

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 892.1

LICENSING OF GROUP CHILD CARE CENTERS AND GROUP CHILD
CARE HOMES

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Historical Note: The chapter is based substantially upon 17-892, Hawaii Administrative Rules. [Eff. 1/25/82, am 7/15/83, am 9/30/85; R 4/11/92]

§17-892.1-1 Definition. 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 school care" means child care provided after the close of the regular school day during the academic year and summer for children ages four years and eight months and older who are enrolled in public or private elementary schools (see chapter 17-896, "Licensing of Before and After School Child Care Facilities".)

"Approved child development or early childhood training courses" means child development or early childhood courses taken from accredited institutions of higher learning and other agencies or organizations authorized by the department which are automatically accepted. Other courses, workshops, or seminars shall be subject to approval by the department.

"Assistant teacher" means any person who works with the guidance of the teacher and director to carry out the program of the center.

"Before school care" means child care provided before the opening of the regular school day during the academic year for children four years and eight months and above who are enrolled in public or private elementary schools (see chapter 17-896, "Licensing of Before and After School Child Care Facilities."

"Caregiver" or "provider" means any person whose duties include direct care, supervision, and guidance of children in child care.

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

"Child care" means those situations where a person or organization has agreed to assume the responsibility for the child's supervision, development, safety, and protection apart from the parent or guardian for any part of a twenty-four hour day.

"Child care aide," "aide," or "child care assistant" means any person who helps the teacher or assistant teacher with all aspects of the planned program.

"Child care center (CCC)" or "group child care center (GCC)" means a place 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, or other similar units operating under any name.

"Child development associate (CDA)" means any person credentialed by the child development associate (CDA) consortium to assume primary responsibility for a group of young children in a developmental early childhood program.

"Child development associate consortium" means the agency contracted by the U. S. Department of Health and Human Services to grant the child development associate (CDA) credential.

"Compliance" means conformity in fulfilling formal or official requirements of this chapter.

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

"Demonstration project" means any place providing child care which is operating with special approval of the department for exemptions to specific licensing rules.

"Director," "principal," "head teacher," or "operator" means the person at the facility having responsibility for the administration of a child care center and its program.

"Drop-in care" means child care where children are permitted to arrive and leave at irregular, non-scheduled times during the facility's operating hours.

"Drop-in child care center" means a facility which accepts children for drop-in care.

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

"Facility" means all the physical parts belonging to, or which are a part of, a place in which child care is provided including enclosed areas, lanais, and outdoor areas.

"Family child care home (FCCH)" or "family child care (FCC)" means child care in any private home maintained by an individual which provides care to two and no more than six children at the same time during any part of a twenty-four hour day and where the relationship of child and family child care provider is not by blood, marriage or adoption (see chapter 17-891.1, "Registration of Family Child Care Homes.")

"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 state 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 (GCCH)" 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. Group child care homes are licensed under the rules for group child care centers.

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

"Handicapped child" means a child who is medically determined blind, deaf, mentally retarded, emotionally disturbed, orthopedically or otherwise chronically handicapped.

"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.

"Infant" means a child who is newborn up to age one (through the twelfth month).

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

"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.

"Night care" means child care provided to children who stay at night or overnight at a group child care center, group child care home, or family child care home. Care shall not be provided for twenty-four consecutive hours.

"Panic hardware" means a standard device on doors which permits quick and safe exits upon emergencies (e.g. push bars and plates).

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

"Provider" - see caregiver.

"Provisional license" or "temporary permit" means a temporary license issued at the discretion of the department for 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.

"Regularly" means the typical or normal pattern of the child care center or family home, 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 child care and maintenance personnel who are employed by the child care facility, including volunteers.

"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 for no more than ten consecutive working days in the same position when another caregiver is absent on an emergency or unplanned basis.

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

"Teacher," "teacher-director," "head teacher," or "lead teacher" 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" - see provisional license.

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

"Volunteers" means persons offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the caregivers. [Eff 4/11/92; am and comp DEC 19 2002]
(Auth: HRS §346-162) (Imp: HRS §346-151, 346-162)

SUBCHAPTER 1

LICENSING PROCEDURE

§17-892.1-2 Application. (a) A completed application to operate a group child care center or group child care home must 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) Completed employment history clearance forms;
- (5) Results of the criminal history clearance and child abuse/neglect history check as indicated in (A) and (B) below:

(A) Applicants and employees shall provide criminal history records, child abuse/neglect history, employment information and consent to conduct such checks as may be required by state or federal law. Such information and consent shall be given upon forms supplied by the department.

(B) The department shall conduct criminal history, employment history, and child abuse/neglect history checks on all applicants and their employees; applicants shall conduct employment history and background checks on prospective employees.

(b) The date of application shall be the date a signed application form and all required information and documentation are received by the department.

(c) Notification of the disposition of the completed application for certificate of approval shall be issued no later than ninety days from the date the completed application as defined in section 17-892.1-2(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. [Eff 4/11/92;
am and comp] (Auth: HRS §346-162)
(Imp: HRS §§346-154, 346-162; 42 U.S.C. §§2002, 2005,
5751, 9833)

§17-892.1-3 Inspection and issuance of license.

(a) In exercising its authority to license child care centers or renew, suspend, or revoke a license, the department shall analyze the qualifications of providers of child care, review the facility's written policies and program provisions, and inspect the child care facility. Authorized representatives of the department and parents or guardians of children in care may visit a child care facility at any time during the hours of operation for purposes of monitoring and inspecting the facilities, activities, staffing, and other aspects of the child care center. The department may call on political subdivisions and governmental agencies for appropriate assistance within the agencies' authorized fields.

(b) 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.

(c) After the initial licensure, the licensee shall ensure that new employees comply with section 17-892.1-2(a)(5).

(1) New employees shall be fingerprinted within five working days of employment.

(2) When the applicant, employee or rehired employee has left the state for a period of six consecutive months or more, they shall be required to be fingerprinted again within five working days of beginning employment.

(d) Annual criminal history record checks and child abuse/neglect checks shall be conducted. The applicants and employees shall provide consent to the department to conduct such checks within five working days of the employment anniversary date or the anniversary date of the last consent to a criminal history record check.

(e) The department shall request the applicant or licensee to terminate the employment of an employee who has a criminal history, employment history or child abuse/neglect history which poses a risk to children in care. Any such request shall be in writing and shall state those criminal convictions, employment history or child abuse/neglect history which indicates a risk to children. The standard to be applied in disqualification of an applicant or an employee based on these checks shall be:

(1) Except as stated in section (B) below, felony convictions of any offenses against the person as provided in Hawaii Revised Statutes chapter 707 shall result in immediate disqualification.

(A) These offenses include, but are not limited to:

- (i) murder in the first and second degree;
- (ii) manslaughter;
- (iii) negligent homicide in the first and second degree;
- (iv) negligent injury in the first degree;
- (v) assault in the first degree;
- (vi) reckless endangering in the first degree;
- (vii) terroristic threatening in the first degree;
- (viii) kidnapping;
- (ix) unlawful imprisonment in the first degree;
- (x) custodial interference in the first degree;
- (xi) sexual assault in the first, second, and third degree;
- (xii) incest;
- (xiii) promoting child abuse in the first and second degree;
- (xiv) extortion in the first and second degree; and
- (xv) extortion when a firearm, explosive, or any dangerous weapon is immediately available

and is physically used as part of the threat.

- (B) In the case of second degree assault convictions, immediate disqualification shall occur for only those convictions that were within the last five years from the date of the most recent criminal history record check.
- (2) Felony conviction of an offense against property rights as provided in Hawaii Revised Statutes chapter 708 shall result in immediate disqualification when the crime leading to the conviction involved use of a weapon, threatened harm, and/or violence to achieve the crime, and the conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:
 - (A) burglary in the first degree;
 - (B) criminal property damage in the first degree; and
 - (C) robbery in the first and second degree.
- (3) Conviction of an offense against the family as provided in Hawaii Revised Statutes chapter 709 shall result in immediate disqualification when the conviction was within the last five years from the date of the most recent criminal history check. These offenses include, but are not limited to:
 - (A) concealing the corpse of an infant;
 - (B) abandonment of a child;
 - (C) endangering the welfare of a minor in the first and second degree;
 - (D) compensation by an adult of juveniles for crimes;
 - (E) endangering the welfare of an incompetent person; and
 - (F) abuse of a family or household member.
- (4) Conviction of an offense against public health and morals as provided in Hawaii Revised Statutes chapter 712, shall result in immediate disqualification when the

conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:

- (A) promoting prostitution in the first, second, and third degree;
 - (B) loitering for the purpose of engaging in or advancing prostitution;
 - (C) displaying indecent matter;
 - (D) promoting pornography;
 - (E) promoting pornography for minors;
 - (F) open lewdness;
 - (G) promoting a dangerous drug in the first, second, and third degree;
 - (H) promoting a harmful drug in the first, second, third, and fourth degree;
 - (I) promoting a detrimental drug in the first, second, and third degree;
 - (J) commercial promotion of marijuana in the first and second degree;
 - (K) promoting a controlled substance in, on, or near schools or school vehicles;
 - (L) promoting intoxicating compounds; and
 - (M) promoting intoxicating liquor to a minor.
- (5) Confirmation by the department that the applicant or the employee was the perpetrator of abuse or neglect shall result in immediate disqualification.
 - (6) Confirmation by the department that the applicant or the employee was the perpetrator of threatened harm shall result in immediate disqualification for a five-year period starting from the date that the child abuse case record was closed. An applicant may request, at the discretion of the licensing social worker, that the case be presented to a panel constituted by the department which shall make a final decision of whether the confirmed threatened harm warrants immediate disqualification or an exception should be granted.
 - (7) For any other situations that have not been listed in this section the department may

disqualify an applicant or employee after assessing whether the caregiver poses a risk to the health, safety, or well-being of the children in care. When making an assessment, the criteria to be used shall include, but not be limited to, the following:

- (A) The nature of the incident;
- (B) When the incident occurred;
- (C) Patterns of behavior which are considered reckless or negligent and resulted in or could have resulted in injury to the person or others; and
- (D) Evidence of rehabilitation.

(f) If the applicant does not terminate the employment of the employee when requested under this section, the applicant shall notify the department within seven working days of receipt of the request. Such notification shall be in writing and shall state the reasons for the decision.

(g) Refusal to terminate the employment of an employee when requested under this section shall be grounds for revocation or suspension of a certificate of approval.

(h) Rules prescribed herein are minimum standards. The department shall issue a license under the following conditions:

- (1) A regular license 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 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.

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

- (1) Regular licenses shall be valid for one year for new applicants and those providers licensed for less than four years, and for two years for all other providers unless subsequently suspended or revoked. When a regular license is issued after a provisional

license, the expiration date of the regular license shall be one year or two years from the issuance date of the last provisional license;

- (2) Provisional licenses may be issued for up to six months; and
- (3) Licenses shall be renewed only upon application and upon the department's approval.

(j) Each 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.

(k) Implementation of two year licenses shall be accomplished by dividing a unit's caseload so that one-half of the cases fall on the even year and one-half of the cases fall on the odd years. To accomplish this, licenses one-year in length may be issued, if necessary, to achieve an even caseload between the two years. This decision shall be within the discretion of the department. [Eff 4/11/92; am and comp

DEC 19 2002
] (Auth: HRS §346-162) (Imp: HRS §§346-154, 346-156, 346-163, 346-161, 346-165, 346-166; 42 U.S.C. §§2002, 2005, 5751, 9833)

§17-892.1-3.01 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 criminal history records check;
 - (5) Allowing conditions to exist at the facility which constitute an imminent danger to the health, welfare, or safety of the children;
- or

(6) Injuries to children due to staff negligence.
[Eff and comp 156) DEC 19 2002] (Auth: HRS §346-156)

§17-892.1-4 Denial, suspension, revocation of license, and hearings. (a) The conditions for denial, suspension, or revocation of a license and the action taken by the department shall be as follows:

- (1) The department shall deny, suspend, or revoke a regular or provisional license if an applicant or licensee does not comply with the rules of the department respecting child care facilities;
- (2) An applicant or licensee whose license is about to be 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 immediate suspension of the license shall be ordered if 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, unsafe facility

conditions that cannot be immediately abated, or refusal to terminate an employee as specified in section 17-892.1-3. The department shall take the following actions:

- (1) Provide the licensee written notice of the order by personal service or 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 the 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.

(c) 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.

(d) Filing of a request for fair hearing does not permit the applicant to continue to care for children under this chapter.

(e) If an applicant has their regular 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) Up to six months from the date that the license was revoked if the revocation was their second offense. [Eff 4/11/92; am and comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-164; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 2

ADMINISTRATION REQUIREMENTS

§17-892.1-5 Age of children in care. A group child care center or group child care home may provide care to children aged two years (twenty-four months) and older. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §§346-162, 346-164; 42 U.S.C. §§2002, 2005)

§17-892.1-6 Statement of operation policies. (a) A child care facility shall have written operation policies. Written policies shall be available to the department, caregiver staff, and parents or guardians of children for whom care is, or may be, available, and 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 or not meals 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 service and refund policy;
- (9) Policy and plan for emergency medical care;
- (10) Insurance coverage - each center shall inform parents or relatives in writing of its policy

relating to liability insurance; should a center which has liability insurance at the time of a child's enrollment subsequently cancel or terminate its liability insurance, the center shall provide written notice to each parent or guardian of a child in its center, no later than seven working days of the cancellation or termination of its liability insurance coverage;

- (11) Rules concerning personal belongings brought to the facility;
- (12) Transportation arrangements;
- (13) Parental permission for trips and related activities outside the facility;
- (14) Fund raising campaigns - children and staff shall not be exploited in activities which would be detrimental to the children or the program;
- (15) Admission of sick, moderately sick, or handicapped children; and
- (16) Other policies which may be required by the Department.

(b) Written operation policies shall be reviewed with each caregiver in the facility.

(c) Written policies shall be made available for review by parents or guardians at the time of enrollment of a child. [Eff 4/11/92; comp

DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162) U.S.C. §§2002, 2005)

§17-892.1-7 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 child care 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 of the owner or sponsoring agency (privately owned, church or agency owned, etc.) of the facility shall be supplied to the department. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-8 Change in services. 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 all changes shall be included in the facility's operating policies. [Eff 4/11/92; comp] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-9 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 name and address of the parents or guardians who are legally responsible for the child;
- (3) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the child care center;
- (4) 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;

- (5) The names, addresses, and telephone numbers of persons authorized to take the child from the facility; and
- (6) Health information concerning the child, as required by sections 17-892.1-20 and 17-892.1-21.

(c) The information shall be available on facility forms and shall be updated as necessary. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-892.1-10 Disclosure of information on the child. (a) Information pertaining to an individual child or parents or guardians of the child shall not be 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.

(b) The facility shall have release of information forms available for parents or guardians to sign.

(c) The parents or guardians shall be furnished with written notification of the facility's policy regarding disclosure of information. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-892.1-11 Information and records on facility. 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;
- (4) Daily schedule of activities; and
- (5) A list of staff members including each staff member's training, position or title, experience, and health records. [Eff

4/11/92; comp **DEC 19 2002**] (Auth: HRS
§346-162) Imp: HRS §346-166; 42 U.S.C.
§§2002, 2005)

§17-892.1-12 Transportation provisions. When transportation is provided by a facility, children shall be protected by adequate supervision, safety precautions, and liability and medical insurance coverage as follows:

- (1) For transportation to and from school the vehicle and driver shall satisfy all relevant school bus and traffic laws of the state;
- (2) During any field trip or excursion operated or planned by the facility, the staff-child ratios as provided in section 17-892.1-18 shall apply; and
- (3) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 3

PROGRAM REQUIREMENTS

§17-892.1-13 Program provisions. The program conducted in the facility shall provide for staff supervision at all times and an environment and experiences which are aimed at promoting the individual child's physical, intellectual, emotional, and social well-being and growth. This shall be done in the following ways:

- (1) The child care director shall provide the department with a brief written description of the facility's program goals and how the daily activities of the center satisfy the physical, intellectual, emotional, social development, and well-being of the child;

- (2) Activities which promote physical development shall include:
 - (A) Daily opportunities for running, climbing, and other vigorous physical activities;
 - (B) Varied physical activities; and
 - (C) Opportunities for children to learn about the health, development, and care of the children's bodies, including exercise, nutrition, and hygiene;
- (3) Programs to promote intellectual development shall:
 - (A) Provide that a variety of learning materials are introduced and are available to the children; and
 - (B) Include first-hand experiences for children to learn about the world;
- (4) Programs to promote emotional development 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;
 - (D) Each child's personal privacy is respected;
 - (E) Providers shall not use:
 - (i) Physical punishment, or
 - (ii) Methods of influencing behavior which are frightening, humiliating, damaging, or injurious to the child's health or self-esteem; and
 - (F) Providers respect each child's cultural, ethnic, and family background, as well as the child's primary language or dialect;
- (5) 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;
- (6) The activities and experiences provided by the program are appropriate to the developmental level of the children;
 - (7) The program encourages the development of the children's special interests and abilities;
 - (8) The program provides a balance of active and quiet activities; and
 - (9) 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 4/11/92; comp DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-14 Communication with parents.

Caregivers shall exchange information with parents or guardians about the children as follows:

- (1) Plans shall be made and followed for regular contact with parents or guardians to exchange information about each child; and
- (2) Caregivers shall relay concerns about the health, development, or behavior of the child to the parents or guardians promptly and

directly. [Eff 4/11/92; comp DEC 19 2002 1
(Auth: HRS §346-162) (Imp: HRS §346-162; 42
U.S.C. §§2002, 2005)

§17-892.1-15 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 kept in good repair 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) Grass, 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) Provision for individual storage of children's clothing and personal belongings shall be available.

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

(i) The following sleeping equipment shall be available:

- (1) Individual bed, cot, mat, or rug for each child who rests; and
- (2) A clean sheet or cover to be used on the bed, cot, mat or rug for each child. [Eff

4/11/92; comp ~~DEC 19 2002~~] (Auth: HRS
§346-162) (Imp: HRS §346-162; 42 U.S.C.
§§2002, 2005)

§17-892.1-16 Transition to a new facility or school setting. (a) Provision shall be made to assist the child in making the transition from the child care setting to a new child care, a kindergarten, or school setting.

(b) Provision shall be made for cooperation between the caregiver and parents or kindergartens when information is requested which may assist a child to adjust to a new environment as allowed by section 17-892.1-10. [Eff 4/11/92; comp ~~DEC 19 2002~~] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 4

STAFFING REQUIREMENTS

§17-892.1-17 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) Staff growth and development shall be encouraged. The director shall make information about workshops, seminars, training sessions or courses available to all staff and volunteers.

(c) Applicants and employees shall be of reputable and responsible character and shall not have a criminal history record, employment history or child abuse/neglect history which poses a risk to children in care as specified in section 17-892.1-3.

(d) Directors, teachers, assistant teachers, 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.

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

- (1) All staff in positions other than child care aide, volunteer, 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.

(f) The director of a facility licensed for six or more children shall have the following qualifications:

- (1) A bachelor's degree from an accredited college or university preferably with courses in early childhood education, child development, or related fields, and two years of experience working with children; or
- (2) Combination of two years of college education or child development associate (CDA) certification and four years of experience in work with children; and
- (3) In either case, at least one year of experience shall be with children of the appropriate age for the child care center being directed.

(g) A teacher shall meet one of the following qualifications:

- (1) A degree in child development or early childhood education from an accredited college or university, and six months working experience in an early childhood program; or
- (2) Post secondary credential in child development associate program or organized two-year (sixty credit) college program and certificate in early childhood education, plus one year supervised teaching experience in an early childhood program; or
- (3) Baccalaureate (bachelor's degree) in elementary education from an accredited college or university plus six months working in an early childhood program, plus six credit -- semester or equivalent approved child development or early childhood training

courses, (may be included as part of bachelors of arts or bachelors of science degree); or

- (4) Baccalaureate (bachelor's degree) in any field from an accredited college or university plus six months working in an early childhood program, plus twelve credits--semester or equivalent approved child development or early childhood training courses, (may be included as part of bachelor of arts or bachelor of science degree).

(h) An assistant teacher shall meet one of the following qualifications:

- (1) Post secondary credential in child development associate program or associate of arts degree and certificate in early childhood education, and six months experience working in an early childhood program; or
- (2) Two years (sixty credits) of post secondary education plus six months working in an early childhood program and nine credits--semester equivalent approved child development or early childhood training courses.

(i) Waivers for teacher or assistant teacher positions may be granted by the department if there are no qualified applicants available for the position, provided:

- (1) The position vacancy has been advertised in the classified ad section of the largest newspaper in the county;
- (2) The prospective employee meets the requirement for the next lower position;
- (3) There is a written plan presented to the department's division administrator on the steps to be taken to bring the employee up to the proper qualifications for the position; and
- (4) Approval for a waiver has been received prior to the hiring of the non-qualified teacher or assistant teacher.

- (j) A child care aide shall meet one of the following qualifications:

- (1) High school vocational child care training course; or
 - (2) Orientation training course in the center.
 - (k) Volunteers shall:
 - (1) Participate in an orientation to the program; or
 - (2) Be a participant in a high school program which includes child care training; and
 - (3) Meet the requirements of regular staff members to be counted in the staff-child ratio.
 - (l) Temporary hires shall meet qualifications of positions for which hired.
 - (m) Substitutes for teachers and assistant teachers shall be at least eighteen years of age and shall have participated in an orientation program of the facility. The curriculum, lesson plans, and daily activities assigned to the substitute shall be closely supervised by the center's director.
 - (n) Substitutes for director shall meet qualifications for director.
 - (o) Substitutes for aides shall meet the qualifications of an aide.
 - (p) 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. [Eff 4/11/92; am and comp
- DEC 19 2002**] (Auth: §346-162) (Imp: HRS §346-162; 42 U.S.C. §§ 2002, 2005, 5751, 9833)

§17-892.1-18 Staff-child ratio. (a) The staff-child ratio shall be met and maintained by all facilities.

(b) The staff-child ratio shall be in writing and shall be made available to the department. Distribution of staff may include a team comprised of teacher, assistant teacher, and child care aides. The staff members shall be on site and shall be assigned to a group of children to be included in the staff-child ratio. Custodians, cooks, and bus drivers shall not be counted in the staff-child ratio when performing regular duties.

(c) The director may teach and may be counted in the staff-child ratio as follows:

- (1) In a center with less than fifty children, the director may teach and may be counted in the staff-child ratio; and
- (2) In a center with 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 of a child care center, full day only, may be included in the staff-child ratio during the first and last hours of the regular operational day.

(d) The following staff-child ratio shall be implemented:

Ratio Chart I

Age Number of Children Per Staff Member

0 - under 24 mo.	Not Permitted
2 yr olds	8
3 yr olds	12
4 yr olds	16
5 yr and older	20

- (1) Unless specific instructional curriculum and related provisions specify mixing the ages and excepting nap time, the number of children assigned to a staff member shall be determined by the age of the youngest child in the group (unit).
- (2) In those facilities in which an instructional curriculum as well as classroom environment and teacher training specifically require mixing the ages, the number of children per

staff member shall be determined by the average of the staff-child ratios according to the chart above. Such provision shall not apply to more than three hours of mixed instructional time during any operational day for the same child or group of children.

- (3) During nap time or night care when children of various ages are mixed together:
 - (A) The number of children per staff member shall be determined by the average of the staff-child ratios according to the chart above;
 - (B) Non-teaching staff members at the center may be included in the staff ratios.
- (4) Children ages two years eight month or older, who are enrolled in the center on or between September 1 and December 31 of any year and whose birthdays fall on or between these dates may be considered part of the next older age group when determining staff ratios.

(e) The following chart reflects minimum requirements for the grouping of children of a certain age in units so that one unit of two-year-olds will be eight children, one unit of three-year-olds will be twelve children, one unit of four-year-olds will be sixteen children. One teacher shall be mandated for the first unit, three or more units require the addition of an assistant teacher plus aides as needed to meet the ratio.

Ratio Chart II
Minimum staff employment sequence

No. of Children	Teacher	Assistant Teacher	Aide	Total Staff
Children 2 yr olds				
1-8	X			1
9-16	X		X	2
17-24	X	X	X	3
25-32	X	X	XX	4
33-40	XX	X	XX	5
41-48	XX	XX	XX	6
49-56	XX	XX	XXX	7
No. of Children	Teacher	Assistant Teacher	Aide	Total Staff
Children 3 yr olds				
1-12	X			1
13-24	X		X	2
25-36	X	X	X	3
37-48	X	X	XX	4
49-60	XX	X	XX	5
61-72	XX	XX	XX	6
73-84	XX	XX	XXX	7
No. of Children	Teacher	Assistant Teacher	Aide	Total Staff
Children 4 yr olds				
1-16	X			1
17-32	X		X	2
33-48	X	X	X	3
49-64	X	X	XX	4
65-80	XX	X	XX	5
81-96	XX	XX	XX	6
97-112	XX	XX	XXX	7

No. of Children	Teacher	Assistant Teacher	Aide	Total Staff
Children 5 yr olds				
1-20	X			1
21-40	X		X	2
41-60	X	X	X	3
61-80	X	X	XX	4
81-100	XX	X	XX	5
101-120	XX	X	XXX	6

(f) Exception: During the first and last hours of the regular operational day the staffing sequence may be adjusted so that the director, a teacher, or assistant teacher may be counted as fulfilling any position in this ratio chart. [Eff 4/11/92; comp
DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 5

HEALTH STANDARDS FOR CHILDREN

§17-892.1-19 Health consultation provisions. All child care programs shall have one of the following provisions for health consultation to assist in developing health policies and in keeping them current:

- (1) The child care center shall have on file written evidence that an arrangement has been made with a physician in private practice to provide consultation, and that this arrangement is satisfactory with parents of the children;
- (2) The child care center has made a contractual arrangement with a private physician or non-profit health organization in the community to provide health care for children in the program;

- (3) There is already a procedure existing in the community for the provision of health consultation service and arrangements have been made for use of this service; or
- (4) The child care program or resource has a health advisory group that may serve in such a capacity. [Eff 4/11/92; comp
DEC 19 2002] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-20 Evidence of child's health. (a) The child care facility shall require and obtain from the parent or guardian of each child entering child care, a health record of the child which complies with the provisions of sections 298-41 through 298-51, HRS, which relate to the school entry examination requirements for tuberculosis clearance, immunization, and physical examination.

(b) The 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; and
- (2) Permission of the parent or guardian to call the stated physician or health resource, or another source of care if the parent or guardian cannot be reached in the case of a health emergency.

(c) The records of the child in the program shall include pertinent information about health status, developmental progress, and any special needs and efforts necessary to meet these needs. [Eff 4/11/92; comp
DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-21 Emergency care provisions. Every facility shall have the following provisions for emergency care of children requiring treatment at a hospital or clinic away from the child care setting and for care of children who become ill after arrival:

- (1) The facility shall have one of the following written policies which indicate that:

- (A) The responsible individual in the child care setting, director, child care provider, or health-trained caregiver, has obtained the name of the nearest hospital or clinic where such care may be provided and has obtained written permission from each parent or guardian to provide emergency care for the child;
 - (B) The facility's health consultant has made arrangements for emergency coverage, and written permission from each parent or guardian shall be on file in the child care setting; or
 - (C) Health care shall be provided in the child care setting, and the written permission from the parent or guardian covering all aspects of health care shall be on file in the child care setting.
- (2) 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; and
- (3) Physical arrangements 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. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-162; U.S.C. §§2002, 2005)

§17-892.1-22 First aid and child cardio-pulmonary 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 first aid at the facility when children are present.
- (2) A current first aid certificate means a certificate that has not expired.

- (3) 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 at the facility when children are present.
 - (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 association standards.
 - (3) A current certificate means a certificate that has not expired.

[Eff 4/11/92; am and comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-162; U.S.C. §§2002, 2005)

§17-892.1-23 Admission of ill children. (a) When health policies of the 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. 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) Both the provider and the parents or guardians shall be familiar with special policies of the facility relevant to ill children. Special policies regarding illnesses shall be explained to the parent or guardian at the time of enrollment of the child.

(c) Provisions shall be made to allow the facility's medical 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 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162 (Imp: HRS §346-162; U.S.C. §§2002, 2005)

§17-892.1-24 Non-admission of ill children. If children with illness are not allowed admission into a group child care center or a group child care home, this policy shall be clearly stated in writing and made known to parent or guardian at the time of enrollment. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-20; U.S.C. §§2002, 2005)

§17-892.1-25 Admission of children with handicaps. (a) When children with handicaps are admitted into a group child care center or group child care home, the facility shall provide for the special needs of each child.

(b) The handicapped child shall be admitted only after consultation with the child's source of health care and the program's health consultant occurs. 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 of the program shall receive training related to the nature of the child's disability and the child's potential for growth and development.

(d) Where the nature of the child's handicap or the number of handicapped children in the program necessitates added care, staff and equipment shall be

available to cover these requirements. [Eff 4/11/92;
 comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS
 §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-26 Daily nutritional needs. (a) Meals and snacks of a quantity to supplement food served at home shall be available to meet the daily nutritional needs of the child. Foods related to the cultural and ethnic background of the children in the program and locality shall be part of meal planning.

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

(c) To the extent possible, information provided by parents or guardians concerning the child's eating habits, food preferences, or special needs shall be considered in child care feeding schedules and menus. Children shall be encouraged but shall not be required to eat the food offered by the facility.

(d) In a facility providing meal service, the minimum meal 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 section 17-892.1-26(d)(3) above, at least one of those snacks shall include the provision and

offering of milk or its calcium equivalent;
and

- (5) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, facilities shall consult with the USDA).

(e) In a facility where parents or guardians are allowed to provide food (i.e. sack lunches or snacks) the facility, in addition to food the child brings, shall provide the minimum amounts required by the USDA child care food program by offering and providing children in care:

- (1) Four to eight hours - - - - - morning snack
or breakfast or
afternoon
snack;
- (2) Eight hours or more - - - - - morning snack
or breakfast
and afternoon
snack

(unless the eight hours or more extend into the evening hours when the child may be asleep);

- (3) When two snacks are required as in section 17-892.1-26(e)(2) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and
- (4) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, facilities shall consult with the USDA).

(f) Children shall not be offered foods to which they are allergic or, for religious reasons cannot consume. Provision 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.

(g) School aged children in after school care for two to four hours shall be offered a nutritious snack which may be provided by the facility or brought from home.

(h) Food shall not be used as a punishment or reward.

(i) The facility's food service shall be reviewed annually by a qualified nutrition consultant engaged by the center or provided by an appropriate community resource. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §342-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-27 Drinking water provisions. There shall be drinking fountains or another device or system whereby drinking water shall be readily accessible to all children. [Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-28 Integration of mental health concepts. Mental health aspects of child development shall be integrated into the child care 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 center. The personal interview shall be conducted to secure pertinent information on the child's over-all-behavior and to acquaint the parent or guardian with the facility's policies. If the child is enrolled in a public or private school, the child shall also be interviewed when possible;
- (2) The child care facility shall provide its staff with annual orientation to state or other mental health service programs for children, or otherwise familiarize its staff with consultative and clinical services and programs 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

staff or the facility's health consultant.
(Eff 4/11/92; comp **DEC 19 2002**] (Auth:
HRS §346-162) (Imp: HRS §346-162; 42 U.S.C.
§§2002, 2005)

SUBCHAPTER 6

HEALTH STANDARDS FOR STAFF

§17-892.1-29 Providers' health standards.

Evidence that providers are free from health problems which would have a harmful effect on the children or would interfere with effective functioning shall be maintained at the child care facility as follows:

- (1) The results of employment physical examinations of each person employed in the center and each volunteer who serves ten or more hours per week shall be on file at the facility;
- (2) Written evidence that each member of a child care center staff or volunteer is free from communicable tuberculosis as a result of a negative tuberculin skin test or a satisfactory chest x-ray taken within twelve months before beginning child care shall be on file at the facility. The tests shall be repeated in compliance with chapter 11-164, Hawaii Administrative Rules, of the state department of health;
- (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 young children;
- (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;
- (5) Group child care home caregivers providing care in a residence shall have on file with the department written evidence that each member of the household, even though the

member may not be a caregiver, is free from communicable tuberculosis. Upon request of the department, additional reports with reference to the health of the other members of the household shall be made available to the department; and

- (6) When volunteers provide direct care of ten hours or more per week, the volunteers shall be subject to the same requirements for health and personal habits as the provider. [Eff 4/11/92; am and comp DEC 19 2002]
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-30 Personal health habits of staff. The personal health habits of all providers 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 child care setting which set out aspects of personal health care and control for the spread of communicable diseases;
 - (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 designed and presented by a health-trained individual which includes personal health care;
- (2) If smoking is permitted on the premises, an individual shall not smoke in the presence of children; and
- (3) Alcoholic beverages shall not be consumed or maintained at the facility during the hours of operation. However, if the child care center is a family residence, alcoholic beverages may be maintained but shall be

stored out of the reach of children. (Eff 4/11/92; comp DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 7

ENVIRONMENTAL HEALTH STANDARDS

§17-892.1-31 Disaster plan for emergencies. Each facility shall have a disaster plan to cover emergencies such as fire, flood, or natural disaster. The plan shall include:

- (1) A written plan which shall be approved by the fire inspector, the health consultant, or the red cross, and which shall be practiced at regular intervals;
- (2) Posting the plan in a prominent place in the facility; and
- (3) Installing 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 on file at the facility. (Eff 4/11/92; comp DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-32 Accidental injury precautions. The facility shall ensure that the child care program and premises minimize the risk of accidental injury in the following manner:

- (1) Child care activities and premises shall take precautions not to expose children to situations which may be hazardous to the particular age or capacity of the child;
- (2) The program shall help children to increase awareness of safety practices and accident hazards and to teach the children how to avoid such hazards; and

- (3) Accident prevention practices and policies shall be available in writing. The practices and policies shall be reviewed annually and the staff shall become familiar with the policies and practices. [Eff 4/11/92; comp
DEC 19 2002] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-33 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 facility shall be protected against rodents and insects;
- (2) The outdoor space shall be fenced or shall have natural barriers to deter children from getting into unsafe areas;
- (3) There shall be no open drainage ditches, wells, or holes into which children may fall;
- (4) Drainage shall be adequate to prevent stagnant pools of water from accumulating;
- (5) 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;
- (6) 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;
- (7) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;
- (8) Furniture, equipment, and toys shall be sturdily constructed, without sharp edges, and shall present minimal hazards to children;
- (9) Lead based paint shall not be used on surfaces accessible to children;
- (10) Poisonous plants shall be out of reach of children on the premises

- (11) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times; and
- (12) If a lodging house, boarding house, or any other business conflicts with the regular operation of the child care facility, the lodging house, the boarding house, or other business shall not be conducted at the facility. (Eff 4/11/92; comp **DEC 19 2002** 1 (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-34 Water supply. (a) The water supply shall be from a source approved by the health authority and shall be under pressure. 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 4/11/92; comp **DEC 19 2002** 1 (Auth: HRS §346-162) (Imp: HRS §342-162; 42 U.S.C. §§2002, 2005)

§17-892.1-35 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 sewage disposal means are not available or feasible, sewage and other liquid wastes shall be disposed in an approved manner;

- (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;
 - (5) Where water carried sewage disposal is not available, privies shall be used in accordance with local sanitary requirements and shall be designed with step stools or with holes sized to the age group;
 - (6) If toilet training chairs are provided for use by children, the toilet training chairs shall be emptied promptly and sanitized after use;
 - (7) Lavatories shall be provided in quantities commensurate with toilet facilities. Hot water temperatures shall not exceed 100 degrees fahrenheit, 38 degrees celsius, at outlets accessible to children; and
 - (8) Toilet facilities shall be child sized, or safe, sturdy step stools shall be provided to allow standard sized toilets and lavatories to be used. [Eff 4/11/92; comp
- DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-36 Food preparation. Food preparation shall be carried out in a kitchen with proper equipment and cleanup facilities required for the number of children in care as follows:

- (1) All dishwashing shall be performed in a sanitary manner. A domestic dishwasher shall be acceptable, but if it is not available, the dishes shall be washed and rinsed in a sanitizing solution;
- (2) In a facility caring for less than thirteen children, a family kitchen in good repair, separate from other rooms, shall be available;
- (3) In a child care facility caring for thirteen or more children, where food is prepared on the premises, adequate sized equipment for the size of the program shall be available.

An approved dishwasher or a three compartment sink shall be used. Both the dishwasher and the three compartment sink shall require approval by the state department of health;

- (4) When food is prepared off the premises and is transported to the child care facility from a licensed preparation source, the foods shall be kept in a safe and sanitary condition;
- (5) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use; and
- (6) Cooking utensils used in food preparation and service shall be cleaned and stored in a sanitary manner. [Eff 4/11/92; comp

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

§17-892.1-37 Food Preparation. Food protection shall be carried out as follows:

- (1) Policies and practices shall be developed and carried out in a manner that insures that all food is protected from contamination during storage, preparation, and service; and
- (2) Food protection policies shall comply with accepted practices of local sanitary codes and shall be adapted to fit the needs of the program except as indicated in these rules.

[Eff 4/11/92; comp DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-38 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 provider.

(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. [Eff 4/11/92; comp **DEC 19 2002**] (Auth:
HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002,
2005)

§17-892.1-39 Public beaches, swimming activities,
and wading pools. (a) When swimming or wading pools are
part of the 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
included in the child care program, the following
safety practices shall be observed:

- (1) A certified lifeguard, who may be the
provider, shall be on duty at all times when
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)(1). 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 provider responsible for the
care of children. [Eff 4/11/92; comp
DEC 19 2002] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 8

PHYSICAL FACILITY STANDARDS

§17-892.1-40 Building codes and space
requirements. (a) Child care facilities shall conform
to 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.

(b) The facility shall:

- (1) Be located in a safe and sanitary area in conformance with subchapter 3 of this chapter;
- (2) Have a sunny exposure and be well lighted and ventilated; and
- (3) Be located in a reasonably quiet area or employ suitable noise control devices to limit noise exterior to the child care operation.

(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 space requirements, enclosed areas, and outdoor areas, of the facility shall be as follows:

Standards for space requirements

Enclosed areas:

Daytime:

There shall be thirty-five square feet per child of unencumbered instructional or play area exclusive of bathrooms, kitchens, cupboard space, and hallways. The thirty-five square feet per child requirement shall be a general area definition of the square footage of the entire center, not describing the square footage of each class room. Lanai area may be counted for not more than 30 per cent of required area.

Nighttime:

In rooms used for sleeping, there shall be fifty square feet per child exclusive of lanai area.

Outdoor areas:

Lanai area which has both a roof and finished flooring

does not count for either enclosed or more than thirty per cent of outdoor space. The square footage for the outside areas shall be a general area requirement related to total child capacity and not limited or qualified by the number of children outside at any one time.

- (1) 720 square feet for 6 children plus 70 square feet per child thereafter up through 10.
- (2) 1,065 square feet for 11 children plus 65 square feet per child thereafter up through 30.
- (3) 2,360 square feet for 31 children plus 60 square feet per child thereafter up through 50.
- (4) 3,555 square feet for 51 children plus 55 square feet per child thereafter up through 100.
- (5) 6,295 square feet for 101 children plus 45 square feet per child thereafter.

(e) The facility shall be equipped with toilets and lavatories as follows:

Number of children	Toilets	Lavatories
1 - 12	1	1
13 - 30	2	2
31 - 45	3	3
46 - 60	4	4
61 - 75	5	5
76 - 90	6	6
91 - 105	7	7
106 - 120	8	8
121 - 135	9	9
136 - 150	10	10
151 - 165	11	11
166 - 180	12	12
181 - 195	13	13
196 - 210	14	14
211 - 225	15	15

[Eff 4/11/92; comp DEC 19 2002] (Auth. HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 9

PROGRAM MODIFICATIONS

§17-892.1-41 Program modifications for drop-in care. (a) All requirements set forth in this chapter shall be met by the provider except for section 17-892.1-20(a) and (c) and section 17-892.1-23(c).

(b) A child care center offering drop-in care shall be prepared to adjust its staffing to meet the program modifications which result when drop-in care is provided.

(c) Children receiving drop-in care shall be cared for in separate areas or groups.

(d) If a center serves both drop-in children and children who attend regularly, the grouping of the children and the program shall be planned so that the needs of both groups are met.

(e) The facility shall have the following information in writing:

- (1) The ages of children accepted for drop-in care;
- (2) The procedures for admittance and release of drop-in children; and
- (3) Arrangements for staffing and separate activities for drop-in children. [Eff 4/11/92; comp DEC 19 2002] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.1-42 Program modifications for night care. A child care facility offering night care shall meet the requirements of this chapter in addition to the following requirements:

- (1) In consultation with parents, special attention shall be given by the caregiver to provide for a transition into night care;

- (2) A selection of toys for quiet activities shall be available;
- (3) Comfortable beds or cots, complete bedding and night clothes shall be available or supplied by the parents;
- (4) Beds shall be placed at least three feet apart;
- (5) Staff shall be available to assist children during eating and pre-bedtime hours and during the morning period when dressing. During sleeping hours, staff shall be within listening distance to provide for the needs of children and to respond to an emergency;
- (6) A child shall not sleep in a building detached from the main facility; and
- (7) Night care facilities shall include at least one shower, bathtub, or bathing facility for the children. [Eff 4/11/92; comp

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

§17-892.1-43 Program modifications for demonstration projects. (a) A child care facility may establish a demonstration project for a specific purpose, or set of purposes, upon receiving written approval from the department.

(b) The child care facility shall submit a written proposal to the department indicating the following:

- (1) Purpose of the project;
- (2) Description of the project;
- (3) Length of the project;
- (4) Specific child care rules that shall be exempted by the project; and
- (5) Justification for the proposed exemptions.

(c) The persons responsible for the project or the designated representatives shall appear in person to discuss the proposal with the department or the department's designated representatives if requested by the department.

(d) A demonstration project which has been approved in writing by the department shall comply with

all requirements imposed by the department at the time of its approval as follows:

- (1) The name or description of the project shall include the words "licensed demonstration project";
- (2) Providers shall be able to show that at all times the demonstration project is in compliance with the child care rules, except as specifically exempted or modified in the department's written approval; and
- (3) Within the last quarter of the time specified for the demonstration project, a written report shall be submitted to the department which shall include:
 - (A) Developments, findings, recommendations, and suggestions for further study; and
 - (B) Any proposed recommendations related to the demonstration project for changing or modifying child care rules with justification therefor.

(e) Proposed demonstration programs disapproved or discontinued by the department shall not be permitted any further use of the words "demonstration project" in the identifying title, logo, or material.

[Eff 4/11/92; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-162, 42 U.S.C. §§2002, 2005)