

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 896.1

LICENSING OF BEFORE AND AFTER SCHOOL
CHILD CARE FACILITIES

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Historical Note: The chapter is based substantially
upon 17-896, Hawaii Administrative Rules. [Eff
4/11/92; am and comp 12/19/02; R APR 19 2024]

SUBCHAPTER 1

LICENSING PROCEDURE

§17-896.1-1 Definitions. For the purpose of this chapter:

"Acting director" means a person who assumes the responsibilities of director of the child care facility in the absence of the director.

"After or before school care aide" means a person responsible for helping the leader carry out the direct care of the children, under the direction of the program leader or assistant program leader.

"After or before school care assistant program leader" means a person responsible for planning, carrying out, or both, direct care of the children under the direction of the program leader.

"After or before school care program leader" means a person responsible for planning, carrying out, or both, the direct care of the children in the program. For example, making contact with parents, keeping appropriate records, observing and evaluating the child's development, supervising staff and volunteers, and working cooperatively with the director and other staff toward achieving program goals and objectives.

"After school care" means child care provided after the end of the regular school day during the academic year for children who are kindergarten age and above who are enrolled in public or private elementary schools.

"Background check" means a review of a person's background information pursuant to chapter 17-801.

"Before school care" means child care provided before the start of the regular school day during the academic year for children who are kindergarten age and above and who are enrolled in public or private elementary schools.

"Caregiver" means any individual who is responsible for the physical well-being, health, safety, supervision, and guidance of children in child care.

"Child" means any person who has not reached the age of eighteen years.

"Child care" means those situations where a person or organization has agreed to assume the responsibility for the child's supervision, apart from and in the absence of the child's parent, guardian, or other, for any part of a twenty-four hour day. Child care may be provided out of the child's home in out-of-home relative care, in the child's home by relatives or non-relatives, in a family child care home, in a group child care home, or in a group child care center.

"Child care center" or "group child care center" means a place other than a private home, maintained by any individual, organization, or agency for the purpose of providing child care. The term child care center shall include child care nurseries, nursery school groups, preschools, child play groups, parent cooperatives, drop-in child care centers, group child care homes, after or before school, holiday, and summer care for elementary school age children, or other similar units operating under any name.

"Child care facility" means a place maintained by any individual, organization, or agency for the purpose of providing care for children with or without charging a fee at any time. It includes a family child care home, group child care home, and group child care center.

"Child development associate" or "CDA" means the credential issued by the Council for Professional Recognition.

"Child with special needs" means a child with a condition such as a physical, emotional, behavioral, or learning disability or impairment that causes the child to require additional or specialized services or accommodations.

"Compliance" means conformity in fulfilling the requirements of this chapter.

"Council for Professional Recognition" means the organization that administers the CDA credential.

"County building code" means the building code used by the applicable counties.

"Director," "principal," or "program coordinator," means the person at the facility having responsibility for its administration and program.

"Emergency" means an unforeseen combination of circumstances which calls for immediate action.

"Facility" means the premises of the address that is on the application or license certificate for child care, or that are a part of a place in which child care is provided, including enclosed areas, lanais, and outdoor areas.

"First aid kit" means materials and equipment in one location in a suitable container for meeting medical emergencies. A first aid kit shall be of the type approved by the American Red Cross, American Medical Society, or the department of health.

"Form 14" means a printed form made available by the state department of health or the state department of education to record a child's immunizations and health record.

"Group child care home" or "GCH" means child care provided by an individual in a facility that may be an extended or modified family child care home which provides care to no more than twelve children during any part of a twenty-four-hour day. GCHs are licensed under the rules for group child care centers.

"Group size" means the number of children assigned to specific staff who occupy an individual classroom or defined physical space within a larger area.

"Guardian" means a person other than a child's parents who has legal authority over and responsibility for a child.

"Ill" or "illness" is a subjective term which shall be defined by each provider with regard to admitting or not admitting sick children to child care.

"Intersession care" means child care provided during the breaks within the academic school year for children who are enrolled in public or private elementary schools.

"Lavatory" means a vessel or basin for washing which is in conformity with plumbing codes in force in the State.

"Liability insurance coverage" means a general casualty insurance policy issued to insure against legal liability for injury resulting from negligence to a child during the time the child is under the provider's care.

"License" means a certificate of approval issued by the state department of human services authorizing the operation of a child care facility.

"Local sanitary codes" means the specific rules set up by a county, the state department of health, or a comparable federal agency, which govern aspects of health and safety.

"Minor deficiencies" means deficiencies which do not involve risk to life, health, or safety of the children enrolled at the child care center.

"Person" means any individual with unsupervised access to children in care, caregiver, adult household member, applicant, provider, substitute, volunteer, new hire, rehire, temporary hire, or staff member in a child care facility or exempt child care facility.

"Policy" means a principal plan for the management of a child care facility.

"Provider" means any individual 18 years or older, caregiver, child care facility, agency or organization, exempt care providers, and adult employees, who provide child care to children in the absence of the child's caretaker.

"Provisional license" or "temporary permit" means a temporary license issued at the discretion of the department up to a period of six months to any child care facility which is unable to conform to all the rules at the time the license is issued.

"Qualified nutrition consultant" means a dietitian or nutritionist who meets the advanced educational requirements for membership in the

American Dietetic Association and is eligible for registration; or one who has a master's degree in Public Health Nutrition or Nutritional Sciences.

"Recalled" means any type of remedial action taken by a business for a corrective action plan agreed upon by the United States consumer product safety commission to address unsafe or potentially unsafe products to protect consumers, including the return of a product to the manufacturer or retailer for a cash refund or a replacement product, the repair of a product, and/or public notice of the hazard.

"Regionally accredited college or university" means any college or university that is recognized by the following regional accrediting organizations:

- (1) Middle State Associations of Colleges & Schools-Commission on Higher Education;
- (2) Northwest Commission on Colleges & Universities;
- (3) North Central Association of Colleges and Schools-the Higher Learning Commissions
- (4) New England Association of Schools and Colleges-New England Commission of Higher Education;
- (5) Southern Association of Colleges and Schools Commission on Colleges; or
- (6) Western Association of Schools and Colleges-Accrediting Commission for Community and Junior Colleges or Western Association of Schools and Colleges-Senior College and University Commission.

"Regular license" means a certificate of approval issued by the state department of human services to any child care facility which conforms to all the rules at the time the license is issued.

"Regularly" means the typical or normal pattern of a child care facility, or a practice or schedule that is routine and uniform and is not subject to unexplained or irrational variations.

"Rules" means the rules developed by the department of human services to set minimum standards of care and safety for the protection of children in child care.

"Single service utensils" means the supplies or equipment used once to serve food (e.g. paper plates, cups, disposable forks).

"Staff member" means administrative, child care, office, maintenance, employees, and other support personnel who are employed by the child care facility, including volunteers and substitutes.

"State child care advisory committee" means a group of people appointed by the department of human services to advise the department on matters regarding child care, including child care rules.

"Substitute" means a person who serves as a replacement staff member for no more than ten consecutive working days in the same position when the regular staff person is absent on an emergency or unplanned basis.

"Summer care" means care that is provided after the end of the academic year and occurs during the summer months.

"Supervision" means to be within sight and hearing distance of the children to insure the safety and protection of the children.

"Teacher," "teacher-director," "head teacher," "lead teacher," or "program leader" means a person responsible for planning and implementing all or part of the program activities, preparing program materials, supervising, and training other staff.

"Temporary hire" means a person who serves as a replacement when another caregiver is absent on a planned basis.

"Temporary permit" means the same as provisional license.

"USDA child care food program" means the food standards established by the United States Department of Agriculture.

"Volunteer" means a person working or offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the program. [Eff APR 19 2024]
(Auth: HRS §346-162) (Imp: HRS §§346-151, 346-162)

§17-896.1-2 Application. (a) A completed application to operate a before and after school child care center shall include the following:

- (1) A signed department application form;
- (2) A written statement of operation policies;
- (3) Verification that the facility meets the applicable county codes;
- (4) Results of the background checks as described in section 17-801-4, and as indicated in (A) and (B) below:
 - (A) Applicants, their staff members, and prospective staff members shall provide background clearance records and consent to conduct background checks as indicated in section 17-801-4.
 - (B) The department shall conduct the background checks in accordance with chapter 17-801.

(b) The date of application shall be the date a completed application as described in subsection (a) is received by the department.

(c) Notification of the disposition of the completed application shall be issued no later than ninety days from the date the completed application as defined in subsection (a) is received.

(d) If the department fails to issue a notification of the disposition of the application within ninety days, the application shall be deemed approved and a license shall be issued.

(e) An application that is not completed as defined in subsection (a) within nine months from when the application form was received by the department shall be considered expired, and a new application must be submitted unless the licensing unit has granted additional time to satisfy all requirements in subsection (a). [Eff **APR 19 2024**] (Auth: HRS §346-20) (Imp: HRS §§346-154, 346-162; 42 U.S.C. §§2002, 2005, 5751, 9833; SLH 1986; 50 Fed Reg. 2089)

§17-896.1-3 Inspection and issuance of license.

(a) In exercising its authority to license a before or after school program or renew, suspend, or revoke the license, the department shall analyze the qualifications of staff, review the facility's written policies and program provisions, and inspect the facility.

(b) Authorized representatives of the department and parents or guardians of the children in care may visit the facility at any time during the hours of operation for purposes of observing, monitoring, or inspecting the facilities, activities, staffing, and other aspects of the program and facility.

(c) The department may call on political subdivisions and governmental agencies for appropriate assistance within the agencies' authorized fields.

(d) The applicant or licensee shall cooperate with the department by providing access to its facilities, records, and staff. Failure to comply with reasonable requests may constitute grounds for denial, suspension, or revocation of license.

(e) After the initial licensure, the licensee shall ensure that new staff members comply with section 17-896.1-2(a)(4) within five working days of hire by the child care facility.

(1) New staff members shall meet the conditions in 17-801-5(a) and 17-801-5(b) prior to starting employment or volunteering at the child care facility.

(2) An applicant, staff member, or rehired staff member, who has left the state for a period of one hundred eighty consecutive days or more, shall comply with sections 17-801-5(a), 17-801-5(b), and 17-801-5(c).

(f) Annual background checks shall be conducted. The applicants and staff members shall provide consent to the department to conduct a background check in accordance with chapter 17-801 no later than the anniversary date of the last consent to conduct a background check.

(g) The department shall request the applicant or licensee to terminate the employment of a staff member determined to be not suitable to provide child care for children in accordance with chapter 17-801.

(h) The applicant or licensee shall comply with the conditions set forth in section 17-801-6(b)(2).

(i) The department shall request the applicant or licensee to exclude from the premises, the person who is the subject of an on-going or pending criminal, child welfare, or department investigation in accordance with chapter 17-801.

(j) The applicant or licensee shall comply with the conditions set forth in section 17-801-6(c)(2).

(k) Rules prescribed in this chapter are minimum standards. The department shall issue a license under the following conditions:

(1) A regular license certificate shall be issued if the result of the department's evaluation indicates compliance with the applicable rules as established by the department; or

(2) A provisional license certificate shall be issued if the result of the department's evaluation indicates that all of the applicable rules cannot be met immediately but shall be met within six months or less, and the deviations are minor deficiencies.

(l) The length of the licensing period shall be as follows:

(1) For new applicants and those providers licensed for less than four years, the licensing period is one year and for all other providers, the licensing period may be two years, unless subsequently suspended or revoked.

(2) During a licensing period, a provider may be issued more than one license certificate which may include a provisional license certificate followed by a regular license certificate. When this occurs, the total length of a licensing period shall be according to paragraph (1).

- (3) A provisional license may be issued for up to six months; and
- (4) A license shall be renewed for a new licensing period only upon application and upon the department's approval. An application shall be submitted to the department at least ninety days prior to the expiration of the licensing period.
- (m) Each regular license and provisional license shall clearly state the kind of program the licensee is permitted to operate, the address of the licensee, and the number and types of children who can be cared for at the facility.
 - (1) A license certificate shall be valid for:
 - (2) One year for new applicants and for those who have been licensed for less than four years; and
 - (3) Two years for those who have been licensed for four years or more, unless sooner revoked. [Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §§346-154, 346-156, 346-163, 346-165; 42 U.S.C. §§2002, 2005, 5751, 9833; 50 Fed. Reg. 2089)

§17-896.1-4 Fines. (a) The operation of a child care facility without a license is a violation and shall be punishable by a fine not to exceed the maximum amount allowable under the law.

(b) The following offenses may be punishable by a fine, not to exceed the maximum amount allowable under the law, and may also be subject to the denial, suspension, or revocation of a license:

- (1) Caring for more children than allowed by the facility's license;
- (2) Violation of the staff-child ratios;
- (3) Improperly certifying staff credentials;
- (4) Failure to comply with timely request for background check as required in chapter 801;
- (5) Allowing conditions to exist at the facility

- which constitute a risk of harm or an imminent danger to the health, welfare, or safety of the children; or injuries to children resulting from the conditions;
- (6) Failure to report suspected child abuse or neglect that has occurred or will occur;
 - (7) Any behavior that may create an unsafe or unhealthy environment or may pose a risk of harm to children. [Eff **APR 19 2024**]
(Auth: HRS §346-156) (Imp: HRS §§346-154, 346-156, 346-162, 350-1; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-5 Denial, suspension, revocation of license, and hearings. (a) The conditions for denial, suspension, or revocation of a license and the action to be taken by the department shall be as follows:

- (1) The department shall deny, suspend, or revoke a regular license or a provisional license if:
 - (A) An applicant or licensee does not comply with the applicable statutes and rules of the department respecting child care facilities; or
 - (B) The child care facility or any employee of the facility knowingly makes a false statement to any person concerning the child care facility's liability insurance coverage.
- (2) An applicant or licensee whose license is denied, suspended, or revoked shall be given written notice by certified or registered mail addressed to the location shown on the license application;
- (3) The notice shall contain a statement of the reasons for the proposed action and shall inform the applicant or licensee of the right to appeal the decision to the director

- of the department in writing, within ten working days after the mailing of the notice of the proposed action;
- (4) Upon receiving a timely written appeal, the director of the department shall give notice of and an opportunity for a hearing before a hearing officer. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the application or license shall be denied, suspended, or revoked; and
 - (5) If no timely written appeal is made, processing of the application shall end or the license shall be suspended or revoked as of the termination of the ten-day period.
- (b) The license certificate shall be immediately suspended when:
- (1) Conditions exist which constitute an imminent danger to the health, welfare, or safety of the children. These risks include: the existence of a health hazard on the premises, or unsafe facility conditions that cannot be immediately abated;
 - (2) The department received a report of allegations which identify risks to the health, safety, or well-being of the children in care. These risks include: the existence of a health hazard on the premises, or unsafe facility conditions that cannot be immediately abated;
 - (3) The provider refuses to terminate a staff member as specified in chapter 17-801; or
 - (4) The provider refuses to exclude from the premises, the person who is the subject of an on-going or pending investigation in accordance with chapter 17-801.
- (c) Upon immediate suspension pursuant to subsection (b), the department shall take the following actions:
- (1) Provide the licensee written notice of the order by personal service, by certified, or

registered mail addressed to the location shown on the license;

- (2) Provide a statement of the reasons for the suspension in the notice and inform the licensee of the right to petition the department to reconsider the order within ten working days after mailing of the notice; and
- (3) Declare that all operations shall cease as of the date of receipt of the notice, give the licensee reasonable notice upon receiving a written petition, and provide an opportunity for a prompt hearing before a hearing officer with respect to the order of suspension of license. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the order of suspension shall be affirmed or reversed.

(d) At any hearing provided for by this section, the applicant or licensee may be represented by counsel and shall have the right to call, examine, and cross-examine witnesses. Evidence may be received, even though inadmissible under rules of evidence applicable under court procedures. Hearing officer decisions shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to the last known addresses as may be shown in the application, on the license, or otherwise.

(e) Filing of a request for an administrative appeal does not permit the applicant or licensee to continue to care for children under this chapter.

(f) If an applicant or licensee has their regular license or provisional license revoked, they shall be unable to apply for another license for:

- (1) A ninety-day period from the date that the license was revoked if the revocation was their first offense; and
- (2) One year from the date that the license was revoked if the revocation was their second

offense. [Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §346-164; 42 U.S.C. §§2002, 2005, 9833)

§§17-896.1-6 to 17-896.1-9 (Reserved)

SUBCHAPTER 2

ADMINISTRATION REQUIREMENTS

§17-896.1-10 Age of children in care. A before and after school child care facility may provide care to children aged four years and eight months and older who are enrolled in public or private elementary schools. [Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §§346-14, 346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-11 Statement of operation policies.

(a) A before and after school child care facility shall have written operation policies, which shall be available to the department, caregiver staff, and parents or guardians of children for whom care is, or may be, available.

(b) The policies shall be reviewed with each caregiver in the facility and with parents or guardians at the time of enrollment of a child.

(c) Policies shall cover the following areas:

- (1) Ages of children accepted;
- (2) Maximum number of children permitted by license;
- (3) Specific hours of day, night, holiday, and vacation operation;

- (4) Whether meals or snacks are served;
- (5) Type of child care services to be offered;
- (6) Provisions which may be made for special needs of individual children;
- (7) Admission requirements and enrollment procedures;
- (8) Fees and the plan for payment, including fees for different types of services and refund policy;
- (9) Plan for emergency medical care;
- (10) Insurance coverage - each center shall inform parents or guardians in writing of its policy relating to liability insurance;
- (11) Personal belongings brought to the facility;
- (12) Transportation arrangements;
- (13) Parental permission for trips and related activities outside the facility;
- (14) Disclosure of information on the child, or parents or guardians of the child;
- (15) Fund raising campaigns - children and staff shall not be exploited in activities which would be detrimental to the children or the program;
- (16) Admission of ill children, or children with special needs;
- (17) Administering medication;
- (18) Sanitation practices;
- (19) Brief written description of the facility's program goals;
- (20) Grievances which shall include the department's information for parents to file a complaint;
- (21) Mandated reporting of suspected child abuse or neglect in accordance with chapter 350, HRS;
- (22) Suspension and expulsion of children which includes the following:
 - (A) The conditions under which a child may be suspended or expelled, if applicable;
 - (B) Sufficient timeframe before suspension or expulsion occurs to enable parents

- to make alternative child care arrangements or to take the necessary action to allow the child to remain enrolled, except as specified in paragraph (22)(C) below;
- (C) Conditions that may warrant immediate expulsion such as imminent danger to the health, welfare, or safety of the children;
 - (D) Parents and guardians are provided written notification of any concerns that could lead to the child's expulsion; and
 - (E) When expulsion occurs, the provider shall maintain a record of the conditions, parental notification, and action taken; and
- (23) Other policies which may be required by the department. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; §§2002, 2005, 9833)

§17-896.1-12 Liability insurance. A child care facility shall:

- (1) Obtain and maintain liability insurance coverage as defined in section 346-157, HRS;
- (2) Provide to the department evidence of liability insurance coverage; and
- (3) Notify the department and parents or guardians in writing within seven working days of any change, cancellation, or termination of liability insurance coverage, that the coverage has been changed, canceled, or terminated while the parent's or guardian's child is cared for at the facility. [Eff APR 19 2024] (Auth: HRS §346-157) (Imp: HRS §346-157)

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§17-896.1-13 Information on owner or operator.

(a) The name, address, and telephone number of the facility shall be supplied to the department.

(b) The name, business address, and business telephone number of the persons bearing the responsibility for the facility shall be supplied to the department.

(c) The name, business address, and business telephone number of the persons having specific authority and responsibility for overall administration and the services offered shall be supplied to the department.

(d) The name and address of the owner or sponsoring agency (privately owned, church or agency owned, etc.) shall be supplied to the department.

[Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-14 Change in services and staff. (a)

A facility shall notify parents or guardians and the department of any changes in the child care services it provides as follows:

(1) Written notification of changes in the services offered by the facility shall be provided to the department and to parents or guardians of children enrolled in the facility; and

(2) Notification of any changes in service shall be made no later than thirty days before the date of the change and shall be included in the facility's operating policies.

(b) A facility shall provide to the department written notification of changes in staff members who provide direct care to children within five working days after the change. [Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-15 Information and records on each child. (a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be furnished to enable the caregiver to make decisions or act on behalf of the child.

(b) Prior to admission of a child to a facility, the provider shall obtain in writing from the child's parents or guardians the following information:

- (1) The child's full legal name, birth date, current address, and preferred names;
- (2) The child's likes, dislikes, allergies and other personal information which may impact on the child's over-all behavior;
- (3) The name and address of the parents or guardians who are legally responsible for the child;
- (4) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the child care facility;
- (5) The name, address, and telephone number of persons who shall assume responsibility for the child if for some reason the parents or guardians cannot be reached immediately in an emergency;
- (6) The name, address, and telephone number of persons authorized to take the child from the facility; and
- (7) Health information concerning the child, including any allergies as required by section 17-896.1-41.

(c) The information shall be available on facility forms and shall be updated as necessary.
[Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-16 Disclosure of information on the child. Information pertaining to an individual child or parents or guardians of the child shall not be

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disclosed to persons other than the facility staff unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises. [Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-17 Information and records on facility. (a) Written information and records on the facility shall be maintained and made available to the department. The facility shall maintain current records and information including:

- (1) Roster of enrolled children;
- (2) Daily attendance records by names of children;
- (3) Daily menu for facilities which provide meals or snacks;
- (4) Daily schedule of activities;
- (5) A list of staff members including each staff member's training, position or title, experience, and health records;
- (6) Written permission from the parent to allow the child to have contact with pets or other animals; and
- (7) Log of emergency preparedness drills practiced in accordance with section 17-896.1-61.

(b) The child care facility shall report to the department, within one working day of occurrence, the death of a child or staff member, and any illness or injury received at the child care facility that results in a child's hospitalization. [Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-18 Transportation provisions. When transportation is provided by a facility, children shall be protected by adequate supervision and safety precautions as follows:

- (1) For transportation to and from the facility, the vehicle and driver shall satisfy all relevant motor carrier safety rules and traffic laws of the state;
- (2) During any field trip or excursion operated or planned by the facility, the staff-child ratios as required in section 17-896.1-36 shall apply;
- (3) Children shall be instructed in safe transportation conduct; and
- (4) Prior to transporting children, the child care facility shall obtain written permission from the parent or guardian that each child is allowed to be transported by school bus or other means of transportation such as a personal vehicle;
- (5) Children shall be secured in the seat of the bus or in the back seat of a personal vehicle in approved car seats or restraints;
- (6) A child shall not be left unattended in a vehicle;
- (7) Staff members shall take a head count or attendance record check before and after transportation is provided; and
- (8) During any field trip or excursion, staff members shall have available with them a first aid kit, emergency contact phone numbers, and medical treatment release forms signed by the child's parent or guardian.
[Eff **APR 19 2024**] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§§17-896.1-19 to 17-896.1-24 (Reserved)

SUBCHAPTER 3

PROGRAM REQUIREMENTS

§17-896.1-25 Program provisions. The program conducted in the facility shall provide for staff supervision at all times, except during bathroom use when staff supervision may be within hearing distance of children, and an environment and experiences which are aimed at promoting the individual child's physical, emotional, and social well-being and growth. This shall be done in the following ways:

- (1) At least twenty-five percent of the program time shall be spent in gross motor activities, such as running, climbing and other vigorous activities, to promote physical development.
- (2) To promote emotional development the program shall provide that:
 - (A) There are opportunities for individual self-expression;
 - (B) Each child is recognized as an individual;
 - (C) The child is afforded constructive guidance and the setting of clear-cut limits which foster the child's ability to be self-disciplined; and
 - (D) Each child's personal privacy is respected.
 - (E) Providers shall not use:
 - (i) Physical punishment, abuse, or harm including but not limited to spanking, pinching, slapping, or shaking; or
 - (ii) Methods of influencing behavior which are frightening, humiliating, damaging, neglectful, or injurious to the child's health or self-esteem; and

- (F) Providers shall respect each child's cultural, ethnic, and family background, as well as the child's primary language or dialect; and
- (3) Programs to promote social development shall provide that:
 - (A) Children are guided in developing and working out ways of getting along with each other;
 - (B) Providers interact with the children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
 - (C) Providers behave in ways which help the children develop attitudes of respect for all other persons as individuals and develop an appreciation of cultural and ethnic diversity.
- (4) The activities and experiences provided by the program are appropriate to the developmental level of the children;
- (5) The program provides a balance of active and quiet activities; and
- (6) The program shall provide for the self-direction of the children by:
 - (A) Affording children opportunities to choose activities according to personal desires and interests and to move from one activity to another;
 - (B) Encouraging children to do things independently; and
 - (C) Providing children opportunities to be involved in decision making about group and individual activities. [Eff
APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-26 Communication with parents.

Caregivers shall relay concerns about the health,

§17-896.1-26

development, or behavior of the child to the parents or guardians promptly and directly. [Eff

APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-27 Program materials and equipment.

(a) The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be appropriate to the ages of the children in care.

(b) The quantity of materials and equipment shall be sufficient to:

- (1) Avoid excessive competition between the children and to avoid long waits for use of the materials and equipment; and
- (2) Provide for a variety of experiences and appeal to the individual interests of the children.

(c) Protected areas where equipment and materials will be used with minimal interference or interruption shall be provided.

(d) Materials shall be safe and kept clean, in good repair, not be recalled and shall be accessible to children. The materials shall be stored in an orderly way and shall be arranged to allow children to select, remove, and replace the materials either independently or with assistance.

(e) Soft media or other protective measures shall be used under swings, slides, jungle gyms, and other similar outdoor play equipment.

(f) Equipment for both indoor and outdoor play shall allow children to use small and large muscles for imaginative play and creative activities.

(g) Storage space for play materials and equipment used by the children shall be available.

(h) Provision shall be made for a place for each child's personal belongings.

(i) There shall be a mat or cot available for any child who needs to rest. [Eff APR 19 2024]

(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§§17-896.1-28 to 17-896.1-34 (Reserved)

SUBCHAPTER 4

STAFFING REQUIREMENTS

§17-896.1-35 Staff training, experience, and personal qualifications. (a) Each caregiver shall be qualified through training, experience, and personal qualities for the age group with which the person works.

(b) Each caregiver, substitute, and volunteer within forty-five days of hire, shall complete initial training that is approved by the department in health and safety standards which addresses the following areas:

- (1) Prevention and control of infectious diseases (including immunizations);
- (2) Prevention of sudden infant death syndrome and use of safe sleeping practices;
- (3) Administration of medication, consistent with standards for parental consent;
- (4) Prevention and response to emergencies due to food and allergic reactions;
- (5) Building and physical premises safety;
- (6) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a man-caused event;

- (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;
- (9) Appropriate precautions in transporting children, if applicable;
- (10) Pediatric first aid and child cardiopulmonary resuscitation; and
- (11) Recognition and reporting of child abuse and neglect.

(c) When a caregiver, substitute, or volunteer has not provided child care for one hundred eighty consecutive days or more, the initial training in subsection (b) shall be repeated.

(d) After the initial training in health and safety standards is completed with one hundred percent accuracy and the results are received and recorded by the department, each caregiver shall complete on-going training appropriate to the age of children the caregiver serves within twelve months from the date the initial training was received and recorded by the department, and then annually thereafter.

- (1) Each caregiver staff member shall complete at least sixteen hours of department-approved training annually in at least two of the topic areas in subsection (e).
- (2) Substitutes shall complete at least ten hours of department-approved training annually in at least two of the topic areas in subsection (e).
- (3) Volunteers who serve ten hours or more a week shall complete at least eight hours of department-approved training annually in at least two of the topics areas in subsection (e).
- (4) When an individual does not meet the requirements in subsection (d) or does not provide evidence of working to complete on-going training, the individual shall no longer be eligible to meet the staff-child ratio in accordance with sections 17-896.1-36(e) and (f).
- (e) Each caregiver shall provide written

evidence to the department to show completion of on-going training. The on-going training course, workshop, or class shall be different from the training topic areas completed in the prior twelve-month period, and shall be in the following topic areas:

- (1) Physical care of the young child;
- (2) Care of the sick child;
- (3) Child nutrition;
- (4) Child growth and development;
- (5) Children with special needs;
- (6) Learning activities and play;
- (7) Family engagement;
- (8) Managing challenging behaviors;
- (9) Community resources;
- (10) Prevention of child maltreatment and abuse;
- (11) Pediatric first aid and child cardiopulmonary resuscitation;
- (12) Health and safety;
- (13) Child care business or program management;
or
- (14) Physical environment.

(f) Applicants and staff members shall be of reputable and responsible character and shall not have the following:

- (1) A criminal history record, employment history, sex offender registry history, child abuse or neglect history, or adult abuse history that may pose a risk to children in care as specified in section 17-801-5; or
- (2) Any other situations that pose a risk to the health, safety or well-being of children in care.

(g) Directors, program leaders, assistant program leaders, and aides employed in a licensed facility on January 25, 1982, shall be deemed to have adequate minimum qualifications for the type of staff position occupied and to maintain this status when shifting employment to another licensed facility.

(h) The age requirements for staff shall be as follows:

- (1) All staff positions other than child care aide, volunteer, clerical, or maintenance personnel shall be at least eighteen years old; and
- (2) A child care aide shall be at least sixteen years old to be counted in the staff-child ratio and at least thirteen years old to be hired as an aide.
 - (i) The director shall have the following qualifications:
 - (1) A bachelor's degree or higher from a regionally accredited college or university or transferable to a regionally accredited college or university and twelve months of experience in working with children; or
 - (2) Child development associate (CDA) certification and twelve months of experience in working with children; or
 - (3) Two years of college education and twenty-four months of experience in working with children; and
 - (4) In all cases, at least six months of experience shall be with children of the appropriate age for the before/after school program being directed.
 - (j) The director may teach and may be counted in the staff-child ratio as follows:
 - (1) In a facility with an enrollment of less than fifty children, the director may teach and may be counted in the staff-child ratio; and
 - (2) In a facility with an enrollment of fifty or more children the director may teach but shall not be included in the staff-child ratio.
 - (A) Exception may be made and the director may be included in the staff-child ratio in cases of emergency or in special situations. In any case this inclusion in the staff-child ratio may not exceed ten hours per week.

- (B) Exception may be made and the director may be included in the staff-child ratio during the first hour and the last hour of the regular operational day.
- (C) Exception may be made and the director of a facility with an enrollment of fifty or more children may teach and be counted in the staff-child ratio when the attendance at the facility is less than fifty children.

(k) A program leader shall meet one of the qualifications:

- (1) Two years of college education and six months experience in working with school-age children; or
- (2) Child development associate (CDA) and six months experience in working with school-age children; or
- (3) Completion of high school and nine months of experience in working with school-age children; and
- (4) In all cases undergo an orientation training provided by the facility.

(l) An assistant program leader shall be at least 18 years old, shall always be under the direction of a program leader, and shall undergo orientation training provided by the facility.

(m) An aide shall be at least thirteen years old, shall always be under the direction of a program leader or an assistant program leader, and shall undergo orientation training provided by the facility. Aides shall be at least sixteen years old to be counted in the staff-child ratio.

(n) Volunteers shall:

- (1) Participate in an orientation training provided by the facility; and
- (2) Meet the requirements of regular staff members to be counted in the staff-child ratio.

(o) Temporary hires shall meet qualifications of positions for which hired.

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(p) Substitutes for director, assistant program leader, and aide shall meet the qualifications of the position for which hired.

(q) Substitutes for program leaders shall be at least eighteen years of age and shall have participated in an orientation training program of the facility, and the daily activities assigned to the substitute shall be closely supervised by the facility's director.

(r) Substitutes may be granted an extension to serve in the same position for more than ten consecutive days upon consultation with and approval of the department.

(s) Directors of facilities shall make available to all staff members and volunteers information regarding workshops, seminars, training sessions or other courses that are available from any source, public or private, in order to encourage staff growth and development. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §§346-154, 346-162; 42 U.S.C. §§2002, 2005, 5751, 9833; 50 Fed. Reg 2089)

§17-896.1-36 Staff-child ratio and group size.

(a) Every facility shall have a director.

(b) The staff-child ratio shall be met and maintained at all times by the facility.

(c) The staff-child ratio shall be in writing and shall be made available to the department.

(d) The staff-child ratio shall not exceed twenty children per staff member.

(e) Distribution of staff may include a team comprised of director, as allowed under section 17-896.1-35(j), program leader, assistant program leaders, and child care aides. Aides shall not constitute more than one-third of the required staff-child ratio.

(f) The staff members shall be on site and shall be assigned to a group of children to be included in the staff-child ratio.

(g) The maximum group size shall not exceed 40 children; provided that when exceptions are made for special events, such as but not limited to, assemblies, performances, meal and snack time, and outdoor play area, the following shall apply:

- (1) The staff-child ratio shall be maintained at all times in accordance with subsection (d); and
- (2) Distribution of staff requirements in subsection (e) shall be maintained at all times.

(h) Custodians and cooks shall not be counted in the staff-child ratio when performing regular duties.

(i) When acting as the driver of the facility vehicle for transportation to or from the program or on excursions, the program leader, assistant program leader, or aide shall count toward the staff-child ratio for those children in the vehicle. [Eff

APR 19 2024] (Auth: HRS §346-162)) (Imp: HRS §§346-154, 346-162; 42 U.S.C. §§2002, 2005, 5751, 9833; 50 Fed. Reg 2089)

§§17-896.1-37 to 17-896.1-39 (Reserved)

SUBCHAPTER 5

HEALTH STANDARDS FOR CHILDREN

§17-896.1-40 Health consultation provisions.

All programs shall have on file written evidence that an arrangement has been made with a health care professional to provide consultation and this arrangement is satisfactory with the parents of the

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children. [Eff APR 19 2024] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-41 Evidence of child's health. (a)

The child's enrollment in school shall be evidence of the child's good health.

(b) The child care facility shall have in writing information about a child's specific health condition which requires special attention by the program staff. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-42 Emergency care provisions. (a)

Every child care facility shall have in writing:

- (1) The name, address, and telephone number of a physician or health resource that shall be called in case of emergency; or
- (2) The name of the nearest hospital or clinic where such care may be provided; and
- (3) Permission of the parent or guardian to call the stated physician or health resource, or the hospital or clinic, if the parent or guardian cannot be reached in case of a health emergency.

(b) An adult shall accompany a child to the source of emergency care. The adult shall stay with the child until the parent or parent's designee assumes responsibility for the child's care. The selection of the adult shall not compromise the supervision of the other children in the program.

(c) Physical arrangements that are clean and safe for children who become ill after arrival at the facility shall be available for the care of the child until parents or guardians can be notified to provide alternative arrangements.

(d) An operating telephone that is available and is easily accessible to the provider to be used in case of an emergency.

(e) A plan for accessing a telephone when not in the usual location where care is being provided.

[Eff **APR 19 2024**] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-43 Pediatric first aid and child cardiopulmonary resuscitation (CPR). (a) The first aid requirement shall be as follows:

- (1) There shall be at least one adult caregiver with a current certificate in pediatric first aid when children are present at the facility or at an off-site group activity, such as during field trips and excursions.
- (2) A current certificate means a certificate that has not expired.
- (3) The current pediatric first aid certificate must be provided by the American Red Cross, American Heart Association, or any organization whose first aid certification standards are equivalent to the American Red Cross or American Heart Association standards and be approved by the department.
- (4) A first aid kit shall be available at the facility at all times.

(b) The child CPR requirement shall be as follows:

- (1) There shall be at least one adult caregiver with a current certificate in child CPR when children are present at the facility or at an off-site group activity, such as during field trips and excursions.
- (2) The child CPR course must be provided by the American Red Cross, American Heart Association, or any organization whose child CPR certification standards are equivalent to the American Red Cross or American Heart

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Association standards and be approved by the department.

- (3) A current certificate means a certificate that has not expired. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-44 Admission of ill children. (a)

When health policies of the child care facility allow ill children to be admitted or to remain in the child care facility, medical consultation shall be available regarding special care and medication.

(b) Both the provider and the parents or guardians shall be familiar with the policies of the facility relevant to ill children.

(c) Provisions shall be made to allow the facility's health consultant and the child's regular source of health care to communicate in order to preserve continuity and consistency of care.

(d) The child care facility shall have, in writing, the name, address, and telephone number of a physician or health resource that shall be called in case of emergency. Written permission of the parent or guardian to call upon the stated physician or health resource, or another responsible source of care, if the parent or guardian cannot be reached, shall be required. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-45 Administration of medication. (a)

When medication prescribed by a physician is administered in the facility:

- (1) The medication shall be kept in the original container bearing the prescription label which shows the date filled, the physician's directions for use, and the child's name;

- (2) Medication shall be kept out of reach of children and shall be returned to parents or guardians when no longer in use; and
- (3) There shall be an authorization signed by the parent or guardian for the administration of medication by the facility.

(b) When over-the-counter medication is administered in the facility, the child's parent or guardian or physician shall provide to the child care facility written permission and written instructions to administer the medication. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-896.1-46 Admission of children with special needs. (a) When children with special needs are admitted to the program, the facility shall provide for the special needs of each child.

(b) The child with special needs shall be admitted only after consultation with the child's source of health care and the program's health consultant. The consultation shall include written recommendations to cover the child's special needs or to define the child's participation in the program.

(c) If the child's health care source considers it advisable, the staff members of the program shall receive training related to the nature of the child's condition and the child's potential for growth and development.

(d) Where the nature of the child's special needs or the number of children with special needs in the program necessitates added care, staff and equipment shall be available to cover these requirements. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-47 Daily nutritional needs. (a) To the extent possible, information provided by parents or guardians concerning the child's eating habits or special needs shall be considered, and children shall be encouraged, but shall not be required, to eat the food offered by the facility.

(b) The program shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resources approved by the state department of health.

(c) Children in after school programs for two to four hours shall be offered a nutritious snack which may be brought from home or provided by the facility.

(1) In a facility providing snack, the snack shall consist of at least one of the following: fruit, vegetable, milk or its calcium equivalent, an enriched grain product, meat, or a meat alternate.

(2) If a beverage is served in addition to items allowed in subsection (c)(1), it can be water or fruit or vegetable juice; if fruit or vegetable juice, it shall be one hundred percent juice.

(d) In a facility providing breakfast, the breakfast shall consist of milk, fruit, or one hundred percent fruit juice, and an enriched grain product.

(e) In a facility providing full day care, parents may provide the nutritional requirements for that period of time. The facility shall provide a guide to parents or guardians on nutritional snacks and brown bag lunches.

(f) In a facility providing meal service, the minimum components and food amounts required by the United States Department of Agriculture (USDA) child care food program shall be met. The facility shall offer and provide the following combination of meals and snacks for children in care:

(1) Two to four hours - - - one snack;

(2) Four to eight hours - - - one snack or
breakfast and
lunch or supper;

- (3) Eight hours or more - - - one snack or breakfast and lunch or supper and one additional snack unless the eight hours or more extend into the evening hours when the child may be asleep;
- (4) When two snacks are required as in subsection (f)(3) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent.
- (g) Local ethnic foods may be added or substituted for quantity; for allowable food reimbursement, facilities shall consult with the USDA.
- (h) Children shall not be offered foods to which they are allergic or, for religious reasons, cannot consume. Provisions shall be made to secure such information from the parent or guardian, and the parent or guardian of the child shall arrange for nutritious substitute foods.
- (i) A list of food items that are provided by the caregiver shall be posted in a prominent place for review by parents.
- (j) Food shall not be used as a punishment or reward.
- (k) The child care facility's food service shall be reviewed biennially by a qualified nutrition consultant the center has chosen or provided by an appropriate community resource. [Eff APR 19 2021] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-48 Drinking water provisions. There shall be drinking fountains or another device or system whereby potable water shall be readily

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accessible to all children. [Eff APR 19 2024]
(Auth: HRS §346- 162) (Imp: HRS §346-162; 42 U.S.C.
§§2002, 2005, 9833)

§17-896.1-49 Integration of mental health concepts. Mental health aspects of child development shall be integrated into the program as follows:

- (1) At least one parent, guardian, foster parent, or social worker shall be interviewed prior to a child's admission to the child care facility. The interview shall be conducted to secure pertinent information on the child's overall behavior and to acquaint the parent or guardian with the facility's policies.
- (2) The program director shall be aware of mental health, consultant, and clinical services for children for the early identification of social, emotional, intellectual, and behavioral problems of children; and
- (3) The facility shall refer parents or guardians to sources of professional consultation in mental health upon the parents' or guardians' request or upon the recommendation of the facility's staff
[Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§§17-896.1-50 to 17-896.1-54 (Reserved)

SUBCHAPTER 6

HEALTH STANDARDS FOR STAFF

§17-896.1-55 Staff's health standards. Evidence that each caregiver staff member is free from health problems which would have a harmful effect on the children or would interfere with effective functioning shall be maintained at the facility as follows:

- (1) The results of employment physical examinations, and when indicated on a physical exam that the individual has a mental health disorder or limitation, a psychological exam, given within one year prior to employment of each person who works directly with children that indicates each person is in adequate physical, and if needed, mental health to care for children shall be on file at the facility;
- (2) Written evidence that each person who works directly with children for any period of time is free from communicable tuberculosis in accordance with the requirements for child care facility personnel, under chapter 11-164.2. The tuberculosis clearance must be completed within one year before beginning child care and shall be on file at the facility. Each person shall complete updated clearances in compliance with chapter 11-164;
- (3) Each caregiver with an identified health problem shall provide the facility with a written statement from a physician that the caregiver is able to care for school age children; and
- (4) The facility shall have provisions for substitution of staff who are too ill to function effectively or who present a serious health hazard to others in the facility. [Eff APR 19 2024] (Auth:

§17-896.1-55 .

HRS §346-162) (Imp: HRS §346-162; 42 U.S.C.
§§2002, 2005, 9833)

§17-896.1-56 Personal health habits of staff.

The personal health habits of all caregivers shall not interfere with the protection of the health of the children as follows:

- (1) The facility shall have:
 - (A) Health policies developed specifically for the facility which set out aspects of personal health care; or
 - (B) Written guidelines covering appropriate aspects of personal health care that have been developed through a community health agency which are made known to the caregiver; or
 - (C) In-service training for the child care staff members designed and presented by a health-trained individual which includes personal health care;
- (2) No smoking, including electronic smoking devices, is allowed on the premises during child care hours of operation, and personal nicotine products shall be stored out of reach of children;
- (3) Alcoholic beverages shall not be consumed prior to and during the hours of operation at the child care facility; if alcoholic beverages are stored at the facility, they shall be locked up and inaccessible to children; and
- (4) Medication that impairs or limits the staff's ability to provide care shall not be consumed prior to or during the hours of child care. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§§17-896.1-57 to 17-896.1-60 (Reserved)

SUBCHAPTER 7

ENVIRONMENTAL HEALTH STANDARDS

§17-896.1-61 Disaster plan for emergencies. (a)

Each child care facility shall have a written disaster plan to cover emergencies such as fire, flood, or natural disaster or other emergencies, and the plan shall include written procedures for:

- (1) Evacuation;
- (2) Relocation of the child care facility if facility becomes uninhabitable or if the facility is ordered to evacuate;
- (3) Sheltering in place at the child care facility;
- (4) Lock-down of the child care facility;
- (5) Communication and reunification with families during and after an emergency;
- (6) Continuity of operations during and after an emergency;
- (7) Providing for the needs of children with disabilities and children with special needs during an emergency; and
- (8) Providing for the needs of children with chronic medical conditions during an emergency.

(b) The plan relating to fire emergencies shall be approved by the fire inspector, and the facility's health consultant shall review the plan as related to paragraphs(7) and (8) of subsection (a).

(c) The facility shall complete practice drills for the various emergency situations at regular intervals, or whenever a new procedure has been added.

(d) Each child care facility shall provide emergency preparedness training to staff members.

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(e) The facility shall make the plan available for review by or provide a copy of the plan to each family whose child is enrolled at the child care facility.

(f) The diagram of emergency exits shall be posted in a prominent place in the facility.

(g) Each child care facility shall install an Underwriters Laboratory listed fire warning device or system in each facility. Written evidence that the device or system has been inspected and approved by a fire inspector shall be current and on file at the facility.

(h) There shall be an unexpired ABC multipurpose type fire extinguisher in the child care area.

(i) The provider shall notify the department within one working day when an emergency resulted in the evacuation, relocation, shelter in place, or lock-down of the facility. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-62 Accidental injury precautions. (a) The facility shall ensure that the risk of accidental injury on the premises is minimized by having accident prevention practices and policies in writing. The practices and policies shall be reviewed annually and the staff shall become familiar with the policies and practices.

(b) Procedures for infection control, to use in all situations to prevent the transmission of blood-borne germs that may be spread through blood and body fluids that might contain blood shall be in writing. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-63 Environmental hazards. The indoor and outdoor premises of a child care facility shall be free of environmental hazards, shall be clean and

comfortable, and shall provide for adequate space to meet the needs of the children as follows:

- (1) The child care facility shall be protected against rodents and insects;
- (2) All entrances and exits shall be secured;
- (3) The outdoor space shall be fenced, shall have natural barriers, or shall have other protective conditions to deter children from getting into unsafe areas;
- (4) There shall be no open drainage ditches, wells, or holes into which children may fall;
- (5) Drainage shall be adequate to prevent stagnant pools of water from accumulating;
- (6) Garbage and trash shall be stored in covered containers out of reach of the children and shall be removed frequently enough to avoid creating a health hazard or nuisance;
- (7) Sharp objects, household kitchen items, and tools shall be kept in a safe location and out of children's reach or are supervised when used safely;
- (8) Cleaning materials shall be clearly labeled and stored in a secured area which is inaccessible to the children. Cleaning materials shall be stored in a secured area away from food preparation areas during food preparation times;
- (9) Open fireplaces shall not be used. Floor heaters and all heating elements, including hot water pipes, shall be insulated or installed in a manner which makes the pipes inaccessible to children;
- (10) Children shall be supervised when using hot water taps;
- (11) Stove top controls are not accessible by children;
- (12) Emergency exits shall be clear of obstructions;
- (13) Indoor and outdoor structures, equipment, and toys shall be sturdily constructed and furnishings that have hazardous sharp edges,

- rust, and splinters shall not be accessible to children;
- (14) Electrical outlets accessible to children shall be covered with child-resistant outlet covers;
 - (15) Electrical cords shall not cross pathways, and long cords shall be wrapped and secured;
 - (16) Lead based paint shall not be used or have levels greater than is recommended by the Environmental Protection Agency (EPA) on surfaces accessible to children;
 - (17) Poisonous plants shall be out of reach of children on the premises;
 - (18) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times;
 - (19) If a lodging house, boarding house, or any other business conflicts with the regular operation of the child care facility, the lodging house, boarding house, or other business shall not be conducted at the facility; and
 - (20) All guns and weapons, including but not limited to, hunting knives and archery equipment, and related accessories shall be locked up, and ammunition shall be secured and locked in a separate place. [Eff
APR 19 2024] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-64 Water supply. (a) The water supply shall be from a source approved by the health authority. The plumbing shall be installed and maintained in a manner approved by local plumbing codes.

(b) If running water is not available, the water shall originate from a source approved by the health authority, shall be transported to the child care setting in clean, sanitized, covered containers, and

shall be protected from contamination. [Eff
APR 19 2024] (Auth: HRS §346-162) (Imp: HRS
§346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-65 Toilet and lavatory facilities.

Toilet and lavatory facilities shall be of a type determined by the availability of water under pressure. Approved facilities, water or non-water carriage, shall be provided for disposal of sewage and other liquid wastes. The following conditions shall apply:

- (1) Where a public sewer is available, all plumbing fixtures and building sewers shall be connected thereto;
- (2) Where a public sewer is not available, a private sewage disposal system of an approved type shall be installed and connected to all plumbing fixtures and building sewers;
- (3) Where water carried sewage disposal means are not available or feasible, sewage and other liquid wastes shall be disposed in a manner approved by the health authority;
- (4) Where water carried sewage disposal is available, water flush toilets shall be provided. Indoor toilets shall be located in rooms separate from those used for cooking, sleeping, or eating; and
- (5) Lavatories shall be provided in quantities commensurate with toilet facilities. If hot water is available, water temperature shall not exceed one hundred degrees Fahrenheit, thirty-eight degrees Celsius, at outlets accessible to children. [Eff APR 19 2024]
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

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§17-896.1-66 Food preparation. (a) Facilities that serve meals, or meals and snacks, shall meet all of the requirements of the department of health, chapter 11-50.

(b) Facilities serving only snacks, which are not potentially hazardous food, and which require minimal use of utensils, shall be exempt from the requirements of subsection (a). These facilities shall have access to a sink with running water. Lavatories in toilet rooms shall not be used for preparation or cleaning of snacks. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§ 2002, 2005, 9833)

§17-896.1-67 Cleaning of premises. (a) All necessary cleaning equipment shall be available on the premises and a plan for regular cleaning shall be established to protect the health of the children and staff members.

(b) Toys, table tops, furniture, and other similar equipment used by children shall be washed when the toys or equipment become gummy, sticky, or dirty. Plain soap and water shall be an adequate cleansing agent.

(c) Cleaning materials shall be clearly labeled and stored in a secured area that is away from food preparation areas and is inaccessible to the children. [Eff APR 19 2024] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§17-896.1-68 Swimming activities and wading pools. (a) When swimming or wading pools are part of the child care facility, equipment, or program, the swimming pools shall be constructed, maintained, and operated in accordance with building and health rules.

(b) When swimming or wading activities are a part of the child care program, the following safety practices shall be observed:

- (1) A certified lifeguard, who may be the caregiver, shall be on duty at all times when swimming activities or swimming pools are in use;
- (2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of subsection (b). However, children shall be personally attended by a responsible adult at all times;
- (3) Wading pools exempt under subsection (b) (2) shall be emptied immediately after each use; and
- (4) Legible safety rules for the use of all types of pools shall be posted in a conspicuous location and read and reviewed at regular intervals by the caregiver responsible for the care of children. [Eff
APR 19 2024] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§ 2002, 2005, 9833)

§17-896.1-69 Handwashing. (a) The staff members and children shall wash their hands using water and soap before and after the following activities:

- (1) Before and after eating, drinking, or feeding a child;
 - (2) Before handling clean utensils or equipment;
 - (3) Before and after preparing food or beverages;
 - (4) After using the toilet or helping a child in toileting;
 - (5) After handling bodily fluids or items containing bodily fluids;
 - (6) After handling pets or animals; or
 - (7) After outdoor play.
- (b) Paper towels or separate cloth towels for each child shall be used for drying hands after

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handwashing. [Eff ^{APR 19 2024}] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 9833)

§§17-896.1-70 to 17-896.1-79 (Reserved)

SUBCHAPTER 8

PHYSICAL FACILITY STANDARDS

§17-896.1-80 Building codes and space requirements. (a) Programs using the facilities of an approved or licensed public or private school or a city, county, or state facility shall be deemed to have satisfied the department's requirements relating to zoning, building, electrical, and plumbing codes of the county or political subdivision in which the facility is located and to state rules as may be applicable to the facility.

(b) Programs not using the facilities of an approved or licensed public or private school or a city, county, or state facility shall be inspected for compliance with the zoning, building, electrical and plumbing codes of the county or political subdivision in which the facility is located and to state rules as may be applicable to the facility.

(c) All buildings, building appurtenances, outdoor space, equipment, and all other parts of the facility shall be kept repaired, safe, and sanitary at all times.

(d) The indoor area required for each child is fifteen square feet. Lanai area which has both a roof and finished flooring may be counted for not more than fifty per cent of the required indoor area. [Eff ^{APR 19 2024}] (Auth: HRS §346-20) (Imp: HRS §346-20; 42 U.S.C. §§2002, 2005, 9833)