

DEPARTMENT OF HUMAN SERVICES

Adoption of Chapter 17-892.2
Hawaii Administrative Rules

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"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 892.2

LICENSING OF GROUP CHILD CARE CENTERS AND GROUP CHILD
CARE HOMES

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Historical Note: The chapter is based substantially
upon 17-892.1, Hawaii Administrative Rules. [Eff
4/11/92, am and comp 12/19/02; R]

SUBCHAPTER 1

LICENSING PROCEDURE

§17-892.2-1 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 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.

"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.

"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 kindergarten age and above 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, development, safety, and protection apart from the parent or guardian 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 aide" or "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" 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.

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

"Director" or "principal" or "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 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.

"Family child care home" "family child care" or "FCC" means any private residence at which care is provided at any given time to six or fewer children, as defined in section 346-151, HRS.

"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 a 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.

"Health care practitioner" means a physician who is licensed to practice medicine or osteopathic medicine (M.D. or O.D.), a physician assistant (PA), or an advanced practice registered nurse (APRN) licensed to practice in any of the states or territories of the United States, or a nurse practitioner (NP) licensed by the state of Hawaii.

"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).

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

"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.

"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).

"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 eighteen 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 dietician 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, 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
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 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 administrative, child care, office, maintenance, employees, adult household members, 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 person 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," 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" 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 facility. [Eff]
(Auth: HRS §346-162) (Imp: HRS §346-151, 346-162)

§17-892.2-2 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) Results of the background checks as described in section 17-801-4, and as indicated in (A) and (B) below:
 - (A) Applicants, 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] (Auth: HRS §346-162) (Imp: HRS §§346-154, 346-162; 42 U.S.C. §§2002, 2005, 5751, 9833)

§17-892.2-3 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 staff members comply with section 17-892.2-2(a)(4) within five working days of hire by the child care facility or residence in the group home.

- (1) New staff members shall meet the conditions in sections 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 or no longer doing child care 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).
- (3) New household members of group child care homes shall meet the conditions in section 17-801-5.

(d) 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.

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

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

(g) 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.

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

(i) Rules prescribed herein are minimum standards. The department shall issue a license certificate 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 do not threaten the health or safety of the children.
- (j) 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.
- (k) 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:
 - (1) One year for new applicants and for those who have been licensed for less than four years; and
 - (2) Two years for those who have been licensed for four years or more,unless sooner revoked. [Eff] (Auth:

- (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 (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 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.
- (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

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applicable under court procedures. Hearing officer decisions shall be in writing, shall contain findings of fact and conclusions 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 _____] (Auth: HRS §346-162) (Imp: HRS §346-164; 42 U.S.C. §§2002, 2005)

§§17-892.2-6 to 17-892.2-9 (Reserved)

SUBCHAPTER 2

ADMINISTRATION REQUIREMENTS

§17-892.2-10 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 _____] (Auth: HRS §346-162) (Imp: HRS §§346-162, 346-14; 42 U.S.C. §§2002, 2005)

§17-892.2-11 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) Type of child care services to be offered;
- (5) Whether or not meals are served;
- (6) Admission requirements and enrollment procedures;
- (7) Provisions which may be made for special needs of individual children;
- (8) Fees and the plan for payment, including fees for different types of service and refund policy;
- (9) Plan for emergency medical care;
- (10) Insurance coverage - each facility shall inform parents or relatives 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) Admission of ill children;
- (15) Administering medication;
- (16) Provision and management of diapers and other toddler supplies, if applicable;
- (17) Sanitation practices;
- (18) Grievances which shall include the department's information for parents to file a complaint;
- (19) Fundraising campaigns - children and staff shall not be exploited in activities which would be detrimental to the children or the program;

- (20) Mandated reporting of suspected child abuse or neglect in accordance with chapter 350, HRS;
- (21) Regular communication between caregivers and parents or guardians to relay information about the child;
- (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 that 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 _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-891.2-12 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 _____] (Auth: HRS §346-157) (Imp: HRS §346-157)

§17-892.2-13 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 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 _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-14 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 all changes 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 _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-15 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 name and address of the parents or guardians who are legally responsible for 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, including any allergies, as required by sections 17-892.2-41 and 17-892.2-42.
- (c) The information shall be available on facility forms and shall be kept current. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-892.2-16 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 and the department 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 facility shall provide the parents or guardians with written notification of the facility's policy regarding disclosure of information.

[Eff] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-892.2-17 Information and records on facility. (a) The facility shall maintain, and make available to the department 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;

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- (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 17-892.2-61.

(b) The child care facility shall report to the department, within one working day of occurrence, the death of a child, employee, or household member, and any illness or injury received at the child care facility that results in a child's hospitalization.

[Eff] (Auth: HRS §346-162) Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-892.2-18 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 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 provided in section 17-892.2-36 shall apply;
- (3) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development;
- (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 _____] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-892.2-19 to 17-892.2-24 (Reserved)

SUBCHAPTER 3

PROGRAM REQUIREMENTS

§17-892.2-25 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, 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;
- (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
] (Auth: HRS §346-162) (Imp:
HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-26 Communication with parents.

Caregivers shall relay concerns about the health, development, or behavior of the child to the parents or guardians promptly and directly. [Eff
] (Auth: HRS §346-162) (Imp: HRS §346-162; 42
U.S.C. §§2002, 2005)

§17-892.2-27 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 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) 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

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

§17-892.2-28 Transition to a new facility or school setting. (a) The provider shall assist the child in making the transition from the child care setting to a new child care, a kindergarten, or school setting.

(b) The provider shall cooperate with parents, guardians, new providers, or kindergartens when information is requested which may assist a child to adjust to a new environment, as allowed by section 17-892.2-16. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-892.2-29 to 17-892.2-34 (Reserved)

SUBCHAPTER 4

STAFFING REQUIREMENTS

§17-892.2-35 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) 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) 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.

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

(e) 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 (f).

- (2) Substitutes shall complete at least ten hours of department-approved training annually in at least two of the topic areas in subsection (f).
- (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 topic areas in subsection (f).
- (4) When an individual does not meet the requirements in subsection (e) and 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 17-892.2-36(d) and (e).

(f) 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.
- (g) 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/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 poses a risk to the health, safety or well-being of children in care.

(h) 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.

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

- (1) All staff in 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.

(j) The director of a facility licensed for seven or more children 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 preferably with courses in early childhood education, child development, or related fields, and two years of experience working with children of which at least one year of experience with children of the appropriate age for the child care center being directed; or
- (2) Two years of college education (sixty semester credits) preferably with courses in early childhood education, child development, or related fields, and four

years of experience working with children of which at least one year of experience with children of the appropriate age for the child care center being directed; or

- (3) A child development associate credential, and four years of experience working with children of which at least one year of experience with children of the appropriate age for the child care center being directed.

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

- (1) A degree in child development or early childhood education from a regionally accredited college or university or transferable to a regionally accredited college or university, and six months of experience working in an early childhood program; or
- (2) A child development associate credential, and one year of supervised teaching experience in an early childhood program; or
- (3) An organized two-year (sixty semester credit) college program with a certificate in early childhood education from a regionally accredited college or university or transferable to a regionally accredited college or university, and one year of supervised teaching experience in an early childhood program; or
- (4) A bachelor's degree in elementary education from a regionally accredited college or university or transferable to a regionally accredited college or university, six months working in an early childhood program, and six semester credits approved child development or early childhood courses, which may be included as part of a bachelor's degree and which shall be from a regionally accredited college or university or transferable to a regionally accredited college or university; or

- (5) A bachelor's degree in any field from a regionally accredited college or university or transferable to a regionally accredited college or university, six months working in an early childhood program, and twelve semester credits approved child development or early childhood courses, which may be included as part of a bachelor's degree and which shall be from a regionally accredited college or university or transferable to a regionally accredited college or university.
- (1) An assistant teacher shall meet one of the following qualifications:
 - (1) A child development associate credential or an associate's degree with a certificate in early childhood education from a regionally accredited college or university or transferable to a regionally accredited college or university, and six months of experience working in an early childhood program; or
 - (2) Two years (sixty semester credits) of postsecondary education, six months of working in an early childhood program, and nine semester credits approved child development or early childhood courses from a regionally accredited college or university or transferable to a regionally accredited college or university.
- (m) 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.

(n) 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.

(o) 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.

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

(q) 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.

(r) Substitutes for director shall meet qualifications for director.

(s) Substitutes for aides shall meet the qualifications of an aide.

(t) 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] (Auth: §346-162) (Imp: HRS §346-162; 42 U.S.C. §§ 2002, 2005, 5751, 9833)

§17-892.2-36 Staff-child ratio and group size.

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

(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 and maximum group size shall be implemented:

Ratio and Group Size Chart I

Age of Child	# of Children Per Staff Member	Maximum Group Size Permitted
0 - under 24 mo.	Not Permitted	Not Permitted
2 year olds	8	16
3 year olds	12	24
4 year olds	16	32
5 year and older	20	40

- (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 months 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 maximum group size of the number of children in one group shall not be exceeded. Exceptions shall be made for special events such as but not limited to assemblies, performances, meal and snack time, and outdoor play area. When exceptions are made, the following shall apply:
 - (1) The staff-child ratio shall be determined by the age of the youngest child and shall be maintained at all times in accordance with

the Ratio and group size Chart I.

- (2) The staff employment sequence shall be maintained at all times according to the Ratio Chart II.

(f) 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 unit of five-year-olds will be twenty children. One teacher shall be mandated for the first unit two units require the addition of an aide 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	1			1
9-16	1		1	2
17-24	1	1	1	3
25-32	1	1	2	4
33-40	2	1	2	5
41-48	2	2	2	6
49-56	2	2	3	7

No. of Children	Teacher	Assistant Teacher	Aide	Total Staff
Children 3 yr olds				
1-12	1			1
13-24	1		1	2
25-36	1	1	1	3
37-48	1	1	2	4
49-60	2	1	2	5
61-72	2	2	2	6
73-84	2	2	3	7

No. of Children	Teacher	Assistant Teacher	Aide	Total Staff
Children 4 yr olds				
1-16	1			1
17-32	1		1	2
33-48	1	1	1	3
49-64	1	1	2	4
65-80	2	1	2	5
81-96	2	2	2	6
97-112	2	2	3	7

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

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

§§17-892.2-37 to 17-892.2-39 (Reserved)

SUBCHAPTER 5

HEALTH STANDARDS FOR CHILDREN

§17-892.2-40 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 _____] (Auth:
HRS §346-162) (Imp: HRS §346-162; 42 U.S.C.
§§2002, 2005)

§17-892.2-41 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 chapter 11-157, which relate to the school entry examination requirements, immunization, physical examination, and chapter 11-164.2 for tuberculosis clearance.

(b) The 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; 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 each child enrolled in the program shall include pertinent information about health status, developmental progress, and any special needs and efforts necessary to meet these needs.

(d) For children experiencing homelessness or in foster care, the child care facility shall allow a grace period of three months from the child's first day in care to obtain the evidence described in subsection (a) in accordance with chapter 11-157, provided that the parents or guardians submit to the facility in writing the health needs for the child, including any allergies, at the time the child is placed in care. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-42 Emergency care provisions. (a)

Every child care facility shall have the following provisions for emergency care of any child requiring treatment at a hospital or clinic away from the child care setting and for care of a child who becomes ill after arrival, as follows:

- (1) The child care 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 child care 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.

(b) If health care is provided in the child care facility, the facility shall have on file a written permission from each parent or guardian covering all aspects of health care which is provided at the facility.

(c) An adult shall accompany the 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.

(d) 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.

(e) An operating telephone that is available and

is easily accessible to the staff members to be used in case of an emergency;

(f) A plan for accessing a telephone when the child care is provided somewhere other than when not in the usual location where care is regularly provided. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; U.S.C. §§2002, 2005)

§17-892.2-43 Pediatric 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 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 first aid 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 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 at the facility when children are present 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

Association standards and approved by the department.

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

§17-892.2-44 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 special policies of the child care 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 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] (Auth: HRS §346-162 (Imp: HRS §346-162; U.S.C. §§2002, 2005)

§17-892.2-44.01 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 medication. [Eff]
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-45 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] (Auth: HRS §346-162) (Imp: HRS §346-20; U.S.C. §§2002, 2005)

§17-892.2-46 Admission of children with special needs. (a) When children with special needs 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 child with special needs 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 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 _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-47 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 17-892.2-26(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) Two to four hours - - - - - one snack;
- (2) Four to eight hours - - - - - morning snack
or breakfast
or afternoon
snack;

- (3) 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);

- (4) When two snacks are required as in section 17-892.2-26(e) (2) 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).

(f) 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.

(g) A list of food items that are provided by the caregiver shall be posted in a prominent place for review by parents.

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

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

(j) The child care facility's food service shall be reviewed annually by a qualified nutrition consultant the center has chosen or provided by an appropriate community resource. [Eff]
(Auth: HRS §342-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-48 Drinking water provisions. There shall be drinking fountains or another device or system whereby potable water shall be readily accessible to all children. [Eff]
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-49 Integration of mental health concepts. Mental health aspects of child development shall be integrated into the child care program as follows:

§17-892.2-55 Providers' 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 child care 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 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 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 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 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 _____] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-56 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) 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 _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-892.2-57 to 17-892.2-60 (Reserved)

SUBCHAPTER 7

ENVIRONMENTAL HEALTH STANDARDS

§17-892.2-61 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 the 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) Accommodation of children, including toddlers during an emergency;
- (8) Providing for the needs of children with disabilities and children with special needs during an emergency;

(9) 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 subsections (a) (8) (9).

(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.

(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, when applicable for group child care homes, shall be current and on file at the facility.

(h) There shall be an unexpired ABC multi-purpose 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, and lock-down of the facility. [Eff]

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

§17-892.2-62 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;
 - (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.
 - (4) The facility shall have written procedures for infection control, to use in all situations to prevent the transmission of blood-borne pathogens that may be spread through blood and body fluids.
- [Eff _____] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-63 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 or shall have natural barriers 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 shall be 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 shall not be accessible by children;
- (12) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;
- (13) Emergency exits shall be clear of obstructions;
- (14) 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;
- (15) Electrical outlets accessible to children shall be covered with child-resistant outlet covers;
- (16) Electrical cords shall not cross pathways, and long cords shall be wrapped and secured;
- (17) 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;
- (18) Poisonous plants shall be out of reach of children on the premises;
- (19) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times;

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

§17-892.2-64 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] (Auth: HRS §346-162) (Imp: HRS §342-162; 42 U.S.C. §§2002, 2005)

§17-892.2-65 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 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;
- (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 one hundred degrees fahrenheit, thirty eight 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
] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-66 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 child care 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]
(Auth: HRS §346-162) (Imp: HRS 346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-67 Food protection. 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 in chapter 11-50, and shall be adapted to fit the needs of the program except as indicated in these rules. [Eff
] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-68 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 children.
[Eff] (Auth: HRS §346-162) (Imp:
HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-69 Public beaches, 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 provider, 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)(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
] (Auth: HRS §346-162) (Imp:
HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-892.2-70 to 17-892.2-74 (Reserved)

SUBCHAPTER 8

SANITATION STANDARDS

§17-891.2-75 Handling of diapers and training pants. The provider shall handle disposable and cloth diapers and cloth training underpants in the following manner:

- (1) Use a clean non-porous surface for changing diapers;
- (2) Use a space set aside for diapering that is separate from eating and food preparation areas;
- (3) Soiled disposable diapers shall be discarded in a covered container. The covered container shall be kept away from eating, food storage, and food preparation areas and out of the children's reach.

- (4) Soiled cloth diapers and cloth training underpants shall be placed in a plastic bag without emptying or rinsing the contents, and kept away from eating, food storage, and food preparation areas and out of the children's reach. The soiled cloth diapers or cloth training underpants shall be given to the child's parent or guardian. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-891.2-76 Handwashing. (a) The provider and children shall wash 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) Before and after diapering;
- (5) After using the toilet or helping a child in toileting;
- (6) After handling bodily fluids or items containing bodily fluids;
- (7) After handling soiled diapers, clothes, or equipment;
- (8) After handling pets or animals; or
- (9) After outdoor play.

(b) Paper towels or separate cloth towels for each child shall be used for drying hands after handwashing. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-892.2-77 to 17-892.2-79 (Reserved)

SUBCHAPTER 9

PHYSICAL FACILITY STANDARDS

§17-892.2-80 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 child care facility shall:

- (1) Be located in a safe and sanitary area in conformance with subchapter 3 of this chapter;
- (2) Have ventilation and a sunny exposure or be well-lighted; 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
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the square footage of the entire center, not describing the square footage of each class room.

Nighttime: In rooms used for sleeping, there shall be fifty square feet per child.

Outdoor areas: 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:

§17-892.2-80

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

§§17-892.2-81 to 17-892.2-84 (Reserved)

SUBCHAPTER 9

PROGRAM MODIFICATIONS

§17-892.2-85 Program modifications for drop-in care. (a) All requirements set forth in this chapter shall be met by the provider except for section 17-892.2-41(a) and (c) and section 17-892.2-44(d).

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

§17-892.2-86 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 _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-892.2-87 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 therefore.
- (4) For demonstration programs that have been approved to care for children less than twenty-four months old, the demonstration program shall adhere to any provisions under chapter 895, that have been determined and specified by the department.
- (5) For a demonstration program that has been approved to care for children less than twelve months old, the demonstration program shall adhere to requirements set forth under sections 17-895.1-45, 17-895.1-96, and 17-895.1-97.

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

2. The adoption of chapter 17-892.2, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on June 1, 2020 and filed with the Office of the Lieutenant Governor.

CATHY BETTS
Director of Human Services

APPROVED AS TO FORM:

Deputy Attorney General