

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(p); 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).

### 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;

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(k)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.

(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.

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 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).

#### 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(p)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(p)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.

**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.

(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<sup>3</sup>/<sub>8</sub> 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 ii.

#### 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:

- 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)iv 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(p)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†	Impetigo
German Measles†	Escherichia coli†	Lice
Hemophilus Influenzae†	Giardia Lambliia†	Scabies
Measles†	Hepatitis A†	Shingles
Meningococcus†	Salmonella†	
Mumps†	Shigella†	
Strep Throat		
Tuberculosis†		
Whooping Cough†		

† 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.

**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.

(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(p)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 (c), changed N.J.A.C. references throughout.

#### 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