

(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) 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.

(j) 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 require-

ments 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 superchlorinated 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.

(k) 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.

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

(m) 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.

(n) 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.

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

(p) 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).

(q) 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.

#### 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 to 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: