liability company, articles of organization and the operating agreement, if applicable, shall be submitted.

5r. A written delegation of administrative authority signed by the licensee. The delegation of administrative authority shall describe the organizational structure of the center and identify by position or name, those persons on the premises who are in charge of the center for all hours of operation.

5u. Results of water tests if the center has a private well.
5x. Results of a vehicle safety inspection if the center will transport children.
6. Any other materials determined by the department as necessary to complete the department's licensing investigation.

(d) Upon submission of a complete application, the department shall conduct an investigation to determine whether the applicant is eligible for a license.

(e) If the department determines that the applicant is eligible for a license, the department shall issue a probationary license having a 6-month duration. A probationary license may be renewed for one 6-month period.

(f) If the department determines that an application does not comply with the applicable requirements of this chapter or the department's investigation determines that the applicant is not eligible for a license, the department may deny the application.

(3) OBTAINING A REGULAR LICENSE.

(a) At least 30 days before the expiration date of a probationary license, an applicant for license renewal shall submit to the department the following materials:

1. A completed license application.
3. The license renewal fee under s. 48.65 (3) (a), Stats., applicable fees for child care background checks, and any unpaid forfeiture under s. 48.715 (3) or 49.155 (7m) (a) 3., Stats., and any penalty under s. 48.76, Stats.
4. Any changes to center policies, if not previously submitted.
5. Any changes to the delegation of administrative authority if not previously submitted.
6. Any other materials determined by the department as necessary to complete the department's licensing investigation.

251.11(3)(b)

(b) If the department determines that the applicant has met the minimum requirements for a license under this chapter, and if the applicant has paid the applicable fees under ss. 48.65 and 48.686, Stats., any unpaid forfeiture under s. 48.715 (3) (a) or 49.155 (7m) (a) 3., Stats., and any unpaid penalty under s. 48.76, Stats., the department shall issue a regular license.

(4) CONTINUING A REGULAR LICENSE.

(a) A regular license shall be valid indefinitely, unless suspended or revoked by the department or surrendered by the licensee. The department shall review a regular license every 2 years after the date of issuance.

(b) At least 30 days before the continuation review date of the license, an applicant for license renewal shall submit to the department the following materials:

1. A completed license continuation application.
3. The license renewal fee under s. 48.65 (3) (a), Stats., applicable fees for child care background checks under s. 48.686, Stats., and unpaid forfeiture under s. 48.715 (3) or 49.155 (7m) (a) 3., Stats., and any unpaid penalty under s. 48.76, Stats.
4. Any changes to center policies, if not previously submitted.
5. Any changes to the delegation of administrative authority if not previously submitted.
- 5g. Results of water tests if the center has a private well.
- 5r. Results of a vehicle safety inspection if the center will transport children.
6. Any other materials determined by the department as necessary to complete the department's licensing investigation.

Note: The department will supply a copy of the form, License Application – Group Child Care Centers, prior to the continuation date of the license.

(c) If the department determines that the licensee has met the minimum requirements for a license under this chapter, has paid the applicable fees under ss. 48.65 and 48.66, Stats., any unpaid forfeiture under s. 48.715(3)(a) or 49.155(7m)(a)3., Stats., and any unpaid penalty under s. 48.76, Stats., the department shall continue the license for an additional 2 years.

(5) AMENDING A LICENSE.

(a) A licensee shall submit to the department a written request for an amendment to the license if the licensee wishes to change any of the following aspects of the license:

1. A change in the licensed capacity of the center.
2. The age range of the children.
3. The hours of the center's operation.
4. The days of the week the center is in operation.
5. The months of the year the center is in operation.
6. The name of the center.

(b) A licensee may not make a change that affects a condition of the license under par. (a) without the prior written approval of the department.

(c) A licensee may not move the center to a new location or change ownership of the center without notifying the department at least 30 days prior to the change. A new application and license is required when a center moves or changes ownership.

Note: The department's form, License Application – Group Child Care Centers, is used to apply for a new license. The department will provide an application when notified by the licensee that the center will move to a new location.

(d) A licensee proposing to increase the licensed capacity of a center shall demonstrate compliance with this chapter in the operation of the existing center and compliance with rules for any other facility licensed by the department and operated by the licensee.

(6) ADDITIONAL LICENSE. A licensee applying for a license for an additional center location shall demonstrate compliance with this chapter in the operation of the existing center he or she operates and compliance with rules for any other facility licensed by the department and operated by the licensee. The licensee shall pay any fines, forfeitures or other fees due and owing under s. 48.715, Stats., or s. 48.65, Stats., on other facilities licensed by the department before the department issues an additional license.

(7) LICENSE DENIAL OR REVOCATION.

(a) The department may deny, revoke or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on a license if the applicant or licensee, a proposed or current employee, a volunteer or any other person having regular contact with the children, has 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 center.
2. Convicted of a felony, misdemeanor or other offense or action that substantially relates to the care of children or activities of the center.
3. Determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the center.
4. The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. DHS 129.10.
5. The subject of a court finding that the person has abandoned his or her child, has inflicted sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter for his or her child or ward or a child in his or her care so as to seriously endanger the physical health of the child.
6. Had a child care license or certification revoked or denied within the last 5 years.
7. Violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.
8. Made false statements or withheld information.

Note: Examples of charges and offenses the department will consider in making a determination under this paragraph that an act substantially relates to the care of children are: abuse or neglect of a child; sexual assault; abuse of a resident of a facility; a crime against life and bodily security; kidnapping; abduction; arson of a building or of property other than a building; robbery; receiving stolen property from a child; a crime against sexual morality, such as enticing a minor for immoral purposes or exposing a minor to harmful materials; and interfering with the custody of a child. The list is illustrative. Other types of offenses may be considered.

(b) The department may deny, revoke, refuse to renew or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on the license if the applicant or licensee is not fit and qualified as determined under sub. (1).

Note: See DCF 251.03 (11g) for the definition of "fit and qualified." Examples of charges, actions or offenses the department will consider in making a determination under this paragraph that an act substantially relates to the care of children include the following: abuse or neglect of a child; sexual assault; abuse of a resident of a facility; a crime against life and bodily security; kidnapping; abduction; arson of a building or of property other than a building; robbery; receiving stolen property from a child; a crime against sexual morality, such as enticing a minor for immoral purposes or exposing a minor to harmful materials, interfering with the custody of a child. The list is illustrative. Other types of offenses may be considered.

251.11(7)(c)

(c) The department shall deny or refuse to continue or revoke a license if the applicant or licensee has failed to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or for the failure of the applicant or licensee to comply, after appropriate notices, with a subpoena or warrant issued by the department or a county child support agency under s. 59.53 (5), Stats., and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857, Stats.

Notwithstanding s. 48.72, Stats., an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857, Stats., and not as provided in s. 48.72, Stats.

(d) The department shall deny an application for the issuance or continuation of a license or revoke a license if the department of revenue certifies under s. 73.0301, Stats., that the applicant or licensee is liable for delinquent taxes. An action taken under this subsection is subject to review only as provided under s. 73.0301(5), Stats., and not as provided in s. 48.72, Stats.

(8) EFFECT OF NOTICE TO DENY OR REVOKE A LICENSE.

(a) 1. If the department decides under sub. (7) to deny the grant of a license or to revoke a license, the department shall notify the applicant or licensee in writing of its decision and the reasons for that decision.

2. If the department revokes a license, the effective date of the revocation shall be either immediately or 30 days after the date of the notice, based on the criteria under s. 48.715 (4m) (a) and (b), Stats., unless the decision is appealed under sub. (10).

(b) Upon receipt of the notice in par. (a) and during any revocation or denial procedures that may result, a group child care center may not accept for care any child not enrolled and in care as of the date of receipt of the notice without the written approval of the department.

(9) SUMMARY SUSPENSION OF A LICENSE.

(a) Under the authority of s. 227.51 (3), Stats., the department shall summarily suspend a license and close a group child care center when the department finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect into its order. A finding of a requirement for summary suspension of the license may be based on any of the following:

1. Failure of the licensee to provide environmental protections for the children, such as heat, water, electricity or telephone service.

2. The licensee, an employee, a volunteer or any other person in regular contact with the children in care has been convicted of or has a pending charge for a crime against life or bodily security.

3. The licensee, an employee, a volunteer or any other person in regular contact with the children in care has been convicted of a felony, misdemeanor or other offense that substantially relates to the care of children or activities of the center or has a pending charge that substantially relates to the care of children or activities of the center.

4. The licensee, employee, volunteer or any other person in regular contact with the children in care is the subject of a current investigation for alleged child abuse or neglect pursuant to s. 48.981, Stats., or has been determined by a child protective services agency or law enforcement agency to have abused or neglected a child.

5. The licensee or a person under the supervision of the license has committed an action or has created a condition relating to the operation or maintenance of the child care center that directly threatens the health, safety or welfare of any child under the care of the licensee.

(b) An order summarily suspending a license and closing a group child care center may be a verbal order by a licensing representative of the department. Within 72 hours after the order takes effect, the department shall either permit the reopening of the center or proceed under sub. (7) or (8) to revoke the license. A preliminary hearing shall be conducted by the department of administration's division of hearings and appeals, within 10 working days after the date of the initial order to close, on the issue of whether the license shall remain suspended during revocation proceedings.

(10) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE. Any person aggrieved by the department's decision to deny a probationary or regular license or to revoke a license may request a hearing on that decision under s. 227.42, Stats. The request for a hearing shall be in writing and submitted to the department of administration's division of hearings and appeals. The request for a hearing shall be sent to the division of hearings and appeals within 10 days after the date of the notice under sub. (8).

Note: A request for a hearing may be mailed to Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875 or faxed to (608) 264-9885. A copy of the request should be sent to the appropriate regional licensing office listed in Appendix A.

DCF 251.12 Complaints, inspections and enforcement actions.**(1) COMPLAINTS.**

(a) Anyone having a complaint about a licensed or illegally operating group child care center may submit that complaint to the department by telephone, letter or personal interview. A representative of the department shall investigate every complaint. If requested by the complainant, the department shall provide the complainant a written report of the investigation findings.

Note: A complaint should be sent, phoned or delivered to the appropriate Division of Children and Family Services regional office listed in Appendix A.

(b) The licensee may not discharge an employee because that employee has reported violations of this chapter to the representative of the department.

(2) INSPECTION. Pursuant to s. 48.73, Stats., the department may visit and inspect any group child care center at any time during licensed hours. A department licensing representative shall have unrestricted access to the premises identified in the license, including access to children in care, staff and child records, and any other materials or individuals with information on the group child care center's compliance with this chapter.

(3) ENFORCEMENT ACTION. The department may order any sanction or impose any penalty on a licensee in accordance with s. 48.686, 48.715, or 48.76, Stats.

DCF 251.13 Programs established or contracted for by school boards.

(1) A child care program established or contracted for by a school board under s. 120.13 (14), Stats., shall comply with the applicable standards for group child care centers under this chapter.

(2) The department shall annually inspect each child care program established or contracted for by a school board under s. 120.13 (14), Stats., that receives payment under s. 49.155, Stats., for the child care provided, and document in writing whether or not the child care program complies with this chapter.

APPENDIX A
REGIONAL OFFICES OF THE DIVISION OF EARLY CARE AND EDUCATION

The Department of Children and Families licenses child care centers through five Division of Early Care and Education regional offices. Below are addresses and phone numbers of the regional offices and the counties and tribes within each region.

REGIONS	COUNTIES AND TRIBES
Northeastern Regional Office 200 North Jefferson, Suite 411 Green Bay, WI 54301 Gen: (920) 785-7811 Fax: (920) 785-7869	<u>Counties</u> : Brown, Calumet, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Ozaukee, Shawano, Sheboygan, Washington, Waupaca, Waushara, Winnebago <u>Tribes</u> : Menominee, Oneida, Stockbridge-Munsee, Ho-Chunk
Northern Regional Office 2187 North Stevens Street, Suite C Rhineland, WI 54501 Gen: (715) 361-7700 Fax: (715) 365-2517	<u>Counties</u> : Ashland, Bayfield, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Sawyer, Taylor, Vilas, Wood <u>Tribes</u> : Bad River, Lac Courte Oreille, Lac du Flambeau, Red Cliff, Sokaogon, Forest County Potawatomi, Ho-Chunk
Southeastern Regional Office 635 N 26 th Street Milwaukee, WI 53233 Gen: (262) 446-7800 Fax: (262) 446-7991	<u>Counties</u> : Kenosha, Milwaukee, Racine, Waukesha
Southern Regional Office 201 W Washington Avenue P.O. Box 8947 Madison, WI 53708 Gen: (608) 422-6765 Fax: (608) 422-6766	<u>Counties</u> : Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Juneau, Lafayette, Richland, Rock, Sauk, Walworth <u>Tribes</u> : Ho-Chunk
Western Regional Office 610 Gibson Street, Suite 2 Eau Claire, WI 54701 Gen: (715) 930-1148 Fax: (715) 930-1139	<u>Counties</u> : Barron, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Jackson, LaCrosse, Monroe, Pepin, Pierce, Polk, Rusk, St. Croix, Trempealeau, Vernon, Washburn <u>Tribes</u> : Ho-Chunk

APPENDIX B
KEY STATUTES RELATED TO LICENSING OF CHILD CARE CENTERS

This appendix is based upon the 2019-20 Wisconsin Statutes updated through 2021 Wis. Act 74 and through all Supreme Court and Controlled Substances Board Orders filed before and in effect on August 5, 2021. Only pertinent portions of the statutes are included here and were obtained at docs.legis.wisconsin.gov. Action by the legislature may result in changes to these statutes. Only printed volumes are Official Text under s. 35.18(2), Wis. Stats.

48.02 Definitions. [2021]

(8) "Guardian" means the person named by the court having the duty and authority of guardianship.

(13) "Parent" means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, "parent" includes a person conclusively determined from genetic test results to be the father under s. 767.804 or a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. "Parent" does not include any person whose parental rights have been terminated. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "parent" means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian child, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person conclusively determined from genetic test results to be the father under s. 767.804, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father, or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

(15) "Relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, step-uncle, step-aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in s. 48.028 (2) (am), whether by blood, marriage, or adoption, including adoption under tribal law or

custom. For purposes of placement of a child, "relative" also includes a parent of a sibling of the child who has legal custody of that sibling.

48.48 Authority of department. [2021] The department shall have authority: (10) To license child welfare agencies and child care centers as provided in s. 48.66(1)(a).

48.65 Child care centers licensed; fees. [2017]

(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 child care center from the department. To obtain a license under this subsection to operate a child care center, a person must meet the minimum requirements for a license established by the department under s. 48.67, meet the requirements specified in s. 48.686, and pay the license fee under sub. (3). A license issued under this subsection is valid until revoked or suspended, but shall be reviewed every 2 years as provided in s. 48.66 (5).

(2) This section does not include any of the following:

(a) A parent, grandparent, great-grandparent, step-parent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood, marriage, or legal adoption, who provides care and supervision for the child.

(am) A guardian of a child who provides care and supervision for the child.

(b) A public or parochial school or a tribal school.

(c) A person employed to come to the home of the child's parent or guardian for less than 24 hours a day.

(d) A county, city, village, town, school district or library that provides programs primarily intended for recreational or social purposes.

(3) (a) Except as provided in par. (c), before the department may issue a license under sub. (1) to a child care center that provides care and supervision for 4 to 8 children, the child care center must pay to the department a biennial fee of \$60.50. Except as provided in par. (c), before the department may issue a license under sub. (1) to a child care center that provides care and supervision for 9 or more children, the child care center must pay to the department a biennial fee of \$30.25, plus a biennial

fee of \$16.94 per child, based on the number of children that the child care center is licensed to serve. A child care center that wishes to continue a license issued under sub. (1) shall pay the applicable fee under this paragraph by the continuation date of the license. A new child care center shall pay the applicable fee under this paragraph no later than 30 days before the opening of the child care center.

(b) A child care center that wishes to continue a license issued under par. (a) and that fails to pay the applicable fee under par. (a) by the continuation date of the license or a new child care center that fails to pay the applicable fee under par. (a) by 30 days before the opening of the child care center shall pay an additional fee of \$5 per day for every day after the deadline that the child care center fails to pay the fee.

(c) An individual who is eligible for a fee waiver under the veterans fee waiver program under s. 45.44 is not required to pay a fee under par. (a) for a license under sub. (1).

48.66 Licensing duties of the department. [2019]

(1)(a) Except as provided in s. 48.715 (6) and (7), the department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities, as required by s. 938.22, and child care centers, as required by s. 48.65. The department may license foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74. The department may supervise a child care program established or contracted for under s. 120.13 (14) that receives payment under s. 49.155 for the child care provided. In the discharge of this duty the department may inspect the records and visit the premises of all child welfare agencies, group homes, shelter care facilities, and child care centers and visit the premises of all foster homes in which children are placed. The department may also inspect the records and visit the premises of all child care programs established or contracted for under s. 120.13 (14) that receive payment under s. 49.155 for the child care provided.

(c) A license issued under par. (a) or (b), other than a license to operate a foster home or secured residential care center for children and youth, is valid until revoked or suspended. A license issued under this subsection to operate a foster home or secured residential care center for children and youth may be for any term not to exceed 2 years from the date of issuance. No license issued under par. (a) or (b) is transferable.

(2) The department shall prescribe application forms to be used by all applicants for licenses from it. The application forms prescribed by the

department shall require that the social security numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility, or child care center who are individuals, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as required under sub. (2m) (a) 2., be provided and that the federal employer identification numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility, or child care center who are not individuals be provided.

(2m)(a)1. Except as provided in subd. 2., the department shall require each applicant for a license under sub. (1) (a) to operate a child welfare agency, group home, shelter care facility, or child care center who is an individual to provide that department with the applicant's social security number, and shall require each applicant for a license under sub. (1) (a) to operate a child welfare agency, group home, shelter care facility, or child care center who is not an individual to provide that department with the applicant's federal employer identification number, when initially applying for or applying to continue the license.

2. If an applicant who is an individual does not have a social security number, the applicant shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number. The form of the statement shall be prescribed by the department. A license issued in reliance upon a false statement submitted under this subdivision is invalid.

(b) If an applicant who is an individual fails to provide the applicant's social security number to the department or if an applicant who is not an individual fails to provide the applicant's federal employer identification number to the department, that department may not issue or continue a license under sub. (1) (a) to operate a child welfare agency, group home, shelter care facility, or child care center to or for the applicant unless the applicant is an individual who does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under par. (a) 2.

(c) The subunit of the department that obtains a social security number or a federal employer identification number under par. (a) 1. may not disclose that information to any person except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227 or on the request of the subunit of the department that administers the child and spousal

support program under s. 49.22 (2m).

(3) The department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

(5) A child welfare agency, group home, child care center, or shelter care facility license, other than a probationary license, is valid until revoked or suspended, but shall be reviewed every 2 years after the date of issuance as provided in this subsection. At least 30 days prior to the continuation date of the license, the licensee shall submit to the department an application for continuance of the license in the form and containing the information that the department requires. If the minimum requirements for a license established under s. 48.67 are met, the application is approved, the applicable fees referred to in ss. 48.68 (1), 48.685 (8), and 48.686 (2) (ag) are paid, and any forfeiture under s. 48.715 (3) (a) or penalty under s. 48.76 that is due is paid, the department shall continue the license for an additional 2-year period, unless sooner suspended or revoked. If the application is not timely filed, the department shall issue a warning to the licensee. If the licensee fails to apply for continuance of the license within 30 days after receipt of the warning, the department may revoke the license as provided in s. 48.715 (4) and (4m) (b).

48.67 Rules governing child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments.

[2015] The department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees. The department shall consult with the department of safety and professional services, the department of public instruction, and the child abuse and neglect prevention board before promulgating those rules. For foster homes, those rules shall include the rules promulgated under s. 48.62 (8). Those rules shall include rules that require all of the following:

(1) That all child care center licensees, and all employees and volunteers of a child care center, who provide care and supervision for children under one year of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome. The rules shall provide that any training in those methods that a licensee has

obtained in connection with military service, as defined in s. 111.32 (12g), counts toward satisfying the training requirement under this subsection if the licensee demonstrates to the satisfaction of the department that the training obtained in that connection is substantially equivalent to the training required under this subsection.

(2) That all child care center licensees, and all employees and volunteers of a child care center, who provide care and supervision for children under 5 years of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, the training relating to shaken baby syndrome and impacted babies required under s. 253.15 (4) (a) or (c).

(3) (a) That all child care center licensees, and all employees of a child care center, who provide care and supervision for children have current proficiency in the use of an automated external defibrillator, as defined in s. 256.15 (1) (cr), achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03 (38) to provide such instruction or through instruction obtained by the licensee in connection with military service, as defined in s. 111.32 (12g), if the licensee demonstrates to the satisfaction of the department that the instruction obtained in that connection is substantially equivalent to the instruction provided by a person approved under s. 46.03 (38).

48.68 Investigation of applicant; issuing of license. [2017]

(1) After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license adopted by the department under s. 48.67 and meets the requirements specified in s. 48.685 or 48.686, whichever is applicable. In determining whether to issue or continue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety, and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 48.615(1)(a) or (b), 48.625(2)(a), 48.65(3)(a), or 938.22(7)(b), the department shall issue a license under s. 48.66(1)(a) or, if applicable, a probationary license under s. 48.69 or, if applicable, shall continue a license under s. 48.66(5). At the time of initial licensure and license renewal, the department shall provide a foster home licensee with written information relating to the monthly foster care rates and supplemental payments specified in s.

48.62(4), including payment amounts, eligibility requirements for supplemental payments, and the procedures for applying for supplemental payments.

48.686 Criminal history and child abuse record search; child care. [2019]

(1) In this section:

(ac) "Approval" means a child care center license under s. 48.65, a child care provider certification under s. 48.651, or a contract with a child care provider under s. 120.13(14).

(ag) "Caregiver" means any of the following:

1. An employee or contractor of a child care program who is involved in the care or supervision of clients.

1m. A person who has direct contact and unsupervised access to clients of a child care program.

2. A person who has, or is seeking, a license, certification, or contract to operate a child care program.

(aj) "Child care program" means a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14), a child care provider that is certified under s. 48.651, or a temporary employment agency that provides caregivers to another child care program.

(am) "Client" means a person who receives direct care from a child care program, from an entity under s. 48.685(1)(b) or from a caregiver specified in s. 48.685(1)(ag)1.am., including all of the following:

1. An adopted child for whom adoption assistance payments are being made under s. 48.975.

2. A child for whom subsidized guardianship payments are being made under s. 48.623.

3. A person who is 18 to 21 years old, is receiving independent living services under 42 USC 677(a) from an agency, is no longer placed in out-of-home care, and is residing in the foster home in which he or she was previously placed.

(bm) "Household member" means a person who is age 10 or older, who resides, or is expected to reside, at a child care program, and who is not a client of the child care program or caregiver.

(bo) "Licensing entity" means all of the following:

1. The department when licensing a child care center under s. 48.65.

2. The department in a county with a population of 750,000 or more, a county department, or an agency or Indian tribe contracted with under s. 48.651(2) when certifying a child care provider under s. 48.651.

3. A school board when contracting with a child care provider under s. 120.13(14).

(bp) "Noncaregiver employee" means a person who provides services to a child care program as

an employee or a contractor and is not a caregiver, but whose work at the child care program provides the ability to move freely throughout the premises and opportunities for interactions with clients of the child care program.

(br) "Reservation" means land in this state within the boundaries of a reservation of a tribe or within the bureau of Indian affairs service area for the Ho-Chunk Nation.

(c) "Serious crime" means any of the following:

1. A violation of s. 940.12, 940.22(2) or (3),

940.285(2), 940.29, 940.295, or 942.09(2).

2. A violation of s. 940.302(2) if s.

940.302(2)(a)1.b. applies.

3. An offense under ch. 948 that is a felony, other than a violation of s. 948.22(2).

4. A violation of s. 940.19(3), 1999 stats., or of s. 940.19(2), (4), (5), or (6) or 940.20(1) or (1m), if the victim is the spouse of the person.

5. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225(1), (2), or (3), 940.23, 940.305, 940.31, 941.20(2) or (3), 941.21, 943.02, 943.03, 943.04, 943.10(2), 943.32(2), 948.081, 948.21, 948.215, or 948.53(2)(b)1.

6. Only for a caregiver, as defined in par. (ag)2., a violation of s. 943.201, 943.203, or 943.38(1) or (2); a violation of s. 943.34(1), 943.395(1), 943.41(3)(e), (4)(a), (5), (6), or (6m), 943.45(1), 943.455(2), 943.46(2), 943.47(2), 943.50(1m), or 943.70(2)(a) or (am) or (3)(a) that is a felony; or an offense under subch. IV of ch. 943 that is a felony.

7. A violation of sub. (2) or s. 48.685(2), (3), (4m)(b), or (6), 2015 stats., if the violation involves the provision of false information to or the intentional withholding of information from, the department, a county department, an agency contracting under s. 48.651(2), a school board, or a child care program.

8. An offense involving fraudulent activity as a participant in the Wisconsin Works program under ss. 49.141 to 49.161, including as a recipient of a child care subsidy under s. 49.155, or as a recipient of aid to families with dependent children under s. 49.19, medical assistance under subch. IV of ch. 49, food stamps benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, or health care benefits under the Badger Care health care program under s. 49.665.

9. A violation of s. 125.075(1), 125.085(3)(a)2., 125.105(2)(b), 125.66(3), 125.68(12), 940.09, 940.19(2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207, 940.25, or 943.23(1g), a violation of s. 346.63(1), (2), (5), or (6) that is a felony under s. 346.65(2)(am)4., 5., 6., or 7. or (f), (2j)(d), or (3m), or an offense under ch. 961 that is a felony.

10. A violation of s. 948.22(2), unless the person has paid all arrearages due and is meeting his or her current support obligations.

11. A violation of the law of any other state or United States jurisdiction that would be a violation listed in subd. 1. to 10. if committed in this state.

12. A violation of the laws of another state or United States jurisdiction that if committed in this state would constitute felony battery under s. 940.19(2), (4), (5), or (6) or 940.20, a felony offense of domestic abuse, as defined in s. 813.12(1)(am), a sex offense or a violent crime under ch. 948, or a violation of s. 940.225 if the victim was a child.

(2)(a) A licensing entity shall require any person who applies for an initial approval to operate a child care program to submit the information required for a background check request under par. (ag). If the licensing entity is a school board, county department, or contracted agency or tribe, the licensing entity shall submit the completed background information request to the department.

(ab) Each child care program shall submit a request to the department for a background check for each potential caregiver, noncaregiver employee, and household member prior to the date on which an individual becomes a caregiver, noncaregiver employee, or household member, and at least once during every 5-year period for each existing caregiver, noncaregiver employee, or household member, except if all of the following apply to the individual:

1. The individual has received a background check as described in par. (am) while working or seeking work with another child care program within the state within the last 5 years.

2. The department provided to the child care program under subd. 1. a qualifying background check result for the individual.

3. The individual works or resides at a child care program within the state or has been separated from work or residence at a child care program within the state for a period of not more than 180 consecutive days.

(ag)1. A request for a background check to the department under par. (a) or (ab) shall be in the manner and on forms prescribed by the department, and shall include all of the following:

a. Fingerprints of the subject that meet the standards of the department.

b. Any additional information that the department deems necessary to perform the background check.

2. A request for a background check is considered submitted on the day that the department receives all of the information required under subd. 1.

3. The requester of a background check under this paragraph shall submit all fees required by the

department pursuant to the instructions provided by the department, not to exceed the actual cost of conducting the background check.

(am) Upon receipt of a request submitted under par. (a) or (ab), the department shall obtain all of the following with respect to the individual who is the subject of the request:

1. A fingerprint-based or name-based criminal history search from the records maintained by the department of justice.

2. Information that is contained in the registry under s. 146.40(4g) regarding any findings against the person.

3. Information maintained by the department of safety and professional services regarding the status of the person's credentials, if applicable.

4. Information maintained by the department regarding any final determination under s. 48.981(3)(c)5m. or, if a contested case hearing is held on such a determination, any final decision under s. 48.981(3)(c)5p. that the person has abused or neglected a child.

5. Information maintained by the department of health services under s. 48.685 regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity or a child care program, for a reason specified in s. 48.685(4m)(a)1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity or a child care program for a reason specified in s. 48.685(4m)(a)1. to 5.

6. Information that is contained in the sex offender registry under s. 301.45 regarding whether the person has committed a sex offense that is a serious crime.

7. A fingerprint-based criminal history search using the federal bureau of investigation next generation identification.

8. A search of the national crime information center's national sex offender registry.

9. A search of the following registries, repositories, or databases in the state where the caregiver or nonclient resident resided for the period starting on the date 5 years prior to the department's receipt of the background check request and ending on the date the department received the background check request:

a. The state criminal registry or repository.

b. The state sex offender registry or repository.

c. The state-based child abuse and neglect registry and database.

10. A search of the department's background check records.

(ar) After receiving a request under par. (a) or (ab), the department shall conduct the background check as expeditiously as possible and shall make a good faith effort to complete all components of the background check no later

than 45 days after the date on which the request was submitted.

(bb) If information obtained under par. (am) indicates a charge of a serious crime, but does not completely and clearly indicate the final disposition of the charge, the department shall make every reasonable effort to contact the clerk of courts to determine the final disposition of the charge. If information submitted to the department under par. (ag) indicates a charge or a conviction of a serious crime, but information obtained under par. (am) does not indicate such a charge or conviction, the department shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and the final disposition of the complaint. If information obtained under par. (am), information submitted under par. (ag), or any other information indicates a conviction of a violation of s. 940.19(1), 940.195, 940.20, 941.30, 942.08, 947.01(1), or 947.013 obtained not more than 5 years before the date on which that information was obtained, the department shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

(bd) Notwithstanding par. (am), the department is not required to obtain the information specified in par. (am)1. to 10., with respect to a household member under 18 years of age whose background check request under par. (ag) indicates that the household member is not ineligible to be permitted to reside at a child care program for a reason specified in sub. (4m)(a)1. to 8. and with respect to whom the department otherwise has no reason to believe that the person is ineligible to be permitted to reside at the child care program for any of those reasons. This paragraph does not preclude the department from obtaining, at its discretion, the information specified in par. (am)1. to 10. with respect to a household member described in this paragraph.

(br) The department shall require the person who is the subject of a search under par. (am) to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies, unless the person has previously been fingerprinted under this paragraph.

(3)(am) Every year or at any time that the department considers appropriate, the department may request the information specified in sub. (2)(am)1. to 5. for all caregivers, noncaregiver employees, and household members.

(bm) Annually, by January 1, the department shall submit a report to the appropriate standing committees of the legislature under s. 13.172(3) describing the report prepared under sub. (4p)

(a) with respect to caregivers specified in sub. (1)(ag)2., specifically any information indicating that the caregiver is ineligible under sub. (4m)(a) to be licensed, certified, or contracted to operate a child care program, and describing any action taken in response to the receipt of information under sub. (2)(am) indicating that such a caregiver is so ineligible.

(4)(a) A child care program that violates sub. (2), (3), or (4m)(a) is subject to a forfeiture of not more than \$1,000 and to other sanctions specified by the department by rule.

(b) A person who provides false information to the department under sub. (2) is subject to a forfeiture of not more than \$1,000 and to other sanctions specified by the department by rule.

(4m)(a) Notwithstanding s. 111.335, and except as provided in par. (ad) and sub. (5), a licensing entity may not issue an approval to operate a child care program to a person, and a child care program may not employ or contract with a caregiver or noncaregiver employee or permit a household member to reside at the child care program if the licensing entity or child care program knows or should have known any of the following:

1. That the person has been convicted of a serious crime or adjudicated delinquent for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime.

2. That the person is registered or is required to be registered on a state sex offender registry or repository or the national sex offender registry.

3. That a unit of government or a state agency, as defined in s. 16.61(2)(d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.

4. That a final determination has been made under s. 48.981(3)(c)5m. or, if a contested case hearing is held on such a determination, a final decision has been made under s. 48.981(3)(c)5p. that the person has abused or neglected a child.

5. That the department has determined the person ineligible to receive an approval to operate a child care program, to be employed by a child care program, or to be a household member of a child care program.

6. That the person has refused to provide information under sub. (2)(ag), or that the person refused to participate in, cooperate with, or submit required information for the background check described in sub. (2)(am), including fingerprints.

7. That the person knowingly made a materially false statement in connection with the person's background check described in sub. (2).

8. That the person knowingly omitted material information requested in connection with the person's background check conducted under sub. (2).

(ad) A licensing entity may issue an approval to operate a child care program to a person conditioned on the receipt of the information specified in sub. (4p)(a) indicating that the person is not ineligible to be so licensed, certified, or contracted with for a reason specified in par. (a)1. to 8.

(c) A child care program may employ or contract with a potential caregiver or noncaregiver employee or permit a potential household member to reside at the child care program for up to 45 days from the date a background check request is submitted to the department pending the completion of the department's report under sub. (4p)(a) if the department provides a preliminary report under sub. (4p)(c) to the child care program indicating that the individual is not ineligible to work or reside at a child care program. At all times that clients of a child care program are present, an individual who received a qualifying result on a background check described in sub. (2)(am) within the past 5 years must supervise a potential caregiver, noncaregiver employee, or household member permitted to work or reside at the child care program under this paragraph.

(4p)(a) The department shall provide the results of the background check to the child care program in a written report that indicates only that the individual on whom the background check was conducted is eligible or ineligible for employment or to reside at the child care program, without revealing any disqualifying offense or other information regarding the individual.

(b) The department shall provide the results of the background check to the individual on whom the background check was conducted in a written report that indicates whether the individual is eligible or ineligible for employment or to reside at the child care program. If the individual is ineligible for employment or to reside at the child care program, the department's report shall include information on each disqualifying offense and information on the right to appeal.

(c) Before the department completes its report under par. (a), a caregiver under sub. (1)(ag)2. may submit a written request to the department for a preliminary report indicating whether a potential caregiver, noncaregiver employee, or household member is eligible to work or reside at a child care program under sub. (4m)(c). If the department receives such a request, it shall provide a written preliminary report to that caregiver indicating whether the individual is barred from working or residing at a child care program on the basis of a background check under sub. (2)(am)1. or 7. If the individual is ineligible to work or reside at a child care program based on the results of the preliminary report, the department shall also provide a preliminary report

to the individual containing information related to each disqualifying offense.

(d) The results of a report under par. (c) may not be appealed by the individual until receipt of the department's report under par. (b) following completion of all components of the background check.

(4s)(a) An individual who is the subject of the department's report on the results of a background check may appeal the department's decision. Only the person who is the subject of the department's report may appeal the department's decision. Neither the child care program nor any other person may appeal the department's decision.

(b) An appeal request shall be submitted to the department at the address, e-mail address, or fax number identified in the statement of appeal rights no later than 10 days after the date of the department's decision, unless the appellant requests, and the department grants, an extension for a specific amount of time prior to expiration of the 10 day appeal period. Extensions may be granted for good cause shown.

(c) An appeal shall be submitted in the manner and on forms prescribed by the department, and must include all of the following information:

1. The information or issue disputed by the individual.

2. Any information known to the individual, or available to the individual through the exercise of reasonable diligence, that supports the individual's position.

3. The current or last known names, addresses, telephone numbers, and electronic mail addresses of any persons known or believed to have information relevant to determination of the appeal.

4. Copies of any documents or other materials in the possession of the individual, or reasonably available to the individual, that support the individual's position regarding the disputed information.

(e) The department shall attempt to verify the accuracy of the information challenged by the appellant, including making reasonable good faith efforts to locate any missing information regarding the disqualifying crime that is relevant to the issue identified for appeal.

(f) The department shall sustain the results of its background check report if supported by a preponderance of the available evidence.

(g) The department shall issue its appeal decision in writing. If the results of the original report are sustained upon review, the decision shall indicate the department's efforts to verify the accuracy of the information challenged by the individual. The decision shall also indicate any additional reconsideration and appeal rights

available to the appellant.

(h) An appellant under this subsection may seek reconsideration of the department's decision under par. (g) by the secretary or the secretary's designee.

(i) A request for reconsideration detailing the basis for the request must be sent to the secretary at the address, e-mail address, or fax number identified in the department's decision no later than 30 days after the date of the department's decision.

(j) The secretary or secretary's designee shall issue his or her reconsideration decision in writing and shall include information about any additional appeal rights available to the individual.

(k) A denial of reconsideration under this subsection is a final decision of the department, and the appellant has a right to a contested case hearing under ch. 227.

(L) The appeal and reconsideration process set forth in this subsection is the exclusive method for disputing a criminal history background report issued by the department. The department's decision may not be appealed in a ch. 68 or 227 proceeding challenging the denial of a license, certification, or contract to operate a child care program based on the department's criminal history background check report or challenging any other child care regulatory action taken in reliance upon that report.

(m) Notwithstanding s. 19.35, the department may not publicly release or disclose the results of any individual background report it issues, except that the department may release aggregated data by crime as listed in sub. (1)(c) from background check results so long as the data does not contain personally identifiable information. The department may disclose and use information obtained in conducting background checks as necessary during an appeal or reconsideration under this subsection or for another lawful purpose.

(5)(a) A person may have the opportunity to demonstrate his or her rehabilitation to the department or to a tribe authorized to conduct a rehabilitation review under sub. (5d) if any of the following apply:

1. An investigation under sub. (2)(am) indicates that sub. (4m)(a)2., 3., or 4. applies to the person.

2. An investigation under sub. (2)(am) indicates that the person has been convicted or adjudicated delinquent of a serious crime as specified under sub. (1)(c)9. or for a violation of the law of any other state or United States jurisdiction that would be a violation listed in sub. (1)(c)9. if committed in this state, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, more than 5 years

before the date of the investigation under sub. (2)(am).

(b) If the department or tribe determines that the person has demonstrated rehabilitation in accordance with procedures established by the department by rule or by the tribe and by clear and convincing evidence, the prohibition in sub. (4m)(a) does not apply.

(5c) Any person who is permitted but fails under sub. (5)(a) to demonstrate to the department that he or she has been rehabilitated may appeal to the secretary or his or her designee. Any person who is adversely affected by a decision of the secretary or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

(5d)(a) Any Indian tribe that chooses to conduct rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation review plan that includes all of the following:

1. The criteria to be used to determine if a person has been rehabilitated.

2. The title of the person or body designated by the Indian tribe to whom a request for review must be made.

3. The title of the person or body designated by the Indian tribe to determine whether a person has been rehabilitated.

3m. The title of the person or body, designated by the Indian tribe, to whom a person may appeal an adverse decision made by the person specified under subd. 3. and whether the Indian tribe provides any further rights to appeal.

4. The manner in which the Indian tribe will submit information relating to a rehabilitation review to the department so that the department may include that information in its report to the legislature required under sub. (5g).

5. 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.

(b) If, within 90 days after receiving the plan, the department does not disapprove the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the department disapproves the plan, the department shall provide notice of that disapproval to the Indian tribe in writing, together with the reasons for the disapproval. The department may not disapprove a plan unless the department finds that the plan is not rationally related to the protection of clients. If the department disapproves the plan, the Indian tribe may, within 30 days after receiving notice of the disapproval, request that the secretary review the department's decision. A final decision under this paragraph is not subject to further review under ch. 227.

(5g) On January 1 of each year, the department

shall submit a report to the legislature under s. 13.172(2) that specifies the number of persons in the previous year who have requested to demonstrate that they have been rehabilitated under sub. (5), the number of persons who successfully demonstrated that they have been rehabilitated under sub. (5), and the reasons for the success or failure of a person who has attempted to demonstrate that he or she has been rehabilitated.

(5m) Notwithstanding s. 111.335, a licensing entity may refuse to issue an approval to operate a child care program to a person, and a child care program may refuse to employ or contract with a caregiver or noncaregiver employee or permit a household member to reside at the child care program if the person has been convicted of or adjudicated delinquent for an offense that is not a serious crime, but that is, in the estimation of the department, substantially related to the care of a client. The department shall notify the provider and the individual of the results of a substantially related determination pursuant to the process set forth in sub. (4p) for background check determinations. The individual shall have the same appeal rights as set forth in sub. (4s), and the same appeal procedures apply.

(7) The department shall conduct throughout the state periodic training sessions that cover procedures and uses of background investigations; reporting and investigating misappropriation of property or abuse or neglect of a client; and any other material that will better enable entities to comply with the requirements of this section.

(8) The department may promulgate any rules necessary for the administration of this section.

History: 2017 a. 59; 2017 a. 364 s. 49; 2019 a. 9; s. 35.17 correction in (1)(c)12. In this case, the revocation of the petitioner's license under the caregiver law did not violate the petitioner's due process rights because the state provided adequate post-deprivation remedies. Petitioner's equal protection claim failed because the law does pass the rational basis test. Regardless of whether the law is rationally related to the goal of protecting children, the law is rationally related to the legitimate purpose of prohibiting individuals who dishonestly benefitted from government welfare in the past from obtaining government funding in the form of childcare subsidies. *Brown v. Department of Children and Families*, 2012 WI App 61, 341 Wis. 2d 449, 819 N.W.2d 827, 11-1350. See also *Blake v. Jossart*, 2016 WI 57, 370 Wis. 2d 1, 884 N.W.2d 484, 12-2578.

Jamerson, 2013 WI 7, instructs that prior to establishing that a conviction satisfies the requirements of s. 48.685(5)(br)5. [now sub. (1)(c)8.], evidence must clearly show that the

conviction was for fraudulent activity. The title of the conviction and an uncorroborated criminal complaint presented at the administrative appeal hearing were insufficient to meet this standard. *Blake v. Racine County Human Services Department*, 2013 WI App 45, 347 Wis. 2d 499, 831 N.W.2d 439, 12-0031.

NOTE: The above annotations relate to licensure under the caregiver law under s. 48.685, stats., prior to the repeal of that section and the creation of s. 48.686 by 2017 Wis. Act 59.

48.69 Probationary licenses. [2009] Except as provided under s. 48.715(6) and (7), if any child welfare agency, shelter care facility, group home, or child care center that has not been previously issued a license under s. 48.66(1)(a) applies for a license, meets the minimum requirements for a license established under s. 48.67, and pays the applicable fee referred to in s. 48.68(1), the department shall issue a probationary license to that child welfare agency, shelter care facility, group home, or child care center. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 48.715. Before a probationary license expires, the department shall inspect the child welfare agency, shelter care facility, group home, or child care center holding the probationary license and, except as provided under s. 48.715(6) and (7), if the child welfare agency, shelter care facility, group home, or child care center meets the minimum requirements for a license established under s. 48.67, the department shall issue a license under s. 48.66(1)(a). A probationary license issued under this section may be renewed for one 6-month period.

48.70 Provisions of licenses. [2009]

(1) GENERAL. Each license shall state the name of the person licensed, the premises included under the license, the maximum number of children who can be received and their age and sex and such additional information and special conditions as the department may prescribe.

48.715 Sanctions and penalties. [2021]

(1) In this section, "licensee" means a person who holds a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, shelter care facility, group home, or child care center.

(2) If the department provides written notice of the grounds for a sanction, an explanation of the types of sanctions that may be imposed under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

(a) That a person stop operating a child welfare

agency, shelter care facility, group home, or child care center if the child welfare agency, shelter care facility, group home, or child care center is without a license in violation of s. 48.66(1)(a) or a probationary license in violation of s. 48.69.

(b) That a person who employs a person who has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent or employee.

(c) That a licensee stop violating any provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67.

(d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67.

(e) That a licensee implement and comply with a plan of correction provided by the department or previously submitted by the licensee and approved by the department.

(f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70(1) and the rules promulgated by the department under s. 48.658(4)(a) or 48.67 are corrected.

(g) That a licensee provide training for the licensee's staff members as specified by the department.

(3) If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection, and an explanation of the process for appealing a penalty imposed under this subsection, the department may impose any of the following penalties against a licensee or any other person who violates a provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67 or who fails to comply with an order issued under sub. (2) by the time specified in the order:

(a) A daily forfeiture amount per violation of not less than \$10 nor more than \$1,000. All of the following apply to a forfeiture under this paragraph:

1. Within the limits specified in this paragraph, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of facility or agency and the seriousness of the violation. The department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under sub. (2).

2. The department may directly assess a forfeiture imposed under this paragraph by

specifying the amount of that forfeiture in the notice provided under this subsection.

3. A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. 48.72, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subdivision to the secretary of administration for deposit in the school fund.

4. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this paragraph that has not been paid as provided in subd. 3. The only contestable issue in an action under this subdivision is whether or not the forfeiture has been paid.

(b) Suspension of the licensee's license for not more than 2 weeks.

(c) Refusal to continue a license or a probationary license.

(d) Revocation of a license or a probationary license as provided in sub. (4).

(4) If the department provides written notice of revocation and the grounds for revocation as provided in sub. (4m) and an explanation of the process for appealing a revocation under this subsection, the department may revoke a license issued under s. 48.66(1)(a) or a probationary license issued under s. 48.69 for any of the following reasons:

(a) The department has imposed a penalty on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section forming any part of the basis for the penalty.

(b) The licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section.

(c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the child welfare agency, shelter care facility, group home, or child care center that directly threatens the health, safety, or welfare of any child under the care of the licensee.

(d) The licensee or a person under the supervision of the licensee has violated, as

determined by the department, a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section that is the same as or similar to a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section that the licensee or a person under the supervision of the licensee has violated previously.

(e) The licensee has failed to apply for a continuance of the license within 30 days after receipt of the warning under s. 48.66(5).

(4g)(a) If a person subject to a background check under s. 48.686 (2) who operates, works at, or resides at a child care center is convicted or adjudicated delinquent for committing a serious crime, or if the results of a background check conducted under s. 48.686 indicate that the caregiver, household member, or noncaregiver employee is not eligible to be licensed, certified, employed, or permitted to reside at a child care program, the department shall revoke the license of the child care center immediately upon providing written notice of revocation and the grounds for revocation and an explanation of the process for appealing the revocation.

(b) If a person subject to a background check under s. 48.686 (2) who operates, works at, or resides at a child care center is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime, the department shall immediately suspend the license of the child care center until the department obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to operate, work at, or reside at a child care center.

(4m)(a) For a revocation under sub. (4)(a) or (d), the department shall provide to the licensee written notice of the revocation and the grounds for revocation not less than 30 days before the date of the revocation. The revocation will take effect only if the violation on which the revocation is based remains substantially uncorrected at the end of the 30-day notice period.

(b) For revocations under sub. (4)(b), (c) or (e), the department may revoke the license or probationary license immediately upon written notice to the licensee of the revocation and the grounds for revocation.

(5) The department may deny a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to any person who has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years.

(6) The department shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(a) or a probationary

license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or child care center, and the department of corrections shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(b) to operate a secured residential care center for children and youth, for failure of the applicant or licensee to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department or a county child support agency under s. 59.53(5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding s. 48.72, an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in s. 48.72.

(7) The department shall deny an application for the issuance or continuation of a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or child care center, or revoke such a license already issued, if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes or if the department of workforce development certifies under s. 108.227 that the applicant or licensee is liable for delinquent unemployment insurance contributions. An action taken under this subsection is subject to review only as provided under s. 73.0301(5) or 108.227(5) and not as provided in s. 48.72.

48.72 Appeal procedure. [2005] Except as provided in s. 48.715(6) and (7), any person aggrieved by the department's refusal or failure to issue, renew, or continue a license or by any action taken by the department under s. 48.715 has the right to an administrative hearing provided for contested cases in ch. 227. To receive an administrative hearing under ch. 227, the aggrieved person shall send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the department's refusal or failure to issue, renew, or continue a license or the department's action taken under s. 48.715. The department shall hold an administrative hearing under s. 227.44 within 30 days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had by any party in the contested case as provided in ch. 227.

48.73 Inspection of licensees and school district child care programs. [2021] The department may visit and inspect each child welfare agency, foster home, group home, and child care center licensed by the department and each entity certified by the department under s. 48.675, and for that purpose shall be given unrestricted access to the premises described in the license or certification. The department may visit and inspect each child care program established or contracted for under s. 120.13 (14) that receives payment under s. 49.155 for the child care provided, and for that purpose shall be given unrestricted access to the premises used for the child care program.

48.735 Immunization requirements; child care centers. [2009] The department, after notice to a child care center licensee, may suspend, revoke, or refuse to continue a child care center license in any case in which the department finds that there has been a substantial failure to comply with the requirements of s. 252.04.

48.737 Lead screening, inspection and reduction requirements; child care centers. [2009] The department, after notice to a child care provider certified under s. 48.651, or a child care center that holds a license under s. 48.65 or a probationary license under s. 48.69, may suspend, revoke, or refuse to renew or continue a license or certification in any case in which the department finds that there has been a substantial failure to comply with any rule promulgated under s. 254.162, 254.168, or 254.172.

48.74 Authority of department to investigate alleged violations. [1979] Whenever the department is advised or has reason to believe that any person is violating any of the provisions of ss. 48.60, 48.62, 48.625 or 48.65, it shall make an investigation to determine the facts. For the purposes of this investigation, it shall have authority to inspect the premises where the violation is alleged to occur. If it finds that the person is violating any of the specified sections, it may either issue a license if the person is qualified or may institute a prosecution under s. 48.76.

48.76 Penalties. [1993] In addition to the sanctions and penalties provided in s. 48.715, any person who violates s. 48.60, 48.62, 48.625, 48.63 or 48.65 may be fined not more than \$500 or imprisoned for not more than one year in county jail or both.

48.77 Injunction against violations. [1979] In addition to the penalties provided in s. 48.76, the circuit courts shall have jurisdiction to prevent and restrain by injunction violations of s. 48.60, 48.62, 48.625, 48.63 or 48.65. It shall be the duty of the district attorneys, upon request of the department,

to institute action for such injunction under ch. 813.

48.78 Confidentiality of records. [2017]

(1) **Definition.** In this section, unless otherwise qualified, "agency" means the department, a county department, a licensed child welfare agency, or a licensed child care center.

(2) Confidentiality; exceptions.

(a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38(5)(b) or (d) or (5m)(d), 48.396(3)(bm) or (c)1r., 48.432, 48.433, 48.48(17)(bm), 48.57(2m), 48.66(6), 48.93, 48.981(7), 938.396(2m)(c)1r., 938.51, or 938.78 or by order of the court.

(ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the request of the child, if 14 years of age or over, to the parent, guardian, legal custodian, or child, unless the agency determines that inspection of the record by the child, parent, guardian, or legal custodian would result in imminent danger to anyone.

(aj) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of a parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, upon the request of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, or upon the request of an unborn child's guardian ad litem, to the parent, guardian, legal custodian, expectant mother, or unborn child's guardian ad litem, unless the agency determines that inspection of the record by the parent, guardian, legal custodian, expectant mother, or unborn child's guardian ad litem would result in imminent danger to anyone.

(am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the written permission of the child, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian, or child specifically identifies the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(ap) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing

the contents of a record, upon the written permission of the parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, or of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, and of the unborn child's guardian ad litem, to the person named in the permission if the parent, guardian, legal custodian, or expectant mother, and unborn child's guardian ad litem, specifically identify the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a health care provider, as defined in s. 146.81(1)(a) to (p), a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396(1) and 938.396(1)(a). A health care provider that obtains information under this paragraph shall keep the information confidential as provided under s. 146.82. A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125, and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125. Paragraph (a) does not apply to the confidential exchange of information between an agency and officials of a tribal school regarding an individual in the care or legal custody of the agency if the agency determines that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125.

(c) Paragraph (a) does not prohibit the department or a county department from using in the media a picture or description of a child in the guardianship of the department or a county department for the purpose of finding adoptive parents for that child.

(d) Paragraph (a) does not prohibit the department of health services or a county department from disclosing information about an individual formerly in the legal custody or under the supervision of that department under s. 48.34(4m), 1993 stats., or formerly under the

supervision of that department or county department under s. 48.34(4n), 1993 stats., to the department of corrections, if the individual is at the time of disclosure any of the following:

1. The subject of a presentence investigation under s. 972.15.
2. Under sentence to the Wisconsin state prisons under s. 973.15.
3. On probation to the department of corrections under s. 973.09.
4. On parole under s. 302.11 or ch. 304 or on extended supervision under s. 302.113 or 302.114.

(e) Notwithstanding par. (a), an agency shall, upon request, disclose information to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the information involves or relates to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning information made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. 980.

(g) Paragraph (a) does not prohibit an agency from disclosing information about an individual in its care or legal custody on the written request of the department of safety and professional services or of any interested examining board or affiliated credentialing board in that department for use in any investigation or proceeding relating to any alleged misconduct by any person who is credentialed or who is seeking credentialing under ch. 448, 455 or 457. Unless authorized by an order of the court, the department of safety and professional services and any examining board or affiliated credentialing board in that department shall keep confidential any information obtained under this paragraph and may not disclose the name of or any other identifying information about the individual who is the subject of the information disclosed, except to the extent that redisclosure of that information is necessary for the conduct of the investigation or proceeding for which that information was obtained.

(h) Paragraph (a) does not prohibit the department, a county department, or a licensed child welfare agency from entering the content of any record kept or information received by the department, county department, or licensed child welfare agency into the statewide automated child

welfare information system established under s. 48.47(7g) or the department from transferring any information maintained in that system to the court under s. 48.396(3)(bm). If the department transfers that information to the court, the court and the director of state courts may allow access to that information as provided in s. 48.396(3)(c)2.

(i) Paragraph (a) does not prohibit an agency from disclosing information to a relative of a child placed outside of his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative or from disclosing information under s. 48.21(5)(e), 48.355(2)(cm), or 48.357(2v)(d). In this paragraph, "relative" includes a relative whose relationship is derived through a parent of the child whose parental rights are terminated.

(j) Paragraph (a) does not prohibit an agency from disclosing information to any public or private agency in this state or any other state that is investigating a person for purposes of licensing the person to operate a foster home or placing a child for adoption in the home of the person.

(k) Paragraph (a) does not prohibit the department of children and families from providing to the department of revenue, upon request, information concerning a recipient of payments under s. 48.57(3m) or (3n) or aid under s. 48.645, including information contained in the electronic records of the department of children and families, solely for the purposes of administering state taxes, including verifying a claim for a state tax refund or a refundable state tax credit, and collecting debts owed to the department of revenue. Any information obtained by the department of revenue under this paragraph is subject to the confidentiality provisions specified in s. 71.78.

(L)1. In this paragraph, "qualified independent researcher" means a faculty member of a university who satisfies all of the following:

a. The faculty member has an approved protocol from an institutional review board for human subjects research to work with data containing personal information for the purposes of evaluating the program under s. 119.23.

b. The faculty member has received from the state and properly managed data containing personal information for the purposes of evaluating the program under s. 119.23 before July 14, 2015.

2. Notwithstanding par. (a), the department shall permit a qualified independent researcher to have access to any database maintained by the department for the purpose of cross-matching information contained in any such database with a database that both is in the possession of the qualified independent researcher and contains

information regarding pupils participating in the program under s. 119.23. The department may charge a fee to the qualified independent researcher for the information that does not exceed the cost incurred by the department to provide the information.

48.981 Abused or neglected children and abused unborn children. [2021]

(2) PERSONS REQUIRED TO REPORT.

(a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under subs. (2m) and (2r), report as provided in sub. (3):

1. A physician.
2. A coroner.
3. A medical examiner.
4. A nurse.
5. A dentist.
6. A chiropractor.
7. An optometrist.
8. An acupuncturist.
9. A medical or mental health professional not otherwise specified in this paragraph.
10. A social worker.
11. A marriage and family therapist.
12. A professional counselor.
13. A public assistance worker, including a financial and employment planner, as defined in s. 49.141(1)(d).
14. A school teacher.
15. A school administrator
16. A school counselor.
- 16m. A school employee not otherwise specified in this paragraph.
17. A mediator under s. 767.405.
18. A child care worker in a child care center, group home, or residential care center for children and youth.
19. A child care provider.
20. An alcohol or other drug abuse counselor.
21. A member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42, or 51.437 or a residential care center for children and youth.
22. A physical therapist.
- 22m. A physical therapist assistant.
23. An occupational therapist.
24. A dietitian.
25. A speech-language pathologist.
26. An audiologist.
27. An emergency medical services practitioner.
28. An emergency medical responder, as defined in s. 256.01(4p).

- 29. A police or law enforcement officer.
- 30. A juvenile correctional officer.
- (e) No person making a report under this subsection in good faith may be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment for so doing.

(3) REPORTS; INVESTIGATION.

- (a) Referral of report.
- 1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.

(4) IMMUNITY FROM LIABILITY. Any person or institution participating in good faith in the making of a report, conducting an investigation, ordering or taking of photographs or ordering or performing medical examinations of a child or of an expectant mother under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child.

(6) PENALTY. Whoever intentionally violates this section by failure to report as required may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

66.1017 Family child care homes. [2009]

(1) In this section:

(a) "Family child care home" means a dwelling licensed as a child care center by the department of children and families under s. 48.65 where care is provided for not more than 8 children.

(b) "Municipality" means a county, city, village or town.

(2) No municipality may prevent a family child care home from being located in a zoned district in which a single-family residence is a permitted use. No municipality may establish standards or requirements for family child care homes that are different from the licensing standards established under s. 48.65. This subsection does not prevent a municipality from applying to a family child care home the zoning regulations applicable to other dwellings in the zoning district in which it is located.

73.0301 License denial, nonrenewal, discontinuation, suspension and revocation based on tax delinquency. [2017]

(2) DUTIES AND POWERS OF LICENSING DEPARTMENTS.

(a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4)(a) that requires the licensing department or supreme court to do all of the following:

1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1)(d)7.

2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision.

(b) Each licensing department and the supreme court, if the supreme court agrees, shall do all of the following:

1. a. If, after a request is made under par. (a)1. or 2., the department of revenue certifies that the license holder or applicant for a license or license renewal or continuation is liable for delinquent taxes, revoke the license or deny the application for the license or license renewal or continuation. The department of transportation may suspend licenses described in sub. (1)(d)7. in lieu of revoking those licenses. A suspension, revocation or denial under this subd. 1. a. is not subject to administrative review or, except as provided in subd. 2. and sub. (5)(am), judicial review. With respect to a license granted by a credentialing board, the department of safety and professional services shall make a revocation or denial under this subd. 1. a. With respect to a license to practice law, the department of revenue shall not submit a certification under this subd. 1. a. to the supreme court until after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies.

b. Send a notice of suspension, revocation, or denial under subd. 1. a. to the license holder or applicant. The notice shall include a statement of the facts that warrant the suspension, revocation, or denial and a statement that the license holder or applicant may, within 30 days after the date on which the notice of denial, suspension, or

revocation is sent, file a written request with the department of revenue to have the certification of tax delinquency on which the suspension, revocation, or denial is based reviewed at a hearing under sub. (5)(a). With respect to a license granted by a credentialing board, the department of safety and professional services shall send a notice under this subd. 1. b. With respect to a license to practice law, the department of revenue shall send a notice under this subd. 1. b., and the notice shall indicate that the license holder or applicant may request a hearing under sub. (5)(a) and (am) and that the department of revenue shall submit a certificate of delinquency to suspend, revoke, or deny a license to practice law to the supreme court after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies. A notice sent to a person who holds a license to practice law or who is an applicant for a license to practice law shall also indicate that the department of revenue may not submit a certificate of delinquency to the supreme court if the license holder or applicant pays the delinquent tax in full or enters into an agreement with the department of revenue to satisfy the delinquency.

2. Except as provided in subd. 2m., if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after a hearing under sub. (5)(a), affirm a suspension, revocation or denial under subd. 1. a. A license holder or applicant may seek judicial review under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County, of an affirmation of a revocation or denial under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services shall make an affirmation under this subdivision.

2m. With respect to a license to practice law, if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after any requested review under sub. (5)(a) and (am), decide whether to suspend, revoke, or deny a license to practice law.

3. If a person submits a nondelinquency certificate issued under sub. (5)(b)1., reinstate the license or grant the application for the license or license renewal or continuation, unless there are other grounds for suspending or revoking the license or for denying the application for the license or license renewal or continuation. If reinstatement is required under this subdivision, a person is not required to submit a new application or other material or to take a new test. No separate fee may be charged for reinstatement of a license under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services

shall reinstate a license or grant an application under this subdivision.

4. If a person whose license has been suspended or revoked or whose application for a license or license renewal or continuation has been denied under subd. 1. a. submits a nondelinquency certificate issued under sub. (3)(a)2., reinstate the license or grant the person's application for the license or license renewal or continuation, unless there are other grounds for not reinstating the license or for denying the application for the license or license renewal or continuation. With respect to a license granted by a credentialing board, the department of safety and professional services shall reinstate a license or grant an application under this subdivision.

(c)1. Each licensing department and the supreme court may require a holder of a license to provide the following information upon request:

a. If the license holder is an individual and has a social security number, the license holder's social security number.

am. If the applicant is an individual and does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license issued in reliance upon a false statement submitted under this subd. 1. am. is invalid.

b. If the license holder is not an individual, the license holder's federal employer identification number.

2. A licensing department may not disclose any information received under subd. 1. a. or b. to any person except to the department of revenue for the purpose of requesting certifications under par. (a)1. or 2. in accordance with the memorandum of understanding under sub. (4) and administering state taxes, to the department of workforce development for the purpose of requesting certifications under s. 108.227(2)(a)1. or 2. in accordance with the memorandum of understanding under s. 108.227(4) and administering the unemployment insurance program, and to the department of children and families for the purpose of administering s. 49.22.

(5) HEARING.

(a) The department of revenue shall conduct a hearing requested by a license holder or applicant for a license or license renewal or continuation under sub. (2)(b)1 b. or by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b) to review a certification or determination of tax delinquency that is the basis of a denial or revocation of a license in accordance with this section or of a certificate, certification or

recertification under s. 73.03(50) or 73.09(7m). A hearing under this paragraph is limited to questions of mistaken identity of the license or certificate holder or applicant and of prior payment of the delinquent taxes for which the department of revenue certified or determined the license or certificate holder or applicant is liable. At a hearing under this paragraph, any statement filed by the department of revenue, the licensing department or the supreme court, if the supreme court agrees, may be admitted into evidence and is *prima facie* evidence of the facts that it contains. Notwithstanding ch. 227, a person entitled to a hearing under this paragraph is not entitled to any other notice, hearing or review, except as provided in par. (am) and sub. (2)(b)2.

(am) If a person who holds a license to practice law or who is an applicant for a license to practice law receives a hearing under par. (a) to review a certification or determination of tax delinquency that is the basis for a denial, suspension, or revocation of a license to practice law and such certification or determination is affirmed as a result of the hearing under par. (a), the person may seek judicial review of the certification or determination of tax delinquency under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County.

(b) After a hearing conducted under par. (a) or, in the case of a determination related to a license to practice law, after a hearing under par. (a) or, if the hearing is appealed, after judicial review under par. (am), the department of revenue shall do one of the following:

1. Issue a nondelinquency certificate to a license holder or an applicant for a license or license renewal or continuation if the department determines that the license holder or applicant is not liable for delinquent taxes. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b), the department shall grant a certification or recertification or reinstate a certification if the department determines that the applicant or certificate holder is not liable for delinquent taxes, unless there are other grounds for denying the application or revoking the certification.

2. Provide notice that the department of revenue has affirmed its certification of tax delinquency to a license holder; to an applicant for a license, a license renewal or a license continuation; and to the licensing department or the supreme court, if the supreme court agrees. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50), or 73.09(7m)(b), the department of revenue shall provide notice to the applicant or certificate holder that the department

of revenue has affirmed its determination of tax delinquency.

101.123 Smoking prohibited. [2019]

(2) PROHIBITION AGAINST SMOKING.

(a) Except as provided in sub. (3), no person may smoke in any of the following enclosed places:

1r. Child care centers.

8d. Common areas of multiple-unit residential properties.

(d) No person may smoke at any of the following outdoor locations:

2. Anywhere on the premises of a child care center when children who are receiving child care services are present.

(8) PENALTIES.

(d) Except as provided in par. (dm) or (em), any person in charge who violates sub. (2m)(b) to (d) shall be subject to a forfeiture of \$100 for each violation.

253.15 Shaken baby syndrome and impacted babies. [2015]

(4) Training for child care providers.

(a) Before an individual may obtain a license to operate a child care center under s. 48.65 for the care and supervision of children under 5 years of age or enter into a contract to provide a child care program under s. 120.13(14) for the care and supervision of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or that is provided by a nonprofit organization arranged by the department to provide that training.

(c) Before an employee or volunteer of a child care center licensed under s. 48.65, a child care provider certified under s. 48.651, or a child care program established under s. 120.13(14) may provide care and supervision for children under 5 years of age, the employee or volunteer shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or the certifying county department or agency contracted with under s. 48.651(2) or that is provided by a nonprofit organization arranged by the department or that county department or contracted agency to provide that training.

347.48 Safety belts and child safety restraint systems. [2011]

(4) CHILD SAFETY RESTRAINT SYSTEMS REQUIRED; STANDARDS; EXEMPTIONS.

(ag) In this subsection:

1. "Child booster seat" means a child passenger restraint system that meets the applicable federal standards under 49 CFR 571.213 and is designed to elevate a child from a vehicle seat to allow the

vehicle's safety belt to be properly positioned over the child's body.

2. "Designated seating position" has the meaning given in 49 CFR 571.3.

3. "Properly restrained" means any of the following:

a. With respect to par. (as)1. and 2., fastened in a manner prescribed by the manufacturer of the child safety restraint system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt of the type required under sub. (1).

b. With respect to par. (as)3., wearing a safety belt consisting of a combination lap belt and shoulder harness approved by the department under sub. (2) and fastened in a manner prescribed by the manufacturer of the safety belt so that the safety belt properly fits across the child's lap and the center of the child's chest in a manner appropriate to the child's height, weight, and age that permits the safety belt to act as a body restraint.

c. With respect to par. (as)4., fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint.

(am) No person may transport a child under the age of 8 in a motor vehicle unless the child is restrained in compliance with par. (as) in a safety restraint system that is appropriate to the child's age and size and that meets the standards established by the department under this paragraph. The department shall, by rule, establish standards in compliance with applicable federal standards, including standards under 49 CFR 571.213, for child safety restraint systems.

(as) A child under the age of 8 years who is being transported in a motor vehicle shall be restrained as follows:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

2. Subject to subd. 1., if the child is at least one year old and weighs at least 20 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained as provided in subd. 1. or properly restrained in a forward-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child

shall be properly restrained as provided in subd. 2. or properly restrained in a child booster seat.

4. Subject to subds. 1. to 3., if the child is less than 8 years old, the child shall be properly restrained as provided in subds. 1. to 3. or properly restrained in a safety belt approved by the department under sub. (2).

(b) The department may, by rule, exempt from the requirements under pars. (am) and (as) any child who because of a physical or medical condition or body size cannot be placed in a child safety restraint system, child booster seat, or safety belt.

(c) This subsection does not apply if the motor vehicle is a motor bus, school bus, taxicab, moped, motorcycle or is not required to be equipped with safety belts under sub. (1) or 49 CFR 571.

(d) Evidence of compliance or failure to comply with pars. (am) and (as) is admissible in any civil action for personal injuries or property damage resulting from the use or operation of a motor vehicle but failure to comply with pars. (am) and (as) does not by itself constitute negligence.

948.53 Child unattended in child care vehicle. [2009]

(1) DEFINITIONS. In this section:

(a) "Child care provider" means a child care center that is licensed under s. 48.65(1), a child care provider that is certified under s. 48.651, or a child care program that is established or contracted for under s. 120.13(14).

(b) "Child care vehicle" means a vehicle that is owned or leased by a child care provider or a contractor of a child care provider and that is used to transport children to and from the child care provider.

(2) NO CHILD LEFT UNATTENDED.

(a) No person responsible for a child's welfare while the child is being transported in a child care vehicle may leave the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the child's welfare.

(b) Any person who violates par. (a) is guilty of one of the following:

1. A Class A misdemeanor.

2. A Class I felony if bodily harm is a consequence.

3. A Class H felony if great bodily harm is a consequence.

4. A Class G felony if death is a consequence.

APPENDIX C
DCF 13 BACKGROUND CHECKS FOR CHILD CARE PROGRAMS
Register March 2021 No. 783

DCF 13.01	Purpose and scope.	DCF 13.10	Rehabilitation reviews by agency.
DCF 13.02	Definitions.	DCF 13.11	Eligibility for rehabilitation review.
DCF 13.03	Background check request.	DCF 13.12	Applying for rehabilitation review.
DCF 13.04	Obtaining armed forces information.	DCF 13.13	Agency rehabilitation review process.
DCF 13.05	Determining whether other offenses are substantially related.	DCF 13.14	Appealing a rehabilitation review panel's denial.
DCF 13.06	Background check eligibility.	DCF 13.15	Compliance with rehabilitation approval; withdrawal.
DCF 13.07	Reporting requirements.	DCF 13.16	Permissive acceptance of a rehabilitation approval.
DCF 13.08	Sanctions.	DCF 13.17	Fees.
DCF 13.09	Appeal of background check determinations.		

DCF 13.01 Purpose and scope. This chapter is promulgated under the authority of ss. 48.67 (intro.), 48.686, and 227.11 (2) (a), Stats., to specify procedures necessary to implement background checks required under s. 48.686, Stats., for caregivers, noncaregiver employees, and household members at a child care program.

Note: For further information on the scope of the child care background check, see s. DCF 13.02 for definitions of terms used in this section.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. Register July 2020 No. 775, eff. 8-1-20.

DCF 13.02 Definitions. In this chapter:

(1) "Agency" means the department, a certification agency, or a school board that establishes or contracts for a child care program under s. 120.13 (14), Stats.

(2) "Background check request form" means a form prescribed by the department on which a person completes required information for purposes of the child care background check.

Note: DCF-F-5296-E, Background Check Request Form, is available electronically through the Child Care Provider Portal and on the department's website at <https://DCF.wisconsin.gov/forms>.

(3) "Bar" means any of the following:

(a) A barrier to a person's eligibility for regulatory approval, employment, or contract as a caregiver.

(b) A barrier to a person's nonclient residency at a child care program.

(c) A barrier to a person's eligibility for employment or contract as a noncaregiver employee.

(4) "Caregiver" means any of the following:

(a) An employee or contractor of a child care program who is involved in the care or supervision of clients.

(b) A person who has direct contact with clients of a child care program or has unsupervised access to clients of a child care program, including student teachers, household members age 10 and older, and

volunteers counted for the purpose of meeting the required staff-to-child ratios.

(c) A person who has, or is seeking, a license, certification, or contract to operate a child care program.

(5) "Certification agency" means the department in a county having a population of 750,000 or more or a county department, person, or tribe that has a contract with the department to certify child care providers under s. 48.651 (2), Stats., in a particular county or tribal area.

(6) "Child care background check" means the requirements in s. 48.686, Stats., and this chapter.

(7) "Child care program" means any of the following:

(a) A child care center that is licensed under s. 48.65, Stats.

(b) A child care provider that is certified under s. 48.651, Stats.

(c) A child care program established or contracted for under s. 120.13 (14), Stats.

(d) A temporary employment agency that provides caregivers or noncaregiver employees to another child care program.

(8) "Client" means a person who receives direct care from a child care program, from an entity, as defined in s. DCF 12.02 (14), or from a caregiver specified in s. 48.685 (1) (ag) 1. am., Stats., including all of the following:

(a) An adopted child for whom adoption assistance payments are being made under s. 48.975, Stats.

(b) A child for whom subsidized guardianship payments are being made under s. 48.623, Stats.

(c) A person who is 18 to 21 years old, is receiving independent living services under 42 USC 677 (a) from an agency, is no longer placed in out-of-home care, and is residing in the foster home in which he or she was previously placed.

(9) "Contractor" means, with respect to a child care program, a person who provides services to the child care program under an express or implied contract or subcontract, or that person's agent.

(10) "County department" means a county department of social services established under s. 46.22, Stats., or a county department of human services established under s. 46.23, Stats.

(11) "Department" means the department of children and families.

(12) "Direct contact" means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.

(13) "Division of hearings and appeals" means the division of hearings and appeals within the department of administration.

(14) "Final substantiated finding" means all of the following:

(a) A final determination made after January 1, 2015, that a person has abused or neglected a child under s. 48.981 (3) (c) 5m., Stats., and s. DCF 40.04 if the final determination has not been reversed or modified on appeal.

(b) A determination made before January 1, 2015, that a person has abused or neglected a child under s. 48.981 (3) (c) 4., 2011 Stats., if the determination has not been reversed or modified on appeal.

(5) "Household member" means a person who is age 10 or older, who resides, or is expected to reside, at a child care program, and who is not a client of the child care program or caregiver.

(15m) "Noncaregiver employee" means a person who provides services to a child care program as an employee or a contractor and is not a caregiver, but whose work at the child care program provides the ability to move freely throughout the premises and opportunities for interactions with clients of the child care program.

(16) "Regulatory approval" means any of the following:

(a) Issuance, continuation, or renewal of a license by the department under s. 48.66, Stats.

(b) Issuance or renewal of certification by a certification agency under s. 48.651, Stats.

(c) Approval of the person subject to the child care background check for a child care program to be established or contracted for by a school board under s. 120.13 (14), Stats.

(17) "Rehabilitation review" means an agency process in s. 48.686 (5), Stats., under which an eligible person who has a bar may seek approval for any of the following:

(a) Regulatory approval.

(b) Employment or contract with a child care program to be a caregiver or noncaregiver employee.

(c) Residency at a child care program.

(18) "Reside" means to be present at a child care program for more than an aggregate of 14 calendar days within a 90-day period. "Reside" does not include incidental presence that does not afford

unrestricted access to the premises or to children in care.

(19) "Role" means a person's job as a caregiver or noncaregiver employee or a person's status as a household member at a child care program.

(20) "School board" means the board that has the powers specified in s. 120.13, Stats., for the schools of a school district.

(21) "Serious crime" has the meaning given in s. 48.686 (1) (c), Stats.

Note: A table that lists the child care serious crimes is available at <https://dcf.wisconsin.gov/files/publications/pdf/5206.pdf>.

(22) "Tribe" means a federally recognized American Indian tribe or band in Wisconsin.

(23) "Volunteer" means a person who is not compensated, but agrees to give time, with or without reimbursement for expenses, to transport or to work with children in a child care program.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; correction in (7) (a), (8) (intro.) made under s. 35.17, Stats., Register March 2020 No. 771; CR 20-003: cr. (3) (c), r. and recr. (4) (a), am. (4) (b), (7) (d), (15), cr. (15m), am. (17) (b), (19) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.03 Background check request.

(1) **REQUIRED FORMS AND FEES.** A background check request shall include a completed background check request form, armed forces records under s. DCF 13.04, release forms, child care background check fees, and any additional information that the department determines is necessary to obtain the records required under s. 48.686 (2) (am), Stats.

(2) FINGERPRINT SEARCHES.

(a) Prior to working as a caregiver or noncaregiver employee or residing in a child care program, the subject of the background check shall submit fingerprints in a manner directed by the department.

(b) Every 5 years or as otherwise requested by the department, caregivers, noncaregiver employees, and household members shall resubmit fingerprints in a manner directed by the department and the information specified under sub. (1).

Note: DCF-F-5296-E, Background Check Request Form, is available electronically through the Child Care Provider Portal and on the department's website at <https://dcf.wisconsin.gov/forms>.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (2) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.04 Obtaining armed forces information.

(1) If a person who is the subject of a background check served in a branch of the U.S.

armed forces within the previous 3 years, including any reserve component, the department shall make every reasonable effort to obtain the discharge status of that person, either from the discharge papers issued to the person or from the armed forces branch in which the person served. The department shall document the efforts made to obtain the discharge status of the person.

(2) If the discharge status of the person described in sub. (1) is other than honorable, the department shall make every reasonable effort to obtain information on the nature and circumstances of the discharge.

Note: The information from the armed forces may include military court findings or information relevant to making a background check determination.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20.

DCF 13.05 Determining whether other offenses are substantially related.

(1) CAREGIVERS, NONCAREGIVER EMPLOYEES, AND HOUSEHOLD MEMBERS. To determine whether a caregiver's, noncaregiver employee's, or household member's conviction or delinquency adjudication for an offense that is not a serious crime is substantially related to the care of a child or the activities of a child care program, the department shall consider all of the following:

(a) In relation to the person's role at the child care program, all of the following:

1. The nature and scope of the person's contact with clients.

2. The scope of the discretionary authority and independent judgment the person has to make decisions or take actions that affect the care of clients.

3. The opportunity the role at the child care program presents for committing similar crimes.

4. The extent to which acceptable performance of the role at the child care program requires the trust and confidence of clients and the parents or guardians of clients.

5. The amount and type of supervision received.

(b) In relation to the criminal conviction or delinquency adjudication, all of the following:

1. Whether intent is an element of the crime.

2. Whether the elements or circumstances of the crime are related to the person's role at the child care program.

3. Any pattern of criminal convictions or delinquency adjudications.

4. The extent to which the crime relates to clients or other vulnerable persons.

5. Whether the crime involves violence or a threat of harm.

6. Whether the crime is of a sexual nature.

(c) In relation to the person, all of the following:

1. The number and type of crimes for which the person has been convicted or adjudicated delinquent.

2. The length of time between the conviction or delinquency adjudication and the decision affecting regulatory approval, employment, contract, or nonclient residency.

3. The person's participation in or completion of pertinent programs of a rehabilitative nature.

4. The person's probation, extended supervision, or parole status.

5. If the person is a caregiver or noncaregiver employee, the person's ability to perform or to continue to perform the role consistent with the safe and efficient operation of the program and the confidence of clients and the parents or guardians of clients.

7. The age of the person on the date the crime was committed.

(2) DOCUMENTATION. The department shall document how it reached the determination under sub. (1) that the criminal conviction or delinquency adjudication of a caregiver, noncaregiver employee, or household member is or is not substantially related to the care of a child or the activities of the child care program.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (1) (intro.), (c) 5., (2) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.06 Background check eligibility.

(1) PRELIMINARY ELIGIBILITY.

(a) The department shall issue a preliminary eligibility determination that indicates whether a person is barred from employment as a caregiver, noncaregiver employee, or household member at the child care program based on any serious crimes reported on the federal bureau of investigation and Wisconsin department of justice fingerprint results.

(b) A child care program that receives a department determination that a person is preliminarily eligible may employ, contract with, or allow the person to reside at the child care program pending the department's final eligibility determination under sub. (3).

(2) SUPERVISION OF PERSONS WITH PRELIMINARY ELIGIBILITY.

(a) Persons who begin work or residency with preliminary eligibility under sub. (1) shall be supervised at all times children are present. The supervision shall include periodic and direct observation of the person.

(b) A person who has received a final determination of eligibility under sub. (3) within the past 5 years shall supervise a person with preliminary eligibility under sub. (1).

(3) FINAL ELIGIBILITY.

(a) After receiving all of the records required under s. 48.686 (2) (am), Stats., the department shall

provide a final written report to the child care program indicating whether the person who is the subject of the report is eligible or ineligible to work or reside at a child care program, without revealing information about any disqualifying offenses or other information regarding the person.

(b) The department shall provide a final written report to the person on whom the child care background check was conducted, indicating whether the person is eligible or ineligible to work or reside at a child care program. If the person is ineligible, the report also shall include information on each disqualifying offense, the right to appeal under s. DCF 13.09, and the right to a rehabilitation review under s. DCF 13.10, if applicable.

(4) TRANSFER OF ELIGIBILITY. A child care program may employ a person or allow the person to reside in the child care program without requesting a new child care background check on the person if all of the following conditions are met:

(a) Within the past 5 years, the person received a final determination of eligibility under sub. (3) to work or reside in a child care program and the determination of eligibility has not been withdrawn or revoked.

(b) Either of the following apply:

1. The person is currently working or residing in a child care program.

2. The person has been separated from employment or residence at a child care program for less than 180 days.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (1) (a) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.07 Reporting requirements.

(1) CHILD CARE PROGRAM OFFENSE

REPORTING REQUIREMENTS. A child care program shall report to the agency that granted regulatory approval as soon as the child care program knows, or should have known, that any of the following apply to a caregiver, noncaregiver employee, or household member at the child care program:

(a) The person is the subject of a delinquency petition alleging that the person committed a serious crime on or after his or her 10th birthday.

(b) The person has been adjudicated delinquent on or after his or her 10th birthday for committing any crime.

(c) The person is the subject of a pending criminal charge alleging that the person committed a serious crime.

(d) The person has been convicted of any crime.

(e) A final substantiated finding has been made that the person abused or neglected a child.

(f) A finding that is comparable to a final substantiated finding has been made in any other jurisdiction.

(g) A unit of government or a state agency as defined in s. 16.61 (2) (d), Stats., made a finding that the person has abused or neglected a client or misappropriated the property of a client.

(h) If a position requires a person to hold a credential, as defined in s. 440.01 (2) (a), Stats., the person has been denied a credential or had a credential restricted or otherwise limited.

(2) OTHER CHILD CARE PROGRAM

REPORTING.

(a) A child care program shall report to the agency that granted regulatory approval as soon as possible, but no later than the agency's next business day, if any of the following occurs:

1. A person who is age 10 or over and is not a client begins residing at, or is expected to reside at, a child care program.

Note: See the definitions in s. DCF 13.02 (15) and (18).

2. A household member turns 10 years of age.

3. A household member turns 18 years of age.

4. A corporation or limited liability company designates anew person to be subject to the background check.

5. A caregiver, noncaregiver employee, or household member at the child care program changes his or her name.

6. A person's role at the child care program has changed or will be changing and a new eligibility determination may be required for the child care background check.

7. A new caregiver or noncaregiver employee begins work, or a prospective caregiver or noncaregiver employee intends to begin work, at the child care program.

8. A caregiver or noncaregiver employee is no longer working in the child care program or intends to no longer work in the child care program, including the last date of employment.

9. A prospective caregiver or noncaregiver employee was not hired.

10. A former household member is no longer residing at the child care program or a household member intends to no longer reside at the child care program, including the last date of residence.

(b) When a change specified under par. (a) 1. to 7. occurs regarding a child care program, the program shall submit a completed background check request form no later than the agency's next business day for the new person subject to the child care background check and ensure persons comply with the fingerprint requirements within the timeframe specified by the department.

(3) CHILD CARE PROGRAM POLICY. A child care program shall include in its personnel or operating policies a provision that requires a person who is a caregiver specified in s. DCF 13.02 (4) (a) and (b) or a noncaregiver employee to notify the child care program as soon as possible, but no later

than the child care program's next working day, if any of the circumstances under sub. (1) (a) to (h) apply to the person.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: cr. (1) (intro.), (2) (a) 2., 3., 5., 7. to 10., (3) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.08 Sanctions.

(1) CHILD CARE PROGRAM.

(a) A child care program that does any of the following may be subject to one or more of the sanctions specified in par. (b) by the department or the agency that granted the regulatory approval:

1. Allows a person who has not received preliminary determination of eligibility to begin work or reside at the child care program in violation of s. DCF 13.06 (1).
2. Allows a person who has not received a final determination of eligibility to work or reside at a child care program without direct supervision in violation of s. DCF 13.06 (2).
3. Hires, employs, or contracts with a person that the department determined was ineligible to be a caregiver or noncaregiver employee in the child care program.
- 3m. Permits a person that the department determined was ineligible to be a household member in the child care program.
4. Fails to submit a background check request as required under s. 48.686 (2) (ab), Stats., and s. DCF 13.03.

5. Knows, or should know, that a caregiver, noncaregiver employee, or household member at the child care program committed an act barred under s. 48.686 (4m) (a) 6., 7., or 8., Stats., including knowingly giving false information on or knowingly omitting material information relating to the child care background check.

6. Fails to comply with applicable reporting requirements under s. DCF 13.07 (1) or (2).

7. Fails to have a policy on reporting changes as required in s. DCF 13.07 (3).

8. Violates any provision in s. 48.686, Stats., or this chapter regarding caregivers, noncaregiver employees, or household members.

(b) Any of the following sanctions may be imposed on a child care program that commits any of the acts described in par. (a):

1. Suspension, nonrenewal, denial, or revocation of regulatory approval.
2. Specific conditions or limitations placed on the regulatory approval.
3. A forfeiture of not more than \$1,000.
4. A requirement that the child care program develop a written plan that specifies corrections that will be made to personnel screening practices, obtain agency approval of the correction plan, and implement the correction plan.

(2) APPLICANT. An applicant for regulatory approval who does any of the following is subject to denial of an application for regulatory approval:

(a) Fails to complete and submit the background check request required under s. DCF 13.03.

(b) Knowingly provides false information on or knowingly omits information from the background check request form.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (1) (a) 3., cr. (1) (a) 3m., am. (1) (a) 5., 8. Register July 2020 No. 775, eff. 8-1-20.

DCF 13.09 Appeal of background check determinations

(1) APPEAL RIGHTS.

(a) The department shall include a statement of appeal rights with a notification of ineligibility under s. DCF 13.06 (3) to the subject of background check.

(b) The subject of a department determination under s. DCF 13.06 (3) may appeal the determination under s. 48.686 (4s), Stats. Only the subject of the background check may file the appeal.

(2) SUBMISSION OF AN APPEAL.

(a) To submit an appeal of an ineligibility determination under s. DCF 13.06 (3), the subject of a background check shall submit a completed petition for appeal form prescribed by the department to the department's postal address, email address, or fax number that is identified in the statement of appeal rights.

(b) An appeal under sub. (1) may be submitted no later than 10 days after the date of the department's ineligibility determination, unless the subject requests, and the department grants for good cause shown, an extension for a specific period of time prior to the expiration of the 10-day appeal period.

(c) If an appeal is not received under sub. (1) within 10 days after the department's ineligibility determination and an extension has not been approved before the expiration of the 10-day appeal period, the department's ineligibility determination made under s. DCF 13.06 (3) is final.

Note: Form DCF-F-5331-E, Petition for Appeal of Ineligibility Determination, is available in the forms section of the department website, <http://DCF.wisconsin.gov>. Send the appeal request to the Department of Children and Families, Child Care Background Unit, P.O. Box 8916, Madison, WI 53708-8916; email DCFPLICBECRCBU@wisconsin.gov; or fax (608) 422-7155.

(3) DEPARTMENT REVIEW OF APPEALS.

(a) The department shall notify the subject of the background check that his or her appeal request under sub. (2) has been received within 7 business days after receipt.

(b) The department shall review each timely appeal request under sub. (2) and issue a written appeal decision within 30 days after receiving the appeal request. The decision notice shall include information on the right to another appeal by requesting a reconsideration under sub. (4).

Note: Send the reconsideration request to the Department of Children and Families, Assistant Secretary, P.O. Box 8916, Madison, WI 53708-8916; email DCFMBChildcareEligibilityAppeals@wisconsin.gov; or fax (608) 422-7161.

(4) RECONSIDERATION OF AN APPEAL.

(a) The subject of the background check may request a reconsideration of the department's appeal decision under sub. (3). A request for reconsideration shall be sent to the postal address, email address, or fax number identified in the appeal decision within 30 days after the date on the decision.

(b) The department secretary or the secretary's designee shall review a reconsideration request under par. (a) and issue a written decision. The reconsideration decision shall include information on the right to another appeal by requesting a contested case hearing under sub. (5).

(5) CONTESTED CASE HEARING. The subject of the background check who receives an adverse decision from the department secretary or the secretary's designee under sub. (4) may request a contested case hearing under ch. 227, Stats., and ch. HA 1 within 10 days after the date of the department's reconsideration decision.

Note: Send a request for a contested case hearing to the Division of Hearings and Appeals, 4822 Madison Yards Way, PO Box 7875, Madison, Wisconsin, 53707-7875. The fax number of the division is (608) 264-9885.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (2) (b), (c) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.10 Rehabilitation reviews by agency.

An agency may conduct a rehabilitation review for a person who requests a rehabilitation review if the person is eligible under s. 48.686 (5) (a), Stats., and s. DCF 13.11 and is any of the following:

(1) A person who has, or is seeking, regulatory approval from the agency as a caregiver specified in s. DCF 13.02 (4) (c).

(2) A person who is, or is expected to be, a caregiver specified in s. DCF 13.02 (4) (a) or (b) for a child care program that is regulated by the agency.

(3) A person who is, or is expected to be, a household member at a child care program that is regulated by the agency.

(4) A person who is, or is expected to be, a noncaregiver employee for a child care program that is regulated by the agency.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (3), cr. (4) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.11 Eligibility for rehabilitation review.

(1) Except as provided under sub. (2), a person may have the opportunity to demonstrate his or her rehabilitation if any of the following apply:

(a) Section 48.686 (4m) (a) 2., 3., or 4. applies to the person.

(b) The person has been convicted or adjudicated delinquent of a serious crime as specified under s. 48.686 (1) (c) 9., Stats., or for a violation of the law of any other state or United States jurisdiction that would be a violation listed in s. 48.686 (1) (c) 9., Stats., if committed in this state, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, more than 5 years before the date of the investigation under s. 48.686 (2) (am), Stats.

Note: A table listing child care serious crimes and availability of rehabilitation review for each offense can be accessed at <https://DCF.Wisconsin.gov/files/publications/pdf/5206.pdf>.

(2) A person may not have the opportunity to demonstrate his or her rehabilitation if within the preceding 12 months an agency denied the person's request for rehabilitation approval, and the new request is for the same type of regulatory approval, job function, or status as a household member with the same level of direct contact with clients or unsupervised access to clients.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (1) (intro.), (2) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.12 Applying for rehabilitation review.

To apply for rehabilitation review, a person who is eligible to request rehabilitation review under s. DCF 13.11 shall do all of the following:

(1) Obtain a rehabilitation review application on a form prescribed by the department and submit the completed application to the agency.

Note: Form DCF-F-419, Rehabilitation Review Application Instructions, is available in the forms section of the department website, <http://DCF.Wisconsin.gov>.

(2) Submit any supporting documents and information required by the rehabilitation review application to the agency.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20.

DCF 13.13 Agency rehabilitation review process.

(1) **TIME FRAME.** If an application for a rehabilitation review is not complete or any supporting documents or information required in the application are not submitted within 90 days after the date the application was first received by the agency, the request for a rehabilitation review shall be denied, unless the person requesting the rehabilitation review provides a good cause explanation.

(2) **REHABILITATION REVIEW PANEL.** If a person who is eligible for rehabilitation review under s. DCF 13.11 submits an application that is complete under s. DCF 13.12 no later than the deadline in sub. (1), the applicable agency shall appoint a review panel of at least 2 persons to review the information submitted. The panel may request additional information from the person requesting the review or from other agencies or persons familiar with the person.

(3) **REQUESTOR APPEARANCE.** A person for whom a rehabilitation review is conducted under sub. (2) shall be given an opportunity to appear before the review panel to present information and answer any questions the panel members may have. The person's appearance before the review panel may be in person, by telephone, or other technology approved by the agency.

(4) **REHABILITATION REVIEW PANEL.** After reviewing the information obtained, a review panel appointed under sub. (2) shall decide whether the person who is the subject of the rehabilitation review has demonstrated by clear and convincing evidence that he or she is rehabilitated for purposes of receiving regulatory approval, employment as a caregiver or noncaregiver employee, contracting with a child care program to be a caregiver or noncaregiver employee, or residing at a child care program. The panel shall consider at least the following factors, as applicable:

(a) Personal references and comments from employers, persons, and agencies familiar with the applicant and statements from therapists, counselors, and other professionals.

(b) Evidence of successful adjustment to, compliance with, or proof of successful completion of parole, extended supervision, probation, incarceration, or work release privileges.

(c) Any investigations or enforcement actions by a regulatory agency for substantial noncompliance with applicable laws.

(d) Any subsequent contacts with law enforcement agencies, including arrests, charges, convictions, pending criminal or civil arrest warrants, civil judgments, or other legal enforcement actions or injunctions against the person.

(e) Any aggravating or mitigating circumstances surrounding the barring crime, act, or offense.

(f) Evidence of rehabilitation, such as public or community service, volunteer work, recognition by other public or private authorities for accomplishments or efforts or attempts at restitution, and demonstrated ability to develop positive social interaction and increased independence or autonomy of daily living.

(g) The age of the person at the time of the offense and the amount of time between the crime, act, or offense and the request for rehabilitation review.

(g) Whether the person is on the sexual offender registry under s. 301.45, Stats., or on a similar registry in another jurisdiction.

(i) A victim's impact statement, if appropriate.

(j) The person's employment history, including evidence of acceptable performance or competency and dedication to the person's profession.

(k) The nature and scope of the person's contact with clients in the position requested.

(L) The degree to which the person would be directly supervised or working independently in the position requested.

(m) The opportunity presented for someone in the position to commit similar offenses.

(n) The number, type, and pattern of offenses committed by the person.

(o) Successful participation in or completion of recommended rehabilitation, treatment, or programs.

(p) Unmet treatment needs.

(q) The person's veracity.

(5) REVIEW PANEL DECISION

(a) **Scope.** An agency review panel may grant rehabilitation approval only within the scope of the agency's regulatory authority.

(b) **Deferral.** A review panel may defer a final decision under sub. (4) for a period of not more than 6 months, unless the person who is the subject of the rehabilitation review agrees to a longer time period.

(c) **Written decision.** A review panel shall issue a written decision under sub. (4) that includes the following, as applicable:

1. 'Approval.' An approval shall state all of the following:

a. The type of child care program to which the decision applies.

b. The types of approval that were requested and are approved in the decision, such as regulatory approval, employment as a caregiver or noncaregiver employee, contract to be a caregiver or noncaregiver employee, or status as a household member at a child care program.

c. Any conditions or limitations placed on the approval.

Note: Examples of limited approval include approval for employment in specific child care roles.

2. 'Deferral.' A deferral shall state the reason for the deferral and the date that the review panel will reconvene to review any new information affecting the request.

3. 'Denial.' A denial shall include all of the following:

a. The type of child care program to which the decision applies.

b. The types of approval that were requested and are denied in the decision, such as regulatory approval, employment as a caregiver or noncaregiver employee, contract to be a caregiver or noncaregiver employee, or status as a household member at a child care program.

c. The reason for the denial.

d. Notice that the person may appeal the denial and a summary of the appeal process under s. 48.686 (5c), Stats., and s. DCF 13.14.

(6) REVIEW PANEL DECISION DISTRIBUTION.

(a) A review panel shall send a decision made under sub. (5) to the person who is the subject of the rehabilitation review and, if requested, a copy to entities specified by that person.

(b) Within 10 days after sending a rehabilitation review decision to the subject of the rehabilitation review under par. (a), the review panel for an agency shall send all of the following to the department:

1. A copy of the review panel's decision.

2. A copy of the person's application under s. DCF 13.12.

3. A completed rehabilitation review decision report on a form prescribed by the department.

Note: Form DCF-F-418-E, Rehabilitation Review Panel Decision Report, is available in the forms section of the department website at <http://DCF.wisconsin.gov>. The materials should be sent to Attn: Rehabilitation Review Coordinator, Office of Legal Counsel, Department of Children and Families, P. O. Box 8916, Madison, WI 53708-8916.

(7) RETENTION OF REHABILITATION DECISION DOCUMENTATION.

(a) The agency shall retain a copy of a written decision by a rehabilitation review panel and any decisions from filed appeals that may result.

(b) The agency shall retain a copy of a rehabilitation review request and all materials or information obtained or notes made as part of a rehabilitation review decision for at least 10 years after the decision is made and any appeals are finalized.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (4) (intro.), (5) (c) 1. b., 3. b. Register July 2020 No. 775, eff. 8-1-20.

DCF 13.14 Appealing a rehabilitation review panel's denial.

(1) (a) A person who is denied rehabilitation approval under s. DCF 13.13 may submit a written request for review of the decision by the secretary or

the secretary's designee under s. 48.686 (5c), Stats. A request for review shall be submitted within 10 days after the date of the written decision by the rehabilitation panel. No new evidence may be submitted.

(b) A person who appeals under this subsection shall bear the burden of proving, by a preponderance of the evidence, that the rehabilitation review panel for the agency erroneously exercised its discretion in deciding that the person did not show sufficient evidence to demonstrate that he or she is rehabilitated.

Note: Pursuant to s. 48.686 (5c), Stats., submit an appeal to the following, as appropriate:

1. To appeal a denial by a rehabilitation review panel for the department or a certification agency, send the request to the Department of Children and Families, Office of Legal Counsel, P.O. Box 8916, Madison, WI 53708-8916.

2. To appeal a denial by a rehabilitation review panel for the school board, send the request to the State Superintendent of Public Instruction, 125 South Webster Street, Madison, WI 53703; or call (608) 266-3390.

3. To appeal a denial by a rehabilitation review panel for a tribe, send the request to the director of the appropriate tribe or the director's designee.

(2) A person who receives an adverse decision from the secretary of the department or the secretary's designee under sub. (1) may request a contested case hearing under ch. 227, Stats., and ch. HA 1 within 10 days after the date of the written decision by the department.

Note: Send a request for a contested case hearing to the Division of Hearings and Appeals, 4822 Madison Yards Way, PO Box 7875, Madison, Wisconsin, 53707-7875. The fax number of the division is (608) 264-9885.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20.

DCF 13.15 Compliance with rehabilitation approval; withdrawal.

(1) COMPLIANCE WITH APPROVAL

CONDITIONS. A person whose rehabilitation is approved under s. DCF 13.13 shall comply with any conditions and limitations imposed with that approval.

(2) WITHDRAWAL OF REHABILITATION APPROVAL.

(a) An agency that granted a person a rehabilitation approval under s. DCF 13.13 may withdraw the rehabilitation approval if the person has done any of the following:

1. The person has failed to comply with or abide by any conditions or limitations imposed with the rehabilitation approval.

2. The person knowingly submitted false information or withheld pertinent information that

could have or would have affected the review panel's decision to grant the rehabilitation approval.

(b) If an agency withdraws a rehabilitation approval under par.(a), it shall issue a written notice that explains the reasons for the withdrawal and informs the person whose approval has been withdrawn that he or she may appeal as provided in s. DCF 13.14.

(c) If an agency withdraws rehabilitation approval and the withdrawal results in a bar to regulatory approval, employment as a caregiver or noncaregiver employee, contracting with a child care program to be a caregiver or noncaregiver employee, or status as a household member at a child care program, the agency that withdraws the rehabilitation approval shall immediately report the withdrawal to the department.

(3) INFORMING THE GRANTING AGENCY. A child care program or agency that becomes aware that a person has violated the conditions or limitations of a rehabilitation approval that was granted by another agency shall inform the agency that granted the approval of the violation.

Note: Send reports of withdrawn rehabilitation approval to Attn: Rehabilitation Review Coordinator, Department of Children and Families, Office of Legal Counsel, P.O. Box 8916, Madison, WI 53708-8916.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; CR 20-003: am. (2) (c) Register July 2020 No. 775, eff. 8-1-20.

DCF 13.16 Permissive acceptance of a rehabilitation approval.

(1) SCOPE.

(a) 1. An agency may accept a rehabilitation approval granted to a person by another agency if the previous rehabilitation approval applies to the same type of child care program and the same type of approval.

Note: For example, a certification agency in County B may accept a rehabilitation approval to be a household member in a certified child care home if a certification agency in County A granted the same type of approval.

2. A certification agency may accept a rehabilitation approval granted to a person by the department if the previous rehabilitation approval applies to the same type of approval for a child care center that is licensed to care for 4 to 8 children under s. 48.66, Stats.

3. A rehabilitation approval granted by a tribe that conducts rehabilitation reviews pursuant to a plan approved by the department under s. 48.686 (5d), Stats., may not be accepted by another agency.

Note: A rehabilitation approval granted by a tribe under this chapter may be accepted by another agency.

(b) An agency that accepts a rehabilitation approval granted by another agency shall enforce any limitations or conditions that were included in the approval if the conditions or limitations imposed by the agency that granted the approval have not been terminated or have not expired.

(2) PROCESS.

(a) If an agency learns that a person has had a previous rehabilitation review, the agency shall contact the department to request a copy of the rehabilitation decision and information on the status of any rehabilitation approval.

(b) If the previous rehabilitation review decision was an approval and the approval has not been withdrawn, the agency shall determine whether the approval is eligible to be accepted under sub. (1).

(c) If the previous rehabilitation approval is eligible to be accepted under sub. (1), the agency shall determine whether to accept or deny the previous approval.

(3) INELIGIBILITY OR DENIAL. If an agency determines that a person's previous rehabilitation approval may not be accepted under sub. (1) or the agency denies an eligible rehabilitation approval under sub. (2) (c), the agency shall inform the person of his or her right to submit an application for a new rehabilitation review under s. DCF 13.12 and shall process a submitted application under s. DCF 13.13.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20; correction in (1) (a) 3. made under s. 35.17, Stats., Register March 2020 No. 771.

DCF 13.17 Fees. The department may charge a fee for the cost of background checks required under s. 48.686, Stats. A child care program shall submit all fees required by the department as directed by the department.

History: EmR1918: emerg. cr., eff. 1-30-19; CR 19-089: cr. Register March 2020 No. 771, eff. 4-1-20.

**APPENDIX D
RESOURCES LIST**

To obtain copies of the materials listed below, visit the DCF Licensing Rules with Commentary website at <https://DCF.Wisconsin.gov/CClicensing/Commentary> or contact the Child Care Information Center (CCIC) at 1-800-362-7353. Appendix D can be found in the commentary manual listed in separate parts.

1. Car Safety Seat Information (Car Safety Seat Check-Up)
2. Center Medication and Injury Log – Directions for Use
3. Child Care Background Checks (CBC) FAQ – Licensed Child Care
4. Child Care Weather Watch – Wisconsin
5. Cleaning, Sanitizing, and Disinfecting in Child Care Settings
6. Collaborative Child Care Program – Frequently Asked Questions
7. Common Plants – What's Poisonous
8. Communicable Diseases Chart & Order Info
9. Credit to Hours Conversion – Technical Colleges and Universities
10. Daily Attendance Record – Licensed Child Care Centers
11. DCF Approved Agencies Offering Non-Credit Child Care Courses
12. Early Years Are Learning Years – Time Out for "Time Out"
13. Entry Level Courses – Early Childhood Professionals
14. Entry Level Courses – School-Age Professionals
15. Food Storage Chart
16. Guidance for Child Care Providers Regarding Lead-Based Paint Hazards in Child Care Settings
17. Instructions for Obtaining Forms
18. Managing Crying, Fussing or Distraught Children
19. OSHA Regulations on Bloodborne Pathogens
20. Prevention of Exposure to Blood and Body Fluids
21. Required Items for Group Child Care Centers
22. Situations that Require Medical Attention Right Away
23. Staff-to-Child Ratio While Swimming Worksheet – Group and Family Child Care
24. Staff-to-Child Ratio Worksheet – Group child Care Centers
25. Storing and Warming Infant Bottles and Food
26. Ten Steps to Breastfeeding Friendly Child Care Centers
27. The Registry Administrator Credential
28. The Registry Career Level
29. Together Child Grow – Quality Child Care for Children with Special Needs

INDEX

A

Accident Reporting	16
Activities.....	45, 78
Additional Center	123
Address Change	122
Administration	11, 120
Administrator	
Report change	17
School-age care	111
Admission	
Infant and toddler	105
Mildly ill child	91
Admission Policy	14
Adventure-based Activities	97
Age of Children.....	11, 122
Allergies	14, 19, 22, 45, 48, 61, 89, 93
Amendments to License.....	122
Animals	57, 96
Application	
Initial license	120
License continuation	122
Archery.....	97
Assistant Child Care Teacher	
Infants and toddlers	105
School-age Group Leader	114
Attendance.....	17, 20, 21, 24, 45, 85, 98, 103, 156
Authority	1, 16, 121, 124

B

Baby Food	109
Background Check Request form	4, 15, 28, 121
Bandaid	95
Basement	
Door	62, 64
Food storage	55, 57, 70
Bed	
Isolation area	90
Night care.....	119
Rest periods	86
Waterbeds.....	107
Bedding	
Isolation area	90
Maintenance, cleanliness.....	86
Night care.....	119
Storage	68, 87
Bottles.....	65, 108
Breakfast	119
Building	
Construction, remodeling	17, 54, 77, 117
Infant and toddler care	106
Night care.....	119
Requirements.....	53
School-age care	115

C

Capacity	
Amending a license.....	122
Night care	119
Terms of license.....	11
Center Director	
Report change	17
School-age care	111
Certificate	
Insurance	12
Rabies vaccination	96
Chairs.....	108
Change	
Administrator	17
Background check designee	17
Board president or chairperson.....	17
Center director	17
Household member	15
Meal preparation.....	18
Menu	89
Off-premises play space plan.....	21, 74
Room usage	18
Transportation services	18
Child Abuse and Neglect	
Reporting	32
Training	30, 32, 99
Child Care Background Check	
Form	4, 15, 28, 121
Initial license application	120
Reporting convictions, charges, offenses	17
Staff records	27
Submit to the department.....	16
Child Care Teachers	
School-age program leader	29, 112, 113
Child Guidance	14, 19, 81, 112
Child Guidance Policy	14, 81
Children's Records	20
Cleanliness.....	57, 68, 86, 90, 94
Clothing	
Available supply	94, 110
Wet or soiled	94, 110
Combs.....	95
Communicable Disease	18, 44, 90, 92
Communication	
Infants and toddlers	105
Parents.....	15, 18
Program	20, 78
Complaints.....	126
Confidentiality	25, 91
Construction	17, 54, 77, 84, 117
Continuing Education	
Child abuse and neglect.....	32
Infants and toddlers	105
Continuing Education Policy	14

Cots

Isolation area	90
Night care	119
Rest periods	87
Storage.....	68

Creativity

Equipment	85
Program	79

Cribs

Isolation area	90
Mattress, covering	14, 86, 90, 106
Night care	119
Rest periods	51, 86

D

Days of Operation.....	11, 81, 122
Death Reporting	16, 18
Denial.....	123
Developmental History.....	105
Diapering	
Infants and toddlers.....	105, 109
Personal cleanliness.....	74, 94
Timeliness	94
Diets.....	89, 105
Discharge Policy.....	14
Discipline	<i>See Child Guidance</i>
Discrimination.....	11, 14, 27, 79
Dishwashing.....	44, 68, 110
Disinfecting	
Diaper pail.....	110
Diapering surface.....	110
Hand sanitizers.....	95
Wading pools	10, 76
Disposable Cups.....	65, 68
Drinking Water	65, 81, 108

E

Early Learning Standards	78
Education Policy.....	14, 20, 78
Emergency	
Lighting	64, 119
Parental consent.....	21, 98
Parental notification	95
Planned source of care	48, 52, 91, 95
Policies, plans.....	14, 22, 44, 48, 52, 61, 95, 119
Telephone numbers.....	21, 27, 52, 57, 61, 90, 98
Vehicle availability	57
Emergency Plan Policy	14, 22, 44, 48, 52, 61, 95, 119
Exception to Rule.....	3, 15
Exit Lights.....	64

F

Fee Payment and Refund Policy.....	13
------------------------------------	----

Feeding

Infants and toddlers	105, 108
Night care	119

Field Trip

Authorization	21
Handwashing.....	95
Notification.....	18, 19, 21

Fire Evacuation.....	14, 44, 62, 64, 119
----------------------	---------------------

Fire Protection	44, 63, 117
-----------------------	-------------

Firearms	56
----------------	----

First Aid

Injuries.....	95
Flashlight	62, 119

Food

Allergy	89
Handling	18, 42, 44, 68, 71, 90, 97

Infants and toddlers	108
----------------------------	-----

Meals and snacks	88, 94, 117
------------------------	-------------

Night care	119
------------------	-----

Preparation area	18, 68, 71, 96, 97, 110
------------------------	-------------------------

Sources	69, 108, 109
---------------	--------------

Storage	70, 71, 97, 108
---------------	-----------------

Food Allergies.....	14, 19, 22, 45, 89
---------------------	--------------------

Formula	65, 66, 108, 109
---------------	------------------

Frozen Foods	69, 71, 108, 109
--------------------	------------------

Furnace Room Door	64
-------------------------	----

G

General Liability Insurance	12
-----------------------------------	----

Grouping

Infants and toddlers	50, 105
----------------------------	---------

Night care	49, 119
------------------	---------

School-age care	50, 116
-----------------------	---------

Swimming.....	77
---------------	----

Guns	56
------------	----

H

Handwashing

Field trips.....	95
------------------	----

Food service personnel	42, 45, 71
------------------------------	------------

Personal cleanliness	94
----------------------------	----

Harmful Materials	55, 56, 70, 123
-------------------------	-----------------

Hazards

Food storage	70, 71
--------------------	--------

Indoor and outdoor premises	53, 55, 56, 58, 62, 64
-----------------------------------	------------------------

Off-premises outdoor play space	56, 73, 74
---------------------------------------	------------

Outdoor play space	55, 56, 58, 72, 73, 117
--------------------------	-------------------------

Health Care

Requirements	90
--------------------	----

Health Care Policy	14, 90
--------------------------	--------

Health History and Emergency Care Plan.....	22
---	----

High Chair	83, 90, 109
------------------	-------------

Horseback Riding	97
------------------------	----

Hot Tub	58
---------------	----

Hours of Operation ..	6, 11, 13, 16, 19, 41, 49, 52, 54, 57, 72, 76, 97, 121
-----------------------	--

I

III Child Procedure	90
Immunization	20, 22, 45, 96, 117
Individual Attention	81
Individualized Program	105
Indoor Play	
Equipment	58, 66, 68, 79, 84, 85, 94, 107
Indoor Space	66
Infants and Toddlers	
Requirements for care	105
Injury	
Observation	90
Procedures	45, 90, 92, 95
Reporting to department	16
Reporting to parents	19
Insecticide	56
Inspection	
Building	53, 67, 71, 106, 117
Fire extinguishers	63, 117
Licensing	12, 15, 126, 127
Insurance	
General and vehicle liability	12
Pets	97
Intellectual Growth	79
Isolation	82, 90

J

Job Description	13
-----------------------	----

K

Kitchens	18, 42, 66, 68, 89, 97
----------------	------------------------

L

Large Muscle Development	
Equipment	66, 84
Program	79
Laws	11, 14, 17, 25, 32, 57, 99, 124
Leftovers	70, 108, 109
Liability Insurance	12
License	
Amending	122
Continuation application	122
Denial or revocation	123
Initial application	120
Posting requirements	15
Summary suspension	124
Terms	11
Licensed Capacity	11, 68, 75, 85, 89, 119, 122
Literacy	80

M

Manipulative Skills Equipment	79, 84
Meal Preparation Personnel	
Responsibilities and qualifications	29, 42, 71
Meals and Snacks	
Infants and toddlers	105, 108
Night care	119
Requirements	18, 42, 68, 71, 84, 88, 94, 117
Medication	
Requirements	19, 45, 92
Menu	44, 88, 89
Mildly Ill Child	91
Milk	
Standards	69
Mixed-Age Group	50
Months of Operation	11, 122

N

Napping	
Requirements	86
Night Care	119
Non-Mobile Child	107
Non-Owned Vehicle Liability Insurance	12
Nutrition Policy	14

O

Orientation	
Evacuating sleeping children	119
Orientation Policy	14
Outdoor Play	
Activities	72, 74, 80, 81, 85, 108
Space requirements	51, 54, 67, 72, 75, 117
Ownership of Center	23, 120, 122

P

Paper Towel	72
Parent	
Access to center	19
Access to child records	25
Notifications	18, 46, 60, 90, 94, 96
Opportunity for communication	19, 61, 105
Parental Consent	
Alternate arrival / release	22, 116
Care of mildly ill child	19, 90
Field trip	19, 21
Lotions, powders, salves	94, 110
Medical care	19, 21, 93
Medication administration	93
Release of confidential information	25
Research or testing	23

Personal Cleanliness	94
Personnel Policy.....	13
Pets.....	13, 96
Physical Restraint.....	8, 83
Plan of Correction	17
Playpen	
Quantity	90, 106
Rest periods	86
Poison	19, 56, 57, 96, 97
Policies	
Available to parents	20
Development	13
Reflective of program	81
Pools	74, 75
Potty Chair	
Quantity.....	72
Power Tools	56
Protective Measures.....	55, 94, 117
Publicity	15

Q

Qualifications	
Food service personnel	29, 42, 71
School-age care.....	111

R

Recording	
Application of lotions, powders, etc.	110
Attendance	25
Records	
Access	25, 126
Children.....	20
Confidentiality	25
Driving.....	98
Fire alarms, smoke detectors.....	64
Fire and tornado drills.....	63
Menus	89
Refrigerator	69, 70, 71
Religious Training.....	2, 20
Remodeling.....	17, 54, 117
Reports	
To county department	25
To department.....	16, 60, 65, 66, 75, 84, 121, 122
To parents	18, 46, 50, 60, 89, 90
Reports To Department	16, 60, 65, 66, 75, 84, 121, 122
Research or Testing Project	23
Rest Periods	86
Revocation	14, 120, 122, 123
Riflery.....	97
Routines	
Documenting changes	105
Infants and toddlers.....	105
Night care	119
Programming	78
Toilet training.....	84, 109

S

Safety Gates	106
Safety Measures	
Drinking water.....	65
Emergency lighting.....	119
Energy-absorbing surface.....	73, 84, 117
Exit lights	64
Fire protection.....	44, 63, 117
Food handling.....	68, 71, 110
Food storage	70, 97
Stairs, walks, ramps, porches	57, 64, 106
Telephone	16, 57, 98, 124
Vehicle availability.....	57
Written response plans	17
Sanitation	
Bedding	87, 90, 119
Dishwashing	68, 69, 110
Food contact surfaces	68, 90
Hand sanitizers.....	95
Kitchen equipment and utensils.....	68, 69, 70, 95
Personal use items	95
Schedule	
Infants and toddlers	105
Night care	119
Program.....	78
School-age care	115
School-Age Care	115
Screens	
Hot surface	56
Isolation area.....	66, 90
Self-Contained Room	
Infants and toddlers	105
Mildly ill care	91
Night care	119
Sidewalks.....	57
Single Use Towels.....	71
Single-Service Utensils	65, 68
Sinks	
Diapering	110
Meal preparation	68
Mildly ill care	91
Sleep Position.....	86, 107
Sleeping	
Evacuating children	119
Night care	119
Rest periods.....	86
Sleeping Bag	
Isolation area.....	90
Night care	119
Rest periods.....	86
Sleeping Garment.....	119
Small Muscle Development	
Equipment	66, 84
Program.....	79
Smoke Detectors	63, 64, 117
Smoking.....	58

Snacks	
Equipment and utensils.....	68, 69, 70, 95, 109
Night care.....	119
Requirements.....	68, 84, 88, 89, 94, 117, 119
Snow Removal.....	57
Soap	68, 71, 72, 94, 95, 109
Social Interaction	
Equipment.....	84
Mealtimes	89
Program.....	78
Space	
Change in use	17, 75
Deduction for cribs.....	67, 106
Exclusive use	51, 66
Maintenance	51, 52, 53, 57, 87, 119
Safety gates.....	106
Storage	56, 58, 64, 66, 68, 70, 117
Storage	
Cots, bedding, supplies, equipment.....	87
Food	70
Requirements.....	64, 117
Summary Suspension.....	124
Supervision	
Pets or animals.....	97
School-age care	115
Swimming.....	75
Swimming Areas.....	75

T

Telephone	16, 57, 98, 124
Television	80
Temperature	
Dishwashing	68
Food handling.....	70, 71
Food storage	69, 70, 71 108
Inside.....	55, 72
Outdoor - inclement weather	6, 81
Terms of License	11
Testing	
Fire alarms and smoke detectors	63
Water	65
Written consent	23
Thermometer	
Cold storage	70
Dishwashers	68
Time Out	81
Toilet	
Facilities	71
Toilet Training	84, 109
Toothbrush.....	95, 119
Tornado Drill	61
Toys	
Equipment.....	84
Program - infants and toddlers	107
Transportation	
Center-provided	4, 88, 98
Change in service	18
Transportation Policy.....	15

tar

U

Urinals	71
Utensils	
Infants and toddlers	109
Kitchen.....	68
Single-service.....	68

V

Vehicle	
Availability	57
Food delivery	71
Insurance	12
Vehicle Liability Insurance	12
Visits	
Department	126
Parents.....	19

W

Wading Pool	76, 77
Washbasins.....	71
Wastepaper Container	72
Water.....	65
Watercraft	97
Well	65, 117, 121

Z

Zoning.....	53
-------------	----