

**CHAPTER 122**  
**MANUAL OF REQUIREMENTS FOR**  
**CHILD CARE CENTERS**

**Authority**

N.J.S.A. 30:5B-1 through 15.

**Source and Effective Date**

R.2009 d.269, effective August 6, 2009.  
See: 41 N.J.R. 1146(a), 41 N.J.R. 3301(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 122, Manual of Requirements for Child Care Centers, expires on August 6, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 122, Manual of Requirements for Child Care Centers, was originally codified in Title 6 as Chapter 26. Chapter 26 was adopted prior to September 1, 1969.

Pursuant to N.J.S.A.30:1-25, Chapter 26 was recodified as N.J.A.C. 10:122, effective July 27, 1972.

Chapter 122 was repealed and Chapter 122, Manual of Requirements for Child Care Centers, was adopted as new rules by R.1989 d.261, effective May 15, 1989. See: 20 N.J.R. 3079(b), 21 N.J.R. 1431(b).

Chapter 122 was repealed and Chapter 122, Manual of Requirements for Child Care Centers, was adopted as new rules by R.1994 d.231, effective May 16, 1994. See: 25 N.J.R. 4987(a), 26 N.J.R. 2100(a).

Pursuant to Executive Order No. 66(1978), Chapter 122, Manual of Requirements for Child Care Centers, was readopted as R.1998 d.502, effective September 15, 1998. See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Chapter 122, Manual of Requirements for Child Care Centers, was readopted as R.2004 d.122, effective February 26, 2004. See: 35 N.J.R. 4833(a), 36 N.J.R. 1778(a).

Petition for Rulemaking. See: 41 N.J.R. 2507(b).

Chapter 122, Manual of Requirements for Child Care Centers, was readopted as R.2009 d.269, effective August 6, 2009. See: Source and Effective Date.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 10:122-1.1 Legal authority
- 10:122-1.2 Definition of child care center
- 10:122-1.3 Definitions of other terms
- 10:122-1.4 Hours of care

**SUBCHAPTER 2. LICENSING PROCEDURES**

- 10:122-2.1 Application for a license
- 10:122-2.2 Issuance of a license
- 10:122-2.3 Location of a center
- 10:122-2.4 Denying, suspending, revoking or refusing to renew a license or a Certificate of Life/Safety Approval
- 10:122-2.5 Administrative hearings
- 10:122-2.6 Complaints
- 10:122-2.7 Public access to the Bureau's licensing records
- 10:122-2.8 Procedures for securing a Certificate of Life/Safety Approval

**SUBCHAPTER 3. CENTER ADMINISTRATION**

- 10:122-3.1 Administrative responsibility
- 10:122-3.2 Reporting requirements

- 10:122-3.3 Center records
- 10:122-3.4 Comprehensive general liability insurance
- 10:122-3.5 Telephone requirements
- 10:122-3.6 Information to Parents document

**SUBCHAPTER 4. STAFF REQUIREMENTS**

- 10:122-4.1 General requirements for sponsor, director, and all staff members
- 10:122-4.2 Staffing requirements
- 10:122-4.3 Staff/child ratios
- 10:122-4.4 Grouping of children
- 10:122-4.5 Staff responsibilities
- 10:122-4.6 Staff qualifications
- 10:122-4.7 Staff orientation and development
- 10:122-4.8 Special requirements to prevent child abuse and neglect
- 10:122-4.9 Child Abuse Record Information background check procedures
- 10:122-4.10 Criminal History Record Information background check procedures

**SUBCHAPTER 5. PHYSICAL FACILITY REQUIREMENTS**

- 10:122-5.1 State, county and municipal government physical facility requirements
- 10:122-5.2 Physical plant requirements for all centers
- 10:122-5.3 Additional physical plant requirements for early childhood programs
- 10:122-5.4 Additional physical plant requirements for school-age child care programs
- 10:122-5.5 Special physical facility and monitoring requirements to prevent child abuse and/or neglect

**SUBCHAPTER 6. PROGRAM REQUIREMENTS**

- 10:122-6.1 Activities
- 10:122-6.2 Program equipment for children's daily activities
- 10:122-6.3 Food and nutrition
- 10:122-6.4 Rest and sleep requirements for early childhood programs
- 10:122-6.5 Policy on the release of children
- 10:122-6.6 Discipline
- 10:122-6.7 Special requirements to prevent child abuse and/or neglect and inappropriate staff behaviors toward children
- 10:122-6.8 Parent and community participation

**SUBCHAPTER 7. HEALTH REQUIREMENTS**

- 10:122-7.1 Illnesses/communicable diseases
- 10:122-7.2 Attendance by children and/or staff members known to be infected with Human Immunodeficiency Virus (HIV)
- 10:122-7.3 Health and immunization requirements for children
- 10:122-7.4 Health requirements for staff members
- 10:122-7.5 Administration and control of prescription and non-prescription medicines and health care procedures
- 10:122-7.6 Injury to a child while in the center's care
- 10:122-7.7 Environmental sanitation requirements
- 10:122-7.8 Personal hygiene requirements
- 10:122-7.9 Illness log for early childhood programs
- 10:122-7.10 Reporting of illnesses, injuries, and reportable diseases
- 10:122-7.11 Information to parents regarding the management of communicable diseases

**SUBCHAPTER 8. REQUIREMENTS FOR CENTERS SERVING SICK CHILDREN**

- 10:122-8.1 Requirements for all centers serving sick children
- 10:122-8.2 Admission criteria
- 10:122-8.3 Requirements for additional staff for centers serving sick children
- 10:122-8.4 Requirements for additional physical facilities for centers serving sick children

- 10:122-8.5 Program requirements for centers serving sick children  
 10:122-8.6 Sanitation and infection control  
 10:122-8.7 Requirements for additional records for centers serving sick children

#### SUBCHAPTER 9. TRANSPORTATION REQUIREMENTS

- 10:122-9.1 Scope  
 10:122-9.2 Vehicle definitions  
 10:122-9.3 Vehicle requirements  
 10:122-9.4 Driver licensing requirements  
 10:122-9.5 Vehicle-related safety practices  
 10:122-9.6 Vehicle insurance  
 10:122-9.7 Transportation records  
 10:122-9.8 Vehicle staff requirements  
 10:122-9.9 (Reserved)

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:122-1.1 Legal authority

(a) This manual is promulgated pursuant to the Child Care Center Licensing Law, N.J.S.A. 30:5B-1 to 15, supplemented by P.L.1992, c. 95.

(b) Under the laws specified in (a) above, the Department of Human Services is authorized to:

1. License certain public and private child care centers that are maintained for the care, development or supervision of six or more children under 13 years of age for less than 24 hours a day;
2. Inspect and examine the physical plant or facilities and program of a child care center and inspect all documents, records, files or other data maintained pursuant to the above-referenced law during the center's normal operating hours and without prior notice; and
3. Request the appropriate State and local fire, health and building officials to conduct examinations and inspections to determine a center's compliance with State and local ordinances, codes and regulations. The inspections shall be conducted and the results reported to the Department within 60 days after the request.

(c) Under the laws specified in (a) above, the Department of Human Services is authorized to issue a Certificate of Life/Safety Approval to a center that:

1. Operates on a seasonal or short-term basis for eight weeks or less and does not offer a continuous program that extends across the three-year period of licensure; or
2. Was operating on or before May 16, 1984 and was exempt from the licensing provisions because it was operated by an aid society of a properly organized and accredited church.

(d) Centers specified in (c)1 and 2 above are required to comply only with the physical facility, life/safety, administration and control of medication, environmental sanitation and communicable disease reporting provisions of this manual of requirements. Centers with Certificates of Life/Safety Approval may secure regular licenses on a voluntary basis as

long as they comply with all provisions of this manual of requirements.

(e) To be eligible for a license, a center shall demonstrate to the satisfaction of the Department of Human Services, or the duly authorized agency, that the center complies with all applicable provisions of this manual.

(f) All applicable requirements shall be met by all child care centers, unless the rules are specified as "for early childhood programs" or "for school-age child care programs."

(g) Responsibility for ensuring that centers comply with the provisions of the laws cited in (a) above and with provisions of this manual is hereby delegated by the Department of Human Services to the Division of Youth and Family Services, Bureau of Licensing.

(h) When a person intends to care for six or more children under 13 years of age, he or she shall apply for and secure from the Bureau a license to operate a child care center. Once licensed, the center is subject to all applicable provisions of this manual, even if the number and/or ages of the children attending the center at a particular time should fall outside the definition of a center, as specified in N.J.A.C. 10:122-1.2(a).

##### 10:122-1.2 Definition of child care center

(a) "Child care center" or "center" means any home or facility, by whatever name known, which is maintained for the care, development or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

1. For a facility that is located in a sponsor's home, the Bureau shall not count the children residing in the sponsor's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

2. For a child care center operated by a nonprofit organization in a public school building used as a public school, the center shall not be required to meet the requirements in this manual governing the safety and adequacy of the physical plant or facilities, in keeping with P.L. 2000, c.122 (N.J.S.A. 30:5B-5).

(b) The term, child care center, shall include, but not be limited to, day care centers; drop-in centers; night-time centers; recreation-type centers sponsored and operated by a county or municipal government recreation and/or park department or agency; day nurseries; nursery and play schools; cooperative child centers; centers for children with special needs; centers serving sick children; infant-toddler programs; school-age child care programs; employment-related centers; centers that had been licensed by the Department of Human Services prior to the enactment of the Child Care Center Licensing Act of 1984; and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth.

(c) The term, child care center, shall not include the following programs, since they do not meet the definition of a child care center:

1. A program serving fewer than six children who are below 13 years of age;
2. A program, such as that located in a bowling alley, health spa or other facility, in which:
  - i. Each child attends on a drop-in basis for no more than two hours; and
  - ii. The parent of each child attending the program is in the same building, is readily accessible at all times on an on-call basis, and is able to resume control of the child immediately;
3. A child care program operating within a geographic area, enclave or facility that is owned and/or operated by the Federal government;
4. A family day care home that is registered pursuant to the Family Day Care Provider Registration Law, N.J.S.A. 30:5B-16 et seq.;
5. Programs that offer activities for children who attend at their own discretion on an "open door" basis, where there is no agreement, written or implied, between the program and the parent for the program to assume responsibility for the care of the child; and
6. A program offering child care on an ad hoc, sporadic and isolated basis in order to meet an emergency or special need, such as during emergency school closings, conferences or training sessions.

(d) The following programs are exempt from licensure pursuant to the laws specified in N.J.A.C. 10:122-1.1(a):

1. Programs operated by the board of education of a local public school district which is responsible for their implementation and management;
2. Programs operated by, and whose employees are paid by, a private school which is run solely for educational purposes. Such programs shall include kindergartens, pre-kindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;
3. Centers or special classes operated:
  - i. Primarily for religious instruction. To qualify for an exemption from licensing under this provision, a center or special class must:
    - (1) Be an integral part of a bona fide church or religion;
    - (2) Serve only children who are two years of age or older;
    - (3) Provide a program that is composed primarily of religious instruction in which the curriculum is

related to religious themes, stories and/or teachings; and

(4) For children under six years of age, operate and provide religious instruction for not more than two hours on any day; or

ii. For the temporary care of children while persons responsible for such children are attending religious services. To qualify for an exemption from licensure under this provision, a center or special class must:

(1) Provide care only for the children of participants in religious services that are an integral part of a bona fide church or religion;

(2) Be arranged by and responsible to the church or religion; and

(3) Provide child care only for the duration of time the services are in progress;

4. Programs of specialized activities or instruction for children that are not designed or intended for child care purposes, including, but not limited to: Boy Scouts, Girl Scouts, 4-H Clubs, Junior Achievement, and commercial indoor playground/sports centers where parents remain with pre-school children; and single activity programs, such as: athletics, gymnastics, hobbies, art, music, dance and craft instruction, which are supervised by an adult, agency or institution. To qualify for an exemption from licensing under this provision, a program must:

i. Provide activities that are supervised on a full-time basis by an adult; and

ii. Provide only a single instruction or activity program. For children under six years of age, such single instruction or activity programs shall be limited to not more than two hours on any day;

5. Youth camps required to be licensed under the Youth Camp Safety Act of New Jersey, pursuant to N.J.S.A. 26:12-1 et seq. To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp, issued by the New Jersey Department of Health and Senior Services. A youth camp sponsor who also operates a child care center shall also secure a license from the Bureau for the center;

6. Regional schools operated by or under contract with the Department of Human Services. To qualify for an exemption from licensing under this provision, a center must be operated and funded as a regional school by the Department of Human Services, pursuant to N.J.S.A. 18A:7B-12; and

7. Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for children with disabilities, pursuant to N.J.S.A. 18A:46-1 et seq.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (c), added 6; and in (d)4, inserted a reference to commercial indoor playground/sports centers where parents remain with preschool children in the introductory paragraph.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote (a).

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (d), rewrote 6 and substituted "children with disabilities" for "handicapped children" in 7.

#### Case Notes

Decision to terminate increasingly aggressive and unruly child from program at day care center was not unreasonable. *Mile Square v. M.G.*, 95 N.J.A.R.2d (DYF) 4.

#### 10:122-1.3 Definitions of other terms

The following words and terms, when used in this manual, shall have the following meanings:

"Bureau" means the Bureau of Licensing, Division of Youth and Family Services, Department of Human Services.

"Chapter" means the rules contained in the Manual of Requirements for Child Care Centers, as specified in N.J.A.C. 10:122, which reflect provisions that constitute minimum baseline requirements below which no center that is subject to the authority of N.J.S.A. 30:5B-1 to 15 is legally permitted to operate.

"Child" means any person under 13 years of age.

"Denial of a license or a Certificate of Life/Safety Approval" means the withholding by the Bureau of an initial license or Certificate of Life/Safety Approval, for which a center has applied.

"Department" means the New Jersey Department of Human Services.

"Director" means the on-site staff member responsible for the daily operation and management of the center.

"Division" means the Division of Youth and Family Services, Department of Human Services.

"Early childhood program" means a supervised group program serving six or more children under six years of age.

"Health care provider" means a physician, nurse practitioner, physician's assistant or other health care professional who is licensed or otherwise authorized by the state in which he or she practices to perform the applicable health care services specified in this manual.

"Parent" means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

"Person" means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

"Refusal to renew a license or a Certificate of Life/Safety Approval" means the non-issuance of a license or a Certificate of Life/Safety Approval by the Bureau to a center after its existing license or Certificate of Life/Safety Approval has expired.

"Regular Certificate of Life/Safety Approval" or "Regular Certificate" means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in full compliance with the provisions of this manual specified in N.J.A.C. 10:122-1.1(c).

"Regular license" means a document issued by the Bureau to a center indicating that the center is in full compliance with all applicable provisions of this manual.

"Revocation of a license or a Certificate of Life/Safety Approval" means a permanent removal of a center's current license or Certificate of Life/Safety Approval to operate.

"School-age child care program" means a supervised group program serving six or more children under 13 years of age who are enrolled in a public or private school, when their classes are not in session. The term, school-age child care program, may also include programs that serve: kindergarten children before and/or after their regular school session; and pre-kindergarten children before and/or after their regular school session if the pre-kindergarten children attend the program for no more than three and a half hours.

"Shall" denotes a provision of this chapter that a center must meet to qualify for a license.

"Should" denotes a recommendation reflecting goals towards which a center is encouraged to work.

"Sponsor" means any person owning or legally responsible for operating a center.

"Staff member" or "staff" means any person(s) employed by or working for or at a center on a regularly scheduled basis. This includes full-time, part-time, voluntary, substitute, contract or consulting personnel, whether compensated or not.

"Suspension of a license or a Certificate of Life/Safety Approval" means a temporary removal of a center's current license or Certificate of Life/Safety Approval to operate.

"Temporary Certificate of Life/Safety Approval" or "Temporary Certificate" means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in substantial compliance with the provisions of this manual specified in N.J.A.C. 10:122-1.1(c), provided that no serious or imminent hazard affecting the children exists in the center.

“Temporary license” means a document issued by the Bureau to a center that is in substantial compliance with the applicable provisions of this manual, provided that no serious or imminent hazard affecting the children exists in the center.

Amended by R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).  
Added “Health care provider”.

**10:122-1.4 Hours of care**

(a) Centers operating during the normal waking hours shall not care for a child on a regular basis for more than 12 hours within a 24-hour period.

(b) Centers operating during the normal sleeping hours shall not care for a child on a regular basis for more than 16 hours within a 24-hour period.

**SUBCHAPTER 2. LICENSING PROCEDURES**

**Cross References**

See N.J.A.C. 10:122E-2.7, Disagreements regarding removal of foster children.

**10:122-2.1 Application for a license**

(a) No person shall operate a center without first securing a license from the Bureau. Any person who operates a center that does not have a valid license, or who uses fraud or misrepresentation in obtaining a license or who advertises or provides any service not authorized by a valid license, or who violates any other provision of the laws specified in N.J.A.C. 10:122-1.1(a), is guilty of a crime of the fourth degree, pursuant to N.J.S.A. 30:5B-13.

(b) A person applying for an initial license or renewal license to operate a center shall submit a completed application form to the Bureau at least 45 days prior to the anticipated opening of the center or to the expiration of its existing regular license.

(c) An applicant for an initial or renewal license shall submit, with the completed application form, the specified licensing fee listed in the chart below, in the form of a check or money order made payable to the “Treasurer, State of New Jersey.”

**LICENSING FEES FOR CENTERS**

<u>Center's Licensed Capacity</u>	<u>Three Year Fee</u>
6-15	\$110.00
16-30	\$140.00
31-60	\$165.00
61-100	\$195.00
101-180	\$220.00
181 and up	\$250.00

(d) In lieu of the fees specified in (c) above, an applicant for an initial or renewal license who operates a Head Start Center, pursuant to 42 U.S.C. §§ 9381 et seq., or a school-age child care program that does not charge a fee or require other compensation or services from parents, shall submit with the completed application form a \$110.00 licensing fee, in the form of a check or money order made payable to the “Treasurer, State of New Jersey.”

(e) If the application is denied, or the center does not open, the Bureau will refund the licensing fee to the applicant.

(f) The licensing fee will not be refunded once the Bureau issues the center a license.

Amended by R.1996 d.556, effective December 2, 1996 (operative January 1, 1997).  
See: 28 N.J.R. 3700(a), 28 N.J.R. 5073(a).

**10:122-2.2 Issuance of a license**

(a) The Bureau shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this manual.

(b) If the Bureau determines that a center is in substantial compliance with, but does not meet all applicable provisions of this manual, and provided that there is no serious or imminent hazard to the health, safety, well-being and development of the children, the Bureau shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license. When a center applies for its first license, a temporary license shall not be issued until the center has submitted to the Bureau a satisfactory Certificate of Occupancy and documentation of compliance with State requirements governing lead paint and asbestos hazards, as specified in N.J.A.C. 10:122-5.1 and 5.2.

(c) A temporary license may be issued for a period not to exceed six months. The Bureau may issue as many temporary licenses as it deems necessary. However, a center shall not operate pursuant to temporary licenses for more than 18 months.

(d) Each licensing period, which may include the issuance of one or more temporary licenses and/or one regular license, shall be three years.

1. In determining the expiration date of the first regular license, the Bureau shall compute the three-year licensing period from the date of issuance of the first temporary or regular license.

2. In determining the expiration date of a renewal regular license, the Bureau shall compute the three-year licensing period from the date on which the center's previous regular license expired.

(e) The license shall be posted in a prominent location within the center.

(f) A center shall not make claims contrary to its license, either in advertising or in any written or verbal announcement or presentation.

(g) A facility or program caring for children shall not claim in advertising, or in any written or verbal announcement or presentation, to be a licensed center unless it has secured a license from the Bureau.

(h) A center shall not claim that it is licensed by any State department or agency other than the New Jersey Department of Human Services, or that it is accredited by any State department.

Amended by R.2000 d.436, effective November 6, 2000.  
See: 32 N.J.R. 2040(a), 32 N.J.R. 3994(a).

In (b), added last sentence.

### 10:122-2.3 Location of a center

(a) The license shall be issued to a specific center sponsor at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same sponsor, the sponsor shall apply to the Bureau for either:

1. A separate license for each center in each building; or
2. A single license covering all the buildings that comprise a single center, provided that:
  - i. The buildings are on the same or contiguous properties;
  - ii. The programs have the same director; and
  - iii. The Bureau determines that issuance of a single license would not be detrimental to the health, safety, well-being, and development of the children served.

(c) A center shall not be located near or adjacent to areas determined by the Bureau to be hazardous to the physical health and safety of the children.

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The sponsor of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.
2. Prior to approving the site, the Bureau shall determine that the multi-use site does not pose a serious risk to the health, safety or well-being of the children.
3. The Bureau may require the center to:
  - i. Operate in a separate room, floor and/or section of the building;

ii. Have or use a separate entrance and/or toilet facility; and/or

iii. Meet any other physical plant, staffing, program or other operational requirements that are deemed necessary to protect the children from serious risk of harm stemming from the co-location.

4. The sponsor of a center that has been approved to be located in a multi-use building shall notify the Bureau of any change in use by other occupants of the building, as specified in N.J.A.C. 10:122-3.2(a).

### 10:122-2.4 Denying, suspending, revoking or refusing to renew a license or a Certificate of Life/Safety Approval

(a) The Bureau may deny an application or suspend, revoke or refuse to renew a license or a Certificate of Life/Safety Approval for good cause, including the following, as applicable:

1. Failure or refusal to comply with all applicable provisions of the laws specified in N.J.A.C. 10:122-1.1(a) and of this manual;
2. Violation of the terms and conditions of a license or a Certificate of Life/Safety Approval;
3. Use of fraud or misrepresentation in obtaining a license or a Certificate of Life/Safety Approval or in the subsequent operation of the center;
4. Refusal to furnish the Division with files, reports or records, as required by this manual;
5. Refusal to permit an authorized representative of the Division to gain admission to the center and/or to conduct an inspection or investigation during the center's operating hours;
6. Any activity, policy or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being or development of a child attending a center, or that otherwise demonstrates unfitness by a sponsor or staff member(s) to operate a center;
7. Failure to provide developmental activities that meet the physical, social, emotional and cognitive needs of the children served;
8. Failure by the sponsor to secure and maintain on file conviction disclosures, as specified in N.J.A.C. 10:122-4.1, Child Abuse Record Information (CARI) background checks, as specified in N.J.A.C. 10:122-4.9, or Criminal History Record Information (CHRI) fingerprint background checks, as specified in N.J.A.C. 10:122-4.10;
9. A determination by the Division's Institutional Abuse Investigation Unit that children in the center are at risk of harm;

10. Refusal by the sponsor to consent to a Child Abuse Record Information background check for himself or herself, or to terminate the employment of a staff member who refuses to consent to a Child Abuse Record Information background check;

11. Refusal by the sponsor to terminate the employment of a staff member when a Child Abuse Record Information background check reveals that an incident of child abuse or neglect has been substantiated against the staff member;

12. A Child Abuse Record Information background check that reveals that an incident of child abuse or neglect has been substantiated against the sponsor; or

13. Failure to comply with the provisions of P.L. 1998, c.35, which prohibit smoking in child care centers, as specified in N.J.A.C. 10:122-7.7(d).

(b) The Bureau shall provide written notice to the sponsor if it intends to deny an application or suspend, revoke or refuse to renew a license or a Certificate of Life/Safety Approval. The notice shall specify the Bureau's reasons for such action.

(c) If the Bureau suspends a center's license or Certificate of Life/Safety Approval to prevent the imminent risk of harm to children served by the center, the Bureau may reinstate the suspended license or Certificate of Life/Safety Approval upon the center's compliance with all applicable provisions of this manual.

(d) If the Bureau denies an application or revokes or refuses to renew a center's license or Certificate of Life/Safety Approval, as specified in (a) above, the sponsor of the center shall be prohibited from reapplying for a license or a Certificate of Life/Safety Approval for one year from the date of the denial, revocation or refusal to renew. After the one-year period has elapsed, the sponsor may submit to the Bureau a new application for a license or a Certificate of Life/Safety Approval.

(e) Each license and each Certificate of Life/Safety Approval issued by the Bureau to a center is the property of the State of New Jersey. If the Bureau suspends or revokes a license or a Certificate of Life/Safety Approval, the center shall return the license or Certificate of Life/Safety Approval to the Bureau immediately.

(f) If the Bureau determines to suspend, revoke or refuse to renew the center's license or Certificate of Life/Safety Approval, the Bureau shall notify the parent of each enrolled child of the action.

1. Upon notification by the Bureau of an action against the center's license or Certificate, the center shall provide to the Bureau the name and mailing address of each child's parent.

2. Within 20 days after notifying the center of the action, the Bureau shall:

i. Notify parents of the action against the center's license or Certificate;

ii. Advise parents of the center's right to contest the action through an administrative hearing before the Office of Administrative Law;

iii. Inform parents of the name, address and telephone number of the resource and referral services offered by the appropriate State-contracted Unified Child Care Agency for assistance in finding alternative child care arrangements, if necessary; and

iv. Notify the appropriate State-contracted Unified Child Care Agency of the action.

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), rewrote 8, and added 10 through 13.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a), rewrote 8; in (d), inserted "sponsor of the" preceding "center" in the first sentence and substituted "sponsor" for "center" in the second sentence; added (f).

#### 10:122-2.5 Administrative hearings

(a) Before the Bureau's decision to deny an application or suspend, refuse to renew or revoke a center's license or Certificate of Life/Safety Approval becomes effective, the Bureau shall afford the center an opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Division determines that the children are not at risk and no serious or imminent hazards exist, the Bureau may permit a center that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

#### 10:122-2.6 Complaints

(a) Whenever the Bureau receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this manual, the Bureau shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Bureau shall notify the sponsor in writing of the results of the investigation, pursuant to the State Public Records Law, N.J.S.A. 47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a.

(c) Whenever the Division, through its Bureau of Licensing, Institutional Abuse Investigation Unit or District Offices, conducts complaint investigations, the center shall cooperate with all Division investigators.

**10:122-2.7 Public access to the Bureau's licensing records**

Licensing files maintained by the Bureau are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Bureau, except when public access to records is restricted, in accordance with the State Public Records Law or other applicable statutes.

**10:122-2.8 Procedures for securing a Certificate of Life/Safety Approval**

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 10:122-1.1(c), may apply for and secure such a Certificate from the Bureau by complying with all provisions of N.J.A.C. 10:122-2.1 through 2.8, except for 10:122-2.1(c) and (d); and with all provisions of N.J.A.C. 10:122-4.9; 10:122-4.10; 10:122-5.1 through 5.5; 10:122-7.5, 7.7, 7.8 and 7.10; and 10:122-9.1 through 9.8.

(b) The applicant shall submit to the Bureau a \$110.00 fee in the form of a check or money order made payable to the "Treasurer, State of New Jersey," along with the completed application for a Certificate of Life/Safety Approval.

(c) When an applicant is the sponsor of a licensed child care center and seeks to operate a seasonal or short-term program, as specified in N.J.A.C. 10:122-1.1(c)1, at the same site, the applicant shall submit an application for a Certificate of Life/Safety Approval with no additional fee required. The sponsor shall receive a Certificate of Life/Safety Approval in addition to a license.

(d) The Bureau shall review the application form and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all applicable provisions of this manual as specified in (a) above.

1. If the center is found to be in full compliance, the Bureau shall issue a Regular Certificate of Life/Safety Approval to the center.

2. If the center is found to be in substantial compliance, and provided that there is no serious or imminent hazard to the health, safety, well-being and development of children, the Bureau shall issue a Temporary Certificate of Life/Safety Approval.

3. When a center applies for its first Certificate of Life/Safety Approval, a temporary Certificate of Life/Safety Approval shall not be issued until the center has submitted to the Bureau a satisfactory Certificate of Occupancy and documentation of compliance with State requirements governing lead paint and asbestos hazards, as specified in N.J.A.C. 10:122-5.1 and 5.2.

Amended by R.1996 d.556, effective December 2, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3700(a), 28 N.J.R. 5073(a).

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), changed N.J.A.C. references.

Amended by R.2000 d.436, effective November 6, 2000.

See: 32 N.J.R. 2040(a), 32 N.J.R. 3994(a)

Rewrote (d).

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a), amended N.J.A.C. references.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), inserted "and 10:122-9.1 through 9.8" following "7.10".

**SUBCHAPTER 3. CENTER ADMINISTRATION****10:122-3.1 Administrative responsibility**

(a) The sponsor shall be legally responsible and held accountable by the Bureau for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this manual.

(b) When the sponsor is an entity owned or operated by two or more individuals, the sponsor shall designate one of those individuals to represent the interests and act on behalf of the sponsor. For school-age child care programs, the sponsor's representative shall have a bachelor's degree.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (b), added the second sentence.

**Case Notes**

Parent's provocative, profane, and abusive behavior towards teachers and staff warranted termination of children from after care program. D.C. v. Seec, Inc., 95 N.J.A.R.2d (DYF) 9.

**10:122-3.2 Reporting requirements**

(a) The center shall notify the Bureau verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1. Injury or illness that results in the admittance to a hospital or death of a child, as specified in N.J.A.C. 10:122-7.10(b);

2. Change in use by other occupants of a multi-use building in which the center is located, as specified in N.J.A.C. 10:122-2.3(d);

3. Permanent closing of the center;

4. Damage to the premises of the center caused by fire, accident or the elements;

5. Proposed use of emergency space, including relocation or use of rooms not approved by local municipal officials or by the Bureau, as specified in N.J.A.C. 10:122-5.2(q); and

6. Any conviction(s) or guilty plea(s) of the sponsor, director or any staff member, as specified in N.J.A.C. 10:122-4.1(b)3, (c)2 and (d)2.

(b) The center shall notify the Bureau verbally at least three working days in advance of any proposed change to the

licensing information previously submitted to the Bureau on the completed application form, including, but not limited to, changes in location. The center shall notify the Bureau in writing within 30 calendar days of any such change.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), deleted a former 2, recodified former 3 through 7 as 2 through 6, and changed N.J.A.C. references in 5 and 6.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Administrative correction.

See: 39 N.J.R. 215(a).

### 10:122-3.3 Center records

(a) Requirements for access to center records are as follows:

1. The center's records shall be open for inspection by authorized representatives of the Bureau.

2. The center's records shall be open for inspection by authorized representatives of the Division's Institutional Abuse Investigation Unit (IAIU) and, provided that they may only secure information about children under the Division's supervision, Division caseworkers.

(b) Requirements for maintenance of center records are as follows:

1. Children's records shall be maintained on file for one year after the child is no longer enrolled at the center.

i. Records for children currently enrolled at the center shall be maintained on file at the center, unless otherwise specified in this manual.

ii. Records for children no longer enrolled at the center shall be maintained on file either at the center or at a central administrative office.

2. Staff records shall be maintained on file for one year after the staff member is no longer working at the center.

i. Records for staff members currently working at the center shall be maintained on file at the center, unless otherwise specified in this manual.

ii. Records for staff members no longer working at the center shall be maintained on file either at the center or at a central administrative office.

3. All other records shall be maintained on file at the center for one year after the record is made or received, unless otherwise specified in this manual.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote the section.

### 10:122-3.4 Comprehensive general liability insurance

The sponsor shall secure comprehensive general liability insurance coverage for the center and shall maintain on file a

copy of the insurance policy or documentation of current insurance coverage.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Added a reference to documentation of current insurance coverage.

### 10:122-3.5 Telephone requirements

(a) The center shall have:

1. Its own telephone; or

2. Access to a telephone located in the same building. Under this option a person shall be available to receive incoming calls to the center, transmit telephone messages to center personnel immediately and make outgoing calls for the center, as necessary.

### 10:122-3.6 Information to Parents document

(a) The center shall give to the parent(s) of every enrolled child and to every staff member a written Information to Parents document designated by the Bureau of Licensing and indicating that the center is required to:

1. Be licensed by the Bureau of Licensing, Division of Youth and Family Services;

2. Comply with all applicable provisions of the Manual of Requirements for Child Care Centers;

3. Post its license in a prominent location within the center;

4. Retain a current copy of the manual and make it available for parents' review;

5. Indicate how parents can secure a copy of the manual and obtain information about the licensing process from the Bureau;

6. Make available to parents, upon request, the Bureau's Life/Safety and Program Inspection/Violation and Complaint Investigation Summary report(s) on the center, as well as any letters of enforcement or other actions taken against the center during the center's current licensing period;

7. Post a listing or diagram of those rooms and/or areas that have been approved by the Bureau for children's use;

8. Comply with the inspection/investigation functions of the Division, including the interviewing of staff members and children;

9. Afford parents the opportunity and time to review and discuss with the center director or sponsor any questions or concerns about the policies and procedures of the center or whether the center is in compliance with all applicable provisions of the manual;

10. Advise parents that if they believe or suspect that the center is violating any requirement of the manual, they may

report such alleged violations to the center sponsor or director or to the Bureau;

11. Afford parents of enrolled children an opportunity to participate in the center's operation and activities and to assist the center in complying with licensing requirements;

12. Afford parents of enrolled children the opportunity to visit the center at any time during the center's hours of operation to observe its operation and program activities without having to secure prior approval;

13. Provide parents with advance notice of any field trip, outing or special event involving the transportation of children away from the center, and, for each event, secure the written consent of the parent(s) before taking a child on such a field trip, outing or special event;

14. Post a copy of the center's written statement of policy on the disciplining of children by staff members in a prominent location within the center, and make a copy of it available to parents upon request;

15. Indicate through this document that any person who has reasonable cause to believe that a child has been or is being subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating or frightening treatment, or any other kind of child abuse, neglect or exploitation by any adult, is required by State law to report such allegations to the Division's Office of Child Abuse Control or any District Office immediately, and indicate that such reports may be made anonymously;

16. Indicate through this document how parents and staff members may secure information about child abuse and/or neglect from the Division;

17. Inform parents of the center's policy on the release of children;

18. Inform parents of the center's policy on administering medication and health care procedures;

19. Provide parents with a copy of the center's policy on management of communicable diseases;

20. Provide parents with a copy of the center's policy on the expulsion of children from enrollment; and

21. Inform parents that the center is required to comply with the New Jersey Law Against Discrimination (LAD), P.L. 1945, c.169 (N.J.S.A. 10:5-1 et seq.), and the Americans with Disabilities Act (ADA), P.L. 101-336 (42 U.S.C. §§ 12101 et seq.), and indicate that anyone who believes the center is not in compliance with these laws may contact the Division on Civil Rights in the New Jersey Department of Law and Public Safety for information about filing an LAD claim at (609) 292-4605 (TTY users may dial 711 to reach the New Jersey Relay Operator and ask for (609) 282-7701), or may contact the United States Department of Justice for information about filing an ADA claim at (800) 514-0301 or (800) 514-0383 (TTY).

(b) The center shall provide the Information to Parents document to each child's parent(s) upon enrollment, and to every person upon becoming a staff member.

1. The center shall secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the document.

2. The center shall maintain on file a copy of the Information to Parents document.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), substituted a reference to Information for Parents documents designated by the Bureau of Licensing for a reference to documents in the introductory paragraph; and rewrote (b).

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a), substituted "administering" for "dispensing" preceding "medications" and inserted "and health care procedures" following "medications" in 18, and added 20 and 21.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), rewrote 5, inserted "or sponsor" preceding "any questions or concerns" in 9, and rewrote 11.

#### SUBCHAPTER 4. STAFF REQUIREMENTS

##### 10:122-4.1 General requirements for sponsor, director, and all staff members

(a) The sponsor, director, and every staff member shall:

1. Be of good character and reputation;
2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and
3. Possess skills, attributes, and characteristics conducive to and suitable for sponsoring a center or dealing with children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the center on a regularly scheduled basis, the sponsor or director shall complete and maintain on file for each individual a Staff Records Checklist, signed by the sponsor or director and designated by the Bureau, indicating that the center has obtained documentation of the following:

1. The individual's name, address, telephone number and signature;
2. Education and work experience;
3. Disclosure of the presence or absence of conviction(s) for crimes or disorderly persons offenses;
4. Completion of a Child Abuse Record Information background check, as specified in N.J.A.C. 10:122-4.9, and a Criminal History Record Information fingerprint background check, as specified in N.J.A.C. 10:122-4.10;

5. Completion of a Mantoux tuberculin skin test, as specified in N.J.A.C. 10:122-7.4(a), and physical examination, as specified in N.J.A.C. 10:122-7.4(b);

6. The staff member's signature attesting to the receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 10:122-6.6(e);

7. The staff member's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(b); and

8. Two written and/or verbal references on each individual.

i. The references shall be secured from former employers or other persons who have knowledge of the individual's work experience and/or education and who can attest to the individual's suitability to work with children.

ii. The verbal references shall be documented in writing by the sponsor or director.

(c) The sponsor shall:

1. Maintain on file, regarding himself or herself, the results of the Child Abuse Record Information background check and the Criminal History Record Information fingerprint background check, as specified in (b)4 above; and

2. Disclose to the Bureau, in writing, the following:

i. The sponsor's name, address and telephone number;

ii. The sponsor's signed statement of the presence or absence of conviction(s) for crimes or disorderly persons offenses; and

iii. Information about and circumstances surrounding any previous denial, suspension, revocation or non-renewal of a license to own or operate a center either by the Bureau or by the licensing agency of another state.

(d) The staff records specified in (a) through (c) above shall be maintained on file as follows:

1. The Staff Records Checklist for the current director and all staff members currently working at the center shall be maintained on file at the center.

2. The Staff Records Checklist for the former director and staff members no longer working at the center shall be maintained on file either at the center or at a central administrative office. The checklist shall be updated to indicate the reason for discontinuance of employment.

3. Documentation of the information listed in the Staff Records Checklist shall be maintained on file either at the center or at a central administrative office.

(e) Failure by a sponsor, director or other staff member to comply with the requirements specified in (a) through (c) above and/or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner shall constitute grounds for one or more of the following actions:

1. Removal of the sponsor, director or other staff member from his or her position;

2. Reassignment to other duties that do not involve contact with children;

3. Termination from the center; and/or

4. Denial, refusal to renew, suspension or revocation of the center's license.

(f) Evidence of a previous denial, suspension, revocation, or non-renewal of a license, as specified in (c)2iii above, shall not in and of itself result in an automatic disqualification of the sponsor or prospective sponsor to secure a license for another or the same center, but shall constitute grounds for the Bureau to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote the section.  
Amended by R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote the section.  
Amended by R.2005 d.94, effective March 21, 2005.  
See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).  
Rewrote the section.

#### 10:122-4.2 Staffing requirements

(a) Each center shall have the following staff members:

1. A sponsor, who may also serve as the director and/or as one of the staff members specified in (a)3 below;

2. A director, who may also serve as one of the staff members specified in (a)3 below;

3. One or more of the applicable qualified staff members, as specified in the charts in (b) and (c) below for each program type offered; and

4. Additional staff members, as necessary, to meet staff/child ratio requirements, as specified in N.J.A.C. 10:122-4.3.

i. If the center offers an early childhood program and a school-age child care program, but has fewer than six children in one of those programs, the center shall only be required to meet the staffing requirements of the program serving six or more children.

ii. If the center offers an early childhood program and a school-age child care program, and has fewer

than six children in both programs, the center shall meet the staffing requirements in either (b) or (c) below.

(b) For early childhood programs, the following shall apply:

1. Based on the center's licensed capacity, the center shall have one or more head teachers, group teachers, and/or consulting head teachers, as specified in the chart below:

**TYPES OF STAFF REQUIRED AT EARLY CHILDHOOD PROGRAMS**

Licensed Capacity	Head Teacher(s)	or	†Group Teacher(s)	or	Consulting Head Teacher
6-15	1	or	1	or	1
16-30	1	or	(1	and	1)
31-60	1				
61-120	1	and	1		
121-180	1	and	2		
181-240	2	and	2		
241-300	2	and	3		
301-360	3	and	3		
361-420	3	and	4		
421-480	4	and	4		
481-540	4	and	5		

† A staff member who meets the head teacher qualifications, as specified in N.J.A.C. 10:122-4.6(c), may be utilized for a required group teacher.

i. As an exception to the staffing requirements in the chart above, centers with a licensed capacity of from six to 30 children, 50 percent or more of whom have special needs as a result of a cognitive, socio-emotional or physical disability or disorder, shall have a head teacher.

(c) For school-age child care programs, the following shall apply:

1. Based on center size, the center shall have one or more program supervisors at each site as specified in the chart below:

**TYPES OF STAFF MEMBERS REQUIRED AT SCHOOL-AGE CHILD CARE PROGRAMS**

Licensed Capacity	Program Supervisor(s)
6-180	1
181-360	2
361-540	3

Amended by R.1998 d.502, effective October 5, 1998. See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (b)1, substituted "the center's licensed capacity" for "center size" in the introductory paragraph, and changed N.J.A.C. reference.

Amended by R.2005 d.94, effective March 21, 2005. See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (b), substituted "disability" for "handicap" preceding "or disorder" in li.

**10:122-4.3 Staff/child ratios**

(a) The children shall be supervised by a staff member at all times, including during outdoor activities, rest and sleep, toileting procedures and walking through hallways, as appropriate for their ages and developmental needs, the physical setting and the nature of the activity.

1. The center shall develop and implement a Bureau-approved method to keep track of the location and safety of all children at all times when under the center's supervision, including the transfer of supervision from and to parents during arrival and departure.

2. The center shall ensure that all staff members are trained in the method of keeping track of children.

(b) There shall be a minimum of two staff members accompanying children on any field trip, outing or special event involving the transportation of children away from the center, even when the appropriate staff/child ratios allow fewer than two staff members.

(c) The following staff/child ratios shall apply, except as specified in (d) through (f) below:

Age	Staff/Child Ratio
Under 18 months	1:4
18 months up to 2½ years	1:6
2½ years up to 4 years	1:10
4 years	1:12
5 years and older	1:15

(d) The following staff/child ratios shall apply during rest or sleep, when the criteria listed in (d)1, 2 and 3 below are met:

Age	Staff/Child Ratio
Under 2½ years	1:10
2½ years and above	1:20

1. At least one staff member shall be physically present in the room or area in which children are napping and shall be able to summon other staff members without leaving the room or area.

2. A sufficient number of staff members shall be in the facility and readily accessible to ensure compliance with the staff/child ratios specified in (c) above.

3. Naptime preparations shall have been completed and all children above 12 months of age shall be resting or sleeping, while all children 12 months of age or below shall be sleeping.

(e) The following staff/child ratios shall apply for centers serving children, 50 percent or more of whom have special needs, as a result of a cognitive, socio-emotional or physical disability or disorder:

<u>Age</u>	<u>Staff/Child Ratio</u>
Under 2½ years	1:3
2½ years of age and over (non-ambulatory)	1:3
2½ years of age and over (ambulatory)	1:5

(f) Centers serving children who are sick shall comply with the variation on staff/child ratios for sick children, as specified in N.J.A.C. 10:122-8.3(c).

(g) In computing the required number of staff, the center shall apply the applicable staff/child ratios, as specified in (c) through (f) above, to the actual number of children in attendance at the center. The total number of staff members required for a center shall be the sum total of staff members required per room or area within a large room that has been divided by partitions, furniture or other barrier. The number of staff members per room or area within a large divided room shall be computed by dividing the number of children in attendance per room or area within a large divided room at any given time by the staff/child ratio required for the age of the children served. When this resulting figure is any fraction above a whole number, an additional staff member shall be required.

(h) When children of mixed ages requiring different staff/child ratios are in one room or area within a large divided room, the center shall compute the staff/child ratios applicable for each group separately to the nearest tenth decimal. If the resulting cumulative figure for all age groups is any fraction above a whole number, an additional staff member shall be required.

(i) For purposes of determining whether a required staff/child ratio is met, only those staff members who are involved in the direct care and supervision of children shall be counted.

(j) Staff members who are under 18 years of age shall be directly supervised by and visible to a staff member who is 18 years of age or older.

(k) For early childhood programs, the following shall apply:

1. A minimum of two staff members, one of whom shall be at least 18 years of age, shall be present and involved in the care of children when:

i. At least six children are present, who are below six years of age; or

ii. Fewer than six children are present but applicable staff/child ratios, governing children below 18 months of age and/or children with special needs, require two staff members.

2. The following minimum ages of staff members shall apply for purposes of computing the staff/child ratio:

i. Only staff members who are at least 14 years of age shall be counted for the staff/child ratio; and

ii. Staff members below 16 years of age shall only be utilized when school is not in session, or, if school is in session, only if they are participating in a school/work program.

(l) For school-age child care programs, the following shall apply:

1. A minimum of two staff members, one of whom shall be at least 18 years of age, shall be at the center and involved in the care of children when six or more children are present, except as specified in (l)2 and 3 below.

2. A minimum of one staff member, who shall be at least 18 years of age, shall be at the center and involved in the care of children when all the provisions in (l)2i through iv below are met:

i. Children attend for no more than one and one half hours;

ii. No more than five children present are below six years of age;

iii. No more than 12 children are present; and

iv. An additional adult has agreed to be available and immediately accessible in an emergency.

3. A minimum of one staff member, who shall be at least 18 years of age, shall escort up to 12 children on any walk including walks to and from their school and the center.

4. Only staff members who are at least 16 years of age shall be counted for the staff/child ratio.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote (a); in (c), inserted ratio for children four years of age, and substituted a ratio for children five years of age for a ratio for children four up to six years of age; and in (l)1, substituted "when six or more children are present" for "at all times".

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a)1, inserted "including the transfer of supervision from and to parents during arrival and departure" following "center's supervision".

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (c), amended the Staff/Child Ratio for 18 months up to 2½ years and 6 years and older; in (e), substituted "disability" for "handicap" preceding "disorder".

#### Case Note

Day care center did not provide appropriate supervision of children or maintain appropriate staff-to-child ratios, as required to retain its license to operate. Division Of Youth And Family Services v. First Steps Academy And Community Development Center, Inc., 2003 WL 23643612, N.J. Adm., (HDY 2627-02).

**10:122-4.4 Grouping of children**

(a) For early childhood programs, the following shall apply for infants (under 18 months of age) and toddlers (18 months to 2½ years of age):

1. A particular staff member shall be assigned as the primary caregiver to each specific group of children, in accordance with applicable staff/child ratios, as specified in N.J.A.C. 10:122-4.3;

2. A group shall consist of four infants or six toddlers to whom a primary caregiver has been assigned;

3. The primary caregiver shall ensure that the needs of each child in the group are met, including:

i. Feeding the child and following each infant's individual feeding schedule, as specified in N.J.A.C. 10:122-6.3(b);

ii. Diapering the child, if applicable, as specified in N.J.A.C. 10:122-7.8(d);

iii. Assisting the child in toilet training, if applicable, in keeping with the center's toilet training policy, as specified in N.J.A.C. 10:122-7.7(e)3; and

iv. Recording any unusual incidents involving the child and ensuring that the child's parents are informed of them, as specified in N.J.A.C. 10:122-4.8(c).

4. If more than 12 infants or 20 toddlers occupy an individual room or a specific area within a large room, areas for up to 12 infants or 20 toddlers shall be defined by visible barriers, partitions or any other room dividers or separations having a height above the eye level of the children who will use those areas.

(b) For early childhood programs, the following shall apply for children 2½ years of age and older:

1. A group shall consist of the number of children:

i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition or any other room divider or separation having a height above the eye level of the children who will use that area; or

ii. Engaged together in a particular activity at any given time, regardless of whether the room or area within a large room is divided or partitioned.

2. Each group shall be limited to a maximum of 20 children except during meals, naptime, outdoor activities, specially scheduled events (for example, parties, community speakers, films, etc.), and daily information sharing sessions (for example, "circle time"), which shall not exceed 15 minutes in duration.

(c) For school-age child care programs, the following shall apply:

1. A group shall consist of the number of children:

i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition or any other room divider or separation having a height above the eye level of the children who will use that area; or

ii. Engaged together in a particular activity at any given time, regardless of whether the room or area within a large room is divided or partitioned.

2. Each group shall be limited to a maximum of 30 children except during meals, outdoor activities and specially scheduled events.

New Rule. R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Former N.J.A.C. 10:122-4.4, Staff responsibilities, recodified to N.J.A.C. 10:122-4.5.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote (a).

**10:122-4.5 Staff responsibilities**

(a) The sponsor shall:

1. Be responsible for hiring or appointing a director;

2. Ensure that the center complies with all applicable provisions of this manual; and

3. Designate individuals with the authority and responsibility to:

i. Develop and implement written policies and procedures for the operation of the center, including:

(1) A table of organization that illustrates lines of authority, responsibility and communication; and

(2) Job descriptions, titles and qualifications for all center staff;

ii. Ensure the supervision of all staff members;

iii. Ensure that all staff members complete staff orientation and development, as specified in N.J.A.C. 10:122-4.7;

iv. Ensure the establishment of administrative, staff and children's records; and

v. Ensure the establishment of a staff member substitute system.

(b) The director shall have the authority and responsibility for:

1. The observation of all groups of children, including:

i. Daily unannounced visits by the director, on a random daily time schedule, to each group of children; and

ii. For centers with an audio or visual monitoring system, as specified in N.J.A.C. 10:122-5.5(c)1i, observation of such a system, on a random daily time schedule, by the director;

2. The implementation of policies and procedures for the day-to-day operation of the center, including:

- i. Maintenance of staff attendance records indicating daily hours worked; and
- ii. Maintenance of children's daily attendance records, including the daily time of arrival and departure; and

3. The orientation of staff members to the day-to-day operation of the center, including physical layout and daily policies and procedures.

(c) When the director is absent from the center for any length of time, he or she shall designate a responsible person to assume and carry out all responsibilities of the director, as specified in (b) above.

1. The director or his or her designee(s) shall be on the premises at all times when the center is operating.
2. The director shall be scheduled to work at the center at least 50 percent of the center's operating hours. For centers serving 30 or fewer children, the center shall comply with this requirement by March 21, 2008.

(d) When the director or any head teacher or required group teacher or required program supervisor is away from the center for six or more weeks, the sponsor or director shall hire and/or designate a staff member(s) who possesses the applicable staff qualifications for the position, as specified in N.J.A.C. 10:122-4.6, to assume the applicable responsibilities of the position, as specified in this section.

(e) For early childhood programs, the following shall apply:

1. The head teacher(s) shall have the authority and responsibility to:
  - i. Ensure the development and implementation of the center's child development and activities program for children below six years of age; and
  - ii. Ensure the appropriateness of program activities according to both the age and developmental level of the child, as specified in N.J.A.C. 10:122-6.1(a).
2. The head teacher shall be scheduled to:
  - i. Work at the center for at least 75 percent of the center's daily operating hours, or at least six hours a day, whichever is less; and
  - ii. Plan, discuss and observe the implementation of program activities by staff members for all groups of children.
3. A head teacher who also serves as director shall be free of full-time responsibility for the direct supervision of a specific group of children.
4. The group teacher(s) shall have the authority and responsibility to:
  - i. Assist the head teacher in implementing the center's child development and activities program; and

ii. Assist the head teacher in ensuring that the program activities are appropriate to both the age and developmental level of the children served, as specified in N.J.A.C. 10:122-6.1(a).

5. A group teacher who serves in lieu of a head teacher for a center having a capacity of up to 30 children, as specified in N.J.A.C. 10:122-4.2(b)1, shall fulfill the responsibilities for head teacher, as specified in (e)1 through 3 above.

6. A group teacher who also serves as director for a center having a capacity of up to 30 children shall be free of full-time responsibility for the direct supervision of a specific group of children.

7. For centers using a consulting head teacher, the following shall apply:

- i. The consulting head teacher shall make at least two on-site visits to the center per month, for a sufficient length of time to conduct staff development, observe the center's program, and ensure that the provisions specified in (e)1 above are met.
- ii. The consulting head teacher shall have the authority and responsibility to observe and evaluate the group teacher, conditional head teacher or other staff member in charge of the center's program during each on-site visit.
- iii. The center shall maintain on file a written record of:
  - (1) The date, purpose and nature of each visit by the consulting head teacher; and
  - (2) The consulting head teacher's observation and evaluation of the staff member in charge of the program.

(f) For school-age child care programs, the following shall apply:

1. The program supervisor shall have the authority and responsibility to:
  - i. Ensure the development and implementation of the center's child development and activities program for school-age children;
  - ii. Ensure the appropriateness of program activities according to the age and developmental level of the child, as specified in N.J.A.C. 10:122-6.1(a); and
  - iii. Be scheduled to work for at least 75 percent of the school-age child care program's daily operating hours. The program supervisor shall spend time at both the before-school and after-school programs, if the center provides both programs.

Recodified from N.J.A.C. 10:122-4.4 and amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (b)2ii and (d), changed N.J.A.C. references; and in (b), and substituted a reference to staff orientation and development for a reference to training of staff members in 5. Former N.J.A.C. 10:122-4.5. Staff qualifications, recodified to N.J.A.C. 10:122-4.6.

Amended by R.2002 d.377, effective November 18, 2002.  
 See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).  
 Rewrote (f)3.  
 Amended by R.2005 d.94, effective March 21, 2005.  
 See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).  
 Rewrote the section.

**10:122-4.6 Staff qualifications**

(a) The center shall maintain on file a Staff Records Checklist designated by the Bureau, as specified in N.J.A.C. 10:122-4.1(b), indicating that the center has obtained documentation of the applicable staff education and experience, as specified in (b) through (d) below.

**OPTIONS FOR MEETING THE DIRECTOR QUALIFICATIONS**

Option	Educational Credentials	and	Experience Requirements
A	Master's Degree in any field related to children or business		(N/A)
B	Bachelor's Degree		One year of managerial or supervisory experience

2. For early childhood programs licensed to serve 30 or fewer children, the director shall meet the group teacher qualification requirements, as specified in (c)3 below.

3. For school-age child care programs, the director shall meet the program supervisor qualification requirements, as specified in (d) below.

4. A director hired before March 21, 2005 who does not meet the qualification requirements specified in (b)1 through 3 above shall complete one of the following options by March 21, 2008:

- i. The Directors Academy offered by the New Jersey Professional Development Center for Early Care and Education;
- ii. The National Administrator Credential offered by the National Child Care Association; or
- iii. At least 45 clock hours of staff development that includes all of the following subject areas:

- (1) Planning and evaluation;

(b) The director shall meet the following qualification requirements:

1. For early childhood programs licensed to serve more than 30 children, the director shall meet the qualification requirements specified in one of the options set forth in the chart below for education and experience:

- (2) Staff management and professional development;
- (3) Educational programming and program development;
- (4) Fiscal management;
- (5) Legal issues;
- (6) Facilities management;
- (7) Family support and community resources;
- (8) Marketing and public relations; and
- (9) Leadership and advocacy.

(c) For early childhood programs, the following shall apply:

1. For all centers, the head teacher or consulting head teacher shall meet the qualification requirements specified in one of the six options set forth in the chart below for education and experience:

**OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATIONS**

Option	Educational Credentials	and	College Credits and Experience
A	Master's Degree in Education		Six credits and one year of experience
B	Master's Degree in any field other than Education		Nine credits and one year of experience
C	Bachelor's Degree in Education, Psychology, Health Care, Nursing, or any other field related to Child Growth and Development; or Teaching Certification from Department of Education in Elementary Education, Nursery School, Pre-school through Third Grade (P-3) or Teacher of the Handicapped		Six credits and two years of experience
D	Bachelor's Degree in any field other than those listed in Option C		Nine credits and three years of experience
OR			
E	Teaching Certification from Department of Education in a field other than those listed in Option C		Six credits and four years of experience Nine credits and three years of experience
OR			
Six credits and four years of experience			

<b>Option</b>	<b>Educational Credentials</b>	<b>and</b>	<b>College Credits and Experience</b>
F	Montessori education equivalent to a Bachelor's Degree		Two years of experience
G	Head Teacher endorsement from the New Jersey Registry for Childhood Professionals, New Jersey Professional Development Center for Early Care and Education		

i. The credits specified in the chart above shall be college credits in early childhood education and/or child development. These credits may be part of the bachelor's or master's degree or constitute additional credits beyond the degree(s).

ii. The years of experience specified in the chart above shall be full time experience in a group program for children under six years of age. This experience may include supervised practice teaching and/or student teaching.

iii. The Bureau may grant conditional approval for a head teacher who has the required educational credentials but has insufficient college credits or experience to meet all the qualifications specified in the chart in (c)1 above.

(1) For conditional approval, the center shall maintain on file documentation of enrollment in courses leading to the required credits, or of employment leading to the required experience, as specified in the chart above.

(2) Conditional approval shall be valid for a maximum of two years, at which time the center shall obtain and maintain on file a transcript indicating completion of the required credits, or documentation of completion of the required experience, as applicable.

(3) When the head teacher has received conditional approval, the center shall have a consulting head teacher until the head teacher has met all applicable qualifications specified in the chart in (c)1 above.

2. For recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency, the head teacher or consulting head teacher shall have:

i. One of the options specified in the chart in (c)1 above; or

ii. Certification as a Recreation Administrator or a Recreation Supervisor from the New Jersey Department of Community Affairs, Board of Recreation Examiners (BRE) and two years of recreation experience; or

iii. Certification as a Recreation Professional from the National Recreation and Park Association (NRPA) and two years of recreation experience.

3. The group teacher shall meet the following requirements for experience and education:

i. One year of teaching experience in a group program for children under six years of age, which may include supervised practice teaching and/or student teaching; and

ii. One of the options set forth in the chart below for educational credentials:

**OPTIONS FOR MEETING THE GROUP TEACHER EDUCATIONAL QUALIFICATIONS**

<b>Option</b>	<b>Educational Credentials</b>
A	Associate's Degree in Early Childhood Education or Child Development
B	Six college credits in Early Childhood Education or Child Development
	<b>AND</b>
	Nine college credits in Education, Psychology, Health Care, Nursing, or any other field related to child growth or development
C	Child Development Associate (CDA) Credential
D	Certified Child Care Professional (CCP) Certificate
E	Group Teacher endorsement from the New Jersey Registry for Childhood Professionals, New Jersey Professional Development Center for Early Care and Education

4. For recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency, the group teacher may substitute:

i. One year of recreation experience for the experience specified in 3i above; and

ii. Certification as a Recreation Technician from the NRPA for the educational credentials specified in 3ii above.

5. For conditional approval, the group teacher shall meet the qualification requirements specified in one of the options set forth in the chart below. The center shall obtain and maintain on file documentation that the staff member has acquired the remaining college credits in the areas specified in Option B in 3ii above within the time period specified below:

**OPTIONS FOR MEETING THE GROUP TEACHER CONDITIONAL APPROVAL QUALIFICATIONS**

<b>Option</b>	<b>College Credits Earned</b>	<b>Experience Completed</b>	<b>Remaining Credits</b>	<b>Time Limit to Obtain Remaining Credits</b>
A	12 college credits in Early Childhood Education, Child Development, Education, Psychology, Health care, Nursing, or any other field related to child growth or development	One year of teaching experience in a group program for children under six years of age	3 credits	Nine months
B	Six college credits in Early Childhood Education or Child Development	Three years of teaching experience in a group program for children under six years of age	9 credits	Two years

(d) For school-age child care programs, the following shall apply:

1. The program supervisor shall meet the qualification requirements specified in one of the applicable options set forth in the chart below for education, training and experience, based on the center's licensed capacity:

REQUIREMENTS FOR PROGRAM SUPERVISOR QUALIFICATIONS

Requirement	Licensed Capacity	Educational Credentials	and	Training and Experience
A	6-15	High School Diploma or General Education Development (GED) Diploma		6 hours (in child care) 2 years
B	16-30	High School Diploma or General Education Development (GED) Diploma		6 hours (in child care) 3 years
		-OR-		
		Certificate as a Recreation Technician from the National Recreation and Park Association (NRPA)		6 hours (in child care) 1 year
		-OR-		
		Child Development Associate (CDA) Certificate; Group Teacher Approval; or 15 college credits in child development, education, recreation, psychology, health care, nursing or any other field related to child growth and development		6 hours (in child care) 1 year
		15 college credits in areas not related to children		6 hours (in child care) 2 years
C	31 or more	High School Diploma or General Education Development (GED) Diploma		6 hours (in child care) and 3 hours (in child program management) 4 years
		-OR-		
		Certificate as a Recreation Technician from the National Recreation and Park Association (NRPA)		6 hours (in child care) and 3 hours (in child program management) 2 years
		-OR-		
		Child Development Associate (CDA) Certificate; Group Teacher Approval; or 15 college credits in child development, education, recreation, psychology, health care, nursing or any other field related to child growth and development		6 hours (in child care) and 3 hours (in child program management) 2 years
		-OR-		
		15 college credits in areas not related to children		3 hours (in child program management) 6 hours (in child care) and 3 hours (in child program management) 3 years
		-OR-		
		Associate's Degree in any field		6 hours (in child care) and 3 hours (in child program management) 2 years
		-OR-		
		Bachelor's Degree in a child related field; or Bureau of Licensing Head Teacher Approval		3 hours (in child program management) 1 year
		-OR-		
		Certificate as a Recreation Administrator, Recreation Supervisor or Recreation Professional		3 hours (in child program management) 1 year
		-OR-		
		Bachelor's Degree in an unrelated field		6 hours (in child care) and 3 hours (in child program management) 1 year
D		School Age Program Supervisor endorsement from the New Jersey Registry for Childhood Professionals, New Jersey Professional Development Center for Early Care and Education		

2. The training specified in the chart above shall:

- i. Be clock hours of training;
- ii. Be completed within nine months of Bureau of Licensing approval as program supervisor;
- iii. Be in areas related to the ages of the children in care; and
- iv. Meet the requirements specified in (d)3 and 4 below.

3. Child care training shall include at least two of the following:

- i. Child growth and development;
- ii. Positive guidance and discipline;
- iii. Nutrition and good eating habits;
- iv. Family involvement and communication with families;
- v. Program planning and development;
- vi. Creating a classroom environment;
- vii. Health and safety procedures, including recognition of illness and disease and training in basic infection control techniques;
- viii. Physical education or recreational activities for children; and
- ix. Understanding New Jersey's child care licensing regulations.

4. Program management training shall include at least two of the following:

- i. Program activity planning and development;
- ii. Family involvement and communication with families;
- iii. Availability of community services;
- iv. Personnel responsibilities and procedures; and
- v. Understanding New Jersey's child care licensing regulations.

5. The experience specified in the chart above shall be obtained in a group program for school-age children.

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

Administrative correction.

See: 27 N.J.R. 2690(a).

Recodified from N.J.A.C. 10:122-4.5 and amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote the section. Former N.J.A.C. 10:122-4.6, Grouping of children, repealed.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote (c).

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote the section.

#### 10:122-4.7 Staff orientation and development

(a) The center shall ensure that all newly hired staff members receive orientation upon being hired and complete all of the following areas within two weeks of beginning work at the center:

1. Supervising and tracking all children, as specified in N.J.A.C. 10:122-4.3(a);
2. Understanding center operations, policies and procedures, as specified in N.J.A.C. 10:122-4.5(b)3;
3. Implementing group size limits and primary caregiver responsibilities, as applicable, as specified in N.J.A.C. 10:122-4.4;
4. Recognizing and reporting child abuse and/or neglect, as specified in N.J.A.C. 10:122-4.8;
5. Evacuating the center and using the fire alarms, as specified in N.J.A.C. 10:122-5.2(f)1;
6. Implementing the center's release policy, as specified in N.J.A.C. 10:122-6.5;
7. Implementing the center's statement of policy on the disciplining of children, as specified in N.J.A.C. 10:122-6.6; and
8. Implementing health practices, as specified in N.J.A.C. 10:122-7.1 through 7.11.

(b) The center shall ensure that all staff members who work at the center for at least 20 percent of the center's weekly operating hours complete eight hours of continuing staff development each year, except as specified in (d) below. Each staff member shall complete staff development each year in all three of the following core areas:

1. Child growth and development, including, but not limited to:
  - i. Understanding the stages of child development;
  - ii. Planning for and providing age appropriate activities;
  - iii. Creating a classroom environment;
  - iv. Including children with special needs in the center's program; and
  - v. Other Bureau-approved areas;
2. Positive guidance and discipline, including but not limited to:
  - i. Using positive methods of guidance and discipline;
  - ii. Promoting positive staff/child interactions;

- iii. Promoting family involvement and communication with families;
  - iv. Recognizing, reporting and preventing child abuse and neglect; and
  - v. Other Bureau-approved areas; and
3. Health and safety procedures, including but not limited to:
- i. Understanding New Jersey's child care center licensing regulations;
  - ii. Understanding the nutritional needs of children;
  - iii. Implementing infection control techniques;
  - iv. Recognizing and responding to symptoms of illness and disease;
  - v. Recognizing and responding to injuries and emergencies;
  - vi. Preventing Shaken Baby Syndrome;
  - vii. Placing infants in the appropriate sleep position;
  - viii. Administering medication and health care procedures; and
  - ix. Other Bureau-approved areas.
- (c) For newly hired staff members, the orientation specified in (a) above may be included in the required eight hours of staff development specified in (b) above.
- (d) In lieu of the child care staff development specified in (b) above, the director, head teacher, group teacher and program supervisor shall each complete 20 hours of staff development each year in one or more of the following:
- 1. The Directors Academy offered by the New Jersey Professional Development Center for Early Care and Education;
  - 2. The National Administrator Credential offered by the National Child Care Association; or
  - 3. Equivalent staff development in one or more of the following areas:
    - i. Planning and evaluation;
    - ii. Staff management and professional development;
    - iii. Educational programming and program development;
    - iv. Fiscal management;
    - v. Legal issues;
    - vi. Facilities management;
    - vii. Family support and community resources;
    - viii. Marketing and public relations; and

- ix. Leadership and advocacy.

(e) Directors hired after March 21, 2005 shall complete staff development in understanding licensing regulations and child behavior management within one year of beginning work at the center. Such staff development may be included in the required 20 hours of staff development specified in (d) above.

(f) The staff development specified in (a) through (e) above shall:

- 1. Be clock hours of staff development;
- 2. Be related to the ages of the children served by each staff member;
- 3. Be provided either by the center or by another source such as a college or university, community or professional organization, professional consultant, State agency, or an instructor approved by the Instructor Approval System of the New Jersey Professional Development Center for Early Care and Education; and
- 4. Be presented by persons with relevant expertise. The staff development may include materials approved by the center, such as printed materials, television broadcasts, or audio-visual materials.

(g) The center shall maintain on file documentation of the date, time, topic, presenter and attendance for all staff development and orientation completed by center staff members.

- 1. For staff development provided by the center, the center shall maintain on file documentation or a copy of all staff development materials used.
- 2. For staff development provided by another source, the center shall maintain on file documentation of the name of the person or organization that provided the staff development.
- 3. The center shall record each staff member's completion of staff development and orientation on the Staff Records Checklist, as specified in N.J.A.C. 10:122-4.1(b).

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote the section.

Amended by R.2000 d.436, effective November 6, 2000.

See: 32 N.J.R. 2040(a), 32 N.J.R. 3994(a).

In (b)3, inserted a new vi and recodified former vi as vii.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (b)1, inserted a new iv and recodified former iv as v, in (b)3, inserted a new vii and viii and recodified former vii as ix; in (f), inserted "and orientation" following "staff development" in the introductory paragraph and in (f)3.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote the section.

Administrative correction.

See: 39 N.J.R. 215(a).

**10:122-4.8 Special requirements to prevent child abuse and neglect**

(a) The sponsor, director or any staff member shall verbally notify the Division's Office of Child Abuse Control or District Office immediately whenever there is reasonable cause to believe that a child has been subjected to abuse and/or neglect by a staff member(s), or any other adult, pursuant to the Child Abuse and Neglect Law (see N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14).

(b) For centers serving children under the Division's supervision, the sponsor, director or any staff member shall report any suspected abuse or neglect of the child by his or her parent(s) or other family members to the Division caseworker assigned to the family.

(c) In addition to the reporting requirements specified in (a) above, the sponsor, director or any staff member shall advise the parent(s) of the occurrence of any unusual incident(s) that occurred at the center and that might indicate possible abuse and/or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to, unusual sexual activity; violent or destructive behavior; withdrawal or passivity; or significant change(s) in the child's personality, behavior or habits. The center shall maintain on file a record of such incidents and documentation that parents have been informed of them.

(d) The Division, during the course of investigating an allegation of child abuse and/or neglect, may determine that corrective action is necessary to protect the children whenever:

1. The sponsor, director or staff member has been found by the Division's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children; and/or

2. The sponsor, director or staff member has committed an act of child abuse and/or neglect, as substantiated by the IAIU; and/or

3. The sponsor, director or staff member has been convicted of such acts.

(e) Whenever the Division makes a determination that corrective action is necessary to protect the children, the sponsor shall carry out the Division's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected sponsor, director or staff member(s) from the center or reassignment to other duties that do not involve contact with the children; or

2. When the sponsor, director or staff member resides at the facility where the center is located, removal of the affected employee from the premises for a period of time extending from one hour prior to the arrival of the children until one hour after the children have left.

(f) Such suspension, removal or reassignment, as specified in (e)1 and 2 above, shall remain in effect until the results of the Division's investigation have been determined, and a final decision in the matter has been rendered by the Bureau.

(g) If an allegation of child abuse and/or neglect is substantiated against a staff member, the sponsor shall immediately terminate the staff member's employment at the center. If an allegation of child abuse and/or neglect is substantiated against the sponsor, the Division will revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

Amended by R.1995 d.87, effective February 6, 1995.  
See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).  
Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).  
Rewrote (g).

#### 10:122-4.9 Child Abuse Record Information background check procedures

(a) As a condition of securing a new or renewal license or Certificate of Life/Safety Approval, the sponsor shall provide for himself or herself, and shall obtain from all staff members who are or will be working at the center on a regularly scheduled basis, written consent for the Division to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse and/or neglect has been substantiated against any such person.

1. The sponsor and each staff member shall complete a signed consent form provided by the Division that indicates the identifying information necessary to conduct a CARI background check, including the person's name, address, date of birth, sex, race, and Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the Division will advise each such person that the disclosure of his or her Social Security number is voluntary, and that the Social Security number will only be used for the purpose of conducting a CARI background check.

2. If a staff member refuses to consent to a CARI background check, the sponsor shall immediately terminate the staff member's employment at the center.

3. If the sponsor refuses to consent to a CARI background check, the Division shall deny the application or suspend, revoke or refuse to renew the License or Certificate of Life/Safety Approval, as applicable. The sponsor may appeal the denial, suspension, revocation or refusal to renew to the Division, as specified in N.J.A.C. 10:122-2.5.

(b) When the center applies for a new or renewal license or Certificate of Life/Safety Approval, the sponsor shall submit to the Division the completed CARI consent forms for all staff members who are or will be working at the center on a regularly scheduled basis.

1. Within two weeks after a new staff member begins working at the center, the sponsor shall submit to the Division a completed CARI consent form for the new staff member.

2. Until the results of the CARI background check for a new staff member have been received from the Division, the center shall ensure that a current staff member is present whenever the new staff member is caring for children at the center.

(c) When the sponsor submits the CARI consent forms to the Division, the sponsor shall enclose payment of \$10.00 for each CARI background check, in the form of a check or money order from the center made payable to "Treasurer, State of New Jersey." The center may use its own discretion in offering to pay or reimburse the staff member for the cost of the CARI background check.

(d) Upon receipt of the completed CARI consent forms and payment from the center, the Division will conduct a search of its records for substantiated incidents of child abuse and/or neglect. The Division will consider incidents of child abuse and/or neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse and/or neglect; except that the Division may consider substantiated incidents prior to that date if the Division, in its judgment, determines that the perpetrator poses a risk of harm to children in a child care center.

(e) Within 45 working days of receipt of the completed CARI consent forms and payment from the center, the Division will inform the sponsor in writing as to whether a substantiated incident of child abuse and/or neglect by the sponsor or a staff member has been found. If such an incident has been found, the Division will inform the sponsor in writing of the name of the perpetrator.

(f) If the CARI background check does not reveal any substantiated incident of child abuse and/or neglect by the sponsor or a staff member, the Division may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this chapter have been met.

(g) If the CARI background check reveals that an incident of child abuse and/or neglect has been substantiated against a staff member, the sponsor shall immediately terminate the staff member's employment at the center.

1. The sponsor shall notify the staff member in writing that the termination of employment is based on a substantiated incident of child abuse and/or neglect.

2. If the incident was substantiated prior to June 29, 1995, the sponsor shall notify the staff member in writing that the staff member may appeal the termination of employment to the Division.

(h) If the CARI background check reveals that an incident of child abuse and/or neglect has been substantiated against the sponsor, the Division will deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor may ap-

peal the denial, revocation or non-renewal to the Division, as specified in N.J.A.C. 10:122-2.5.

(i) In keeping with the confidentiality provisions of the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a, the sponsor and all staff members shall keep all completed CARI consent forms and related correspondence confidential.

1. The center shall maintain the results of the CARI background checks and related correspondence on file in a confidential manner.

2. When a substantiated incident of child abuse and/or neglect by the sponsor or a staff member has been found by the Division, the sponsor and the staff member shall not disclose to any other person the identity of the perpetrator or any other information concerning the incident.

New Rule, R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).  
Amended by R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a) and (b), substituted "on a regularly scheduled basis" for "for at least 20 percent of the center's weekly operating hours" in the introductory paragraphs.

#### 10:122-4.10 Criminal History Record Information background check procedures

(a) As a condition of securing a license or Certificate of Life/Safety Approval, the sponsor shall ensure that a Criminal History Record Information (CHRI) fingerprint background check is completed for himself or herself, and for all staff members at least 18 years of age who are or will be working at the center on a regularly scheduled basis, to determine whether any such person has been convicted of a crime, as specified in P.L. 2000, c.77 (N.J.S.A. 30:5B-6.10 to 6.17).

1. The sponsor and each staff member shall complete the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

2. The sponsor and each staff member shall provide the identifying information and documentation to the State-authorized vendor as necessary to conduct a CHRI background check, including the individual's name, address, date of birth, place of birth, citizenship, sex, race, height, weight, hair color, eye color, Social Security number, and the center's license number.

3. If a staff member refuses to consent to a CHRI background check, the sponsor shall immediately terminate the staff member's employment at the center.

4. If the sponsor refuses to consent to a CHRI background check, the Division shall deny the application or suspend, revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor may appeal the denial, suspension, revocation or refusal to renew to the Division, as specified in N.J.A.C. 10:122-2.5.

5. When a person who is not required to complete a CHRI background check is working with children at the center, the center shall ensure oversight of that person by another staff member.

(b) When the center applies for a new license or Certificate of Life/Safety Approval, or its first renewal license or Certificate of Life/Safety Approval subsequent to January 26, 2001 (the effective date of P.L. 2000, c.77), the sponsor shall ensure that each staff member at least 18 years of age who is or will be working at the center on a regularly scheduled basis completes the CHRI fingerprinting process specified in (a) above.

1. Within two weeks after a new staff member begins working at the center, the sponsor shall ensure that the new staff member completes the CHRI fingerprinting process specified in (a) above.

2. Until the center receives the results of the CHRI background check from the Division for a new staff member, the center shall ensure that a current staff member is present whenever the new staff member is caring for children at the center.

(c) An individual shall be permanently disqualified from employment at, or ownership or sponsorship of, a child care center if the CHRI background check for the individual reveals a record of conviction for any of the following crimes and offenses:

1. In New Jersey, any crime or disorderly persons offense as follows:

i. A crime against a child, including endangering the welfare of a child and child pornography, pursuant to N.J.S.A. 2C:24-4, and child molestation, as set forth in N.J.S.A. 2C:14-1 et seq.;

ii. Abuse, abandonment or neglect of a child, pursuant to N.J.S.A. 9:63;

iii. Endangering the welfare of an incompetent person, pursuant to N.J.S.A. 2C:24-7;

iv. Sexual assault, criminal sexual contact or lewdness, pursuant to N.J.S.A. 2C:14-2 through 14-4;

v. Murder, pursuant to N.J.S.A. 2C:11-3, or manslaughter, pursuant to N.J.S.A. 2C:11-4;

vi. Stalking, pursuant to P.L. 1992, c.209 (N.J.S.A. 2C:12-10);

vii. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure or isolated area, pursuant to N.J.S.A. 2C:13-1 through 13-6;

viii. Arson, pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree, pursuant to N.J.S.A. 2C:17-2;

ix. Terroristic threats, pursuant to N.J.S.A. 2C:12-3; or

x. An attempt or conspiracy to commit any of the crimes or offenses listed in (c)1i through ix above; or

2. In any other state or jurisdiction, any conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in (c)1 above.

(d) Upon receipt of the results of the CHRI background check from the Division of State Police and the Federal Bureau of Investigation, the Division shall inform the sponsor and the staff member in writing as to whether any record of conviction by the sponsor or staff member has been found.

(e) If the CHRI background check does not reveal any record of conviction by the sponsor or a staff member, the Division may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this manual have been met.

(f) If the CHRI background check reveals a record of conviction by the sponsor or a staff member, the Division shall inform the convicted individual of the opportunity to challenge the accuracy of the CHRI.

(g) If the CHRI background check reveals a record of conviction by a staff member for a crime or offense specified in (c) above, the sponsor shall immediately terminate the staff member's employment at the center.

(h) If the CHRI background check reveals a record of conviction by the sponsor for a crime or offense specified in (c) above, the Division shall deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

(i) If the CHRI background check reveals a record of conviction by the sponsor or a staff member for a crime or offense other than those specified in (c) above, the sponsor or staff member may be eligible for employment at, or ownership or sponsorship of, a child care center if the Division determines that the person has affirmatively demonstrated to the Division clear and convincing evidence of rehabilitation.

1. In determining whether a person has affirmatively demonstrated rehabilitation, the Division shall consider the following factors:

i. The nature and responsibility of the position at the child care center which the convicted person would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the person when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions which may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

2. The Division shall make the final determination regarding the employment of a sponsor or staff member with a criminal conviction.

(j) If the sponsor has knowledge that criminal charges are pending against a staff member, the sponsor shall promptly notify the Bureau to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

(k) A center that has received an employment application from an individual or currently employs a staff member shall be immune from liability for acting upon or disclosing information about the staff member's disqualification or termination to another center seeking to employ that person, if the center has:

1. Received notice from the Division that the applicant or staff member, as applicable, has been determined by the Division to be disqualified from employment in a child care center pursuant to section 5 or 6 of P.L. 2000, c.77 (N.J.S.A. 30:5B-6.14 or 6.15); or

2. Terminated the employment of a staff member because the person was disqualified from employment at the center on the basis of a conviction for a crime or offense pursuant to section 5 or 6 of P.L. 2000, c.77 (N.J.S.A. 30:5B-6.14 or 6.15) after commencing employment at the center.

(l) A center which acts upon or discloses information pursuant to (k) above shall be presumed to be acting in

good faith unless it is shown by clear and convincing evidence that the center acted with actual malice toward the person who is the subject of the information.

New Rule, R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

## SUBCHAPTER 5. PHYSICAL FACILITY REQUIREMENTS

### 10:122-5.1 State, county and municipal government physical facility requirements

(a) A person seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the center shall obtain a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the center's compliance with the provisions of the NJUCC, and submit a copy of the CO to the Bureau, for one of the following use group classifications:

- i. E (Educational) for buildings accommodating children 2½ years of age and/or older and having a total occupancy of six or more children. Centers in the E use group may also serve no more than five children below 2½ years of age, as specified in N.J.A.C. 5:23 as interpreted by the Department of Community Affairs, Division of Codes and Standards, in a Formal Technical Opinion (FTO-9) dated March 1, 1995;
- ii. I-2 (Institutional) for buildings accommodating six or more children less than 2½ years of age; or
- iii. A-3 or A-4 (Assembly) or one of the use group classifications specified in (a)1i or ii above for buildings accommodating school-age child care programs only.

2. Plan reviews for centers to be located in newly constructed buildings shall be submitted as follows:

- i. In addition to submitting preliminary and final architectural drawings to the local construction official, a sponsor that plans to construct a new or renovate an existing building for use as a center shall submit preliminary and/or final architectural drawings to the Bureau for review and approval prior to beginning construction.
- ii. The sponsor shall submit to the Bureau revised final architectural drawings containing all Bureau-required items listed in the plan review, if any, and secure final approval from the Bureau prior to beginning construction.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already E, I-2, A-3, or A-4, and that have not had major alterations or renovations since receipt of the CO, the center shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's E, I-2, A-3, or A-4 use group classification. The center shall submit a copy of the building's CO to the Bureau.

4. For existing buildings whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a center and that have not had major alterations or renovations, the center shall obtain a Certificate of Continued Occupancy (CCO) issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a center. The center shall submit a copy of the building's CCO to the Bureau.

5. The center shall be permitted to obtain a valid fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, and submit a copy of the certificate to the Bureau in lieu of a CO or CCO, if the center serves only children 2½ years of age or older and is located in a public school building that is used as a public school.

6. The center shall obtain a new CO issued by the local municipality in which the center is located, and submit a copy to the Bureau, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, whenever the center:

- i. Changes the building's use group classification to one other than the one prescribed on its original CO;
- ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises in which the center is located;
- iii. Increases the floor area or the number of stories to the building or premises in which the center is located; or
- iv. Relocates to another site.

7. Whenever a municipality grants to a center a written variation(s) from any of the requirements of the NJUCC, the Bureau may accept such variation(s) as meeting the applicable requirement(s) of this manual.

- i. If the Bureau does not accept the variation, the non-acceptance shall be based on the best interests of the children in the center, and shall include consideration for their health and safety. The non-acceptance shall be based on the requirements of this manual only, and shall not preclude the municipality from continuing to grant the variation.

ii. If the center disagrees with the Bureau, the center may seek a hearing in accordance with N.J.A.C. 10:122-2.5(a) and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) An applicant seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70 and hereinafter referred to as the NJUFC. The center shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the center's compliance with all applicable provisions of the NJUFC. The center shall maintain on file the building's fire safety inspection certificate.

(c) If the center prepares meals, the center shall obtain a satisfactory Sanitary Inspection Certificate, as specified in N.J.A.C. 8:24, indicating that the kitchen is in compliance with the applicable requirements of the State Sanitary Code. The center shall maintain on file the Sanitary Inspection Certificate.

(d) An applicant seeking the renewal of a license or of a Certificate of Life/Safety Approval to continue operating a center shall obtain and maintain on file a fire safety inspection certificate for the building based on a fire inspection conducted within the preceding 12 months. If the center prepares meals, the applicant seeking renewal shall obtain and maintain on file a satisfactory Sanitary Inspection Certificate, as specified in N.J.A.C. 8:24, indicating that the kitchen is in compliance with the applicable requirements of the State Sanitary Code, based on a sanitary inspection conducted within the preceding 12 months.

(e) A center that qualifies for a Certificate of Life/Safety Approval shall meet the provisions of N.J.A.C. 10:122-2 and 5.

(f) A center that plans to locate or is already located in a hospital or other health care facility, as defined in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., shall obtain a letter from the Department of Health and Senior Services indicating that Department's approval. The center shall submit a copy of the approval letter to the Bureau.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), rewrote 1i, deleted references to B (Business) use group classifications in 3, and rewrote 5; and rewrote (c) and (d).  
Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), rewrote 5; in (b), amended the N.J.A.C. reference.

#### 10:122-5.2 Physical plant requirements for all centers

(a) Indoor maintenance and sanitation requirements are as follows:

1. The center shall be free of moisture resulting from water leaks or seepage.
2. Floors, carpeting, walls, window coverings, ceilings, and other surfaces shall be kept clean and in good repair.
3. Stairways shall be free of tripping hazards, such as toys, boxes, loose steps, uneven treads, torn carpeting, raised strips, or uneven risers.
4. Carpeting shall be securely fastened to the floor.
5. Garbage receptacles shall be:
  - i. Made of durable, leakproof and nonabsorbent materials;
  - ii. Covered in a secure manner;
  - iii. Emptied to the outdoor garbage receptacle when filled; and
  - iv. Maintained in a sanitary manner.
6. Food waste receptacles shall be lined and maintained in clean and sanitary condition.
7. The center shall be free of rodent or insect infestation and shall take immediate action to remove any infestation that may occur. The center shall maintain on file a record documenting the use of extermination services.
8. Toilets, wash basins, kitchen sinks, and other plumbing shall be maintained in good operating and sanitary condition.
9. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can, and any toxic substance shall be stored in a locked cabinet or in an enclosure located in an area not accessible to the children.
10. All windows and other glass surfaces that are not made of safety glass and that are located within 36 inches above the floor shall have protective guards.
11. Ventilation outlets shall be clean and free from obstructions, and filters shall be replaced when saturated.
12. Walls shall be painted or otherwise covered whenever there is evidence of:
  - i. Excessive peeling or chipped paint; or
  - ii. Heavily soiled conditions.
13. All shelving shall be secured and not overloaded.
14. The center shall test for the presence of radon gas at least once every five years and shall post the test results in a prominent location in the center, as specified in N.J.S.A. 30:5B-5.2.

15. The center shall comply with the provisions specified in P.L. 1999, c.362 (N.J.S.A. 30:5B-5.5) requiring reports of drinking water tests to be posted at the center when received from a water supply company or prepared by the center, if applicable.

(b) Outdoor maintenance and sanitation requirements are as follows:

1. The building, land, walkways, and outdoor play area shall be free from hazards to the health, safety or well-being of the children.

2. The outdoor play area shall be graded or provided with drains to dispose of surface water.

3. The building structure shall be maintained to prevent:

- i. Water from entering;
- ii. Excessive drafts or heat loss; and
- iii. Infestation from rodents and insects.

4. The railings of balconies, landings, porches, or steps shall be maintained in safe condition.

5. Garbage receptacles shall be:

- i. Made of durable, leakproof and nonabsorbent materials;
- ii. Covered in a secure manner and located in an outdoor area; and
- iii. Maintained in a sanitary manner.

6. Centers that provide outdoor space shall maintain in proper condition all fencing or other natural or man-made barriers or enclosures.

7. The center shall comply with the Playground Safety Subcode of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23-11, which requires playgrounds operated by any governmental entity, nonprofit entity or private for-profit entity to meet the specifications for resilient surfacing and all other elements set forth in the Handbook for Public Playground Safety of the United States Consumer Product Safety Commission (CPSC).

i. Centers that use an on-site playground constructed on or before April 18, 2000 shall comply with the following time limits for upgrading playground surfacing and other elements, as specified by N.J.A.C. 5:23-11.4:

(1) The center shall ensure that resilient playground surfacing that complies with the Playground Safety Subcode is installed by October 18, 2004;

(2) Each center operated by a governmental entity or a private for-profit entity shall ensure that all playground elements other than surfacing comply with the Playground Safety Subcode by October 18, 2007; and

(3) Each center operated by a nonprofit entity shall ensure that all playground elements other than surfacing comply with the Playground Safety Subcode by October 18, 2014.

ii. The center shall ensure that all newly constructed playgrounds and all new and replacement playground equipment comply with the Playground Safety Subcode upon installation.

iii. Centers that take children to a community playground shall ensure that the playground surfacing and all other elements comply with the Playground Safety Subcode within the applicable time limits before being used by the children.

(c) Lighting requirements are as follows:

1. All fluorescent tubes and incandescent light bulbs shall have protective covers or shields.

2. During program activities, at least 20 foot-candles of natural or artificial light shall be provided in all rooms used by the children. This illumination shall be measured three feet above the floor at the farthest point from the light source.

3. Parking areas, pedestrian walkways, or other exterior portions of the premises subject to use by center occupants at night shall be illuminated to provide safe entrance to and egress from the center.

(d) Heating requirements are as follows:

1. A minimum temperature of 68 degrees Fahrenheit shall be maintained in all rooms used by the children.

2. Steam and hot water pipes, radiators, and electrical space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.

3. The center shall not use portable liquid fuel-burning or wood-burning heating appliances.

(e) All floor and window fans that are accessible to the children shall have a grille, screen, mesh or other protective covering.

(f) Toilet facility requirements are as follows:

1. A supply of soap, toilet paper, and individual hand towels or disposable paper towels shall be provided.

2. Mirrors, dispensers, and other equipment shall be fastened securely.

3. Platforms shall be available as appropriate for use by the children when adult size toilets, and/or sinks, and/or urinals are used by the children.

(g) A center utilizing a kitchen facility and/or food preparation area shall ensure that the cooking equipment and kitchen facility are kept in clean and sanitary condition and are operated in compliance with applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24.

(h) Lead paint precautions are as follows:

1. The center shall be free from lead paint hazards.
2. The center shall comply with the lead paint inspection requirements specified in (h)3 below, unless the center:
  - i. Is located in a building constructed after 1978; or
  - ii. Submits documentation to the Bureau of a previous lead paint inspection conducted by a Lead Inspector/Risk Assessor, who is certified and employed as specified in (h)3 below, indicating the center is free of lead-based paint hazards; or
  - iii. Submits documentation to the Bureau and the local department of health of:
    - (1) A lead paint inspection and risk assessment conducted by a Lead Inspector/Risk Assessor, who is certified and employed as specified in (h)3 below, within the previous 12 months indicating the presence of lead; and
    - (2) A lead paint risk management plan currently in progress at the center.
3. The center shall ensure that a lead paint inspection of all painted surfaces of the center is conducted by a Lead Inspector/Risk Assessor, who is certified by the New Jersey Department of Community Affairs (DCA) and employed by either a public health agency or a lead evaluation contractor certified by DCA, as specified in N.J.A.C. 5:17.
  - i. If the lead paint inspection indicates the center is free of lead-based paint hazards, the center shall submit documentation of the inspection results to the Bureau and the local department of health.
  - ii. If the lead paint inspection indicates the presence of lead, the center shall ensure that a lead paint risk assessment of the center is conducted by a Lead Inspector/Risk Assessor, who is certified and employed as specified in (h)3 above.
  - iii. The center shall submit documentation of the risk assessment results to the Bureau and the local department of health.
4. If a lead paint risk assessment indicates the presence of a lead hazard, the center shall:
  - i. Ensure that all lead hazards are abated pursuant to N.J.A.C. 5:17 and 5:23 by a Lead Abatement Contractor who is certified and employed as specified in (h)3 above;

- ii. Submit to the Bureau and the local department of health a certificate of lead abatement issued by the local construction official, or other documentation as appropriate, reflecting that appropriate remedial action to abate the lead hazard has been completed; and

- iii. Inform the parents of all enrolled children that a lead paint hazard has been found at the center and will be or has been abated, as applicable.

5. If any area of the center is renovated or damaged after a lead paint risk assessment has been conducted, the center shall:
  - i. Ensure that an additional risk assessment is conducted by a Lead Inspector/Risk Assessor who is certified and employed as specified in (h)3 above; and
  - ii. Submit the results of the additional risk assessment to the Bureau and the local department of health.

6. The center shall follow the recommendations of the local department of health for enclosure, removal or other appropriate action to abate lead hazards, and shall permit the local department of health to conduct follow-up inspections to ensure compliance with State statutes governing lead paint hazards.

7. If a previous lead paint inspection indicates the presence of lead, or a lead paint risk management plan is in progress at the center, the center shall:
  - i. Ensure that a lead paint risk assessment is conducted by a Lead Inspector/Risk Assessor who is certified and employed as specified in (h)3 above, upon renewal of the center's license; and
  - ii. Submit the results of the risk assessment to the Bureau and the local department of health.

- (i) Environmental condition precautions are as follows:
  1. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall submit a written certification to the Office of Licensing indicating whether the building has ever housed a use that was classified under the Uniform Construction Code, N.J.A.C. 5:23, as any of the following:
    - i. Group F - factory/industrial;
    - ii. Group H - high hazard;
    - iii. Group S - storage; or
    - iv. Group B - dry cleaners or nail salons.
  2. For those buildings that predate the Uniform Construction Code, the facility operator shall certify whether the building ever housed a use that would have been classified as any of those uses had the Uniform Construction Code been in effect.

1. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall submit a written certification to the Office of Licensing indicating whether the building has ever housed a use that was classified under the Uniform Construction Code, N.J.A.C. 5:23, as any of the following:
  - i. Group F - factory/industrial;
  - ii. Group H - high hazard;
  - iii. Group S - storage; or
  - iv. Group B - dry cleaners or nail salons.

2. For those buildings that predate the Uniform Construction Code, the facility operator shall certify whether the building ever housed a use that would have been classified as any of those uses had the Uniform Construction Code been in effect.

3. For those buildings that predate the Uniform Construction Code, the facility operator shall certify whether the building ever housed a use that would have been classified as any of those uses had the Uniform Construction Code been in effect.

- (i) Environmental condition precautions are as follows:

1. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall submit a written certification to the Office of Licensing indicating whether the building has ever housed a use that was classified under the Uniform Construction Code, N.J.A.C. 5:23, as any of the following:
  - i. Group F - factory/industrial;
  - ii. Group H - high hazard;
  - iii. Group S - storage; or
  - iv. Group B - dry cleaners or nail salons.
2. For those buildings that predate the Uniform Construction Code, the facility operator shall certify whether the building ever housed a use that would have been classified as any of those uses had the Uniform Construction Code been in effect.

- i. Group F - factory/industrial;

- ii. Group H - high hazard;

- iii. Group S - storage; or

- iv. Group B - dry cleaners or nail salons.

2. For those buildings that predate the Uniform Construction Code, the facility operator shall certify whether the building ever housed a use that would have been classified as any of those uses had the Uniform Construction Code been in effect.

3. In the event that the building housed a use that was or would have been classified as any of those uses listed in (i)1 above, the facility operator shall certify in writing to the Office of Licensing that the site of the center:

i. Complies with the soil guidelines issued by the Department of Environmental Protection (DEP) pursuant to N.J.A.C. 7:26E; and

ii. That the facility operator has contacted the Department of Health and Senior Services regarding indoor environmental conditions and the Department of Environmental Protection to determine what further steps, if any, are necessary to address the risks posed by the prior historical use, and that the facility operator has complied with all corrective actions recommended by those agencies.

4. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall certify in writing that the center provides a potable water supply provided by a public community water system. If the facility or site is not provided a potable water supply by a public community water system, the applicant shall provide potable water sampling results demonstrating compliance with maximum contaminant levels for all contaminants required to be tested pursuant to N.J.A.C. 7:10-5 for non-transient, non-community (NTNC) water systems, regardless of whether they meet the definition of NTNC systems as defined at N.J.A.C. 7:10-1.3. This sampling shall have been conducted within three years of the date of application submission, except nitrates and coliform, for which the sampling shall have been conducted within 90 days of submitting the application.

5. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall certify in writing that the center complies with all existing Department of Children and Families regulatory requirements for child care centers with respect to radon, asbestos and lead listed in (a)14 and (h) above and (j) below.

6. Effective June 1, 2007, at the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the facility operator shall submit to the Office of Licensing a No Further Action letter or other approval which indicates that no further remediation is needed for the site from the Department of Environmental Protection which indicates that no further remediation is needed for the site on which the center is located.

7. Effective January 1, 2007, the Office of Licensing shall not issue licenses or renewals to child care centers that are co-located in a building or other structure that contains a dry cleaner or nail salon unless the applicant

obtains indoor air sampling that demonstrates that there is no impact to the child care center.

(j) Asbestos precautions are as follows:

1. Coatings containing asbestos shall not be sprayed on any interior or exterior surfaces of a building used as a center, or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 7:27-17.2 and with applicable provisions of the Asbestos Hazard Abatement Subcode of the NJUCC, as specified in N.J.A.C. 5:23-8.

2. If the New Jersey Department of Health and Senior Services determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the sponsor shall follow the recommendation of that Department for enclosure, removal or other appropriate action to remove the threat or risk of asbestos contamination, as specified in N.J.A.C. 5:23-8.

(k) Wading and swimming pool requirements are as follows:

1. Pools that are at least 24 inches in depth shall be defined as swimming pools and subject to the requirements specified in (j)3 below. Pools that are less than 24 inches in depth shall be defined as wading pools.

2. For wading pools that do not have water filtration systems, the center shall change the water after each use by a group of children.

3. The center shall ensure that any swimming pool or natural bathing place used by the children complies with applicable provisions of the Public Recreational Bathing Rules, as specified in N.J.A.C. 8:26, and with applicable provisions of the Building Subcode and Barrier-free Subcode of the NJUCC, as specified in N.J.A.C. 5:23.

4. The center shall ensure that the children using swimming pools or natural bathing facilities are supervised in accordance with applicable provisions of the New Jersey Youth Camp Safety Act rules, as specified in N.J.A.C. 8:25.

5. If a child defecates in the swimming pool, all solid wastes shall be removed and the pool shall be super-chlorinated and not used until the chlorine level returns to levels identified as acceptable in the Public Recreational Bathing Rules, N.J.A.C. 8:26.

(l) Emergency procedure requirements are as follows:

1. The center shall prepare written emergency procedures delineating:

i. The location of the first aid kit and any additional first aid supplies;

ii. The name, address and telephone number of the physician retained by the center or of the health facility to be used in emergencies;

iii. The procedure for obtaining emergency transportation;

iv. The hospital and/or clinic to which injured or ill children will be taken;

v. The telephone numbers for obtaining police, fire, ambulance and poison control services, including the National Poison Emergency Hotline at (800) 222-1222;

vi. The location of written authorization from parent(s) for emergency medical care for each child;

vii. A diagram showing how the center is to be evacuated in case of emergency;

viii. The location of fire alarms and fire extinguishers; and

ix. Procedures for ensuring children's safety and communicating with parents in the event of evacuation, lockdown, natural or civil disaster and other emergencies. The procedures shall indicate:

(1) The plan for informing parents of their children's whereabouts; and

(2) The local law enforcement agency or emergency management office that has been notified of the center's identifying information, as specified in (k)3 below.

2. The emergency procedures shall be posted in a prominent location on every floor within the center.

3. The center shall ensure that the appropriate local law enforcement agency or emergency management office is notified of:

- i. The center's name and location;
- ii. The number and ages of children enrolled;
- iii. The number of staff;
- iv. The need for emergency transportation;
- v. The location to which children will be evacuated;
- vi. The plan for a lockdown; and
- vii. The plan for reuniting children with their parents.

(m) Supplemental evacuation requirements are as follows:

1. Cribs, beds, playpens, and cots used for rest or sleep shall be arranged so as to provide access to a three-foot-wide aisle that leads to an unobstructed exit.

2. To assure the safe and timely evacuation of the children from the center during a fire or other emergency, centers required to secure a Certificate of Life/Safety Ap-

proval shall meet the minimum staff/child ratio requirements, as specified in N.J.A.C. 10:122-4.3(c).

(n) Fire prevention requirements are as follows:

1. The center shall conduct fire drills at least once a month, as specified in the NJUFC. The center shall ensure that fire drills are conducted during each session provided at the center.

2. The center shall ensure that all children present are evacuated from the building during each fire drill.

3. The center shall maintain on file a record of each fire drill, as specified in the NJUFC, which record shall include:

- i. The date and time of day of the drill;
- ii. The weather condition at the time of evacuation;
- iii. The number of participating children and staff members; and
- iv. The total amount of time taken to evacuate the center.

4. All fire extinguishers shall be visually inspected once a month, and serviced and tagged at least once a year and recharged, if necessary, as specified in the NJUFC.

(o) First aid requirements are as follows:

1. A staff member who has current certified basic knowledge of first aid principles and cardiopulmonary resuscitation (CPR), as defined by a recognized health organization (such as the American Red Cross), shall be in the center at all times when enrolled children are present.

2. The following equipment shall be placed in a location that is convenient and accessible to staff members:

- i. A standard first aid kit, which is fully restocked within 24 hours of use; and
- ii. The American Red Cross First Aid Manual or its equivalent.

(p) Play equipment, materials, and furniture for indoor and outdoor use shall be of sturdy and safe construction, non-toxic and free of hazards.

(q) Space and room requirements are as follows:

1. All space and rooms within the center to be used by children shall be inspected and approved by the Bureau prior to their use. In making its determination, the Bureau shall consider whether the space is too far removed, remote or isolated from other areas of the center to be used by children.

- i. For those rooms or areas that are too far removed, remote or isolated from other centrally located rooms or areas of the center, the Bureau may require the

use of additional staff members, above those required for staff/child ratios, before granting approval.

ii. Rooms or areas of the center that are not Bureau-approved for use by children shall be made inaccessible to children.

2. At no time shall a center allow more children in attendance than the number specified on its license or Certificate of Life/Safety Approval.

3. Indoor space requirements for play rooms and/or sleep rooms are as follows:

i. There shall be a minimum of 30 square feet of usable activity indoor floor space for each child in centers that:

- (1) Began operating prior to July 1, 1989; or
- (2) Began operating on or after July 1, 1989 and serve fewer than 16 children.

ii. There shall be a minimum of 35 square feet of usable activity indoor floor space for each child in centers that began operating on or after July 1, 1989 and serve 16 or more children.

iii. The minimum square footage of usable activity indoor floor space shall be determined by excluding the space used in or by hallways, toilet facilities, offices, storage rooms, staff rooms, furnace rooms, kitchen areas, lockers, closets, and other stationary equipment or areas that children do not use for sleep or play.

iv. Centers serving sick children shall comply with the variation provisions on determining net indoor floor space per child, as specified in N.J.A.C. 10:122-8.4(a).

v. The center shall identify all rooms of the center that have been approved by the Bureau. This identification shall consist of numbers, letters, names or any other means of identification and shall be located either inside or directly outside each room.

4. Separate room or area requirements for children who become ill are as follows:

i. There shall be a room, section of a room, or a separate area in the center to which children who are exhibiting those illnesses, symptoms of illness, and diseases specified in N.J.A.C. 10:122-7.1(c) shall be taken and where they shall be cared for until they can return home, be suitably cared for elsewhere, or be diagnosed as posing no health risk to themselves or others.

ii. The separate room, section or area shall be furnished with sleeping equipment and sheets, blankets or other coverings.

iii. Centers serving only sick children shall comply with the variation provision for separating ill children, as specified in N.J.A.C. 10:122-8.4(b) and (c).

(r) The center shall take any steps required by the Bureau to correct conditions in the building or center that may endanger the health, safety and well-being of the children served.

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), added 14; in (b), added 7 through 9; rewrote (h); in (l), rewrote 1; in (n), rewrote 1; deleted a former (o); recodified former (p) through (r) as (o) through (q); recodified former (s) as N.J.A.C. 10:122-5.3; and recodified former (t) as N.J.A.C. 10:122-5.4.

Amended by R.2000 d.436, effective November 6, 2000.

See: 32 N.J.R. 2040(a), 32 N.J.R. 3994(a).

In (b), rewrote 7 and deleted former 8 and 9; and rewrote (h).

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a), added 15; rewrote (k); and in (n)2i, inserted "including syrup of ipecac," following "first aid kit,".

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (h), inserted "hazards" following "lead-based paint" in 2ii and 3i, and added 4iii; rewrote (k); in (m), added the last sentence in 1; in (n), deleted "including syrup of ipecac," in 2i.

Emergency amendment, R.2006 d.392, effective October 17, 2006 (to expire December 16, 2006).

See: 38 N.J.R. 4746(a).

Added new (i); recodified former (i) through (q) as (j) through (r).

Concurrent adopted amendment, R.2007 d.20, effective December 18, 2006.

See: 38 N.J.R. 4746(a), 39 N.J.R. 213(a).

Provisions of R.2006 d.392 adopted with one change: in (i)6, inserted "or other approval which indicates that no further remediation is needed for the site", effective January 16, 2007.

#### Case Note

Day care center failed to comply with sanitation, health, and safety requirements for retaining its license to operate. Division Of Youth And Family Services v. First Steps Academy And Community Development Center, Inc., 2003 WL 23643612, N.J. Adm., (HDY 2627-02).

#### 10:122-5.3 Additional physical plant requirements for early childhood programs

(a) For early childhood programs, the following shall apply:

1. All electrical outlets that are accessible to the children shall have protective covers.

2. All lally columns in areas used by the children shall have protective padding placed around them from the floor to a height of at least 48 inches.

3. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall be provided with insect screening.

4. A supply of hot tap water not exceeding 110 degrees Fahrenheit and cold running water shall be provided.

5. Toilet facility requirements are as follows:

i. The minimum number of toilets and sinks required in the center shall be determined as specified in the Plumbing Subcode of the NJUCC.

ii. At least one toilet facility and sink shall be located on each floor level used by children in centers that begin operating after March 21, 2005.

6. Kitchen facility requirements are as follows:

i. The kitchen facility and/or food preparation area shall be separated from other areas of the center by a door, gate, screen or other barrier to prevent accidental access by children.

ii. The kitchen may be used for children's program cooking activities only when it is not being used for preparation of meals for consumption by enrolled children.

7. Outdoor space requirements for children over the age of 10 months are as follows:

i. For children in attendance for three or more consecutive hours, the center shall provide a minimum of 150 square feet of net outdoor space. When more than five children are using such a space at one time, there shall be 30 square feet of net outdoor space for each additional child in addition to the required minimum of 150 square feet.

ii. The outdoor area shall be adjacent to, within close proximity or in the same neighborhood of the center and available for use by the children.

iii. Outdoor areas located near or adjacent to hazardous areas determined by the Bureau to be unsafe (including, but not limited to, streets, roads, driveways, parking lots, railroad tracks, swimming pools, rivers, streams, steep grades, cliffs, open pits, high voltage boosters or propane gas tanks) shall be fenced or otherwise protected by a natural or man-made barrier or enclosure.

iv. If the center can demonstrate to the satisfaction of the Bureau that it cannot meet the outdoor space requirement, the center shall provide, in addition to space for play rooms, a minimum of 150 square feet of net indoor floor space. When more than five children are using such space at one time, there shall be 30 square feet of net indoor floor space for each additional child in addition to the minimum of 150 square feet. The indoor floor space may be either on the site of the center or at another nearby indoor facility, such as a gymnasium, exercise room or other recreational facility.

v. Centers serving only sick children shall comply with the variation provisions for outdoor space, as specified in N.J.A.C. 10:122-8.4(f)1.

8. All balconies, rooftops, verandas and/or all floor levels used by children that are above the first floor and subject the children to an open drop or atrium shall be protected by barriers consisting of safety glass, plexiglass or any other materials approved by the Bureau. Such barriers shall extend at least five feet above the floor level.

Recodified from N.J.A.C. 10:122-5.2(s) and amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Made internal citation changes throughout. Former N.J.A.C. 10:122-5.3, Special physical facility and monitoring requirements to prevent child abuse and/or neglect, recodified to N.J.A.C. 10:122-5.5.

Amended by R.2000 d.436, effective November 6, 2000.

See: 32 N.J.R. 2040(a), 32 N.J.R. 3994(a).

Rewrote (a)5i.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote the section.

**10:122-5.4 Additional physical plant requirements for school-age child care programs**

(a) For school-age child care programs, the following shall apply:

1. All lally columns in areas used by the children shall have protective padding around them from the floor to a height of at least 72 inches.

2. For centers that serve food, crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall be provided with insect screening.

3. A supply of hot tap water not exceeding 120 degrees Fahrenheit and cold running water shall be provided.

4. Toilet facility requirements are as follows:

i. Children shall be afforded privacy, appropriate to their age and development, when toileting.

ii. The center shall have one toilet and one sink for every 25 children, as specified in the Plumbing Subcode of the NJUCC for the E use group.

iii. Toilet facilities and sinks shall be located no more than one floor above or below the floor levels used by the children.

5. Indoor space requirements are as follows:

i. In centers specified in N.J.A.C. 10:122-5.2(q)3i, there shall be an average of 30 square feet of usable activity indoor floor space for each child.

ii. In centers specified in N.J.A.C. 10:122-5.2(q)3ii, there shall be an average of 35 square feet of usable activity indoor floor space for each child.

Recodified from N.J.A.C. 10:122-5.2(t) and amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Changed N.J.A.C. references throughout.

Administrative correction.

See: 39 N.J.R. 215(a).

**10:122-5.5 Special physical facility and monitoring requirements to prevent child abuse and/or neglect**

(a) At least five foot-candles of natural or artificial light shall be provided in all rooms used by children during

naptime. The illumination shall be measured three feet above the floor at the farthest point from the light source.

(b) Doors in all interior rooms designated for use by children shall remain unlocked.

(c) For rooms and/or areas used by children, except as specified in (e) below, the following monitoring requirements shall apply:

1. The center shall equip every room or area designated for use by children, except for kitchen and toilet facilities, with one of the following options in order to promote maximum visibility and/or audibility:

i. A centrally supervised audio or visual monitoring system;

ii. Uncovered and unobstructed glass panels and/or two-way mirrors that comprise at least 10 percent of the square footage of one interior wall, provided that such panels/mirrors are not in conflict with applicable provisions of the NJUCC and/or the NJUFC;

iii. Security mirror(s) in hallways that reflect activities in the room(s) used by children;

iv. At least one interior door leading to every room designated for use by children, which shall meet one of the following conditions, provided that such conditions are not in conflict with applicable provisions of the NJUCC and/or the NJUFC:

(1) Be left open;

(2) Have uncovered and unobstructed windows or cutouts;

(3) Be a dutch door variety, with the top half open; or

(4) Be removed; or

v. Any other Bureau-approved monitoring system or equipment that provides equivalent visibility and audibility.

(d) Toilet facility requirements are as follows:

1. For existing centers that have only one toilet facility, or for existing centers that have more than one toilet facility, but where all toilets have been counted in determining the maximum number of children who can be served per session, the center shall ensure that staff members and/or other adults who use the toilet facility for their own toileting needs do so only:

i. When children are not in it; and

ii. After the staff member and/or other adult has secured the door with a lock or latch that is located on the inside of the door at a height beyond the reach of the children.

(1) If a center documents to the satisfaction of the Bureau that it lacks the authority to meet the lock/latch provisions noted in (d)1ii above, the Bureau may approve an alternative means by which the center may comply with the privacy intent of this provision.

2. For existing centers that have an additional toilet facility that has not been counted in determining the maximum number of children who can be served per session and for centers to be located in newly constructed buildings, the center shall ensure that:

i. One toilet facility is reserved and designated for the exclusive use of staff members and/or other adults; and

ii. This designated toilet facility is identified by a sign located on the exterior of its door, indicating that this toilet facility is for the exclusive use of staff members and/or other adults.

(e) For early childhood programs, the following shall apply:

1. Centers that are to be located in newly constructed buildings that seek to serve 16 or more children shall equip every room designated for use by children, except for kitchen and toilet facilities, with either uncovered glass panels or two-way mirrors that comprise at least 10 percent of the square footage of at least one interior wall in order to promote maximum visibility in such rooms.

Recodified from N.J.A.C. 10:122-5.3 by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

## SUBCHAPTER 6. PROGRAM REQUIREMENTS

### 10:122-6.1 Activities

(a) The center shall develop and provide a variety of children's planned activities, geared to the ages and developmental levels of the children served, that:

1. Promote the development of language, thinking and problem-solving skills, curiosity, exploration, large and small muscles, social competence, self-esteem, and positive self-identity; and

2. Are relevant to the cultural background of the children and foster intercultural awareness.

(b) The staff member(s) specified in N.J.A.C. 10:122-4.5 who are responsible for developing and overseeing the implementation of the center's daily activities shall ensure that:

1. Time frames for each activity are geared to the age and developmental level of each child served and are

flexible enough to accommodate spontaneous occurrences or children's suggestions and inquiries;

2. Children have opportunities to choose materials freely;

3. Children are presented with and encouraged to participate in a mixture of active and quiet experiences;

4. Both staff-directed and child-selected activities are provided; and

5. Children are:

i. Encouraged, but not required, to participate in every group activity; and

ii. Provided with the time and space within the area to be apart from the group and to participate in an alternate activity if they choose to do so.

(c) The center shall ensure that each child riding a bicycle wears a helmet, as specified in the Bicycle Helmet Law, N.J.S.A. 39:4-10.1.

(d) Centers serving sick children shall comply with the variation on developing and providing children's activities, as specified in N.J.A.C. 10:122-8.5(a).

(e) The staff member(s) specified in (b) above shall prepare and maintain on file a written outline of the center's daily activities, as specified in (a) through (d) above and (f) and (g) below.

(f) For early childhood programs, the following shall apply:

1. The center shall provide daily outdoor activities at an outdoor play area, park or playground, or on a walk, weather permitting.

2. Centers serving children less than 18 months of age shall provide:

i. At least four of the following types of children's daily activities: sensory; language/dramatic play; manipulative; building; large muscle; music; or other comparable activities; and

ii. At least four types of supplies and/or equipment for each activity area chosen by the center, as listed below:

(1) Sensory activities: crib mobiles; teething toys; busy boxes; baby mirrors; rattles; melody chimes; squeeze toys; or other comparable supplies or equipment.

(2) Language/dramatic play activities: picture books; toy telephones; records; hand puppets; stuffed animals; soft washable dolls; photographs; or other comparable supplies or equipment.

(3) Manipulative activities: squeeze and grip toys; boxes; sorting and stacking toys; three and/or four piece wooden inlay puzzles; puzzle blocks; simple threading toys; mobile pull toys; balls; or other comparable supplies or equipment.

(4) Building activities: soft lightweight blocks; toy cars, trains and/or boats; figures of animals and people; stacking rings and/or cups; nesting toys; or other comparable supplies or equipment.

(5) Large muscle activities: low climbers; slides; riding/rocking toys; foam or soft plastic balls; gym mats; play tunnels; or other comparable supplies or equipment.

(6) Music activities: rhythm instruments; record player and records; toys equipped with musical tones; musical mobiles and/or busy boxes; drums, xylophones and/or pianos; or other comparable supplies or equipment.

iii. Staff members shall provide periodic activity or learning opportunities to stimulate the five senses of children who are awake and being cared for in cribs, playpens or other Bureau-approved sleeping equipment.

iv. Staff members shall carry non-ambulatory infants around the center periodically.

v. Staff members shall provide all children who are developmentally able with opportunities to leave their cribs, playpens or other Bureau-approved sleeping equipment to crawl, toddle, walk, and play.

3. Centers serving children 18 months of age and older shall provide:

i. At least five of the following types of children's daily activities: language; science and mathematics; manipulative; large muscle; building; art; music; drama; or other comparable activities; and

ii. At least five types of supplies and/or equipment for each daily activity chosen by the center, as listed below:

(1) Language activities: books; flannel board; upper and lower case letters; pictures for discussion; materials for recognition, identification and/or classification; poetry; puppets; audio-visual materials; show and tell items; or other comparable supplies or equipment.

(2) Science and math activities: plants and gardening equipment; aquarium with fish and/or other appropriate live animals; water table and supplies; sand table and supplies; cooking supplies; weather chart and/or thermometer; counting equipment; or other comparable supplies or equipment.

(3) Manipulative activities: puzzles; pegs and pegboards; lacing boards; table top building toys; stencils; dominoes; pounding bench; lotto games; or other comparable supplies or equipment.

(4) Large muscle activities: rocking boat; wheel toys; climbers; slides; balance beam; barrels and/or large cartons; parachute; balls and beanbags; outdoor play equipment; gym mats; or other comparable supplies or equipment.

(5) Building activities: unit blocks (minimum of four sizes); transportation toys; farm animals and/or play people; work bench and tools; table top building toys; building logs; or other comparable supplies or equipment.

(6) Art activities: crayons; tempera paint, large brushes and newsprint; finger paint and finger paint paper; construction paper in assorted colors; paste or glue; blunt scissors; collage materials; non-toxic felt tip markers; easels; clay or playdough; or other comparable supplies or equipment.

(7) Music activities: record player and records; piano and/or organ; guitar; rhythm sticks; drums; cymbals and bells; tape recorder; or other comparable supplies or equipment.

(8) Dramatic activities: toy dishes; ironing board; telephones; occupational props and/or uniforms; dress-up clothes; housekeeping area (stove, sink, refrigerator); cradle or doll bed; doll carriage and dolls; puppets; grocery store, post office or hospital; or other comparable supplies or equipment.

4. Centers that operate during evening hours shall ensure that the activity level for children is reduced in preparation for sleep and shall provide a selection of toys or other materials for quiet activities.

(g) For school-age child care programs, the following shall apply:

1. Centers shall plan and implement programs that include:

i. Activities that reflect the interests and skills of the children served;

ii. Opportunities for child involvement in activity planning;

iii. Opportunities for self-selected activities;

iv. Recreational opportunities, including a mixture of indoor/outdoor and large muscle activities; and

v. Daily schedules that include individual quiet times, structured and unstructured activities, and small-group and large-group activities.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (b), changed N.J.A.C. reference in the introductory paragraph; and in (f)1, added "to an outdoor play area, park or playground, or for a walk" at the end of i and ii.

Petition for Rulemaking.

See: 37 N.J.R. 676(a).

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote the section.

Petition for Rulemaking.

See: 37 N.J.R. 914(b).

#### Case Note

Day care center failed to provide age appropriate activities and time frames for those activities, as required to retain its license to operate. *Division Of Youth And Family Services v. First Steps Academy And Community Development Center, Inc.*, 2003 WL 23643612. N.J. Adm., (HDY 2627-02).

#### 10:122-6.2 Program equipment for children's daily activities

(a) The center shall provide a supply of age-appropriate and developmentally appropriate program equipment, including play equipment, child-size furniture and supplies that are:

1. Sufficient to meet the daily activity needs of the children and the program; and

2. Non-toxic and safe for use by children in the age groups served.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote the section.

**10:122-6.3 Food and nutrition**

(a) All centers shall comply with the following requirements:

1. Food served to children who are present during normal mealtime hours or required snack periods, as specified in (b) and (c) below, shall be provided either by the child's parent or by the center.
2. If the center chooses to provide food, the center shall ensure that all food served to children is prepared by either:
  - i. The center on-site or off-site; or
  - ii. A caterer who is licensed, registered, certified or otherwise approved, as appropriate, by the local or county health department or State Department of Health and Senior Services, as applicable.
3. If the center chooses to have parents provide food, the center shall have a supply of food at the center for any child whose parent forgets.
4. If the center provides food, the center shall ensure that the food is stored, prepared, and served in a sanitary manner.
5. Staff members shall advise parents of any repetitive feeding problems experienced by their child.
6. Staff members shall not force-feed or coerce a child to eat against his or her will.
7. A snack shall be served to all children who are under the center's care for at least three consecutive hours and for all children who are served on an after-school basis.
8. Drinking water shall be made available to all children.
9. Centers that provide meals shall ensure that:
  - i. For children on special diets (for example, due to health reasons, religious belief or parental request), an alternative choice of food is provided by either the center or the child's parent; and
  - ii. Individualized written diets and feeding schedules, if submitted to the center by the child's parent or health care provider, are posted in a location that is accessible to staff members caring for the children, and are followed.
10. The center shall have a supply of food at the center and shall serve a snack to any child who is hungry or has missed a meal.

(b) For early childhood programs, the following shall apply:

1. Centers operating for more than three consecutive hours shall have a working refrigerator.

2. Food brought from outside the center for a child shall be inspected by a staff member for spoilage before it is served.

3. Feeding requirements for centers serving children less than 18 months of age are as follows:

- i. The center shall develop mutually with each child's parent(s) and follow a feeding plan regarding the feeding schedule, specific formula and/or expressed breast milk, nutritional needs, and introduction of new food for each child.

- ii. For children less than 12 months of age, the feeding plan shall be:

- (1) Documented in writing;

- (2) Maintained on file; and

- (3) Made available to each staff member responsible for feeding each child;

- iii. All food served to a child shall be appropriate to the child's developmental eating ability;

- iv. Each child's bottle(s) shall be labeled with the child's name;

- v. A child who is too young to use a feeding chair or other seating apparatus shall be held when fed;

- vi. A child who, because of age or developmental readiness, no longer needs to be held for feeding shall be provided with an infant seat, high chair with safety strap, or other age-appropriate seating apparatus, which meets the standards of a recognized safety organization (such as the Juvenile Products Manufacturers Association, the American Society for Testing and Materials, or the United States Consumer Product Safety Commission);

- vii. When a child is feeding, the bottle shall not be propped at any time; and

- viii. When a child is bottle-feeding while resting or sleeping, the bottle shall be removed when the child falls asleep.

4. Mealtime and snack requirements for centers serving children 18 months of age or older and those children younger than 18 months of age who are developmentally ready to eat regular meals and snacks are as follows:

- i. Centers that provide breakfast shall ensure that breakfast includes the following:

- (1) Fruits, vegetables or fruit or vegetable juice; and

- (2) Enriched whole grain bread, a bread product or cereal and/or a protein alternative.

- ii. The center shall serve lunch for all children who have not eaten lunch and are:

- (1) Present during 11:00 A.M. to 1:00 P.M.; and

(2) Under the center's care for at least five consecutive hours;

iii. The center shall serve dinner for all children who:

- (1) Have not eaten dinner;
- (2) Are present from 5:00 P.M. to 7:00 P.M.; and
- (3) Are scheduled to remain after 7:00 P.M.;

iv. Centers that provide meals shall ensure that lunch and dinner for each child include the following:

- (1) Meat, poultry, fish or a protein alternative;
- (2) Fruits or vegetables;
- (3) Bread or bread products; and
- (4) Milk, juice or water;

v. Centers that provide snacks shall ensure that the snack includes one juice, milk or fruit and one food supplement selected from the lunch and dinner choices specified in (b)4v above, except on special occasions, such as holidays and birthdays; and

vi. Centers that provide meals shall ensure that milk is served at least once a day.

(c) For school-age child care programs, the following shall apply:

1. Centers that store perishable foods or medication shall have access to a refrigerator.

2. Centers that provide snacks should include one juice, milk or fruit and one food supplement selected from the food choices specified in (b)4iv above.

3. On days when school is not in session, if applicable, the center shall serve meals as specified in (b)4 above.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), added 10; in (b), rewrote 3 and 4; and in (c), made an internal citation change.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a)9ii, substituted "parent or health care provider" for "parent(s) or physician".

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (b), inserted "and/or expressed breast milk" in 3i, and deleted "full-strength" preceding "fruit" and "juice" in 4i(1) and 4v respectively; in (c), deleted "full-strength" preceding "juice" in 2.

#### 10:122-6.4 Rest and sleep requirements for early childhood programs

(a) For early childhood programs, the center shall provide opportunities for daily rest and sleep as follows:

1. For children 18 months of age and younger, the center shall:

i. Provide daily rest and sleep according to the child's individual physical needs; and

ii. Ensure that each child is placed in a face-up sleeping position unless a different sleeping position is indicated in writing by the child's health care provider.

2. For children over the age of 18 months and under the age of five years, the center shall provide:

i. Daily rest and/or sleep for each child who attends the center for four or more consecutive hours;

ii. Daily rest and/or sleep for each child who attends the center for fewer than four consecutive hours, but whose individual physical needs call for a rest period while the child is at the center; and

iii. An alternative quiet activity for each child who has rested or slept for 30 minutes and does not appear to need additional rest or sleep.

(b) The center shall provide sleeping equipment for each child as follows:

1. For children 12 months of age and younger, the center shall provide for each child a crib, playpen or other Bureau-approved sleeping equipment that meets the following requirements:

i. Each crib or playpen shall be equipped with:

- (1) A firm, waterproof, snugly fitting mattress;
- (2) A clean, snugly fitting sheet or other covering and blanket;
- (3) Top rails that are at least 19 inches above the mattress; and
- (4) Slats that are not more than 2 $\frac{3}{8}$  inches apart.

ii. Locks and latches on the dropsides of cribs shall be safe and secure from accidental release.

iii. Sleeping equipment shall be free of pillows and soft bedding when occupied by a sleeping child.

2. For children over the age of 12 months and under the age of five years, the center shall provide for each child a crib, playpen, cot, mat or other Bureau-approved sleeping equipment that meets the following requirements:

i. Each cot used for children between 13 and 18 months of age shall not exceed 14 inches above the floor level.

ii. Each cot or mat used for rest and sleep shall be covered with a sheet, blanket or other covering. An additional covering shall be provided for use as a covering for each child.

iii. Each mat used for rest and sleep shall be:

- (1) Placed on a surface that is warm, dry, clean and draft-free;

- (2) Water-repellent;
- (3) At least one inch thick; and
- (4) Stored so that there is no contact with the sleeping surface of another mat, or disinfected after each use, as specified in N.J.A.C. 10:122-7.7(a)1.

(c) Centers that operate after 7:00 P.M. shall comply with the following requirements for rest and sleep:

- 1. For children who attend the center for three hours or less after 7:00 P.M., the center shall not be required to comply with the requirements specified in (a)2 above.
- 2. For children who attend the center for more than three hours after 7:00 P.M., the center shall:
  - i. Establish bedtime schedules for each child in consultation with parent(s);
  - ii. Ensure that any Bureau-approved sleeping equipment, other than a bed or mat, has been fitted with a minimum one-inch thick water-repellent mat or mattress; and
  - iii. Ensure that each child is changed into sleeping garments.

(d) All sleeping equipment shall meet the standards of a recognized safety organization (such as the Juvenile Products Manufacturers Association, the American Society for Testing and Materials, or the United States Consumer Product Safety Commission).

(e) Sheets, blankets and other coverings shall be:

- 1. Changed when wet, soiled or damaged; and
- 2. Changed before use by another child.

(f) When cribs, playpens, cots, mats or other Bureau-approved sleeping equipment are stored with sheets, blankets or other coverings as single units, at least one item of each unit shall be labeled with child-identifying information.

(g) When sheets, blankets and other coverings are not stored with sleeping equipment, each of these items shall be:

- 1. Labeled for each child; and
- 2. Stored separately for each child.

(h) During rest and sleep periods, only one child shall occupy a crib, playpen, cot, mat or other Bureau-approved sleeping equipment at one time.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote (a) through (d).

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (b)1, inserted "firm," preceding "waterproof," in i(1), inserted "snugly fitting" preceding "sheet" in i(2), and added iii.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), rewrote iii.

#### 10:122-6.5 Policy on the release of children

(a) The center shall maintain on file and follow a written policy on the release of children, which shall include:

1. The provision that each child may be released only to the child's parent(s) or person(s) authorized by the parent(s), as specified in N.J.A.C. 10:122-6.8(a)3, to take the child from the center and to assume responsibility for the child in an emergency if the parent(s) cannot be reached;

2. The provision that, if a particular noncustodial parent has been denied access, or granted limited access, to the child by a court order, the center shall secure documentation to this effect, maintain a copy on file, and comply with the terms of the court order;

3. Written procedures to be followed by staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, fails to pick up a child at the time of the center's daily closing. The procedures shall require that:

- i. The child is supervised at all times;
- ii. Staff members attempt to contact the parent(s) or person(s) authorized by the parents; and

iii. An hour or more after closing time, and provided that other arrangements for releasing the child to his or her parent(s) or authorized person(s) have failed and the staff member(s) cannot continue to supervise the child at the center, the staff member shall call the Division's 24-hour Child Abuse Hotline to seek assistance in caring for the child until the parent(s) or person(s) authorized by the child's parent(s) is able to pick up the child; and

4. Written procedures to be followed by a staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, appear to be physically and/or emotionally impaired to the extent that, in the judgment of the director and/or staff member, the child would be placed at risk of harm if released to such an individual. The procedures shall require that:

- i. The child shall not be released to such an impaired individual;
- ii. Staff members attempt to contact the child's other parent or an alternative person(s) authorized by the parent(s); and

iii. If the center is unable to make alternative arrangements, as noted in (a)3ii above, a staff member shall call the Division's 24-hour Child Abuse Hotline to seek assistance in caring for the child.

(b) For school-age child care programs, the following shall apply:

1. No child shall be released from the program unsupervised except upon written instruction from the child's parent.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Substituted references to parents for references to custodial parents throughout; and in (a), inserted "and follow" following "file" in the introductory paragraph, changed N.J.A.C. reference in 1, and rewrote 2.  
Amended by R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a)1, amended the N.J.A.C. reference .

#### Case Notes

Termination for violation of policy on release of children was not appropriate. *M./M. A. v. Venice Park School Center for Early Childhood Education Program*, 92 N.J.A.R.2d (DYF) 1.

#### 10:122-6.6 Discipline

(a) The methods of guidance and discipline used shall:

1. Be positive;
2. Be consistent with the age and developmental needs of the children; and
3. Lead to the child's ability to develop and maintain self control.

(b) Staff members shall not discipline children for failing to eat or sleep or for soiling themselves.

(c) Children may be removed from a group activity to another area, provided that the child so removed is either under the supervision of another staff member or continuously visible to a staff member.

(d) The center shall maintain on file a written policy on the disciplining of children by staff members. The policy shall:

1. Reflect the provisions specified in (a) through (c) above and include the acceptable actions that a staff member may take when disciplining a child (that is, discussion with the child, time-out, etc.);
2. Be distributed to every staff member; and
3. Be posted in a prominent location within the center.

(e) The center shall secure and maintain on file each staff member's signature, attesting to receipt of the policy on the disciplining of children by staff members.

(f) For school-age child care programs, the following shall apply:

1. The center shall permit children to participate in the development of the discipline rules and procedures; or
2. The center shall establish procedures to ensure that children are aware of the rules.

Amended by R.2005 d.94, effective March 21, 2005.  
See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), inserted "develop and" preceding "maintain" in 3.

#### 10:122-6.7 Special requirements to prevent child abuse and/or neglect and inappropriate staff behaviors toward children

(a) Staff members shall not use hitting, shaking or any other form of corporal punishment of children.

(b) Staff members shall not use abusive language, ridicule, harsh, humiliating or frightening treatment or any other form of emotional punishment of children.

(c) Staff members shall not engage in or inflict any form of child abuse and/or neglect.

(d) Staff members shall not withhold from children food, emotional responses, stimulation, or the opportunities for rest or sleep.

(e) Staff members shall not require a child to remain silent or inactive for an inappropriately long period of time for the child's age.

#### 10:122-6.8 Parent and community participation

(a) The center shall complete and maintain on file for each enrolled child a Children's Records Checklist, signed by the director or sponsor and designated by the Bureau, indicating that the center has obtained documentation of:

1. The child's name, address, birth date, and date of enrollment;
2. The name(s), home and work address(es), home and work telephone number(s) and signature(s) of the parent(s);
3. The name(s), address(es), and telephone number(s) of any person(s) authorized by the parent(s) to visit the child at the center and/or take the child from the center, as specified in N.J.A.C. 10:122-6.5(a)1;
4. The name, address, and telephone number of the child's health care provider;
5. Signed authorization from the parent(s) for emergency medical treatment;
6. The parent's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(b); and
7. Health information for each child, as follows:
  - i. For early childhood programs, a record of the child's health examination and immunizations, as specified in N.J.A.C. 10:122-7.3(a); or
  - ii. For school-age child care programs, a record of the parent's statement concerning the child's health, as specified in N.J.A.C. 10:122-7.3(b).

(b) The center shall allow the parent(s) of enrolled children to visit the center at any time during the center's hours of operation to observe its operation and program activities without requiring the parent(s) to secure prior approval.

(c) The center shall provide the parents of prospective enrollees the opportunity to visit the center to observe its operation and program activities, but may require that such visits are arranged in advance and at the convenience of the center director.

(d) Staff member(s) shall inform the parent(s) of enrolled children in advance of any field trip(s), outing(s), or special event(s) involving the transportation of children away from the center. The center shall inform parents whether a school bus, school vehicle or private passenger vehicle will be used, and whether the driver will be a staff member, a parent, or another person. Before taking a child on such a field trip, outing or special event, the center shall either:

1. Secure individual written consent slips signed by a parent for his or her child(ren) for each proposed field trip, outing or special event;
2. Post a notice of a proposed individual field trip, outing or special event in a place of prominence within the center, on which the parent shall be asked to sign consent for his or her child to attend; or
3. Issue to every parent a written schedule of all field trips, outings or special events to be taken during any given time frame (that is, weekly, monthly, yearly). A parent shall be asked to sign this schedule indicating his or her consent for any or all field trips, outings or special events listed.

(e) The center may utilize a blanket permission slip for taking children on walks only if:

1. Walks are within the center's neighborhood;
2. The center makes arrangements for the handling of visits or telephone calls from parents either by:
  - i. Having someone remain at the center; or
  - ii. Utilizing a telephone answering machine and posting a notice on the entrance door of the center to inform parents of the children's location;
3. The route of the walk involves no safety hazards; and
4. The walk involves no entrance into a facility unless the facility has been indicated on the blanket permission slip.

(f) The center shall maintain on file a record of signed blanket permission slips for walks and signed individual permission slips for field trips, outings or special events.

(g) The center should promote the involvement of representatives of the community to enhance the staff members' and the children's knowledge of community services, programs and resources.

(h) For early childhood programs, the following shall apply:

1. The center shall adopt at least one of the following options to ensure the participation of the parents of enrolled children in the activities and operations of the center.

i. A governing board responsible for approving, reviewing, and monitoring the center's policies, budget, staff recruitment and selection, physical environment, and program activities;

ii. An advisory committee that offers advice and counsel to the center on its policies, staff recruitment and selection, physical environment, and program activities;

iii. An annual meeting to which all parents and staff members are invited for the purpose of sharing goals, recommendations and concerns. The center shall maintain on file a record of this meeting; or

iv. An annual open house to which parents are invited for the purpose of observing the program. The center shall maintain on file a record of the open house.

2. Centers choosing the options specified in either (h)1i or ii above shall maintain on file a listing of current members of the board or committee and documentation indicating that the board or committee is functioning. The board or committee shall:

i. Offer at least one-third of its membership positions to parents of enrolled children;

ii. Include representatives from the civic, business, educational and/or child care communities; and

iii. Meet at least quarterly during the center's operating year.

3. The center shall provide for the direct involvement of parents of enrolled children in the center's operation and activities by:

i. Providing an opportunity for parents to volunteer to help in the center's program; and

ii. Holding individual parent/staff conferences semi-annually and upon request of the parent and/or staff member(s) to discuss the child's needs and progress.

4. The center shall provide for the parents of each newly enrolled child an opportunity to attend an enrollment conference, at which the center shall:

i. Inform parents about the center's days and hours of operation;

- ii. Discuss the individual child's habits, dietary and sleep needs, activities, behavior and development, if applicable;
  - iii. Discuss the center's policy on releasing children, toilet training children when applicable, and administering medication and health care procedures;
  - iv. Discuss and distribute the center's policy on the management of communicable disease, as specified in N.J.A.C. 10:122-7.11;
  - v. Discuss and distribute the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(a); and
  - vi. Discuss and distribute the center's policy on the expulsion of children from enrollment at the center, as specified in (j) below.
- (i) For school-age child care programs, the following shall apply:
1. Upon the child's enrollment, the center shall:
    - i. Inform parents about the center's days and hours of operation;
    - ii. Ask parents to inform the center about the individual child's habits, dietary needs, activities, behavior and development, if applicable;
    - iii. Inform parents about the center's policies on releasing children and administering medication and health care procedures;
    - iv. Give parents a copy of the center's policy on the management of communicable disease, as specified in N.J.A.C. 10:122-7.11;
    - v. Give parents a copy of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(a);
    - vi. Give parents a copy of the center's policy on the expulsion of children from enrollment at the center, as specified in (j) below; and
    - vii. Inform parents about the center's policy for serving meals and snacks when the center is operating on days when the child's school is not in session, if applicable.
- (j) The center shall develop and follow a written policy on the expulsion of children from enrollment at the center.
1. The expulsion policy shall include:
    - i. The circumstances under which a child may be expelled;
    - ii. The method that the center will use to notify parents of concerns that could lead to expulsion, such as written notification or a parent conference;
    - iii. Sufficient time limits before expulsion to enable parents to make alternative child care arrangements or to take the necessary corrective action to allow the child to

remain at the center, except as specified in (j)1iv below; and

iv. Circumstances that may warrant immediate expulsion of a child from the center, such as potentially dangerous behavior by a child or parent.

2. The center shall not expel a child based solely on the child's parent making a complaint to the Bureau of Licensing regarding a center's alleged violations of the licensing regulations, or questioning a center directly regarding policies and procedures.

3. The center shall give a copy of the expulsion policy to the parent of each enrolled child.

4. The center shall secure and maintain on file a record of each parent's signature attesting to receipt of the expulsion policy.

5. If the center determines to expel a child, the center shall maintain on file a record of the circumstances, parental notification and corrective action taken.

(k) In the event of temporary or permanent closure of the center, the center shall provide advance notice to parents of enrolled children in sufficient time to enable parents to make alternative child care arrangements.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote the section.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote the section.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), inserted "or sponsor" following "director" in the introductory paragraph; added (k).

## SUBCHAPTER 7. HEALTH REQUIREMENTS

### 10:122-7.1 Illnesses/communicable diseases

(a) A center that seeks to serve any children who have any of the illnesses, symptoms of illness or diseases specified in (c) and (d) below shall meet all applicable provisions of this subchapter and all provisions of N.J.A.C. 10:122-8.

(b) Under no circumstances shall any center serve or admit any child who has any illness, symptom of illness or disease that a health care provider has determined requires the child to be:

1. Confined to home under a health care provider's immediate care; or

2. Admitted to a hospital for medical care and treatment.

(c) The following provisions relate to illness and/or symptoms of illness:

1. A center serving well children shall not permit a child who has any of the illnesses or symptoms of illness specified in (c)1i through xiii below to be admitted to the center on a given day unless medical diagnosis from a health care provider, which has been communicated to the center in writing, or verbally with a written follow-up, indicates that the child poses no serious health risk to himself or herself or to other children. Such illnesses or symptoms of illness shall include, but not be limited to, any of the following:

- i. Severe pain or discomfort;
- ii. Acute diarrhea, characterized as twice the child's usual frequency of bowel movements with a change to a looser consistency within a period of 24 hours, or bloody diarrhea;
- iii. Two or more episodes of acute vomiting within a period of 24 hours;
- iv. Elevated oral temperature of 101.5 degrees Fahrenheit or over or axillary temperature of 100.5 degrees Fahrenheit or over in conjunction with behavior changes;
- v. Lethargy that is more than expected tiredness;
- vi. Yellow eyes or jaundiced skin;
- vii. Red eyes with discharge;
- viii. Infected, untreated skin patches;
- ix. Difficult rapid breathing or severe coughing;
- x. Skin rashes in conjunction with fever or behavior changes;
- xi. Weeping or bleeding skin lesions that have not been treated by a health care provider;
- xii. Mouth sores with drooling; or
- xiii. Stiff neck.

2. Once the child is symptom-free, or a health care provider indicates that the child poses no serious health risk to himself or herself or to other children, the child may return to the center.

3. If a child who has already been admitted to the center manifests any of the illnesses or symptoms of illness specified in (c)1 above, the center shall remove the child from the group of well children to a separate room or area, as specified in N.J.A.C. 10:122-5.2(q)4, until:

- i. He or she can be taken from the center; or
- ii. The director or his or her designee has communicated verbally with a health care provider, who indicates that the child poses no serious health risk to himself or herself or to other children, at which time the child may return to the group.

4. The center may exclude a child whose illness prevents the child from participating comfortably in activities, or results in a greater need for care than the staff can provide without compromising the health and safety of other children at the center.

(d) The following provisions relate to excludable communicable diseases:

1. The center shall not permit a child or staff member with an excludable communicable disease, as specified in the table below, to be admitted to or remain at the center, until:

i. A note from the child's or staff member's health care provider states that the child or staff member, respectively, has been diagnosed and presents no risk to himself, herself, or to others;

ii. The center has contacted the Communicable Disease Program in the State Department of Health and Senior Services, or the local health department pediatric health consultant, and is told the child or staff member poses no health risk to others; or

iii. If the child or staff member has chicken pox, the center obtains a note from the parent or staff member stating that all sores have dried and crusted.

#### TABLE OF EXCLUDABLE COMMUNICABLE DISEASES

Respiratory Illnesses	Gastro-Intestinal Illnesses	Contact Illnesses
Chicken Pox	Campylobacter <sup>†</sup>	Impetigo
German Measles <sup>†</sup>	Escherichia coli <sup>†</sup>	Lice
Hemophilus Influenzae <sup>†</sup>	Giardia Lamblia <sup>†</sup>	Scabies
Measles <sup>†</sup>	Hepatitis A <sup>†</sup>	Shingles
Meningococcus <sup>†</sup>	Salmonella <sup>†</sup>	
Mumps <sup>†</sup>	Shigella <sup>†</sup>	
Strep Throat		
Tuberculosis <sup>†</sup>		
Whooping Cough <sup>†</sup>		

<sup>†</sup> Reportable diseases, as required by N.J.A.C. 10:122-7.10(a).

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (c)3, changed N.J.A.C. reference; and in (d)1, added iii.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote the section.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote the section.

Administrative correction.

See: 39 N.J.R. 215(a).

#### 10:122-7.2 Attendance by children and/or staff members known to be infected with Human Immunodeficiency Virus (HIV)

(a) The center should admit a child known to be infected with HIV (also known as HTLV-III or LAV), the virus that causes Acquired Immunodeficiency Syndrome (AIDS), to the center.

(b) The center should not exclude a child known to be infected with HIV in order to protect him or her from possible exposure to the infectious diseases of other persons at the center.

(c) The center should not exclude a child solely for the reason that such individual lives with or is related to a person known to be infected with HIV.

(d) The director shall maintain the confidentiality of any child or staff member known to be infected with HIV.

(e) The center shall not require the routine medical screening of children or staff members in a center to detect the presence of HIV.

#### 10:122-7.3 Health and immunization requirements for children

(a) For early childhood programs, the following shall apply:

1. Each child not enrolled in a public or private school shall have had a health examination performed by a health care provider, within:

- i. Six months prior to admission, for children who are 2½ years of age or younger; or
- ii. One year prior to admission, for children above 2½ years of age.

2. For each child not enrolled in a public or private school, the center shall maintain on file at the center a Universal Child Health Record (Department of Health and Senior Services Form CH-14) or its equivalent, updated annually, along with an immunization record in accordance with the provisions of N.J.A.C. 8:57-4.6 and 4.7, and a special care plan, if applicable.

3. For children enrolled in a public or private school, the center shall obtain a written statement from each child's parent indicating:

- i. That the child is in good health and can participate in the normal activities of the program; and
- ii. Any conditions or specific needs that may require special accommodations.

4. The center shall ensure that the record specified in (a)2 above has been submitted to the center, either:

- i. Upon the child's admission; or
- ii. Within 30 days of the child's admission, if the parent cannot obtain prior documentation, provided that upon the child's admission, the parent provides a written statement indicating:

(1) That the requirements in (a)1 above have been met; and

(2) Any recommendations for needed medical treatment and/or program or environmental modifi-

cations, including special requirements as to diet, rest, allergies, avoidance of certain activities, and other care.

5. If immunizations are contraindicated for medical reasons, the center may choose to admit the child, provided that the parent submits to the center a written statement from a health care provider, as specified in N.J.A.C. 8:57-4.3, attesting to the following:

- i. The reason the immunization is medically contraindicated; and
- ii. The specific time period that the immunization is medically contraindicated.

6. A child shall be exempted from a physical examination, immunization or medical treatment if the parent objects thereto in a written statement submitted to the center, signed by the parent, explaining how the examination, immunization or medical treatment conflicts with the child's exercise of bona fide religious tenets or practices.

i. Religious affiliated centers shall have the authority to withhold or grant a religious exemption from the required immunization for children entering or attending their centers without challenge by any secular health authority, as specified in N.J.A.C. 8:57-4.4

ii. The center shall maintain the parent's written statement on file as part of the child's record.

7. Those children with immunization exemptions may be excluded from the center by the Bureau or the Department of Health and Senior Services during a vaccine-preventable disease outbreak or threatened outbreak, as determined by the State Commissioner of Health and Senior Services.

(b) For school-age child care programs, the following shall apply:

1. The center shall obtain a written statement from each child's parent indicating:

- i. That the child is in good health and can participate in the normal activities of the program; and
- ii. Any conditions or special needs that may require special accommodations.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a), rewrote 5, and substituted "the center may choose to admit the child," for "shall be exempt from complying with such requirements," following "member" in 6.

Amended by R.2000 d.436, effective November 6, 2000.

See: 32 N.J.R. 2040(a), 32 N.J.R. 3994(a).

In (a)6, substituted "shall" for "may choose to" following "center".

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote the section.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote (a).

**10:122-7.4 Health requirements for staff members**

(a) Prior to or upon beginning work at the center, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the center written documentation of the results of the test and/or x-ray.

1. If the Mantoux tuberculin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Bureau or center may at any time require a staff member to retake the Mantoux tuberculin test if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health and Senior Services recommends testing.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall have a chest x-ray taken. If the chest x-ray shows significant results, the staff member shall not come in contact with the children unless he or she submits to the center a written statement from a health care provider certifying that he or she poses no threat of tuberculosis contagion.

(b) Prior to beginning work, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall submit a written statement from a health care provider, indicating that he or she is in good health and poses no health risk to persons at the center. Such statement shall be based on a medical examination within the six months immediately preceding such person's working at the center.

(c) The center shall maintain on file either at the center or at a central administrative office the results of each staff member's:

1. Mantoux tuberculin test and/or chest x-ray when indicated; and
2. Physical examination.

(d) The sponsor or director shall exclude a staff member who:

1. Exhibits the illnesses or symptoms of illness or diseases specified in N.J.A.C. 10:122-7.1(c)1 and (d); or
2. Appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety, and well-being of a child while the child is in the staff member's care. The director shall document the action taken to exclude the staff member and maintain such documentation on file. The center shall not permit the staff member to return to the center until the condition is no longer present.

(e) When the affected staff member specified in (d) above serves as the director, then the sponsor shall take the necessary action specified above.

(f) When the affected staff member specified in (d) above is the sponsor, then the Bureau shall take the necessary action specified above.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (c), inserted "either at the center or at a central administrative office" in the introductory paragraph.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a)2 and (b), substituted "health care provider" for "licensed physician".

**10:122-7.5 Administration and control of prescription and non-prescription medicines and health care procedures**

(a) The center shall inform each child's parent upon enrollment of its policy on administering medication and health care procedures to children, including the provisions specified in (b) to (d) below. The policy shall indicate:

1. Whether the center will administer non-prescription medication or a non-prescribed health care procedure to a child;

2. Whether the center will administer prescription medication or a prescribed health care procedure to a child with a short-term illness; and

3. That the center will provide reasonable accommodations for the administration of medication or health care procedures to a child with special needs, if failure to administer the medication or health care procedure would jeopardize the health of the child or prevent the child from attending the center.

(b) The center shall develop and follow a policy on the administration of medication and health care procedures to children, which shall include the following provisions:

1. Medication and health care procedures shall be administered only after receipt of written approval from the child's parent(s).

2. The center shall:

i. Designate those staff members who are authorized to administer medication or health care procedures to, or to supervise self-administration of medication or health care procedures by, those children whose parents authorize it; and

ii. Ensure that each staff member designated to administer medication and health care procedures is informed of each child's medication and health care needs.

3. All medication and health care equipment shall be kept either in a locked cabinet or in an area that is inaccessible to the children.

- i. All medication shall be kept in its original container.
  - ii. Medication shall be refrigerated if so indicated on the label.
  - iii. Unused or expired medication and health care equipment shall be returned to the child's parent or disposed of safely in a child-resistant waste receptacle when no longer being administered.
4. All prescription medication for a child shall be:
- i. Prescribed in the name of and specifically for the child; and
  - ii. Stored in its prescription container, which has been labeled with the child's name, the name and expiration date of the medication, the date it was prescribed or updated and directions for its administration.
5. The center shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage, age and/or weight of the child, as indicated on the label:
- i. Antihistamines;
  - ii. Cough suppressants;
  - iii. Decongestants;
  - iv. Non-aspirin fever reducers/pain relievers; and
  - v. Topical preparations, such as sunscreen and diaper rash preparations.
6. The center may permit the dispensing of non-prescription medication other than those listed in (b)5 above, or according to instructions other than those indicated on the label, if the child's health care provider authorizes it in writing.
7. The center shall maintain on file a record of the following:
- i. The child's name and parental authorization for the center to administer medication or health care procedures;
  - ii. The name of the medication or health care procedure;
  - iii. The condition for which the medication or health care procedure is being used;
  - iv. The instructions for administration, including the dosage and frequency;
  - v. The date and time medication or a health care procedure was administered to a child and the name or initials of the staff member who administered it; and
  - vi. Any adverse effect the medication can have or has had on the child.

8. If a child has a chronic health condition requiring the administration of prescription or non-prescription medication or health care procedures on a long-term basis, the center shall obtain from the child's parent a written statement from a health care provider, indicating:

- i. The name of the child;
- ii. The name of the medication or procedure;
- iii. The condition or indications for administration of the medication or procedure;
- iv. The instructions for administration of the medication or procedure; and
- v. The name and telephone number of the health care provider.

9. Before administering a health care procedure associated with a child's health condition, such as the use of a blood glucose monitor, nebulizer or epinephrine pen, the center shall ensure that all staff members who administer the procedure are taught to do so by the child's parent or another appropriately trained person.

10. The center shall inform the child's parent immediately if a child exhibits any adverse effect of a medication or health care procedure.

(c) For early childhood programs, the following shall apply:

1. The center shall ensure that all medication and health care procedures are administered by designated staff.

(d) For school-age child care programs, the following shall apply:

1. Before the center administers or permits a child to self-administer medication or health care procedures, the center shall:

- i. Obtain written authorization for self-administration from the child's parent, if applicable; and
- ii. Ensure that the medication or health care procedure is administered by or under the supervision of authorized staff.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Inserted references to health care, health care procedures, and health care equipment throughout; in (b), rewrote 9v, and added 10 and 11; and in (d)1, inserted "choose to administer or" in the introductory paragraph, inserted ". if applicable" in i, and inserted "by or" in ii.  
Amended by R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote the section.  
Amended by R.2005 d.94, effective March 21, 2005.  
See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (b), substituted "center" for "director" in the introductory paragraph of 2, rewrote 3iii and inserted "date and" preceding "time" in 7v.

**10:122-7.6 Injury to a child while in the center's care**

(a) The center shall take immediate necessary action to protect the child from further harm and shall immediately notify the child's parent(s) verbally when one of the following occurs while the child is in the center's care:

1. A child is bitten and the skin is broken;
2. A child sustains a head injury;
3. A child falls from a height greater than the height of the child; or
4. An injury requiring professional medical care occurs.

(b) The center shall maintain on file a record of the incidents specified in (a) above. The incident record shall include the following:

1. The name of the injured child;
2. The date, time and location of the incident;
3. The name and address of the center;
4. The name of the person completing the report;
5. The date the report was completed; and
6. A written description of the following:
  - i. The incident;
  - ii. The injury to the child;
  - iii. The names of witnesses to the incident; and
  - iv. The follow-up action taken by the center, including:
    - (1) Application of first aid; and
    - (2) Consultation or treatment by a licensed physician or other health care provider, if applicable.

(c) Bites and injuries other than those specified in (a) above shall be reported to the child's parent by the end of the day.

(d) Upon request of the child's parent, the center shall provide a written description of the incident by the end of the next operating day.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote (a); in (b), rewrote the introductory paragraph, substituted references to incidents for references to accidents or injuries throughout, substituted a reference to incidents for a reference to accidents in 3i, and inserted a reference to other health care providers in 3iv(2); rewrote (c); and in (d), substituted a reference to incidents for a reference to accidents and/or injuries.

Amended by R.2005 d.94, effective March 21, 2005.  
See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a) , deleted "accident or" in 4; rewrote (b); in (c), substituted "Bites" for "Accidents, bites".

**10:122-7.7 Environmental sanitation requirements**

(a) Disinfectants shall be used as follows:

1. The center shall disinfect those items specified in (a)3 below with a solution that shall be either:

i. A commercially prepared disinfectant that indicates it kills bacteria, viruses, and parasites. This solution shall be used in accordance with label instructions; or

ii. A self-made solution consisting of one-quarter cup of household bleach to each gallon of water (one tablespoon per quart), which shall be prepared daily and placed in a labeled, sealed container.

2. All areas to be disinfected shall first be washed with soap and water.

3. The schedule for disinfecting shall be as follows:

i. The following equipment items or surfaces shall be washed and disinfected after each use:

(1) Washcloths made of fabric, when used for cleaning children;

(2) Thermometers;

(3) Items used by a child who becomes ill while at the center; and

(4) Sleeping mats that are not stored separately.

ii. The following items shall be washed and disinfected at least daily:

(1) Toilets and toilet seats;

(2) Sinks and sink faucets;

(3) Drinking fountains;

(4) Water table and water play equipment;

(5) Play tables; and

(6) Smooth surfaced non-porous floors in areas used by children.

iii. The following items shall be washed and disinfected at least weekly:

(1) Cribs, cots, mats, playpens or other Bureau-approved sleeping equipment; and

(2) Sheets, blankets or other coverings.

iv. Tables used by the children for eating shall be washed and disinfected before each meal.

(b) Centers that maintain outside sandboxes or play areas containing sand shall ensure that:

1. Only asbestos-free sand is used; and

2. The sand is maintained in a safe and sanitary manner.

(c) Pets shall be permitted in a center only under the following circumstances:

1. Pets kept by or located in the center, regardless of ownership, shall be:
  - i. Domesticated and non-aggressive;
  - ii. Free from disease;
  - iii. Vaccinated, if applicable, as prescribed by law or local ordinance. The record of the vaccinations shall be maintained on file, along with the name and address of the licensed veterinarian providing care for the pet(s);
  - iv. If sick, removed from the area(s) occupied by children, until the pet has been examined by a licensed veterinarian and has been diagnosed as presenting no risk to the children;
  - v. Effectively controlled by leash, command or cage; and
  - vi. Prohibited from the following areas:
    - (1) Areas/surfaces used for food preparation, storage and/or service;
    - (2) Areas used for cleaning or storing of food utensils and dishes; and
    - (3) Toilet facilities.
2. Animal waste shall be disposed of in sealed plastic bags in the outdoor garbage receptacle.

(d) Smoking shall be prohibited in all rooms, vehicles and outside play areas while such rooms, vehicles and areas are occupied by children.

1. The center shall comply with P.L. 1998, c.35, which contains the provisions specified in (d)2 to 5 below.
2. Smoking is prohibited in an indoor area of a child care center when children are present, and in all vehicles when used for center-sponsored transportation.
3. In addition, smoking is prohibited in an indoor area of a child care center even when children are not present, unless that area is separately ventilated to the outside.
4. These prohibitions shall be so indicated by the sponsor or other person who has control of the child care center with a sign containing lettering not less than one inch in height stating "Smoking Prohibited" or "Smoking Prohibited When Children Are Present," as appropriate, or designated by the "Smoking Prohibited" international symbol. The letters or symbol shall contrast in color with the sign. Every sign required by this subsection shall be located so as to be clearly visible to employees of the child care center and the public.
5. For the purposes of this subsection, "smoking" means the burning of a lighted cigar, cigarette, pipe or other matter or substance which contains tobacco.

(e) For early childhood programs, the following shall apply:

1. In addition to the items specified in (a)3 above, the following equipment items or surfaces shall be washed and disinfected after each use:
  - i. Toilet training chairs that have first been emptied into a toilet;
  - ii. Sinks and faucets used for rinsing a toilet training chair;
  - iii. Diapering surfaces;
  - iv. Toys mouthed by infants and toddlers before being given to another child; and
  - v. Bottles, nipples and other feeding equipment.
2. All diaper pails and lids shall be disinfected daily.
3. Centers that toilet train children shall:
  - i. Utilize non-porous toilets, child-size toilets, toilet training chairs (potties) or children's toilet seats for children being toilet trained;
  - ii. Ensure that toilet training chairs are not used in kitchens or in the immediate area where meals are being served; and
  - iii. Advise parents of the center's toilet training policy.
4. Poisonous plants shall not be kept in the center or in the outside play area used by the children.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).  
In (d), added 1 through 5.

#### 10:122-7.8 Personal hygiene requirements

(a) Handwashing requirements are as follows:

1. The center shall ensure that children wash their hands with soap and running water:
  - i. Before intake of food;
  - ii. Immediately after using the toilet or having diapers changed;
  - iii. Immediately after coming into contact with blood, fecal matter, urine, vomit, nasal secretions or other body fluids or secretions; and
  - iv. Immediately after coming in contact with an animal's body secretions.
2. When cloth towels are used by children, the towels shall be designated solely for the individual child's use.
3. Staff members shall wash their hands with soap and running water immediately:
  - i. Before preparing or serving food;
  - ii. After toileting;

- iii. After assisting a child in toileting;
- iv. After caring for a child who appears to be sick;
- v. After coming in contact with an animal's body secretions; and
- vi. After coming into contact with blood, fecal matter, urine, vomit, nasal secretions or other body fluids or secretions.

(b) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood or vomit.

(c) Centers that encourage children to brush their teeth while at the center shall individually store toothbrushes in a manner which prevents the toothbrushes from touching each other during storage.

(d) For early childhood programs, the following shall apply:

1. Diapering requirements for centers serving children who are not toilet trained are as follows:

i. Staff members shall ensure that:

(1) Each child's diaper is changed when wet or soiled;

(2) Each child's bottom is washed and dried during each diaper change with an individual disposable wash cloth, paper towel or disposable diaper wipes; and

(3) The staff members' hands are washed after changing each diaper.

ii. Diapering area and surface requirements are as follows:

(1) Diapering shall not take place in an area or on a surface used for food preparation, service or eating.

(2) The diapering area shall be within 15 feet of a sink that is not used for food preparation.

(3) The diapering surface shall be flat, smooth, clean, dry, non-absorbent, and in good repair.

iii. Diapering supply requirements are as follows:

(1) A supply of clean diapers shall always be available.

(2) Diapering supplies, including diapers, shall be stored in an area out of the children's reach but easily accessible to staff members during a diaper change.

(3) Equipment used for cleaning the diapering surface shall be restricted for use in this area only and shall be disposable or laundered in hot soapy water.

(4) Staff members who use disposable rubber gloves during a diaper change shall dispose of these gloves after each use and shall wash their hands.

iv. Soiled diapers shall be disposed of as follows:

(1) Soiled disposable diapers shall be placed in a closed container that is lined with a leakproof or impervious lining. Such diapers shall be removed from the center daily and placed in a closed garbage receptacle outside the building.

(2) Soiled non-disposable diapers shall be placed in a sealed plastic container that has been labeled with the child's name. Such diapers shall be returned to the child's parent at the end of that day.

2. Clothing requirements are as follows:

i. A child's clothing shall be changed when wet or soiled.

ii. The center shall ensure that a change of clothing is provided for each child.

iii. Soiled clothes shall be:

(1) Placed in a sealed plastic container that has been labeled with the child's name and returned to the child's parent at the end of that day for laundering; or

(2) Laundered at the center in a washing machine.

iv. For clothing soiled with fecal matter, the stool shall be emptied into the toilet.

#### 10:122-7.9 Illness log for early childhood programs

(a) For early childhood programs, the following shall apply:

1. The center shall maintain on file a log of the initial illnesses, symptoms of illness or diseases that are exhibited by each child while in the center's care, as specified in N.J.A.C. 10:122-7.1(c) and (d). This illness log shall include:

i. The child's name;

ii. The date and time the illness, symptoms of illness or diseases were observed at the center;

iii. A description of the symptoms of illness manifested by the child;

iv. The action taken by the center to assist:

(1) The child who is demonstrating symptoms of illness; and/or

(2) The director in determining if exclusion of the child from the center is necessary;

v. Any significant change in the child's symptoms of illness; and

vi. The date, if applicable, that:

- (1) The child was removed from the center;
- (2) The child returned to the center with a note from a health care provider attesting to the child's admissibility to the center and recovery from a reportable disease, as specified in N.J.A.C. 8:57;
- (3) The child returned to the center with a parent's note attesting that six days have elapsed since the onset of chicken pox, or that all chicken pox sores have dried and crusted; or
- (4) The child returned to the center symptom-free.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (a)1, inserted "while in the center's care," in the introductory paragraph, insured a new vi(3), and recodified former vi(3) as vi(4). Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a)1vi2, substituted "with a note from a health care provider attesting" for "with a licensed physician's note attesting".

#### 10:122-7.10 Reporting of illnesses, injuries, and reportable diseases

(a) The director or sponsor, upon learning that an enrolled child or staff member at the center has been diagnosed as having contracted or is suspected of having a reportable disease, as specified in N.J.A.C. 10:122-7.1(d), shall report this knowledge by the next working day to the local health department.

(b) The director or sponsor shall report the occurrence of any injury or illness that results in the admittance to a hospital or death of a child while under the center's supervision to the Bureau by the next working day after the center learns of the occurrence.

(c) The director or sponsor, having knowledge that a child has been injured by a dog, cat or other animal that is kept by or located at the center and when no physician attends such child, shall, within 12 hours of the injury, report the name, age, sex, and address of the child to the local health department.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote (a).

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Inserted "or sponsor" following "The director" throughout.

#### 10:122-7.11 Information to parents regarding the management of communicable diseases

(a) Each center shall develop a written policy on the management of communicable diseases. This policy shall include the following:

1. The list of illnesses and/or symptoms of illness for which a child will be separated from the group and possibly sent home, as specified in N.J.A.C. 10:122-7.1(c);

2. The list of diseases for which a child will not be readmitted to the center unless accompanied by a statement from the child's health care provider, as specified in N.J.A.C. 10:122-7.1(d); and

3. Assurance that during any outbreak of an excludable disease at the center, as specified in N.J.A.C. 10:122-7.1(d), each parent whose child may have been exposed to the disease shall receive a written notice of the outbreak.

(b) A copy of the center's policy on the management of communicable diseases shall be given to the parent of each child enrolled in the center.

(c) Centers serving children who are sick shall comply with the requirements for information to parents, as specified in N.J.A.C. 10:122-8.5(b).

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a)2 substituted "health care provider" for "licensed physician".

## SUBCHAPTER 8. REQUIREMENTS FOR CENTERS SERVING SICK CHILDREN

### 10:122-8.1 Requirements for all centers serving sick children

(a) The provisions of this subchapter shall apply to any center that chooses to serve the following:

1. Only children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 10:122-7.1(c) and (d); or

2. Some children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 10:122-7.1(c) and (d), as part of a sick child care component of a center primarily serving well children.

(b) A center as set forth in (a) above shall also comply with all applicable provisions of this chapter.

(c) The center shall maintain on file written policies and procedures governing its operation, including:

1. Those categories of illness for which the center will provide care;
2. The ages of children who will be served;
3. The center's infection control procedures;
4. The center's admission criteria, which shall include provisions for conducting either:
  - i. A medical evaluation of arriving children by a New Jersey licensed physician; or

- ii. A physical assessment, known as a triage, of arriving children by a registered nurse;
    - (1) The triage shall include, as appropriate to the demonstrated symptoms, an assessment of the child's temperature; pulse; respiration; skin; eyes; nose; throat; mouth; chest; abdomen; and/or extremities;
  - 5. A provision encouraging the parents, before bringing the child to the center, to call the center each day to:
    - i. Describe the child's illnesses, symptoms of illness or diseases; and
    - ii. Determine if the center has an opening for the child;
  - 6. For centers using a registered nurse as the admitting staff member, the physical assessment criteria that are used to determine:
    - i. Appropriateness of a child's attendance at the center on that day; or
    - ii. A child's need to be examined by a licensed physician, prior to being admitted to the center on that day;
  - 7. The criteria and procedures for caring for or releasing children whose illnesses, symptoms of illness or diseases have worsened;
  - 8. Methods and frequency of identifying and recording symptomatic changes throughout the day;
  - 9. The preparation, frequency and serving of meals that are appropriate for the child's illnesses, symptoms of illness or diseases; and
  - 10. The center's policy on communicating with parents concerning the child's illnesses, symptoms of illness or diseases.
- (d) The center shall arrange for a New Jersey licensed physician to serve as its consulting physician, providing medical advice and assistance on an on-call basis.

(e) The center shall have a governing board or an advisory board, which shall oversee the development of and approve in writing its policies and procedures, as specified in (c) above. The governing or advisory board shall include at least two of the following licensed health professionals:

1. A physician licensed by the New Jersey Board of Medical Examiners; and/or
2. A registered nurse licensed by the New Jersey State Board of Nursing; and/or
3. A local health official.

(f) The consulting physician shall approve in writing the policies and procedures specified in (c) above.

**10:122-8.2 Admission criteria**

(a) The center shall not admit a sick child below three months of age unless the child has been seen and diagnosed by his or her health care provider who indicates in writing that the child can be admitted.

(b) The center shall require that a parent or an adult authorized by the parent accompany each child during admission to the center.

Amended by R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (a) substituted "health care provider who" for "licensed physician and the physician".

**10:122-8.3 Requirements for additional staff for centers serving sick children**

(a) The staff requirements for centers serving sick children are as follows:

1. In addition to the staff members required in N.J.A.C. 10:122-4.2, the center shall ensure that a physician licensed by the New Jersey Board of Medical Examiners or a registered nurse licensed by the New Jersey State Board of Nursing is at the center during the hours children are in attendance.

2. The staff member specified in (a)1 above may also serve as the head teacher, group teacher or program supervisor where applicable, provided that:

- i. The person meets the staff qualification requirements for such positions, based on the center size and type, as specified in N.J.A.C. 10:122-4.6(c) and (d); or
- ii. The person has two years of work experience with children of the age group being served.

3. In centers that primarily serve well children and provide sick care only as a component of the overall program, the physician or registered nurse, as specified in (a)1 above, shall be required to be at the center for at least 50 percent of the sick care component's daily operating hours, and shall be on call and available to come to the center

immediately at all other times, provided that the following conditions are met:

- i. The physician or registered nurse is present at all times when children are being admitted to the center;
- ii. Sick care is provided only to children who are regularly enrolled in the center's program serving well children;
- iii. No more than eight children are served in the sick care component at any one time;
- iv. Children under six months of age are not admitted to the sick child care component at any time;
- v. A child has attended the center's program serving well children for at least 20 days before being allowed admission to the sick care component;
- vi. The physician or registered nurse assesses that no child will be placed at risk during the time when the physician or registered nurse is absent; and
- vii. The on-call physician or nurse does not serve as the center's head teacher.

4. In centers specified in (a)3 above, the provisions specified in (a)3i through vii above need not be met if the physician or registered nurse remains at the center during all hours the children are in attendance.

(b) The responsibilities of the staff physician or registered nurse are as follows:

1. The physician or registered nurse, as specified in (a)1 above, shall be responsible for developing and implementing the center's medical program, including:

- i. Conducting the daily admission assessment of each child, as specified in N.J.A.C. 10:122-8.1(c)4;
- ii. Maintaining records on each child, as specified in N.J.A.C. 10:122-8.7(a); and
- iii. Reviewing and administering medication, as specified in N.J.A.C. 10:122-7.5(b), as applicable for each child.

(c) The following staff/child ratios shall apply:

Age of Child	Staff/Child Ratio
Birth up to 3 months of age	1:1
3 months up to 18 months of age	1:3
18 months up to 2½ years of age	1:5
2½ years of age and above	1:7

(d) Grouping of children shall be as follows:

1. The center shall group children according to the illnesses categorized below:

- i. Upper-respiratory;
- ii. Gastro-intestinal;
- iii. Chicken pox; and

iv. Any other illness that has been included in the center's admission policy.

(e) Additional staff training shall be provided as follows:

1. The center shall provide training for each new staff member upon beginning work at the center and for all staff members annually.

2. Such training shall include:

- i. Basic knowledge of first aid principles;
- ii. Recognizing the symptoms of illness;
- iii. Feeding sick children;
- iv. When and how to call for medical advice;
- v. Taking children's temperatures;
- vi. Any other care that may be required for admissible illnesses and conditions;
- vii. Infection control;
- viii. Review of center policies and procedures;
- ix. Child development, including activities for children who are sick; and
- x. Communicating with parents concerning a child's illness.

Amended by R.1998 d.502, effective October 5, 1998.  
See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).  
In (a)2i, changed N.J.A.C. reference.

#### **10:122-8.4 Requirements for additional physical facilities for centers serving sick children**

(a) There shall be a minimum of 50 square feet of net indoor floor space for each child.

(b) An individual room or a specific area within a large room, which is separated from other areas of the room by a partition or room divider, shall be available to separate and prevent contact between children who have different illnesses, symptoms of illness or diseases.

(c) Centers whose policies allow for the care of children who have chicken pox or other illnesses that require isolation shall provide an isolation room for these children. Each isolation room shall have the following:

1. Continuous barriers that are floor to ceiling in height; and
2. Its own toilet facility, unless children using the isolation room can reach and use another toilet facility without coming into contact with other children.

(d) The center shall provide soap for handwashing from a liquid soap dispenser.

(e) Centers that serve only sick children shall not be required to have the following:

1. An outdoor space for the children's physical activities or its equivalent, as specified in N.J.A.C. 10:122-5.3(a)7; and

2. A room or area in a separate section of the center for children who become ill, as specified in N.J.A.C. 10:122-5.2(q)4.

(f) Centers that have a sick child care component, as specified in N.J.A.C. 10:122-8.1(a)2, shall use separate play rooms and/or areas and separate toilet facilities for sick and well children.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (e), changed N.J.A.C. references throughout.

Administrative correction.

See: 39 N.J.R. 215(a).

#### **10:122-8.5 Program requirements for centers serving sick children**

(a) The center shall develop and provide a variety of children's planned daily activities that are appropriate for the needs and the condition of children who are sick.

(b) The center shall make available to parents of prospective enrollees information in writing on the center's program, including:

1. Illnesses, symptoms of illness or diseases for which the center will provide care;
2. The center's admission criteria; and
3. The center's daily admitting procedures.

#### **10:122-8.6 Sanitation and infection control**

(a) The center shall ensure that all washable items of play equipment, supplies and toys that one group of sick children, as specified in N.J.A.C. 10:122-8.3(d), have contacted are washed with soap and water and disinfected before allowing them to be used by another group of sick children.

(b) The center shall ensure that all personal items belonging to a child are returned to the parent each day.

#### **10:122-8.7 Requirements for additional records for centers serving sick children**

(a) The center shall maintain on file the following additional records:

1. Admission assessment information on each child, as specified in N.J.A.C. 10:122-8.1(c)4;
2. The written policies and procedures developed by the center, as specified in N.J.A.C. 10:122-8.1(c);
3. The written approval of policies and procedures by the center's governing board or advisory board and by the consulting physician, as specified in N.J.A.C. 10:122-8.1(e) and (f);
4. Documentation of the training provided to all staff members, as specified in N.J.A.C. 10:122-8.3(e); and

5. The information to parents document, as specified in N.J.A.C. 10:122-8.5(b).

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), substituted "54" for "58" preceding "passengers" and substituted "the Motor Vehicle Commission (MVC)" for "DMV"; in (b), substituted "the MVC" for "DMV"; rewrote (c).

## SUBCHAPTER 9. TRANSPORTATION REQUIREMENTS

### 10:122-9.1 Scope

(a) The provisions of this subchapter shall apply to:

1. Each center that provides or arranges for the provision of transportation for children:

i. To or from their homes or other prearranged sites and the center; and/or

ii. In connection with an activity (such as a field trip) conducted by or through the auspices of the center; and

2. Each person or agency other than the center that provides or arranges for the provision of transportation for compensation for children to or from their homes and a center.

(b) Each center, person or agency, as defined in (a) above, also shall comply with applicable provisions of New Jersey Motor Vehicle Commission (MVC) law, pursuant to N.J.S.A. 39:1-1 et seq., and the rules promulgated thereunder, as specified in N.J.A.C. 13.

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (b), substituted "Motor Vehicle Commission (MVC)" for "Division of Motor Vehicles (DMV)".

### 10:122-9.2 Vehicle definitions

(a) A Type I School Bus means a bus with a capacity of 17 to 54 passengers, as indicated by the vehicle manufacturer, which has been painted in the color of uniform national school bus yellow, and is required by the Motor Vehicle Commission (MVC) to have New Jersey school vehicle Type I, "S1" designated license plates.

(b) A Type II School Bus means a bus with a capacity of 10 to 16 passengers, as indicated by the vehicle manufacturer, which has been painted in the color of uniform national school bus yellow if the bus was manufactured after April 1, 1977, and is required by the MVC to have New Jersey school vehicle Type II, "S2" designated license plates.

(c) A Type S School Vehicle means a vehicle with a capacity of nine or fewer passengers, as indicated by the vehicle manufacturer, and a gross vehicle weight rating of 3,000 pounds or more, which is required by the MVC to have New Jersey school vehicle Type II, "S2" designated license plates.

### 10:122-9.3 Vehicle requirements

(a) The center shall ensure that each vehicle used to provide transportation of enrolled children to and from the center, as specified in N.J.A.C. 10:122-9.1(a), except private passenger vehicles, is equipped with the following:

1. Three triangular portable red reflector warning devices;

2. A fully charged fire extinguisher, with a gauge and with a minimum underwriters' rating of 2A 10BC, which shall be located at the front and securely mounted to the right of the driver in a way that does not constitute an obstruction or hazard to the passengers;

3. A seat belt cutter;

4. A removable first-aid kit located in an accessible place within the vehicle; and

5. Forward-facing seats, excluding folding seats and jump seats. Each seat exit shall be clear of obstructions.

(b) The center shall ensure that each Type I School Bus has school vehicle Type I, "S1" designated license plates and a valid School Bus inspection sticker issued by the Motor Vehicle Commission (MVC).

(c) The center shall ensure that each Type II School Bus has school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by the MVC.

(d) The center shall ensure that each Type S School Vehicle:

1. Has school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by the MVC;

2. Is equipped with a spare tire and a jack; and

3. Meets the requirements specified by the MVC.

(e) The center shall use a Type I School Bus, Type II School Bus or Type S School Vehicle at all times when transporting children, except as specified in (f) and (g) below.

(f) Any center may authorize staff members and/or parents of enrolled children to utilize their own private passenger vehicles to transport children from the center to and from scheduled center field trips, outings or special events (such as visits to the zoo, library, or museum) or to transport children from the center to a hospital, clinic or office for medical treatment, pursuant to N.J.S.A. 18A:39-20.1.

However, staff members and/or parents may be authorized to do so only if:

1. The vehicle has a capacity of nine or fewer persons;
2. The driver possesses a valid Basic automobile driver's license issued by the MVC, or a valid automobile driver's license issued by an approved out-of-State motor vehicle agency for the state in which the driver is a legal resident;
3. The vehicle has a valid motor vehicle inspection sticker issued by the MVC or by an approved out-of-State motor vehicle agency for the state in which the vehicle is legally registered;
4. The vehicle owner possesses vehicle liability insurance at least at the minimum amounts required by New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a, or at least at the minimum amounts required by a state other than New Jersey in which the vehicle is legally registered;
5. The center maintains transportation records on each vehicle, as specified in N.J.A.C. 10:122-9.7(b); and
6. The center ensures that the driver and/or additional adults apply the safety practices, as specified in N.J.A.C. 10:122-9.5(a) through (d) and (g) through (m).

(g) For school-age child care programs, the center may use an autobus under the jurisdiction of the Department of Transportation when chartered for scheduled center field trips, outings or special events, provided that the driver and/or additional adults apply the safety practices, as specified in N.J.A.C. 10:122-9.5(a) through (e), (h), and (j) through (m).

(h) A center that provides or arranges transportation for physically disabled non-ambulatory children shall meet the additional vehicle requirements specified by the MVC.

Amended by R.1995 d.87, effective February 6, 1995.  
See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).  
Amended by R.2002 d.377, effective November 18, 2002.  
See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (f), rewrote the introductory paragraph; in (g), substituted "Prior to January 1, 2003, the" for "Any" in the introductory paragraph of 1 and added 2.

Amended by R.2005 d.94, effective March 21, 2005.  
See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote the section.

#### 10:122-9.4 Driver licensing requirements

(a) If a center uses a Type I School Bus, Type II School Bus or Type S School Vehicle, the center shall:

1. Meet all applicable rules of the Motor Vehicle Commission (MVC), Department of Education and/or Department of Human Services;

2. Ensure that each driver of such a vehicle possesses a valid Commercial Driver License (CDL) in at least Class B or Class C, with a passenger endorsement, as required by the MVC for the gross vehicle weight rating (GVWR) of the vehicle, or an out-of-State equivalent license, as approved by the MVC; and

3. Submit a list of all drivers to the MVC when the vehicle is inspected by the MVC.

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

In (b), inserted "and for school-age child care programs effective January 1, 2003," following "childhood programs."; in (c), inserted "prior to January 1, 2003" following "child care programs".

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

Rewrote (a); deleted (b) and (c).

#### 10:122-9.5 Vehicle-related safety practices

(a) Children shall never be left unattended in a vehicle.

(b) Children shall be accepted and discharged from the curbside of the vehicle.

(c) The interior and exterior of each vehicle shall be maintained in clean and safe condition, with clear passage to operable doors.

(d) All vehicles that are utilized to transport children shall be equipped with car seats (child passenger restraint systems) and/or booster seats that meet Federal motor vehicle safety standards, as appropriate for the age and weight of the children transported, in accordance with applicable provisions of Motor Vehicle Commission (MVC) law, pursuant to N.J.S.A. 39:3-76.2a and f.

(e) The driver shall not transport more persons, including children and adults, than:

1. The occupancy of the Type I School Bus, as indicated by the vehicle manufacturer; or
2. The occupancy of the Type II School Bus or School Vehicle or other approved vehicle, as determined by the number of operable seat belts.

(f) The driver of and/or additional adult(s) on the Type I School Bus shall ensure that:

1. All passengers are seated and remain seated when the bus is in motion; and
2. All passengers below 18 months of age are secured in the proper restraint system, as specified in (d) above, when the bus is in motion.

(g) The driver of and/or additional adult(s) on the Type II School Bus, School Vehicle and private passenger vehicle shall ensure that:

1. All passengers are seated and remain seated when the vehicle is in motion; and

2. Each child is secured in an operable seat belt or proper restraint system or booster seat, if applicable as specified in (d) above, when the vehicle is in motion.

(h) There shall be no standees in any vehicle transporting children.

(i) The center shall conduct two emergency evacuation drills each year for passengers who ride the Type I or Type II School Bus.

(j) The driver shall conduct a daily check of the vehicle, which shall include all safety equipment, to ensure that the vehicle is in sound operating condition.

(k) The driver shall conduct a check of the vehicle, after each run is completed, to ensure that no child has been left on the vehicle.

(l) Smoking shall be prohibited in all vehicles when occupied by children.

(m) For children below six years of age, the driver or additional adult(s) shall ensure that each child discharged from the vehicle is received by his or her parent or person designated by a child's parent.

Amended by R.1995 d.87, effective February 6, 1995.

See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

In (n), substituted "and" for "or" following "onto" in lii, and added 2.

Amended by R.2002 d.377, effective November 18, 2002.

See: 34 N.J.R. 1409(a), 34 N.J.R. 3981(a).

Rewrote (d), (g)2 and (m); in (n), inserted "prior to January 1, 2003".

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (d), substituted "Motor Vehicle Commission" for "DMV"; in (i), substituted "center" for "driver"; rewrote (m); deleted (n).

#### 10:122-9.6 Vehicle insurance

(a) Each center or person providing transportation services, as specified in N.J.A.C. 10:122-9.1(a), shall:

1. Secure and maintain vehicle liability insurance for bodily injury or death in minimum amounts as specified in N.J.A.C. 13:20-49H.1;

2. Maintain on file at the center a copy of the insurance policy or documentation of current insurance coverage; and

3. Submit the insurance certificate to the Motor Vehicle Commission.

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote the section.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), substituted "in N.J.A.C. 13:20-49H.1;" for "by the DMV; and" in 1, inserted "at the center" preceding "a copy" in 2, and added 3.

#### 10:122-9.7 Transportation records

(a) When the center transports children in a vehicle other than a private passenger vehicle, as specified in N.J.A.C. 10:122-9.3(f), or a chartered autobus, as specified in N.J.A.C. 10:122-9.3(g), the center shall maintain on file:

1. A record of each child transported;

2. The name and address of each driver;

3. A photostatic copy of each driver's valid driver's license; and

4. The year, make and model of each vehicle used by the center to transport children.

(b) For center-authorized drivers providing periodic transportation in private passenger vehicles, the center shall maintain on file a checklist indicating that the provisions specified in N.J.A.C. 10:122-9.3(f) have been met.

(c) The center shall maintain on file the names and addresses of the person(s) designated as the additional adult(s) and the license numbers of the school bus(es) or vehicle(s) to which they are assigned.

(d) The center shall maintain on file inspection and maintenance records for each vehicle, other than a private passenger vehicle or chartered autobus, used by the center to transport children. The center shall:

1. Ensure that each Type I School Bus, Type II School Bus and Type S School Vehicle is inspected by the Motor Vehicle Commission twice a year;

2. Ensure that the inspection and maintenance records for each vehicle meet the requirements specified in N.J.A.C. 13:20-30.3; and

3. For vehicles that have been leased or otherwise contracted for, maintain on file the name and address of the leaser or contractor furnishing the vehicle.

(e) The records specified in (d) above shall be retained in the center's files for the life of the vehicle.

(f) Documentation of emergency evacuation drills for all passengers who ride the Type I or Type II School Bus shall be maintained in a log containing the following information:

1. The date of the drill;

2. The number of passengers;

3. The time taken to evacuate the bus; and

4. The signature of the person conducting the drill.

(g) If transportation services are provided by the center, or by a firm under contract to or other arrangement with the center, the center shall maintain on file a copy of its

own vehicle liability insurance, or of that firm's name and vehicle liability insurance coverage in the amount(s) specified in N.J.A.C. 10:122-9.6.

(h) The center shall obtain written authorization from the parent or guardian before transporting a child to or from the center.

Administrative correction.

See: 27 N.J.R. 2690(a).

Amended by R.1998 d.502, effective October 5, 1998.

See: 30 N.J.R. 1264(a), 30 N.J.R. 3688(a).

Rewrote (a); and in (d), substituted "vehicle, other than a private passenger vehicle or chartered autobus," for "school bus or school vehicle," in the introductory paragraph.

Amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), amended the N.J.A.C. references in the introductory paragraph; in (b), inserted "passenger" preceding "vehicles" and amended the N.J.A.C. reference; rewrote (d) and (h).

#### 10:122-9.8 Vehicle staff requirements

(a) For early childhood programs, the following shall apply:

1. When one or more children who are 2½ years of age or older are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

2. When 12 or fewer children who are below 2½ years of age are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

3. When 13 or more children who are below 2½ years of age are being transported, there shall be two adults in addition to the driver who remain in the vehicle when it is in motion, and who remain within sight of the vehicle when it has stopped to accept or discharge children, until fewer than 13 children remain, at which time one adult in addition to the driver shall remain until the last child has reached his or her destination.

Recodified from N.J.A.C. 10:122-9.9 and amended by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).

In (a), substituted "one" for "seven" preceding "or more children" in 1 and substituted "When 12 or fewer children" for "When between four and 12 children" in 2. Former N.J.A.C. 10:122-9.8, Special requirements for physically handicapped, non-ambulatory children, repealed.

#### 10:122-9.9 (Reserved)

Recodified to N.J.A.C. 10:122-9.8 by R.2005 d.94, effective March 21, 2005.

See: 36 N.J.R. 1705(a), 37 N.J.R. 892(a).