

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Child Care Licensing Regulations: Center Based Child Care
and Preschool Programs**

/s/ Jenney Samuelson

, on 2/8/2022

(signature)

(date)

Printed Name and Title:

Jenney Samuelson, Interim Secretary
Agency of Human Services

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Child Care Licensing Regulations: Center Based Child Care and Preschool Programs

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

21P 042

3. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Heidi Moreau

Agency: Vermont Agency of Human Services, Department for Children & Families

Mailing Address: HC 1 South, 280 State Drive, Waterbury, VT 05671- 1080

Telephone: (802) 595-9639 Fax:

E-Mail: heidi.moreau@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dcf.vermont.gov/cdd/laws-regs>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Christel Michaud

Agency: Vermont Agency of Human Services, Department for Children & Families, Child Development Division

Mailing Address: NOB1, 280 State Drive, Waterbury, VT 05671-1040

Telephone: (802) 224-6940 Fax:

E-Mail: christel.michaud@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

Section 658H of the Child Care and Development Block Grant Act of 2014 (42 U.S.C. 9858f)

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

The law cited above governs criminal background checks for child care staff members. In complying with this federal law, the Department may only provide the result of the background check to the program without revealing the basis for the result. Background check results or information will not be publicly available.

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

The legal authority/enabling legislation for these regulations is 3 V.S.A. § 801(b)(11) and 33 V.S.A. §§ 105(b) and 3502.

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

33 V.S.A. 105(b)(2) states that the Commissioner has the authority to "fix standards and issue regulations necessary to administer" the laws assigned to the Department. Under 33 V.S.A. § 3502, the Department is responsible for family child care homes.

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

Rule 2.7 (Rule Variance) is amended to prohibit the Department from granting variances to rules 3.5 (Nondiscriminatory Enrollment), 4.7 (Communicating CBCCPP Policies and Procedures), 6.1.4.3 (Respect for Diversity), and 6.2.5.1 (Quality of Interactions) to

ensure that center-based child care and preschool programs operate in a non-discriminatory manner.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The current center-based child care and preschool program licensing rules permit the Commissioner of the Department for Children and Families (DCF) to grant a variance of any rule "when in unique and exceptional circumstances literal application of a rule will result in unnecessary hardship for the licensee or for a child and family, and the intent of the rule can be achieved through other means." In order to ensure children throughout the state have access to non-discriminatory child care, DCF is limiting the Commissioner's authority to grant individualized exemptions by prohibiting variances of the non-discriminatory provisions of the rules.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The rule is based on the state and federal laws governing center-based child care and preschool programs.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All independent providers of out-of-home child care not otherwise exempt from regulation;

Public schools that provide care to children of prekindergarten age;

Vermont Department for Children and Families;

Vermont Agency of Education; and

Children, birth to 13 years, and their families.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

DCF anticipates no economic impact to afterschool programs or the families they serve. New costs to DCF include: sending licensed programs a one-page insert for their regulation book of the changes which has minimal financial impact on DCF.

19. A HEARING WAS NOT HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

2/3/2022

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

child care licensing

prekindergarten

child care licensing regulations

early childhood programs

child care

preschool

universal pre-k

public school prekindergarten program



Memorandum

To: Legislative Committee on Administrative Rulemaking; Secretary of State

From: Department for Children and Families, Child Development Division

Re: Public Comments on 21P-042

Date: February 7, 2022

The Department for Children and Families received written comments on rules 3.4.5.4, 5.10.7.1, 6.2.1.8, and 7.1.3 of the Child Care Licensing Regulations: Center Based Child Care and Preschool Programs (CBCCPP) from unnamed commenters. The comments concerned rules that were not amended in the proposed rule. The comments and the Department's responses are below.

Rule 3.4.5.4

Comment: The rule should specify that the Division is looking to have the affidavit list each staff person by name rather than lumping it into one general statement that each staff, auxiliary staff, and partner staff have a complete file. Programs do not always use the form on the CDD website. It should also read that each time a change in staffing (adding or removing) the affidavit would need to be updated to reflect those changes. Adding a time frame such as the five days to update BFIS would be helpful.

Department Response: The Child Development Division (CDD) has revisions planned for CBCCPP regulations that will be filed in the Spring of 2022. CDD will address this issue as part of that regulation revision process, so we have the opportunity to give more consideration to this and to include feedback from a workgroup comprised of CBCCPP licensees, program directors, and/or staff and others. For these reasons, the Department has decided not to change rule 3.4.5.4 as part of this rule filing.

Rule 5.10.7.1

Comment: Programs should be required to post at the program their location if on a field trip.

Department Response: CBCCPP rule 5.10.7.1 requires written parental permission be obtained in advance of field trips. As such, parents know the whereabouts of their child(ren). Programs can have

the practice of posting without a regulatory rule change. There are times when posting such a notice will cause undue risk. Typically, programs have established systems for reminding parents of field trip plans. For these reasons, no change to rule 5.10.7 is being made.

Rule 6.2.1.8

Comment: It would be helpful to have two different position titles to decipher auxiliary staff who do not provide direct care and education to those who meet qualifications as outlined in rule 6.2.1.8. This becomes confusing when using the same title for individuals who do not have the same role in the program.

Department Response: This type of change does not require a regulatory change, rather a change to the data system. CDD is in the process of developing the Child Development Division Information System (CDDIS) which will replace the current Bright Futures Information System (BFIS). CDD will provide this feedback to the team developing the new CDDIS.

Rule 7.1.3

Comment: It would be helpful to separate the Staff Handbook requirement versus completion of the Orientation training. You can have a program that has a complete Handbook but staff haven't completed Orientation or vice versa; combining them doesn't speak to the issues as their own task. In addition making a rule that separates the PROGRAMS orientation versus VERMONT orientation.

Department Response: CDD has revisions planned for CBCCPP rule 7.1.3 that will be filed in the Spring of 2022. CDD will address this issue as part of that regulation revision process.

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Child Care Licensing Regulations: Center Based Child Care and Preschool Programs

2. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Log # 20-035, Child Care Licensing Regulations: Center Based Child Care and Preschool Programs, effective 09/01/2020



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: December 15, 2021, Virtually via Microsoft Teams with Physical Location available in the Pavilion Building, 109 State Street, Montpelier, VT 05609

Members Present: Chair Kristin Clouser, Dirk Anderson, Jennifer Mojo, John Kessler, Diane Sherman, Clare O'Shaughnessy and Michael Obuchowski

Members Absent: Diane Bothfeld

Minutes By: Melissa Mazza-Paquette

- 1:04 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the November 15, 2021 meeting.
- Note: The following emergency rules were supported by ICAR Chair Clouser:
 - Emergency Administrative Rules for Notaries Public and Remote Notarization', Secretary of State, Office of Professional Regulation, on 12/7/21
 - These Emergency Rules define the "personal appearance" requirement for remote notarial acts conducted through a secure audio-visual communication link.
 - At Home COVID-19 Antigen Test Coverage, Department of Financial Regulation, on 12/8/21
 - The emergency rule requires health insurers to waive or limit certain cost-sharing requirements directly related to COVID-19 antigen tests (commonly referred to as "rapid" tests), including over-the counter tests for use at home.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
 1. Reportable and Communicable Diseases Rule, Agency of Human Services, Department of Health, page 2
 2. Licensing Regulations for Afterschool Child Care Programs, Agency of Human Services, Department for Children and Families, page 3
 3. Child Care Licensing Regulations: Center Based Child Care and Preschool Programs, Agency of Human Services, Department for Children and Families, page 4
 4. Licensing Regulations for Registered and Licensed Family Child Care Homes, Agency of Human Services, Department for Children and Families, page 5
 5. Rule 1: Licensing of Cannabis Establishments, Cannabis Control Board, page 6
 6. Rule 2: Regulation of Cannabis Establishments, Cannabis Control Board, page 7
- Chair Clouser met briefly with members from LCAR to discuss ways to improve processes. A future meeting of the two bodies will be held to expand the discussion.
- Committee discussion of administrative rules in other states and ways to enhance our system to be more responsive to the public and governmental agencies. ICAR will meet with LCAR and discuss next steps and potential action items.
- Next scheduled meeting is Wednesday, January 12, 2022, 1:00 PM
- 2:49 p.m. meeting adjourned.

**Proposed Rule: Child Care Licensing Regulations: Center Based Child Care and Preschool Programs,
Agency of Human Services, Department for Children and Families**

Presented By: Heidi Moreau

Motion made to accept the rule by Dirk Anderson, seconded by Jen Mojo, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet, #5: Clarify the language in the second sentence. The 'd' in 'department' should be capitalized for consistency.
2. Proposed Filing Coversheet, #8: Include the reasoning/objective for exempting the rules. Add a space after the comma in ',and' in the last line.
3. Proposed Filing Coversheet, #9: Clarify and include the reasoning and goal.
4. Proposed Filing Coversheet, #10: Include reference to center-based childcare programs if appropriate.
5. Proposed Filing Coversheet, #12: Clarify who the minimal financial impact pertains to.
6. Proposed Filing Coversheet, #13: Hearing are always encouraged. If the choice is to not hold one, include further explanation on the outreach done.
7. Economic Impact Analysis, #7: Include language that the agency determined such a valuation isn't appropriate.
8. Economic Impact Analysis, #8: Include language to the first sentence such as 'in a nondiscriminatory fashion' if applicable.

DRAFT

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Child Care Licensing Regulations: Center Based Child Care and Preschool Programs

2. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

DCF anticipates no economic impact to child care programs or the families they serve. New costs to DCF include: sending licensed programs a one-page insert for their regulation book of the changes which has minimal financial impact.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No economic impact.

5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.

No alternatives to the rule would reduce or ameliorate costs to local school districts.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

No economic impact.

7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.

Because there is no impact on small businesses, an evaluation of the cost/burden of compliance is inappropriate.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Access to non-discriminatory child care and early childhood education generates significant returns to the economy. The economic impact of other alternatives to the rule is potentially negative if children are not ensured access to non-discriminatory child care programs.

9. SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.

The amendment will not impose new costs or savings on affected parties, and therefore, this analysis sufficiently captures that there will be no economic impact.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. **TITLE OF RULE FILING:**

Child Care Licensing Regulations: Center Based Child Care and Preschool Programs

2. **ADOPTING AGENCY:**

Vermont Agency of Human Services, Department for Children & Families

3. **GREENHOUSE GAS: EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):**
No impact expected.

4. **WATER: EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):**
No impact expected.

5. **LAND: EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):**
No impact expected.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
No impact expected.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No impact expected.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
None.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
The amendment does not impact any of the areas listed above, and therefore, this analysis sufficiently captures that there will be no environmental impact.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. **TITLE OF RULE FILING:**

Child Care Licensing Regulations: Center Based Child Care and Preschool Programs

2. **ADOPTING AGENCY:**

Vermont Agency of Human Services, Department for Children & Families

3. **PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:**

DCF has notified licensing staff and child care providers of the change. Notice is posted on DCF's website. DCF posted a survey on its website seeking feedback on the proposed rule.

4. **BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

Child Development Division staff, DCF General Counsel, and DCF Policy Advisor were involved in the development of the proposed rule.

Licensing Regulations for Center Based Child Care and Preschool Programs

Effective Date: ~~September 1~~ April 17, 2020

FOREWORD

Child Care Licensing Regulations govern child care facilities and programs in the State of Vermont. These rules are minimum requirements established to protect the health and safety of Vermont's children in out-of-home care and ensure that children in care, early education and afterschool programs in Vermont are provided with wholesome growth and educational experiences.

~~From September 2018 to April 2019, the Child Development Division worked with a Public School Prekindergarten Program Work Group to revise these regulations with the goal of reducing duplication. The work group consisted of Public School Prekindergarten Program representatives and stakeholders (e.g. Head Start representatives, Agency of Education representatives, and Let's Grow Kids representatives). The group reviewed approximately 59 Center Based Child Care and Preschool Program regulations. While the work group recommended many regulations remain the same after learning that the regulations were not duplicative, the work group recommended 24 regulations be revised. Revisions have been applied within the various sections of the regulations when application across environments applied. Section 8.2 had 9 regulations added due to being specifically relevant to Public School Prekindergarten Programs.~~

Revisions to the rules reflect an understanding of current scientific evidence related to how children learn and develop. The rules also reflect industry standards and realities in implementing child care and early education program practices that impact the health, safety and well-being of children. The rules incorporate changes in the organization of Vermont state agencies responsible for licensing and monitoring; changes in applicable state and federal legislation and regulations from other related governing entities; the use of information technology in government and program administration; and the evolving system of early childhood and afterschool services in Vermont.

It is the intent of the Department for Children and Families, Child Development Division in the Vermont Agency of Human Services that licensing requirements are clear, reasonable, fair, and enforceable and keep children and their families at the center of our concern. In the interests of serving the public, comments on the rules are welcome at any time and will be considered for future revisions or the development of new requirements. Comments can be made on our website: <http://dcf.vermont.gov/cdd/laws-regs>

Melissa Riegel-Garrett
Policy Director
Child Development Division

Steven Berbee-Miranda Gray
Interim Deputy Commissioner
Child Development Division

MISSION

The mission of the Child Development Division is to improve the well-being of Vermont's children. We do this through partnerships with families, communities, schools, providers, and state and federal agencies that increase access to high-quality, sustainable, child development services.

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CBCCPP Section 1: Introduction

1.1 Legal Authority to Regulate Service:

A person shall not operate a child care facility without a license unless exempted under 33 V.S.A. § 3502. The legal authority for these regulations is 33 V.S.A. §§ 105(b) and 3502.

1.2 Purpose:

The purpose of these regulations is for the protection and promotion of the health, safety, well-being, positive growth, and development of children who receive services in Center Based Child Care and Preschool Programs. These regulations reflect the baseline or minimum standards for these programs regulated in Vermont. All regulated programs shall have the option of exceeding the regulations set by the Department for Children and Families.

1.3 Effective Dates:

1.3.1 These rules will go into effect for all initial applications for licensure as a Center Based Child Care and Preschool Program received on or after ~~September~~ April 17, 2020.

1.3.2 These rules will go into effect for all Center Based Child Care and Preschool Programs with a current license on ~~September~~ April 17, 2020.

~~1.3.3 All licensees who hold a current license to operate a Center Based Child Care and Preschool Program on September 1, 2020 shall read these finalized rules and ensure full understanding of these rules prior to December 1, 2020.~~

CBCCPP Section 2 – General Provisions

2.1 Definitions of Regulated Service and Limitations

2.1.1 A Center Based Child Care and Preschool Program provides developmentally appropriate care, education, protection, and supervision that are designed to ensure wholesome growth and educational experiences for children outside of their own homes for periods of less than twenty-four (24) hours per day. A Center Based Child Care and Preschool Program operates as a business or service on a regular or continuous basis, whether or not for compensation. Pre-kindergarten programs operated by public and private schools are considered Center Based Child Care and Preschool Programs. Programs providing child care services to non-recurring clientele are considered Center Based Child Care and Preschool Programs.

- 2.1.2 The following facilities that operate for less than twenty-four (24) hours per day shall be exempt from licensure under these rules:
- Child care provided for children of not more than two (2) families other than that of the person providing care;
 - A hospital or establishment holding a license issued by the Department of Health, or a person operating a program primarily for recreation or therapeutic purposes, unless the hospital, establishment, or person provides services for the care, protection, and supervision of children not incidental to its primary purpose;
 - Child care facilities operated by a religious organization for the care and supervision of children during or in connection with religious services or church sponsored activities;
 - An after-school program that serves students in one (1) or more grades from Kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers Program, and that is overseen by the Agency of Education, unless the after-school program asks to participate in the Child Care Financial Assistance Program; and
 - Recreation programs that provide services that:
 - Operate less than four (4) hours per day and not more than thirteen (13) weeks a year for children ages three (3), four (4) and five (5) years old;
 - Operate for not more than thirteen (13) consecutive weeks for children that have completed Kindergarten or will reach six (6) years of age by September 1st of the year enrolled;
 - Operate for not more than four (4) hours one (1) day per week or not more than two (2) hours two (2) days per week; or
 - Operate to provide a single skill based activity for children ages three (3) years or older.

2.1.3 Non-Recurring Care Services and Public School Pre-kindergarten Programs have exceptions for certain specific rules in these regulations. The exceptions for Non-Recurring Care Services are in the rules in section 8.1 of these regulations. The exceptions for Public School Pre-kindergarten Programs are in the rules in section 8.2 of these regulations.

2.1.3.1 Non-Recurring Care Services are designed to meet the short term, temporary child care needs for some or for all children enrolled in the program.

2.1.3.1.1 A program open for not more than six (6) months every 365 days shall have a term placed on the license that states all exceptions in the rules in section 8.1 of these regulations apply to all children enrolled and staff.

2.1.3.1.2 A program open for more than six (6) months every 365 days shall have two terms placed on their license:

- All exceptions in the rules in section 8.1 of these regulations shall apply only to the children whose enrollment forms and attendance records indicate that they are enrolled in non-recurring care services.
- All exceptions in the rules in section 8.1 of these regulations shall apply only to the staff whose employment file and staffing schedule indicate that they are employed as seasonal staff.

2.1.4 Any person or entity registered or licensed to operate a Family Child Care Home shall be prohibited from concurrently operating a Center Based Child Care and Preschool Program or an Afterschool Child Care Program.

2.1.5 Children in a regulated Center Based Child Care and Preschool Program shall not be subjected to abuse, neglect, mistreatment, or immoral surroundings.

2.2 Definitions of Terms Used in Regulations

2.2.1 "Annual Licensing Requirements" refers to compliance activities that shall be completed every 365 days within the three (3) year license period.

2.2.2 "Auxiliary Staff" means the staff of the Center Based Child Care and Preschool Program who may have contact with children and whose responsibilities do not include care and education of children. This includes, but is not limited to, cooks, janitors, maintenance workers, and other staff not directly responsible for the supervision, care and education of children.

2.2.3 "Bright Futures Information System" referred to as "BFIS" in these regulations, means the web-based information and management system used by the Division to communicate with child care and education providers and parents. It is used to manage processes, actions, documents and information related to: child care and early education licensing; the qualifications and professional development experiences of early childhood and afterschool professionals; and Child Care Financial Assistance Program and other payments.

2.2.4 "Business Manager" means a staff or board member that has direct responsibilities for the sustainable business operation and financial management of the Center Based Child Care and Preschool Program.

- 2.2.5 "Capacity" means the total number of children allowed to be present at any one (1) time as approved on the license.
- 2.2.6 "Center Based Child Care and Preschool Program" referred to as the "CBCCPP" in these regulations, means the program and facility approved to provide developmentally appropriate care, education, protection, and supervision designed to ensure wholesome growth and educational experiences for children outside of their home for periods of less than twenty-four (24) hours per day. A CBCCPP license is specific to a physical location where services are provided.
- 2.2.7 "Child" for the purposes of these regulations, means a person who is at least six (6) weeks old and has not reached the age of thirteen (13) years.
- 2.2.8 "Child with Special Needs" means (a) a person under the age of thirteen (13) who is eligible for special services in accord with a Children's Integrated Services One Plan, Individual Family Service Plan (IFSP), or an Individualized Education Plan (IEP) or a 504 Plan who may need special accommodations to be successful in a CBCCPP OR (b) a person who is age thirteen (13) up to age nineteen (19) who has an IEP or a documented physical, emotional or behavioral condition that precludes the person from providing self-care or being left unsupervised, as verified by the written record of a physician, licensed psychologist or court records.
- 2.2.9 "Classroom Aide" means a person assigned to work with a specific child or group of children in addition to the staff who count in staff/child ratios.
- 2.2.10 "Cleaning" means the removal of all dirt and debris by washing with a detergent solution in accordance with the manufacturer's directions.
- 2.2.11 "Commissioner" means the Commissioner of the Department for Children and Families or designee.
- 2.2.12 "Condition" means a time limited requirement to which the licensee shall achieve compliance prior to the completion date listed on the license certificate.
- 2.2.13 "Confidentiality" means the protection of personal information, including health information from persons who are not authorized to see or hear it.
- 2.2.14 "Corporal Punishment" means the intentional infliction of physical pain by any means for the purpose of punishment, correction, discipline, instruction, or any other reason.