

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:

Licensing Regulations for Registered and Licensed Family Child Care Homes

/s/ Jenney Samuelson

(signature)

, on 2/8/2022

(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:

**Licensing Regulations for Registered and Licensed
Family Child Care Homes**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

21P043

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 3.4 (Nondiscriminatory Enrollment), 4.7 (Communicating FCCH Policies and Procedures), 6.1.4.3 (Respect for Diversity), and 6.2.3 (Quality of Interactions) to ensure

that family child care homes operate in a non-discriminatory manner.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The current family child care home 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, the proposed rule limits 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 family child care home programs.

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

All providers of in-home child care not otherwise exempt from regulation;
Vermont Department for Children and Families; 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 family child care homes 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
family child care home
child care licensing regulations
early childhood programs
child care



**Department for Children and Families
Commissioner's Office**
280 State Drive – HC 1 North
Waterbury, VT 05671-1080
www.dcf.vt.gov

[phone] 802-241-0929
[fax] 802-241-0950

Agency of Human Services

Memorandum

**To: Legislative Committee on Administrative
Rulemaking; Secretary of State**

**From: Department for Children and Families, Child
Development Division**

Re: Public Comments on 21P-043

Date: February 7, 2022

The Department for Children and Families received one written comment on rule 5.4.1.5 of the Licensing Regulations for Family Child Care Homes (FCCH) from an unnamed commenter. The comments concerned a rule that were not amended in the proposed rule. The comment and the Department's response are below.

Comment: FCCH often have children in a room with several children and check on them every 15 minutes. It doesn't provide the same level of supervision as required in a center based program. It would be helpful to have the FCCH be required to be able to see all sleeping children at one time, but that infants can be in an area checked on every 15 minutes due to their inability to climb out of the crib or port a crib.

Department Response: A FCCH is a different environment with one caregiver which is why the same type of visual supervision is not required in a FCCH as is required in a Center Based Child Care and Preschool Program. During child care licensing monitoring visits, safety is assessed in all rooms used for child care purposes including rooms used for napping. Safety is assessed in napping rooms through a lens of knowing that a supervision check is performed every 15-minutes. For these reasons, the Department has decided not to change rule 5.4.1.5.

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:**

**Licensing Regulations for Registered and Licensed
Family Child Care Homes**

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 # 16-021, CHILD CARE LICENSING REGULATIONS:
REGISTERED AND LICENSED FAMILY CHILD CARE HOMES,
effective 09/01/2016



State of Vermont
Agency of Administration
109 State Street
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322
[fax] 802-828-2428

Kristin L. Clouser, Secretary

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: Licensing Regulations for Registered and Licensed Family Child Care Homes, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau

Motion made to accept the rule by Diane Sherman, seconded by John Kessler, and passed unanimously with the following recommendations:

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

**Licensing Regulations for Registered and Licensed
Family Child Care Homes**

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 family child care homes 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:**

**Licensing Regulations for Registered and Licensed
Family Child Care Homes**

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:**

**Licensing Regulations for Registered and Licensed
Family Child Care Homes**

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 Registered
and Licensed Family Child Care Homes
Effective Date: ~~September 1~~ April 17, 2016**

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 child care programs in Vermont are provided with wholesome growth and educational experiences.

~~This is a revision of two sets of regulations: Regulations for Family Day Care Homes, (October 1996), and Family Child Care Licensing Regulations, (February 2001), hereafter combined and known as Licensing Regulations for Registered and Licensed Family Child Care Homes. Licensed Family Child Care Homes can provide services for more children and are required to meet some additional standards not required for Registered Family Child Care Homes. The combined regulation creates consistency in basic standards across levels in a family child care home setting and a clear path from one type to another if a provider wants to make that transition.~~

~~Revisions were developed in an intensive two and a half year process engaging national experts, local stakeholders, child care and education providers, and licensing and program quality staff in the Child Development Division (CDD) to produce a comprehensive revision of Vermont's child care regulations that is child-centered, family friendly and fair to providers. Representatives from Vermont Department of Health, Vermont Agency of Education, and Vermont Department of Mental Health also advised and participated. All participants agreed on the goal to set clear, consistent, developmentally appropriate standards based on observable program characteristics known to protect and promote the health, safety and well-being of children in care and education settings.~~

~~The development process began by collecting broad input in community forums co-convened by the CDD, Building Bright Futures Regional Councils and local Community Child Care Support Agencies in each of the twelve (12) Agency of Human Services regions across the state. Subsequently over one hundred child care providers, child care licensors, and other community stakeholders came together in six (6), geographically dispersed, Saturday morning work groups eleven (11) times over thirteen (13) months to review research on best practice, discuss current practices and realities, and to develop recommendations for revised licensing standards. The State of Vermont is indebted to these highly committed, hardworking volunteers for their well informed contribution to this result.~~

~~Over many months, a team of CDD staff reviewed and compiled work group recommendations into iterative drafts, and staff met with staff from the Vermont Division of Fire Safety, Vermont Agency of Natural Resources, and Vermont Department of Health to discuss and review the draft revisions.~~

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. They incorporate changes in the organization of Vermont state agencies responsible for licensing and monitoring; changes in applicable 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 welcomed 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/laws-regs>

~~Reeva Sullivan-Murphy~~ Miranda Gray
Interim Deputy Commissioner
Child Development Division

~~Ken Schatz~~
~~Commissioner~~
~~Department for Children and Families~~

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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FCCH Section 1 - Introduction

1.1 Legal Authority to Regulate Service

A person providing care for children from more than two (2) families other than their own must be registered or licensed in accord with these regulations. No person, agency, corporation, partnership or individual shall operate or maintain a registered or licensed family child care home without approval from the Vermont Department for Children and Families (DCF) and a current license issued by the Child Development Division (CDD). The legal authority for these regulations is in Vermont Statutes at 33 V.S.A. §§ 105(b) & 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 Family Child Care Homes. These regulations reflect the baseline or minimum standards for child care 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 Registered Family Child Care Home or Licensed Family Child Care Home received on or after ~~September 1, 2016~~ April 17, 2016.

1.3.2 These rules will go into effect for all Family Child Care Providers with a current license to operate a Registered Family Child Care Home or Licensed Family Child Care Home on ~~September 1, 2016~~ April 17, 2016 with the exception of the specific following rules, which require compliance no later than ~~September 1, 2017~~:

- ~~3.6.1 (Emergency Planning) of these regulations;~~
- ~~3.6.3 (Sheltering in Place) of these regulations;~~
- ~~4.7 (Written Policies and Procedures) of these regulations;~~
- ~~5.4.1.2 (CPSC Compliant Cribs and Porta cribs) of these regulations;~~
- ~~5.6.2 (Medication Administration Training) of these regulations;~~
- ~~7.1.2.2 (CPR & First Aid at all times) of these regulations;~~
- ~~7.1.3 (Orientation Training) of these regulations;~~
- ~~7.3 (Qualifications and Experience) of these regulations; and~~
- ~~7.4 (Annual Professional Development) of these regulations.~~

1.3.3 ~~FCCH Providers who hold a current license to operate a Registered Family Child Care Home or Licensed Family Child Care Home on September 1, 2016, shall read these adopted rules and ensure full understanding of these rules prior to September 1, 2017 by attending a Child Development Division (CDD) approved training on these rules.~~

~~1.3.4 FCCH Providers who hold a current license to operate a Registered Family Child Care Home or Licensed Family Child Care Home on September 1, 2016, may be issued a Provisional License if they are unable to come into full compliance with these rules by September 1, 2017, at the discretion of the Division, and if the requirements in the rules in Section 2.3.6.2 of these regulations are met.~~

FCCH Section 2 - General Provisions

2.1 Definitions of Regulated Service and Limitations

2.1.1 A Family Child Care Home 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 Family Child Care Home shall be operated in the residence occupied by the Family Child Care Provider (FCCP). There are two (2) types of Family Child Care Homes (FCCH):

- Registered FCCH that are licensed to serve children as specified in the rules in section 6.2.1; or
- Licensed FCCH that are licensed to serve children as specified in the rules in section 6.2.2.

2.1.2 While the rules in these regulations apply to both types of FCCH, the rules framed in a box are rules that apply only to the Licensed FCCH types. Registered FCCH types will not be subject to these specified rules.

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

2.1.4 An approved FCCP may not be concurrently approved as a licensed foster care provider without a variance from the Department. They may not provide respite care for foster children or foster care, either licensed or professional, except that, at the request of the Department, they may provide respite or temporary foster care to a child who is already enrolled in their regulated FCCH.

2.1.5 Children in a regulated FCCH 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 complete every 365 days within the three (3) year license period.

- 2.2.2 "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.
- 2.2.3 "Capacity" means the total number of children allowed to be present at any one (1) time as approved on the license.
- 2.2.4 "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.
- 2.2.5 "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 FCCH 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.
- 2.2.6 "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.
- 2.2.7 "Cleaning" means the removal of all dirt and debris by washing with a detergent solution in accordance with the manufacturer's directions.
- 2.2.8 "Commissioner" means the Commissioner of the Department for Children and Families or designee.
- 2.2.9 "Condition" means a time limited requirement to which the licensee shall achieve compliance prior to the completion date listed on the license certificate.
- 2.2.10 "Confidentiality" means the protection of personal information, including health information from persons who are not authorized to see or hear it.
- 2.2.11 "Corporal Punishment" means the intentional infliction of physical pain by any means for the purpose of punishment, correction, discipline, instruction, or any other reason.

- 2.2.12 "Curriculum" means goals for the knowledge and skills to be acquired by the children and the activities and experiences through which such knowledge and skills are achieved.
- 2.2.13 "Department" means the Vermont Agency of Human Services, Department for Children and Families, and/or its agents.
- 2.2.14 "Developmentally Appropriate" means practices grounded in research on how young children develop and learn. It means providing activities and interactions suitable to children's age and developmental status, as individuals and as a group, and providing support for each child in attaining challenging yet achievable goals that contribute to his/her unique, ongoing development and learning. Such practice is responsive to the social and cultural contexts in which children live.
- 2.2.15 "Disinfecting" means to destroy or inactivate most germs on objects or surfaces. Disinfecting is appropriate for non-porous surfaces that will not be in contact with food or be mouthed by children.
- 2.2.16 "Division" means the Vermont Department for Children and Families, Child Development Division.
- 2.2.17 "Experience," as used in relation to qualifications, means experience working with groups of children birth through school age as a paid professional or a consistent and regularly scheduled volunteer or trainee.
- 2.2.18 "Family Child Care Assistant" means a qualified staff member who works under the supervision of a FCCP and provides child care services.
- 2.2.19 "Family Child Care Home," referred to as the "FCCH" in these rules, means the residence of a person approved to provide developmentally appropriate care, education, protection, and supervision 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. This is the physical location where care is provided.
- 2.2.20 "Family Child Care Provider," referred to as the "FCCP" in these rules, means the person who has been approved to operate a registered or licensed FCCH, is responsible for the operation of that FCCH and considered legally responsible for compliance with these regulations. The FCCP approves or develops the FCCH's program and curriculum and supervises staff.