Interpretative Guide for Child Care Home Rules

The purpose of this guide is to provide the licensing staff with a tool for determining compliance with a particular licensing rule. The guide also provides information on the purpose of each rule as well as any special instructions necessary for compliance determination. Thus it should serve as a useful document for child care home licensees to allow for a better understanding of the rules in preparation for licensure and for on-going compliance.

The guide's structure and order is the same as the rules. The guide is organized in the following format:

- **The complete text of the rules is first. The symbol ■ is used to indicate the rule or the code.**
- **Following the rule is the 'intent' statement. The intent statement summarizes the purpose of the rule – the 'why' of the rule. The symbol ♦ is used to indicate the intent.**
- **Next is the 'assessment method'; this provides licensing staff guidance on the means for evaluating compliance with the rule. The symbol ○ is used to indicate the assessment method.**
- **Last is the 'threshold of compliance"; this provides licensing staff guidance on determining whether or not a rule should be cited as non-compliant. The symbol ▲ is used to indicate the threshold of compliance.**

Please note that not all rules have an interpretative guide and not all interpretative guides have the three components.

Licensees operating child care homes are subject to both Indiana Code (IC) and Indiana Administrative Code (IAC). IC is statue or law created by the Indiana Legislature. IAC is rule developed by the Indiana Family and Social Services Administration through the public process required by Indiana statue.

For more information - www.in.gov/fssa/carefinder

The final section of the Interpretative Guide is the Best Practice Training Resource section. This section provides information for licensees who wish to exceed the minimum standards set in the rule. The Best Practice section is not intended to be used to determine compliance.

TABLE OF CONTENTS

47 IAC 3.1.1
Rule 1.1 Child Care Homes

Minimum standards
Definitions
Maximum capacity
Exemption from licensure
Application and Inspections
Appeal
Staffing Requirements
Admissions
Activities
Swimming
Transportation
Discipline
Nutrition
Sleep
Health
General environment
Fire protection
Sanitation
Safety
Variances and waivers

470 IAC 3.1.2
Rule 1.2 Infant and Toddler Services

Definitions
Activities
Naps
Diaper changing and toilet training
Feeding

470 IAC 3.1.3
Rule 1.3 Class II Child Care Homes

Definition

IC 12-17.2-5
Chapter 5 Regulation of Child Care Homes

Operation without licensure
Approval by other regulatory authority
Application
Drug testing
Due process
Class I home
Class II home
Waiver and variances

Denial
Inspections
Parental visits
Duties related to missing children
Enforcement actions
Administrative hearings
Unlicensed facilities
Revocation
Civil penalties
Prohibition of class E buildings
Investigations of abuse or neglect

Rule 1.1. Child Care Homes

■ 470 IAC 3-1.1-0.5 Minimum standards

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 0.5. This rule represents the minimum standards necessary to operate a child care home in the state of Indiana, developed under the authority of IC 12-17.2. These rules apply to the home during hours of operation as a child care home. The purpose of these rules is to protect and promote the health and safety of children in care and to support families as consumers of child care services. First and foremost, child care is the responsibility and choice of the parent. Many child care advocates, providers, licensing specialists, and parents participated in the development of these rules.

♦ Intent:

To establish that this rule represents the standard of care and protection that all children receiving care from a child care home are entitled to receive. This rule supports the parental role as protector of their children. This rule was developed through a public process involving various constituencies.

Definitions

■ 470 IAC 3-1.1-1 "Applicant" defined

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 1. As used in this rule, "applicant" means a person who applies for a license to operate a child care home.

■ 470 IAC 3-1.1-2 "Assistant caregiver" defined

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 2. As used in this rule, "assistant caregiver" means a person eighteen (18) years of age or older who works in a child care home under the direct supervision of the caregiver.

■ 470 IAC 3-1.1-3 "Attendance" defined

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 3. As used in this rule, "attendance" means the total number of children present at any one (1) time at the child care home.

■ 470 IAC 3-1.1-4 "Caregiver" defined

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 4. As used in this rule, "caregiver" means a person eighteen (18) years of age or older who is responsible for the direct care, protection, and supervision of children in a child care home. The caregiver supervises assistant, student assistant, and volunteer caregivers.

■ 470 IAC 3-1.1-4.5 "CDFR" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 4.5. As used in this rule, "CDFR" means the central office of the Indiana division of family resources.

■ 470 IAC 3-1.1-6 "Child care" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 6. As used in this rule, "child care" means a service for families on behalf of children and their parents which is designed to supplement daily parental care.

■ 470 IAC 3-1.1-7 "Child care home" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 7. (a) As used in this rule, "child care home" means a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider:
(1) while unattended by a parent, legal guardian, or custodian;
(2) for regular compensation; and
(3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.
The term does not include a child care center.
(b) The term includes the following:
(1) A Class I child care home.
(2) A Class II child care home.

♦ Intent:

To provide a clear definition of child care home. This type of child care program is intended to be operated within a residential structure. This type of child care is non-institutional; the children are cared for less than 24 hours a day. The following child care arrangements are not defined as a child care home:

- a child care setting with five or fewer unrelated children in care
- a child care setting where all of the children are related to the provider as her or his parent, stepparent, guardian, legal custodian, or other relative
- a child care setting which operates less than 4 hours in any 24 hour day
- **Effective 7/1/07, a change was made to definition in IC 12-17.2. Any child who is at least fourteen (14) years of age and does not require child care at any time is not included.**

○ Assessment Method:

Residential structure

- Review application for a description of the home. At the initial visit, determine if the structure for which the application has been made is a residential structure. A residential structure is one which is currently, or could be, a home. An office, store or other structure built and designed for commercial purpose is not a home. If licensing staff is unsure whether or not the structure is a residence, a statement from a design professional is required.

Hours of operation

- Review application for information regarding the service to be provided. At the initial visit, interview applicant regarding the hours of operation.

Number of children in care

- Review application to ensure the proposed capacity of home meets the definition. If visiting a home to investigate unlicensed care, the children should be observed and counted to determine need for licensure.

Relative children

- Operators of possible unlicensed home should be interviewed and ask to clarify his or her relationship to every child observed in the home. Each child's name and his or her relationship to the operator shall be recorded. This information should form the basis of determining whether or not licensing is required.

▲ Threshold of Compliance:

Residential structure

- If the structure is not residential, a child care home license shall not be issued. The applicant should be advised to apply for a center or ministry license.

Hours of operation

- If the child care home operates less than four hours per day, the home is not required to be licensed. The home may be licensed should the owner desire.

Number of children in care

- All children in the home at the time of a visit should be counted. That number will be used to determine compliance.

Relative children

- Initially, the statements of the operator regarding children's relationship to him or her will be accepted. Subsequently, if the relationship of the children to the operator remains in question, written statements from the children's parents explaining the relationship to the provider should be used to determine compliance.

■ 470 IAC 3-1.1-7.1 "Child to staff ratio" defined

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 7.1. As used in this rule, "child to staff ratio" means the maximum number of children permitted per direct child care provider.

■ 470 IAC 3-1.1-7.2 "Class I child care home" defined

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 7.2. (a) As used in this rule, "Class I child care home" means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least grade one (1). The addition of three (3) school aged children may not occur during a break in the school year that exceeds four (4) weeks.
(b) A child:

(1) for whom a provider of care is a parent, stepparent, guardian, custodian, or other relative; and
(2) who is at least seven (7) years of age; shall not be counted in determining whether the child care home is within the limit set forth in subsection

♦ Intent:

Effective 7/1/07, a change was made to definition in IC 12-7.2. Any child who is at least fourteen (14) years of age and does not require child care at any time is not included.

■ 470 IAC 3-1.1-7.3 "COFC" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 7.3. As used in this rule, "COFC" means the county office of family and children in the county in which the child care home is located

■ 470 IAC 3-1.1-7.4 "Design professional" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 7.4. As used in this rule, "design professional" means:
(1) an architect;
(2) an engineer; or
(3) other professional; who is approved to file building plans and is qualified to determine if a structure meets the definition of a residential structure.

■ 470 IAC 3-1.1-8 "Direct child care provider" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 8. As used in this rule, "direct child care provider" means any individual who provides child care services to children.
This term includes the following:
(1) Licensee, when acting as caregiver.
(2) Caregiver, assistant caregivers, and student assistants.
(3) A volunteer.

■ 470 IAC 3-1.1-9 "Discipline" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 9. As used in this rule, "discipline" means training which corrects inappropriate behavior.

■ 470 IAC 3-1.1-10 "Infant" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 10. As used in this rule, "infant" means a child from birth to twelve (12) months of age.

■ 470 IAC 3-1.1-11 "License" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 11. As used in this rule, "license" means a document issued by the CDFR authorizing the operation of a child care home at a specific location for a specific duration and specifying the number of children for whom child care services may be provided.

■ 470 IAC 3-1.1-12 "Licensee" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 12. As used in this rule, "licensee" means an individual or corporation who is licensed to operate a child care home. A licensee may be licensed to operate more than one (1) child care home. The licensee may be the caregiver for only one (1) child care home at a time.

■ 470 IAC 3-1.1-12.5 "Probationary license" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 12.5. (a) As used in this rule, "probationary license" means a document issued to a child care home licensee who is temporarily unable to comply with this rule. The CDFR may grant a probationary license if:
(1) the noncompliance does not present an immediate threat to the health and well-being of the children;
(2) the licensee files a plan with the COFC to correct the areas of noncompliance within the probationary period; and
(3) the COFC approves the plan.
(b) The COFC shall act upon a plan of correction within thirty (30) days of receipt.
(c) A probationary license is valid for not more than six (6) months. The CDFR may extend a probationary license for one (1) additional period of six (6) months.
(d) An existing license is invalidated when a probationary license is issued.
(e) Upon receipt of a probationary license, the licensee shall return to the COFC the previously issued license.
(f) At the expiration of the probationary license, the CDFR shall:
(1) reinstate the original license to the end of the original term of the license;
(2) issue a new license; or
(3) revoke the license.

■ 470 IAC 3-1.1-13 "Protected outdoor play area" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 13. As used in this rule, "protected outdoor play area" means an area that is safely enclosed by either a fence or natural boundaries.

■ 470 IAC 3-1.1-14 "Provisional license" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 14. As used in this rule, "provisional license" means a document issued to a child care home licensee whose services are needed but who is not able to demonstrate compliance with a rule because the child care home is not in full operation. A provisional

license may be issued for a period not to exceed twelve (12) months and is subject to review every three (3) months.

■ 470 IAC 3-1.1-15 “Relatives” defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 15. As used in this rule, “relatives” means a relationship to an individual who is less than eighteen (18) years of age by marriage, blood, or adoption, including parents, grandparents, brothers, sisters, stepparents, stepgrandparents, stepsisters, stepbrothers, uncles, aunts, and first cousins.

■ 470 IAC 3-1.1-16 “Residential structure” defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 16. (a) As used in this rule, “residential structure” means a dwelling unit as that term is defined in 675 IAC 14-4 It may be the applicant's or licensee's own residence.
(b) If the applicant, or any person, does not presently physically reside in the structure, the applicant or licensee shall provide documentation by a design professional that the structure qualifies as a residential structure before a license for a child care home may be issued.
(c) Licensed child care homes that hold a regular license with the CDFR on the effective date of this rule are exempt from meeting the requirements of subsection (b).

■ 470 IAC 3-1.1-17 “Sanitize” defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 17. As used in this rule, “sanitize” means to destroy disease causing organisms by chemical or mechanical means, including, but not limited to, a chemical means of using one (1) teaspoon of bleach per gallon of water.

■ 470 IAC 3-1.1-19 “SFM” defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 19. As used in this rule, “SFM” means the office of the state fire marshal in the department of homeland security.

■ 470 IAC 3-1.1-20 “Student assistant” defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 20. As used in this rule, “student assistant” means an individual fourteen (14) years of age through seventeen (17) years of age who works in a child care home under the direct supervision of the caregiver.

■ 470 IAC 3-1.1-21 “Toddler” defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 21. As used in this rule, “toddler” means a child from twelve (12) months of age through twenty-four (24) months of age.

■ 470 IAC 3-1.1-22 "Variance" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 22. As used in this rule, "variance" means official permission granted by the CDFR to meet the intent of a specific rule in a way other than specified by the rule.

■ 470 IAC 3-1.1-22.5 "Volunteer" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 22.5. As used in this rule, "volunteer" means a direct child care provider who is not paid. If the volunteer is counted in the child to staff ratio, he or she must be fourteen (14) years of age or older and must meet the same requirements as paid personnel.

♦ Statute Change:

IC 12-7-2-199.2 defines volunteer as "refers to an individual who, without compensation provides services to a child care home, child care center, provider (as defined in section 149.1(4) of this chapter), or child care ministry for at least eight (8) hours per month."

■ 470 IAC 3-1.1-23 "Waiver" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 23. As used in this rule, "waiver" means official permission granted by the CDFR to be exempted from meeting a specific rule.

■ 470 IAC 3-1.1-24 Child care home maximum capacity
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 24. A maximum of fifteen (15) children who are less than eleven (11) years of age may be present in the Class I child care home at any one (1) time during any part of the day. This number includes the caregiver's own children, related children, unrelated children, and any part-time child care children present.

♦ Intent:
To provide for the safety and developmental needs of the children. This rule sets the maximum number of children for whom a home may provide care and clarifies that all children present in the home are counted as part of the capacity.

○ Assessment Method:
Count the children present in the home during the visit. Further information can be gathered by reviewing children's files and the hours that each is scheduled to attend.

▲ Threshold of Compliance:
The child care home shall not exceed its licensed capacity. This is excluding related children age 7 or above and children age 14 that do not require child care. **NOTE: The eleven years of age is not the threshold; Effective 7-1-07, new statue has defined a child in care as less than 14 years of age unless the child needs care.**

■ 470 IAC 3-1.1-26 Exemption from licensure
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 26. Licensing is not required for a child care home if the provider:
(1) does not receive regular compensation;
(2) cares only for children who are related to the provider;
(3) cares for less than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or
(4) operates to serve migrant children.

■ 470 IAC 3-1.1-27 Application for licensure
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 27. Application for a license to operate a child care home must be submitted by the applicant every two (2) years to the COFC on forms provided for that purpose by the CDFR.

■ 470 IAC 3-1.1-28 Initial licensure
Authority: IC 12-13-5-3
Affected: IC 5-2-12; IC 12-17.2
Sec. 28. (a) An applicant for a child care home license shall do the following:
(1) Attend an orientation training arranged or approved by the CDFR.
(2) Comply with application procedures required by this rule.
(3) Submit to the COFC a completed, signed application for a child care home license, including attachments required to demonstrate compliance with this rule.
(4) Submit a statement attesting that the applicant has not been:
(A) convicted of a felony or a misdemeanor relating to the health and safety of children; and
(B) charged with:
(i) a felony; or
(ii) a misdemeanor relating to the health and safety of children; during the pendency of the application.
(5) Within thirty (30) days of application, submit a written medical statement, including proof of a Mantoux tuberculin test or chest x-ray, signed by a physician or a certified nurse practitioner. (Refer to section 34 of this rule.)
(6) Submit a water quality test as required by section 47(b) of this rule.
(b) The COFC shall do the following:
(1) Conduct a criminal history check on the applicant and the applicant's spouse.
(2) Conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.
(3) Schedule a visit to the home during normal business hours and complete a child care home inspection checklist.
(4) Submit a written recommendation for child care home licensure to the CDFR based upon the home inspection checklist and the documents submitted by the applicant under subsection (a).
(5) The COFC shall return an incomplete application to applicant(s) with a notation as to omissions and without acting on the application.
(c) The CDFR shall approve or deny the application for child home care licensure within sixty (60) days of the date the application is received by the COFC.

♦ Intent:

The purpose of the application process is to provide opportunity to receive essential information from the applicant to allow CDFR to determine if the applicant and the residence requesting licensure can safeguard the health and safety of children.

○ Assessment Method:

The initial assessment of this rule is determined by review of documentation. The following documentation should be reviewed either prior to an on-site compliance visit or at the initial visit:

- Application
- Proof of orientation session attendance
- Attestation statement regarding convictions and arrest
- Medical statement
- If applicable, water test – documented annual water quality tests indicating the water is free of coliform bacteria and any other known contaminant that is above safe drinking water standards (good for 60 days prior to initial application received date)
- If applicable, statement from design professional
- If applicable, approval by the local fire inspector
- Verification of education (high school diploma or GED)

Following the document review, an on-site compliance visit shall be conducted prior to making a recommendation on the application.

▲ Threshold of Compliance:

The COFC shall thoroughly review the application and accompanying materials. The application is considered complete once the application, all of the attachments listed on the front of the application, and the results of the FBI fingerprints are received by the Bureau. The 60 days to process the completed application starts at that time. If the application is incomplete, written notification shall be made to the applicant of the incomplete or missing materials. Applicants will have 90 days to submit materials. If the materials are not received, the application is considered abandoned. The applicant should be noticed that their application is null and void due to being incomplete.

■ 470 IAC 3-1.1-28.5 Annual inspection

Authority: IC 12-13-5-3
Affected: IC 5-2-12; IC 12-17.2

Sec. 28.5. (a) The COFC will send a letter of request to the licensee for an information update which includes the name of the licensee, the name of the caregiver, the address and phone number of the child care home, and the license expiration date.
(b) The COFC shall make an annual visit to the home during normal business hours and will complete a limited inspection checklist.
(c) The caregiver shall maintain and make available verification of the following:
(1) Annual Mantoux tuberculin test or chest x-ray for direct child care providers and all family members over eighteen (18) years of age.
(2) Criminal history checks conducted for direct child care providers and family members and others over eighteen (18) years of age living in the home.

(3) Conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.
(4) Notification of the local fire department.
(5) Certification of current first aid training and annual CPR certification for direct child care providers.
(6) Water quality test as required by section 47(b) of this rule.

♦ Intent:

The annual inspection visit provides the opportunity to ensure that the child care home continues to meeting the licensing laws and rules.

○ Assessment Method:

An unannounced on-site inspection shall be conducted during the hours that the home operates to allow observation of the care of the children. The inspection checklist shall be administered. Documentation of the following shall be observed to ensure annual updates:

- Tuberculin screenings
- Criminal history checks
- Sex abuse registry checks
- Notification of local fire departments, a verbal statement from the licensee is acceptable
- First aid, CPR, and Universal Precautions training
- Water test – documented annual water quality tests indicating the water is free of coliform bacteria and any other known contaminant that is above safe drinking water standards

BCC shall check the files of all new children since the last inspection and all children under the age of 3. All staff files shall be checked.

■ 470 IAC 3-1.1-29 Relicensure
Authority: IC 12-13-5-3
Affected: IC 5-2-12; IC 12-17.2
Sec. 29. (a) The licensee shall submit to the COFC the following prior to relicensure:
(1) A new application completed and signed by the applicant.
(2) Written proof of an annual Mantoux tuberculin test or chest x-ray as required. (Refer to section 34 of this rule.)
(3) Attachments required to demonstrate compliance of this rule.
(4) A statement by the applicant attesting that the applicant has not been:
(A) convicted of a felony or a misdemeanor relating to the health and safety of children; and
(B) charged with:
(i) a felony; or
(ii) a misdemeanor relating to the health and safety of children;
during the pendency of the application.
(5) Water quality testing as required by section 47(b) of this rule.
(b) The COFC shall do the following:
(1) Conduct a criminal history check on the applicant and the applicant's spouse.

(2) Conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.
(3) Schedule a visit to the home during normal business hours and complete a child care home inspection checklist.
(4) Submit a written recommendation for child care home licensure to the CDFR based upon the completed home inspection checklist and the documents submitted by the applicant under subsection (a).
(c) The CDFR shall approve or deny the application for child care licensure within sixty (60) days of the date the application is received by COFC.

♦ Intent:

To provide opportunity to receive essential information from the licensee regarding the home and to allow CDFR to determine if the licensee continues to comply with the terms of the license

○ Assessment Method:

The assessment of this rule is conducted by review of documentation. The following documentation should be reviewed either prior to the on-site compliance visit or at the renewal visit:

- Application
- Attestation statement regarding convictions or arrests
- Proof of TB screening
- If applicable, water test – documented annual water quality tests indicating the water is free of coliform bacteria and any other known contaminant that is above safe drinking water standards
- If applicable, statement from design professional
- If applicable, approval by the local fire inspector
- CPR, 1st Aid, and Universal Precautions

BCC shall check all children's and staff files at the renewal visit. Following the document review, an announced, on-site compliance visit shall be conducted prior to making a recommendation on the application.

▲ Threshold of compliance:

The COFC shall thoroughly review the application and accompanying materials. An on-site compliance visit should also be completed. If the application is incomplete, the missing materials should be noted on the Plan of Improvement. The length of time to make corrections will be directly related to the risk to children

■ 470 IAC 3-1.1-29.5 License provisions
Authority: IC 12-13-5-3
Affected: IC 12-17.2-5-12
Sec. 29.5. (a) A child care home license is valid for two (2) years unless revoked, suspended by the CDFR, or voluntarily surrendered.
(b) The number of children cared for at any one (1) time shall not exceed the licensed capacity.

(c) The license is valid only for the name and location on the license and is not transferable.
(d) The license shall be publicly displayed in the home. (IC 12-17.2-5-12(c))
(e) Whenever an applicant applies for multiple licenses located within the same structure or building, a signed statement from a design professional must be submitted certifying that each child care home to be licensed meets the state building code requirements for the proposed use which apply to fire and safety issues. Certification must include any modifications required to comply with the state building code requirements for the multiple occupancies requested.
(f) If two (2) or more licensed child care homes are contiguously located within the same residential structure, each licensed facility must be separated by a two (2) hour fire resistive wall between each licensee.
(g) Whenever an applicant applies for multiple licenses located within the same structure or building, each home must meet the requirements of licensure as independent homes.

▲Threshold of Compliance:

Each location must be a stand-alone structure. This includes separate phone numbers for each location. A facility can choose to have the same business number at all locations but the home phone numbers must be unique to that location. The home phone number may be a cell phone as long as the cell phone is at the home during child care hours.

(h) Multiple child care homes under one (1) roof which utilize a private well will also be subject to the water testing requirements of 327 IAC 8 whenever twenty-five (25) or more people are present.
(i) Licensees who hold a regular or provisional license upon the effective date of this rule are exempted from meeting the requirements of subsections (f) and (g).

♦Intent:

To ensure the safety of children being cared for in multiple child care homes under the same roof. To help explain the requirements for a firewall as defined by State Fire and Building Codes.

○Assessment Method:

Review the notarized, completed Design Professional Statement for completion and consistency for what was observed in the home.

▲Threshold of Compliance:

There must be a 2 hour firewall between the licensed homes. The firewall must go 30 inches above the roof line or in lieu of going through the roof, there can be a 1 hour fire rating on the underside of the roof that extends 4 feet on both sides of the wall.

■ 470 IAC 3-1.1-30 Appeals
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 30. Any individual, firm, corporation, association, or political subdivision whose license has been denied, revoked, or suspended may appeal the action of the CDFR by filing a written request for hearing with the CDFR within thirty (30) days of receipt of an official notice from the CDFR of such denial, suspension, or revocation.

■ 470 IAC 3-1.1-31 Incomplete application
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 31. (a) An incomplete application shall be returned to the applicant with a notation as to omissions.
(b) The return of an incomplete application shall be without prejudice.

■ 470 IAC 3-1.1-32 Documentation requirements
Authority: IC 12-13-5-3
Affected: IC 5-2-12; IC 12-17.2
Sec. 32. (a) The licensee shall maintain the following documentation in the child care home for review by the COFC:
(1) Record of initial physical examination of direct child care providers documenting that they are free of communicable disease.
(2) Record of annual Mantoux tuberculin test or chest x-ray of direct child care provider which documents that they are free of tuberculosis.
(3) Documentation of criminal history checks on employees, volunteers, and all household members who are at least eighteen (18) years of age.
(4) Conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.

♦ Intent:
To protect the children in care from child care staff and household members who may present risk to due to their health or behavior.

○ Assessment Method:
Review staff files and records on household members to ensure that the documentation exists and is current. "Current" is defined in each specific rules which followed.

■ (5) Documentation of certification of a current first aid course, training in "Universal Precautions", and annual CPR certification by direct child care providers

♦ Intent:
To ensure that children's health is protected in case of an emergency or by exposure to potential contagious substances by having staff trained in administering basic first aid and CPR, and safely handling contagious substances.

○ Assessment Method:
Review staff files for documentation of certification in first aid, CPR and Universal Precautions.

▲ Threshold of Compliance:
First aid certification is valid for 3 years. CPR and Universal Precautions certification is valid for one year.

Contracted recreational or educational services
Policy: Approved therapists, such as First Steps therapists, are exempt from this rule.

Contracted recreational and educational enhancement services are supplemental services offer to families of children enrolled in the child care program. As such services are rendered for very limited durations and require the maintenance of additional documentation including a signed contract or agreement between each participating child's parent/guardian and the vendor; as well as documentation showing that the vendor is a legal outside entity, not a part of the child care program, recognized by the State of Indiana and properly insured in case of accident or injury to a child during participation in the supplemental activity.

The employees or volunteers of the vendor performing contracted recreational or educational enrichment services at the child care facility are not required to meet the staff or volunteer requirements.

- The child care facility must have on file the following documentation to verify that the company meets the definition of a contracted recreational or educational enhancement vendor :
  - An official certificate of existence with the Indiana Secretary of State.
    - Contracted recreational or educational services utilized by the child care provider must have an official certificate of existence with the Indiana Secretary of State.
  - Liability insurance
    - The contracted services must also carry liability insurance and the facility must keep a copy of this insurance on file.

The employees of the vendor may not also be employees or volunteers of the child care program. In the event that the staff members of the contracted vendor providing recreational or educational enhancement services are also employees or volunteers of the child care program, they must meet the staff or volunteer requirements, including national criminal history checks.

- Each child's record shall contain a written consent signed by the parent with the contracted service to participate in the activity.

■ (6) Enrollment form for each child receiving services which shall include the following:
(A) Child's name and date of birth.
(B) Name, address, home and work telephone numbers of the child's parent or legal guardian.
(C) The telephone number of a responsible adult in case of emergency.
(D) The names of adults authorized to pick the child up from the home.
(7) Release for emergency medical care for each child signed by the child's parent or legal guardian.

♦ Intent:
To ensure that basic information needed to safeguard children is available.

○ Assessment Method:
Review children's files to determine if all information is available on each child.

■ (8) Statement as described in section 37(b) of this rule regarding each child's general health within thirty (30) days of admission.

♦ Intent:
To provide basic information on each child's health to allow the child care staff to safeguard children based on their specific health needs.

○ Assessment Method:
Review children's files for health statements.

■ (9) Written permission from a parent or legal guardian that the child may participate in activities away from the child care home.
(10) Written statement of the licensee's discipline policy signed by the child's parent or legal guardian.

♦ Intent:
To ensure that the home and children's parents have clarified two important conditions regarding the care of the child - whether or not the child maybe off-site and the type of discipline used at the home.

○ Assessment Method:
Review children's files for documentation.

■ (11) Daily attendance records for children in the child care home which shall be maintained for at least two (2) years at the child care home site.

♦ Intent:
To document children's attendance on a daily basis and maintain those records for two years

○ Assessment Method:
Interview licensee to determine method for documenting attendance and then review records to determine if records are maintained for two years

■ (12) Annual vaccination records for animals subject to rabies.

♦ Intent:
To protect children in care from the risk of rabies

○ Assessment Method:
Observe or inquire whether there are animals in the home. Review documentation of each animal's rabies vaccination.

■ (13) Record of dates of quarterly fire drills which shall be maintained for at least two (2) years.
(14) Written plan of evacuation for the child care home in case of emergency.

♦ Intent:
To ensure that children and staff can efficiently exit the home in case of fire or other emergency.

○ Assessment Method:

Review the home's written evacuation plan and the fire drill records for the past two years to determine if fire drills have been held during every quarter.

▲ Threshold of Compliance:

It is possible that fire drills will be more than 3 months apart; the licensee may choose any time during the three month quarter to conduct the drill.

■ (b) Licensee shall keep records regarding each child as required by this rule. Upon request of the COFC, the licensee shall make these records available for review:
(1) to determine compliance with these rules; and
(2) when information is needed in a child protection investigation.
(c) The CDFR shall keep records regarding children and facts learned about children and their families confidential, and such records shall not be removed from the home except as needed in a negative licensing action or a child protective services (CPS) investigation.

♦ Intent:

To protect the privacy of children and their families. Privacy does not extend to matters related to licensing and child protections services. Both the licensing and child protection agencies are bound by confidentiality laws and polices.

○ Assessment Method:

Interview licensee regarding the confidentially of information about children and their families

▲ Threshold of Compliance:

Non-compliance with this rule is most likely to be found as the result of a complaint investigation.

■ 470 IAC 3-1.1-33 Staff requirements
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 33. (a) The licensee may be the caregiver for no more than one (1) child care home. If a licensee operates more than one (1) child care home, the licensee shall maintain or employ a caregiver in each additional child care home.
(b) The assistant caregiver shall work under the direct supervision of the caregiver. If an assistant caregiver under twenty-one (21) years of age is left in charge of a child care home, the parent must be notified in writing.
(c) Student assistants and volunteers shall work under the direct supervision of a caregiver and shall not be left in charge of a child care home.

♦ Intent:

To ensure that a staff person in the position of caregiver is present in the home and supervising the activities of the less qualified staff to ensure adequate care and protection of the children in care. Since one licensee may own and operate more than one child care home it can not be assumed that the licensee is also the caregiver. This rule establishes that the caregiver is responsible for the direct supervision of all others caring for the children.

This rule also recognizes that occasionally an assistant caregiver might be responsible for the operation of the home. This may occur when the caregiver is ill or on vacation. This rule requires that parents be notified if an assistant caregiver younger than twenty-one is going to be operating the home. The notification must be written.

A visitor/guest is a person who visits the child care home during child care hours for **no more** than 8 hours a month. They are at least fourteen (14) years of age and **not** a child in care, a staff member, volunteer, or a member of the household. A visitor/guest **shall never** be counted in ratios, left alone with a child, distract staff from providing supervision and being engaged with the children, and a known sex offender. If all conditions above are met, the person would be exempt from staff qualifications.

○ Assessment Method:

Observe the operation of the home during the visit to determine if caregiver is present. Interview the caregiver and review staff schedules to ascertain how the home is staffed. Review staff files to determine if the assistant caregiver(s) is younger than 21 in order to determine if parent notification is required. If a visitor/guest is present determine role in facility and observe to see if person meets the qualifications of a visitor/guest.

▲ Threshold of Compliance:

Parental notification of an assistant caregiver younger than 21 being in charge in the caregiver's absence does not have to be posted. A home is compliant if the notice to parents is found in the home's contract or policies.

■ 470 IAC 3-1.1-33.5 Staff orientation, training, and development

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 33.5. (a) Direct child care providers, including volunteers, shall receive training in fire prevention and safety procedures within one (1) week of starting employment or volunteer work.
(b) Direct child care providers, including volunteers, shall receive training in the following within thirty (30) days of starting employment or volunteer work:
(1) The child care home inspection checklist.
(2) Confidential treatment of personal information about children in care and their families.
(3) Procedures for preventing, detecting, and reporting suspected child abuse and neglect.
(4) Universal precautions.
(c) Direct child care providers shall complete a first aid course every three (3) years which includes training for the emergency treatment of poisoning, seizures, hemorrhaging, and choking. The course must also include training in artificial respiration. Training shall be completed within ninety (90) days of starting employment or volunteer work.
(d) At least one (1) direct child care provider shall be trained in pediatric cardiopulmonary resuscitation training annually and shall be on the premises at all times.

♦ Intent:

To ensure that children's basic health and protection needs are able to be met by all the staff in the home and that the privacy of the children and their families is protected. The most immediate training required is on fire evacuation; all staff must know how to evacuate the children if there is a fire or other emergency.

The other training reflects essential knowledge and skills that all individuals working with and responsibility for the care of children require, specifically:

- Training on the inspection checklist is training on the most important license rules for all staff to know and implement. The assumption is that staff trained in these rules will comply with these rules.
- It is necessary for parents and child care staff to share information related to the care of children. In the course of sharing that information confidential information regarding the families will come to the attention of the staff. Ensuring the confidentiality of that information is the responsibility of all staff.
- It is the responsibility of all staff to report child abuse and neglect. Staff must be trained on the identification and reporting of child abuse and neglect.
- In the course of caring for children, staff are likely to encounter blood and other body fluids. A variety of contagious diseases are found in body fluids. Therefore, staff must be trained in safely containing and cleaning up body fluids to reduce the likelihood of the spread of disease.
- First aid and pediatric cardiopulmonary resuscitation training are needed to ensure that staff are able to respond to life-threatening emergencies.

○ Assessment Method:

Review documentation of training and/ or interview staff to determine if training has been received. For first aid and CPR training documentation with a date is required. Staffing patterns should be reviewed to ensure that a CPR trained staff person is always present during the hours of operation.

▲ Threshold of Compliance:

Training in first aid and CPR require dates to allow determination of timeframes on the training. The other training also requires a date be recorded in order that attendance can be verified if needed.

■ 470 IAC 3-1.1-34 Medical requirements

Authority: IC 12-13-5-3
Affected: IC 12-17.2

Sec. 34. (a) Direct child care providers who work in the home more than three (3) times a month and all members of the household having direct contact with children receiving care shall have an initial physical examination by a physician or certified nurse practitioner indicating that they are free from communicable disease, have no physical or other condition which would endanger the health or welfare of children in care, and have an annual Mantoux tuberculin test or chest x-ray.

(b) The requirements stated in subsection (a) shall not be required for direct child care providers who present a signed statement to the COFC that their religious beliefs preclude compliance with the aforementioned medical requirements. The licensee shall provide written notice to the parents or legal guardians enrolling their children in the child

care home that a religious exemption statement has been filed with the COFC by the child care provider.
(c) The above requirements shall be met within thirty (30) days of application.

♦ Intent:

To ensure that the health and physical condition of the child care staff and household members does not present risk to children. The rule allows for religious beliefs of staff to be respected while protecting children by informing parents of potential risks.

○ Assessment Method:

Review staffing pattern to determine which staff work more than three times per month. Review the files of those staff for a complete physical examination or signed statement to the COFC regarding religious beliefs. If there is a religious beliefs statement, determine if parents were provided written notice.

▲ Threshold of Compliance:

Documentation of physicals is required within thirty days of applying for licensure. For staff hired after initial licensure, physicals are required within thirty days of beginning work. For providers that require a chest x-ray, an annual statement from a physician is required that states they are free of active disease and a date that the provider is required to take another chest x-ray.

■ 470 IAC 3-1.1-35 Reporting abuse, injury, illness, death, or emergency event
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 35. (a) The caregiver shall report immediately suspected physical abuse, sexual abuse, child neglect, or child exploitation as required by IC 31-6-11-3 *[IC 31-6 was repealed by P.L.268-1995, SECTION 17, effective July 1, 1995.]* to child protection services (CPS) or local law enforcement.
(b) A substantiated case of abuse or neglect in a child care home constitutes full and sufficient grounds for denial or revocation of the child care home license.

♦ Intent:

To establish that the caregiver is a mandatory reporter of child abuse and neglect and to establish that child abuse or neglect that occurs in a child care home is grounds for the denial or revocation of licensure.

■ 470 IAC 3-1.1-36.5 Child to staff ratio
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 36.5. (a) The maximum capacity in a Class I child care home shall be twelve (12) children at any one (1) time plus three (3) children during the school year who are enrolled in at least Grade 1. The addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks.

♦ Intent:

To provide for the safety and developmental needs of children this rule set the maximum number of children that maybe in the home at any point in time.

○ Assessment Method:

Count the children in care at the visit. Checking enrollment records and children's schedules will also provide information on the capacity. Children over seven years but less than 14 years must be counted unless the child is the licensee's child, step-child, grandchild, niece or nephew, brother, sister, foster child, or first cousin. Children over 14 that require child care should be counted. All the children of the other child care staff are counted just as all other unrelated children.

▲ Threshold of Compliance:

Over capacity and non-compliance with child/staff ratios are always cited. Repeat citations may result in probation or revocation of a license.

■ (b) Children shall not be left unattended and shall be supervised at all times.

♦ Intent:

To ensure the safety and well-being of children at all times.

○ Assessment Method:

Observe supervision practice used in the home and the outside play area. Children must be in the sight or hearing of the child care staff at all times. Children at bus stops must be observed until they get on the bus and until they get to the child care home from the bus stop

▲ Threshold of Compliance:

The following provides further clarification:

- Sound monitors alone are not acceptable a means of supervision.
- Children must be on the same floor of the home as the caregiver(s).
- During mealtimes, children shall remain in the caregiver's line of sight.
- With written parental permission, a child in grade one or older may participate in activities outside the direct supervision of a caregiver if the child is on the premise and the caregiver physically checks on the child every 15 minutes.
- If a child is able to toilet independently, she or he may do so without caregiver supervision.
- Children may sleep outside of the caregiver's direct line of vision providing that the doors to the rooms where the children are sleeping remain open and the caregiver visually monitors and checks the children's breathing periodically; children younger than 15 months must be checked every 15 minutes. NOTE: "Open" means the door is completely open not ajar, not ½ way open, etc. Provider must be able to see the rise and fall of the child's chest.
- The licensee's own children may sleep in their own bedrooms outside the observation of the caregiver.
- Regardless of the age of the child, a child's head or face shall never be covered by a blanket or any other covering. A child cannot be supervised adequately if you are unable to see their face and head.
- Provider may stand at the door of the home and watch children until they get on the bus and watch them walking home from the bus drop off.

Children must be observed at all times. The other children in the home must be supervised according to the above criteria.

- Providers may not sleep during the time they are counted in child/staff ratios.

■ (c) Only direct child care providers shall be counted in determining the child to staff ratio.

♦ Intent:

To ensure the safety and well-being of the children by ensuring that the caregivers are directly engaged with the care of the children

○ Assessment Method:

Observe the staff and the children. Staff counted in the ratio should be engaged in the care of the children.

▲ Threshold of Compliance:

The caregiver(s) may be engaged in activities such as meal preparation or cleaning up after children's activities. A caregiver should not be engaged with activities unrelated to the care of the children such as mowing the grass or scrubbing the floor. A caregiver engaged in those types of activities may not be counted in the child to staff ratio. A caregiver outside the home while the children are inside the home may not be counted in child/staff ratios.

■ (d) The ratio shall include all unrelated children present in the home.

♦ Intent:

To clarify that all children present in the home are to be included in the child to staff ratio. The only exception are the licensee's own or related children's seven years or older. All unrelated children 14 years of age and older are not counted unless they require child care.

○ Assessment Method:

Interview caregiver to determine the relationship of the children over seven years to the licensee and determine whether the unrelated children age 14 and older require child care.

▲ Threshold of Compliance:

Children over seven years but less than 14 years must be counted unless the child is the licensee's child, step-child, grandchild, niece or nephew, brother, sister, foster child, or first cousin. Children over 14 that require child care should be counted. All the children of the other child care staff are counted just as all other unrelated children.

■ (e) The following child to staff ratios apply:

Type of Home Child:Staff Ratio
Infant/Toddler Mixed
(Birth–24 months) 6:1*

*Two (2) of the six (6) children must be at least sixteen (16) months of age and walking. Otherwise the ratio is 4:1.
Mixed Age Groups
(Birth–6 years) 10:1*
*No more than three (3) of the ten (10) children may be under sixteen (16) months of age and must be walking.
3 years and older
(3–10 years) 12:1

♦ Intent:

To provide for the safety and developmental needs of the children. This rule recognizes that ratios need to be lower for younger children and assumes that children younger than 24 months place special demands on a caregiver due to their need for individual care and attention.

○ Assessment Method:

Observe the number of children and caregiver(s). Determine the ages of the children by interview or review of files.

▲ Threshold of Compliance:

- The ratio for children younger than 24 months is 4 children to one caregiver. Two additional children maybe included if they are both 16 months old and walking.
- The ratio for a group of children from birth through six years is 10 children to one caregiver provided that no more than three of the 10 are under 16 months of age and walking.
- The ratio for a group of children age three years and older is 12 children to one caregiver. No children under 3 years are present.

■ 470 IAC 3-1.1-37 Requirements for admission to the home
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 37. (a) Prior to acceptance of children, the caregiver shall have the parent or legal guardian:
(1) complete and sign an enrollment form for the child;
(2) complete and sign a release for emergency medical care for the child;
(3) sign a copy of the licensee's written discipline policy; and
(4) see all areas of the home and property to be used for child care.

♦ Intent:

To ensure that basic information needed to safeguard children is available and to provide the parents the opportunity to observe the home and premises.

○ Assessment Method:

Review children's files to determine if all information is available on each child. Interview the licensee to determine if the parents have the opportunity to view the home.

■ (b) Within thirty (30) days of a child's admission, the licensee shall receive a written statement from the child's parent or legal guardian signed by a physician or a certified nurse practitioner which states the following:
(1) That the child can participate in the child care home's activities.
(2) That the child has had immunizations which are up-to-date for the child's age.
(3) Whether the child has allergies or any chronic health conditions.

♦ Intent:
To provide basic information on each child's health to allow the child care staff to safeguard children based on their specific health needs.

○ Assessment Method:
Review children's files for health statements.

■ (c) Caregiver shall inform the parent or legal guardian of their right to request in writing an exemption of the medical requirements as required by this section based upon their religious beliefs. Nothing in this subsection precludes the child care home from using emergency measures to treat such a child by first aid techniques or to exclude the child where control of a contagious disease may be necessary.
(d) A child shall not be required to comply with subsection (b)(2) and (b)(3) when the parent or legal guardian has provided a signed statement regarding religious exemptions to the care home licensee.

♦ Intent:
To respect the religious beliefs of the children and their parents.

○ Assessment Method:
Interview licensee or review the home's policies or contract to determine if the information regarding religious exemption is shared with parents.

■ (e) Neither licensee nor caregiver shall discriminate relative to the admission of children on the basis of race, color, religion, sex, national origin, ancestry, or handicap.

♦ Intent:
To prevent discriminatory situations in child care and to assure compliance with federal and state law. The intent is to prevent discrimination of the basis of status: if a family fails to meet its financial obligations to the licensee, the licensee would have the right to terminate the child's care.

○ Assessment Method:
The licensee will sign the application which includes the non-discrimination clause.

▲ Threshold of Compliance:
Failure to accept or retain a child based on the listed criteria would result in a finding of noncompliance.

■ (f) Caregiver shall inform the parent or legal guardian that unscheduled visits by a custodial parent or guardian shall be permitted at any time the child care home is in operation.

♦ Intent:

To allow parents to protect their own children by observing what kind of care is being provided. Parents must be permitted to visit unannounced during the hours of operation. To allow smooth functioning of the home, the licensee is permitted to specify whether parents knock and which doors they should use when visiting.

○ Assessment Method:

Review the written policies or contract or interview the caregiver about parental visitation policies.

■ 470 IAC 3-1.1-38 Activities for healthy development

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 38. (a) The caregiver shall provide activities according to the age, developmental needs, interests, and number of children in care while including both active and quiet play which may consist of safe, age-appropriate toys, games, and equipment for both indoor and outdoor play.

♦ Intent:

To ensure positive development of children in care, with balanced attention to all areas of development. Activities need to be appropriate to each child's developmental stage. Toys, games, and indoor and outdoor play equipment must be safe, appropriate to the children's developmental stages and in sufficient quantity in order that there is opportunity for children to make choices. Trampolines shall be inaccessible to child care children at all times.

○ Assessment Method:

Observe the children playing to determine if the activities planned by the caregiver are developmentally appropriate. Observe the toys, games and equipment both inside and outside to determine if they are safe, in good repair, and developmentally appropriate based on the ages of the children in care. Check play area to see if a trampoline is present in the play area. If so, ask provider if it is used by the child care children. Observe children in play area to see if they get on the trampoline.

■ (b) Opportunity shall be provided for children to play outdoors daily except when:
(1) the severity of the weather poses a safety or health hazard; or
(2) when there is a health related reason documented by a parent, legal guardian, or physician for a child to remain indoors.

♦ Intent:

To meet the developmental needs of children for vigorous outdoor play. (Caring for Our Children) Children shall play outdoors daily when weather and air quality conditions do not pose a significant health risk. Outdoor play for infants may include riding in a carriage or stroller; however, infants shall be offered opportunities for gross motor play outdoors, as well.

Weather that poses a significant health risk shall include wind chill at or below 25 degrees F and heat index as identified by the National Weather Service.

Air quality conditions that pose a significant health risk shall be identified by announcements from local health authorities or through ozone (smog) alerts. Such air quality conditions shall require that children remain indoors where air conditioners ventilate indoor air to the outdoors. Children with respiratory health problems such as asthma shall not play outdoors when local health authorities announce that the air quality is approaching unhealthy levels.

○ Assessment Method:

Observe to see if children play outside. Interview the caregiver to determine when and how often children are outside for play. Review the home's daily schedule for outside play.

■ 470 IAC 3-1.1-39 Swimming

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 39. (a) The caregiver shall be physically present at the swimming or wading pool to supervise when the children in care are swimming or wading.
(b) At least one (1) direct child care provider shall be available to supervise any children not swimming or wading in addition to staff requirements in section 36.5 of this rule.
(c) Child care providers shall empty portable wading pools immediately after use.
(d) All inground or nonportable above ground swimming pools accessible to children shall be in compliance with local zoning ordinances and surrounded by a fence secured with a locked gate to prevent children from entering the area unsupervised.

♦ Intent:

To prevent accidental drowning and illness or infections that result from poor sanitary practices. Swimming and wading pools are a frequent cause of childhood injuries and deaths. Constant, intensive supervision is necessary for children in the pool; therefore a caregiver can not also supervise children who are not in the pool. When not in use all pools must be absolutely inaccessible to the children. According to State Department of Health rules, wading pools without a filter or circulating water flow are not permitted in child care.

○ Assessment Method:

Observe to premise for pool and interview caregiver to determine if a wading or above ground pool is available to the children. Observe the pool for locked gate and fencing. The lock must be either a combination or key lock. If visiting home while pool is in use, closely observe the staffing and supervision. Automatic pool covers may be eligible for a variance to the fencing requirement. These requirements must be met even if the pool is empty.

▲ Threshold of Compliance:

If some of the children are in the pool and other children are outside the pool and only one staff person is present, the home is noncompliant. **There is one exception:** A caregiver may be in the fenced pool area alone with the children and remain outside of the pool while the children are in the pool as long as the provider is actively supervising the children (not laying in a lounge chair sunbathing) and all the children can either swim (can ask them to demonstrate) or have Coast Guard approved flotation devices on such as Puddle Jumpers. This does not include the blow up arm floats. Children located outside of the fenced pool area cannot be supervised by the caregiver in the pool area as long

as there are children in the pool area. Child/staff ratios must be maintained at all times. Caregiver cannot send children in house alone to use the bathroom nor can the caregiver leave the children in the pool alone. This is a violation of supervision.

■ 470 IAC 3-1.1-40 Transportation and activities away from the child care home
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 40. (a) Caregiver shall obtain written parental permission before taking a child away from the child care home for field trips or any other activities.
(b) Children may be transported by an individual eighteen (18) years of age or older having a valid driver's license and driving a properly licensed and insured vehicle in safe condition.
(c) Children shall be transported in safety restraint equipment that is in compliance with state laws.
(d) Direct child care providers shall not leave children unattended in a vehicle.

♦ Intent:
To protect children who are transported while in the care of the home and to ensure parents consent to their child leaving the home's premises.

○ Assessment Method:
Observe or interview the caregiver to determine if children are transported or leave the premises. If they are transported or otherwise leave the premises, review the children's files to observe written permission from parents. Observe the driver's licenses and insurance proof for all individuals that transport children. If possible, observe the vehicle(s) used to transport children; observe for seat belts and car seats. A field trip is when a child or group of children is taken outside of the child care property lines.

▲ Threshold of Compliance:
A finding that a child is left unattended in a vehicle is made by direct observation or as the result of a complaint investigation.

■ 470 IAC 3-1.1-41 Discipline
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 41. (a) The licensee shall provide the parent or legal guardian with a written copy of the discipline policy of the child care home.
(b) The following behavior shall be prohibited by all direct child care providers:
(1) Cruel, harsh, or unusual punishment.
(2) Withdrawal or the threat of withdrawal of scheduled meals or snacks, rest, or bathroom opportunities.

♦ Intent:
To prevent mistreatment of children by the caregiver and to allow caregiver to guide the children to develop self-control and orderly conduct in relationships with peers and adults. Prohibiting or threatening to prohibit a child from eating a meal or snack, or depriving a child from using the bathroom or resting is not permitted.

To ensure that parents are aware of the discipline policy of the home in order that they can make an informed decision about the care they select for their child.

○ Assessment Method:

Observe the interaction between the caregiver(s) and the children during the visit to observe the discipline methods used at the home. Review the home's written discipline policy to determine if it is in compliance with this rule. Review the children's files for documentation that the policy has been provided to their families. Observe the length of time a child spends in time out.

▲ Threshold of Compliance:

Observation of an adult cursing at a child, speaking to a child in a threatening manner, or removing food from a child would be evidence of non-compliance. Children being made to "sit on the wall' or kneel on beans or stones are further examples of unacceptable discipline practices. In addition, observation of a caregiver using a discipline method inconsistent with the home's policy is grounds for citing non-compliance. Time out shall not be longer than one minute per each year of the child's age (for example: four minutes for a four year old).

■ 470 IAC 3-1.1-42 Nutrition

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 42. (a) Appropriately timed, nutritious meals and snacks shall be made available in such quantity as to meet the needs of each child.
(b) Drinking water shall be available at all times.

♦ Intent:

To ensure that children's nutritional needs are met while they are in the care of the home.

○ Assessment Method:

Observe a meal or snack being served to ensure the children's nutritional needs are met. Observe to determine if drinking water is readily available. Review menus to determine the timing and content of the children's meals and snacks. If any children have food allergies listed on their physical forms, interview the caregiver to determine how the child's needs are accommodated.

■ 470 IAC 3-1.1-43 Sleep and rest

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 43. (a) A separate bed, cot, mat, or sleeping bag shall be provided for each child.
(b) A period for sleep, rest, or quiet time shall be provided during the day for children under five (5) years of age consistent with the needs of the child and in accordance with the wishes of the parent.

♦ Intent:

To ensure that children nap or rest during the day on appropriate equipment. Children younger than five years generally require a nap during the day. The napping equipment, a crib, mat, cot or sleeping bag, should be assigned to only one child or sanitized daily to prevent the spread of illness. It should also be large enough for the child's entire body to rest on. Napping schedules shall be

discussed regularly with parents. The caregiver and the parents shall agree on a napping schedule.

○ Assessment Method:

Observe the children's napping equipment for appropriateness and cleanliness. Interview the caregiver to determine napping and rest schedule, and how parents' wishes are accommodated. Regardless of the age of the child, a child's head or face shall never be covered by a blanket or any other covering.

■ **470 IAC 3-1.1-44 Health**

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 44. (a) The child care home must keep a Red Cross First Aid Manual or its equivalent in the child care home.
(b) The caregiver must maintain a first aid kit (as recommended by the American Red Cross First Aid Manual or its equivalent), including, but not limited to, syrup of ipecac with current date, in the child care home.

♦ Intent:

To ensure that first aid supplies and instructions for dealing with emergencies are always available. It is intended that these supplies are renewed to keep them in good usable condition and kept in a convenient place accessible only to the caregiver.

○ Assessment Method:

Observe the first aid kit to determine if it is complete. Observe to ensure that the kit includes a first aid manual. Syrup of Ipecac is not recommended.

■ (c) Child care providers shall see that children's hands are washed at a sink with soap and warm running water before meals and snacks and after toilet use. Direct child care providers shall not permit children to use a common washcloth or towel.

♦ Intent:

To reduce the spread of illness. Hand washing is the most effective way to reduce the spread of illness in child care. Use of a shared towel or washcloth reduces the effectiveness of hand washing by providing the opportunity to share germs on the towel or washcloth.

○ Assessment Method:

Observe the bathroom and kitchen for soap and individual towels or paper towels. Running water, soap, and towels shall be close enough for the children to reach easily and without adult assistance. Check to determine if warm water is available at all sinks. Observe the children and caregiver to determine if hand washing is done routinely.

Ensure the proper hand washing method is followed:

1. Wet hands.
2. Apply soap.
3. Cleans hands/wrists by rubbing for a minimum of 20 seconds.
4. Rinse under running water.

5. Dry hands with clean disposable towel or wall-mounted drying device.

▲ Threshold of Compliance:
Electric hand dryers may be used in lieu of towels. Hand sanitizers may not be used in lieu of washing hands with soap and running water.

■ (d) If a child is ill, direct child care providers shall:
(1) care for the child in an area separate from the other children;
(2) notify the child's parent or legal guardian; and
(3) monitor the child until the parent or legal guardian arrives.

♦ Intent:
To reduce the children's exposure to an ill child by separating and removing the ill child from the home.

○ Assessment Method:
Interview the caregiver to determine the home's procedures regarding ill children.

■ (e) The caregiver shall keep the phone numbers of the ambulance, police, fire department, poison control center, and nearest hospital by the telephone.

♦ Intent:
To ensure that emergency assistance can be quickly accessed.

○ Assessment Method:
Observe the telephone area for the required phone numbers.

■ (f) Child care providers shall give or apply medication only with prior written permission from a parent or legal guardian, and only with clear, written instructions as to the dosage, time, and reason medication is to be given. Medication must be labeled with the child's name, physician's name, and pharmacy. Over-the-counter medication must also be labeled with the child's name. The caregiver shall keep a record of the date, time, and dosage of medication given.

♦ Intent:
To ensure that all medications given to or apply to a child are properly administered according to the parents' and physician's directions. Medication shall be in its original container to allow the caregiver to read and follow the directions, and be aware of any side effects. The date, time and dosage given to the child shall be recorded and shared with the parents.

○ Assessment Method:
Interview the caregiver to determine if medications are given in the home. Observe the medication documentation.

■ (g) Pets must present no danger to children in the child care setting and are the sole responsibility of the child care home licensee.
(h) Direct child care providers shall restrict all animals from food areas during preparation and serving of food.

♦ Intent:
To protect children from being harmed by a pet in the home and to ensure that the food areas of the home are sanitary while food is served

○ Assessment Method:
Observe and interview to determine if there are pets in the home. Interview and observe, if possible, to determine if the pet(s) presents risk to the children.

▲ Threshold of Compliance:
Observation of a pet in the kitchen during food preparation or while children are eating is non-compliant.

■ **470 IAC 3-1.1-45 General environment**
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 45. (a) The licensee shall ensure that no conditions exist in the home or on the grounds where child care services are provided that would endanger the health, safety, or welfare of the children.

♦ Intent:
To ensure that the home and the premises do not present risk to the children.

○ Assessment Method:
Observe the home and grounds for hazards. Ensure that children are protected from any hazards in the fenced play area.

▲ Threshold of Compliance:
Loose handrails, torn screens, open window wells, fan blades that are accessible, radiators that get hot to the touch, and televisions or similar heavy items on the top of a shelf or rack that a child could pull over are all examples of hazards that are non-compliant. Hot water should be between 100°F and 120°F. Any temperature over 120 degrees should be considered a violation.

■ (b) The licensee shall identify areas in the home that will be used for child care. The child care areas shall contain adequate space for child play and rest for the number of children in care.

♦ Intent:
To ensure that the children have room to move freely, to play and rest as well as to ensure that no conditions exist in other areas that are accessible to children that may be a risk to children's safety.

○ Assessment Method:
Provider shall sign Child Care Area form identifying designated child care areas and areas that are inaccessible to children and not used for child care. Provider shall report any changes to BCC. Observe the space designated for child care. Ensure that the space allows for children to move and play without interfering with the activities of the other children. Consultants will *inspect* all designated child care areas to determine overall regulation compliance. Consultants will *view* areas that are accessible to children but not designated as child care areas. *Viewed* means that inspector is visually observing the area for imminent, easily

accessible danger to children. This may include, but is not limited to: medications, chemicals, sharp objects, choking hazards, ammunition/firearms.

Any area that is inaccessible to children as determined by using the reasonable person standard will not be viewed or inspected unless:

- a complaint has been received regarding that area,
- children are heard within that area, or
- there is reason to believe that children are in the area, or
- there is reason to believe that something dangerous and harmful to children is in the area.

Areas that are inaccessible may still need to be entered in cases where a regulatory item is located– ex. Locked firearms/ammunition, required smoke detectors, required fire extinguisher, etc.

Inaccessible means that something is in place to physically prohibit a child from opening and entering the area. Gates that can be climbed over by young children will not be considered as ensuring an area is inaccessible to children. Any area behind a gate that can be climbed over by children will be inspected. For example, if there is a gate placed at the bottom of the stairs, but a child can climb over it, the inspector will need to go beyond the gate to ensure the other areas beyond the gate are not accessible.

■ (c) The licensee shall maintain a working telephone in the child care home and shall inform the COFC of any change in telephone number.

♦ Intent:

To permit access to assistance in an emergency, to allow parents to contact the home while their children are in care, and to allow COFC to contact the home.

○ Assessment Method:

Observe home to determine if there is a working telephone.

▲ Threshold of Compliance:

A mobile phone is acceptable as long as it is charged and has good reception.

■ (d) The licensee shall provide a protected outdoor play area that is safely enclosed by either a fence or natural boundaries for children in care.

♦ Intent:

To prevent the children from access to streets and other hazards.

○ Assessment Method:

Observe the outside play area. Fencing or another form of barrier such as a hedge or other plants that restrains the children, and that they cannot climb, must be provided around the play area. Fences should be a minimum of four (4) feet high. When children are outside playing or doing activities, they shall remain in the fenced in play area for their protection. Children are not allowed to play in an

area of the yard, on the porch, on the sidewalk, driveway, etc that is not fenced in.

■ (e) The licensee shall ensure that the child care home is equipped with heat, light, and ventilation for normal occupancy.

♦ Intent:
To ensure the health and comfort of the children in care.

○ Assessment Method:
Observe the play and sleep areas of the home. Lighting should allow for easy observation of the children including during sleep and rest time. The air should be comfortable to breathe and free from noxious odors.

■ (f) The licensee shall ensure that the kitchen is equipped with:
(1) a stove and oven or microwave;
(2) a refrigerator; and
(3) a sink with hot and cold running water; in operating condition sufficient to accommodate the food requirements of the number of children in care.

♦ Intent:
To ensure that there is adequate equipment for safe food preparation.

○ Assessment Method:
Observe the kitchen to determine if required equipment is present. Check the sink to determine if hot and cold water is available. Toilets and sinks must be hard, plumbed fixtures.

■ 470 IAC 3-1.1-46 Fire prevention
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 46. (a) All child care homes shall have two (2) remotely located means of egress.
(b) A basement area in which child care services are provided shall have a direct exit at ground level not involving stairs or ramps. The interior staircase serving the first floor is acceptable as the second exit for a basement in which child care services are provided. An example of an allowable exit is a level area directly outside the exterior door that is at least thirty-two (32) square feet. This area may be a porch, deck, or stairway landing. Bi-level and tri-level homes which are licensed and hold a regular license with the division of family and children, as of the effective date of this section, are exempt.

♦ Intent:
To ensure that the children can be evacuated from the home if there is a fire. Children younger than grade 1 can not be expected to evacuate themselves in case of fire. The caregiver should expect to transport the children from the home and should be able to evacuate all of the children in one trip from the house. The exits from the home must allow for quick and easy exit by the caregiver with the children. The direct exits to the outside shall be a distance apart to allow more than one route of escape.

○ Assessment Method:

Observe the exits from the home to determine if the rule is met. Measure the area outside the exit to determine if it is 32 square feet in area. Bi and tri-level homes that were licensed prior to July 3, 1996 are exempt from this rule. If a home that was exempted closes and re-opens, it continues to have exempt status. To determine if the lower level is a basement, the space must be 6' or more below grade for more than 50% of its perimeter. The way to calculate grade is it's the level of the ground that's finished (e.g. the surface you would expect to step out onto from a door). In bi-levels and tri-levels whose lower level does not meet the definition of a basement, the lower levels are considered the first floor.

■ (c) Each room of the home where child care services are provided is required to have at least two (2) means of escape (this may include one (1) window and one (1) door).

♦ Intent:

To protect the children in care by ensuring that each room used for child care has two means of escape in case fire blocks one of the escape routes.

○ Assessment Method:

Observe all of the child care rooms for two means of escape. If one of the means of escape is a window, ensure that the window opens wide enough for an adult to pass through it. The window may not be covered with plastic, bars, or any other item that would block passage. This rule does not apply to the bathroom which may not have a window. It is assumed that the children's time in bathroom will be limited.

■ (d) All approved exit doors shall be operable from the inside without the use of a key or any special knowledge.
(e) A sliding glass door shall be acceptable as a direct exit provided that it is unobstructed, operable, and maintained in good working condition. If a screen door is attached, it shall meet the same criteria as the sliding door.

♦ Intent:

To protect children by ensuring that escape from a fire will not be impeded by exit that is difficult or takes time to open.

○ Assessment Method:

Observe exit doors to determine that they do not require a key or other special process to open. Observe sliding glass doors to determine that they are easy to unlock and open.

▲ Threshold of Compliance:

Doors may be locked to protect the children, but the doors shall unlock quickly and easily, i.e. opening the gate in one motion. If a deadbolt lock is present it may not be locked during the hours of operation. If it is a double key deadbolt, the key must be in or near the lock. A deadbolt lock may not be engaged during the hour of operation.

■ (f) A garage or any other area where hazardous materials are stored shall not be considered an approved exit.

♦ Intent:

To protect children by ensuring that they do not travel through a dangerous area as they escape the home. Hazardous materials present a risk by children having access to them and due to the flammable and explosive risk posed by some hazardous materials.

○ Assessment Method:

Observe exits and determine if one of the exits is through the garage or other similar area. If that is the case, observe the area and determine if any hazardous materials such as gasoline, lawn chemicals, or dangerous cleaning products are present.

▲ Threshold of Compliance:

An exit through a garage is acceptable if no hazardous materials are stored in the garage, such as cars, lawn mowers, chemicals, garden tools. The overhead garage door is not an approved exit. There would need to be another approved exit door in the garage.

■ (g) Exits shall not be blocked in the child care home.

♦ Intent:

To protect children by ensuring that escape from a fire will not be impeded by an exit that is blocked.

○ Assessment Method:

Observe exits to determine if there is a clear path to the exit.

▲ Threshold of Compliance:

A piece of furniture in front of a door or gate is non-compliant. Baby gate that is not hinged or does not swing open easily and quickly is also non-compliance.

■ (h) Portable, unvented oil-burning heating appliances shall not be used unless the heater complies with 675 IAC 22.
(i) Electric or gas heaters and solid fuel-burning appliances shall not be located in such a manner that they block escape in case of fire arising from a malfunctioning stove, heater, or appliance.
(j) When a fireplace serves as the primary source of heat, licensee shall provide glass doors, noncombustible hearth, grates, and proper fireplace tools for each fireplace in use while children are present. Child care providers shall ensure proper positioning of glass doors. If a fireplace is used at any time, it shall have a noncombustible hearth, screening, and grate. Licensee shall have the chimney flue inspected annually and cleaned if recommended. Licensee shall retain a written record of the inspections and cleanings for each fireplace used while children are present.
(k) Caregiver shall properly dispose of ashes from the fireplace in a noncombustible, covered receptacle which shall then be placed on the ground and away from any building or combustibles.

♦ Intent:

To protect children from the risk of being burned on a heating device and to protect children from the increased risk of a fire from a less conventional heating method. Less conventional heating methods are permitted provided that the specific protections delineated in the rule are in place. A stove or oven that was manufactured as an appliance for cooking/baking shall not be used as a means of heat. The oven door shall not be propped open to heat the home due to safety issues.

○ Assessment Method:

Observe the home and interview the caregiver to determine the heating method or methods used in the home. Observe any heating appliances, fireplaces, wood stoves, or pellet stoves to determine if they meet the conditions of the rule. If a fireplace, wood stove, or pellet stove is used, review the documentation of chimney inspections and cleanings. Interview the caregiver regarding the removal and storage of ashes.

■ (l) Licensee shall provide electrical or battery-operated smoke detector that is installed to manufacturers' specifications and is located and adjusted to operate reliably in case of smoke in any part of the child care home, including not less than one (1) smoke detector at the top of each stairway and adjacent to all sleeping areas. The alarm should be loud enough to alert all occupants in the child care home.

♦ Intent:

To warn the caregiver of the presence of the smoke in order that she or he immediately evacuates the children from the home.

○ Assessment Method:

Observe the area at the top of each stairway and adjacent to the children's sleeping area for smoke detectors. Adjacent would be in the hallway outside the sleeping room or room outside of the sleeping room. Detectors should be installed according to manufacturer's specifications. Ensure detectors are working and sufficiently loud by activating each detector.

▲ Threshold of Compliance:

If there is a question regarding how the detector is installed, request to review manufacture's specifications and determine if it is properly installed.

■ (m) Licensee shall provide a two and one-half (2½) pound or greater ABC multiple purpose fire extinguisher which shall be located on each floor of the building in which child care services are provided, including an additional extinguisher located in the kitchen area of the child care home.

♦ Intent:

To allow a small fire to be extinguished prior to extensive damage. The use of the extinguisher is not an alternative to evacuating the children. The children should be evacuated prior to use of the extinguisher.

○ Assessment Method:

Observe the extinguishers to determine that they are the proper type. The floor of the home with the kitchen shall have two extinguishers, one in the kitchen and one elsewhere. In a multi-level home, check each level for an extinguisher. Non-rechargeable extinguishers must be replaced according to manufacturer's instructions. Check manufacturer's instructions for date of expiration and check to see that the dial reads "full". Provider shall keep the manufacturer's instructions. If no manufacturer's instructions, provider must replace 2 years from purchase date or sooner if dial reads other than "full". The date stamped on the bottom of the extinguisher is the manufactured date.

Rechargeable extinguishers shall be recharged annually. According to the National Fire Protection Association (NFPA 10), the person who performs the maintenance has to be "trained". "Trained" means one who has undergone the instructions necessary to design, install, and perform maintenance and recharge service.

■ (n) Caregiver shall not permit trash, flammable, and combustible materials, including, but not limited to, paper and rags to accumulate upon the premises.
(o) Direct child care providers shall store flammable liquids in tightly sealed, marked containers appropriate to the type of liquid being stored. Direct child care providers shall store no more than five (5) gallons of flammable liquids at any one (1) time in buildings used for child care and shall store all flammable liquids, lighters, and matches in an area inaccessible to children or in an approved fire cabinet.
(p) Direct child care providers shall not store combustible material within five (5) feet of furnaces and water heaters.

♦ Intent:

To decrease the risk of a fire by prohibiting materials and conditions more likely to cause a fire.

○ Assessment Method:

Observe the home and grounds for flammable materials. Observe the furnace and water heater. Determine that they are maintained according to the rule.

■ (q) The licensee shall identify the location and operation of the gas, electric, and water shut-offs and keep accessible the gas, electric, and water shut-offs in case of emergency.

♦ Intent:

To allow for quick and easy shut off of power and water in case of an emergency.

○ Assessment Method:

Observe the gas, electric, and water shut-offs and determine if they are accessible. Observe for written labels at shut off or documented on evacuation plan.

■ (r) The caregiver shall have a written plan for evacuating in case of fire or other emergencies.
(s) The caregiver shall conduct and document quarterly fire drills.

♦ Intent:
To ensure the safe evacuation of the children by ensuring that plan of evacuation plan has been developed and practiced.

○ Assessment Method:
Observe the written plan of evacuation plan and documentation of fire drills.

■ (t) The electrical wiring shall be sized to provide for the load. There must not be exposed or uninsulated wiring. If used, extension cords shall not be overloaded or over six (6) feet in length.

♦ Intent:
To reduce the risk of a fire by eliminating a potential fire hazard.

○ Assessment Method:
Observe the home for exposed or uninsulated wiring. Observe for extension cords that are overloaded or over 6 feet in length. Extension cords are meant to be temporary not long term. Two or more extension cords should never be connected. Extension cords cannot be tacked down or attached to a wall or ceiling due to the break down in the insulation in the cord.

■ (u) The licensee shall notify the local fire department at the time of application or relicensure of the licensed capacity and the hours of operation of the home.

♦ Intent:
To allow the local fire department to know that the home has vulnerable children present and will require a different response than a typical home.

○ Assessment Method:
Interview the caregiver to determine if the local fire department has been notified. In section 470 IAC 3-1.1-28.5 Annual Inspection, it states that fire departments shall be updated annually. To ensure consistency between the two sections, licensees shall notify the local fire department each year. This may be done in the form of a letter or a phone call. Provider may verbally state to consultant the date the fire department was called.

■ (v) Caregiver shall promptly notify the local fire departments upon discovery of any fire, whether or not extinguished, and advise of the circumstances and location of the fire.
(w) Caregiver shall promptly notify the local fire department upon discovery of:
(1) spontaneous or abnormal heating;
(2) any uncontrolled gas leak; or
(3) a significant spill of hazardous material or flammable or combustible liquid.

♦ Intent:
To allow the fire authorities to respond to and assess dangerous situations in the home.

○ Assessment Method:
Interview the caregiver to determine if any of the situations have occurred in the home and if the local fire department was notified.

■ (x) Licensee shall permit inspection of the child care home by the department of homeland security if requested by the CDFR upon recommendation of the COFC. If such an inspection is requested, approval would be required by the SFM prior to full licensure.

♦ Intent:
To allow a fire expert to evaluate the conditions of the home related to fire protection and if a problem exists, to compel the licensee to correct the problem.

■ 470 IAC 3-1.1-47 Sanitation
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 47. (a) The licensee shall provide and maintain screens for windows and exterior doors when windows and doors are kept open for ventilation.

♦ Intent:
To protect the children from insects and vermin that may enter the home.

○ Assessment Method:
Observe window and doors for screens in good repair.

■ (b) The licensee shall ensure that the child care home has hot and cold running water and at least one (1) toilet and sink accessible to children on each floor of the home where services are provided. Water from a source other than a regular municipal water supply shall be tested annually for compliance with water quality requirements.

♦ Intent:
To ensure that children have access to safe water for drinking, hot and cold water for hand washing, and easily accessible toileting facilities.

○ Assessment Method:
Observe to determine that there is bathroom on each floor used for child care. Observe to determine that the home has hot and cold running water. Toilets and sinks must be hard, plumbed fixtures. Take the temperature of the hot water to ensure that it is between 100°F and 120°F. Interview the caregiver to determine the source of the water. If it is other that a municipal water supply, review documentation of annual water tests. If the home's well serves more than 25 people it considered a public water system by the Department of Environmental Management (IDEM) and must follow IDEM's rules for public water systems.

■ (c) Direct child care providers shall wash and sanitize all food preparation areas, serving areas, and utensils daily.

♦ Intent:
To protect the children from food borne illness.

○ Assessment Method:
Eating surfaces must be cleaned with a soap solution (detergent and water) and dried with a disposable towel. Eating surfaces must be sanitized with a sanitizing solution that destroys disease-causing organisms. Observe food preparation and

clean-up if possible, if not, interview the caregiver to determine the procedures used to wash and sanitize.

■ (d) Caregiver shall keep garbage in containers with tight-fitting lids and remove it from the premises at least once a week. Waste paper need not be kept in a closed container.

♦ Intent:
To limit children's access to the garbage and to promote the hygiene of the home.

○ Assessment Method:
Observe the garbage containers both inside and outside the house. Ensure that the inside garbage containers have tight-fitted lids. Ensure outside garbage containers are covered with a lid. Interview the caregiver to determine the procedure for removal from the premises.

▲ Threshold of Compliance:
Step cans and cans with swinging lids are acceptable.

■ 470 IAC 3-1.1-48 Safety
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 48. (a) Direct child care providers shall keep protective coverings over exposed electrical outlets.
(b) If fans or heaters are used, licensee shall provide models that are protected by safety devices which will not allow a child's fingers to come in contact with the blade or heating element.
(c) Caregiver shall keep poisonous or hazardous materials that would harm children, including, but not limited to:
(1) cleaning supplies;
(2) detergents;
(3) insect sprays; and
(4) medication;
in areas inaccessible to children.

♦ Intent:
To protect children from common household items that could cause them harm.

○ Assessment Method:
Observe the home for items listed in the rule; check for outlet covers, check all fans and heaters for protective barriers, and determine if harmful items and items that read "Keep Out of the Reach of Children" are inaccessible to the children.

■ (d) Caregiver shall store implements and tools, including, but not limited to:
(1) power tools;
(2) hand tools; and
(3) gardening tools; in areas inaccessible to children.
(e) When children are present in the child care home, caregiver shall keep all ammunition and firearms in a locked area that is inaccessible to children at all times.

♦ Intent:

To protect the children from common household items that cause children harm and maybe items that attract children's interest.

○ Assessment Method:

Observe the home, garage, and storage areas/ buildings for the items and determine if the items are inaccessible. Firearms and ammunition are to be directly observed to determine compliance.

■ 470 IAC 3-1.1-49 Variances and waivers

Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 49. (a) The CDFR may grant a variance to a rule if an applicant for a license or a licensee:
(1) submits to the COFC a written request for the variance in the form and manner specified by the CDFR; and
(2) documents that an alternative method of compliance approved by the CDFR will not be adverse to the health, safety, or welfare of any child receiving services.
(b) The CDFR may grant a waiver of a rule if an applicant for a license or a licensee:
(1) submits to the COFC a written request for the waiver in the form and manner specified by the CDFR;
(2) documents that compliance with the rule specified in the application for the waiver will create an undue hardship on the applicant for the waiver, as determined by the CDFR;
(3) documents that the applicant for the waiver will be in substantial compliance with the rules adopted by the CDFR after the waiver is granted as determined by the CDFR; and
(4) documents that noncompliance with the rule specified in the application for a waiver will not be adverse to the health, safety, or welfare of any child receiving services from the applicant for the waiver, as determined by the CDFR.
(c) The CDFR shall issue a decision on a variance or waiver within sixty (60) days.
(d) Violation of a condition of a variance or a waiver granted under this section may be grounds for denial or revocation of the variance or waiver.

♦ Intent:

To provide the licensee the opportunity to seek to employ alternate methods of complying with the intent of a specific rule or seek to be exempt from a specific rule due to compliance causing an undue hardship. The burden is on the applicant or licensee to make their case for either a variance or a waiver. Approval of a variance or waiver may be time limited and/ or have conditions.

○ Assessment Method:

Review the licensing record to determine if a variance or waiver has been granted. If so, determine if the time limits and conditions of the waiver continue to be met.

Rule 1.2. Infant and Toddler Services in a Child Care Home

470 IAC 3-1.2-1 Infant and toddler child care services

Authority: IC 12-13-5-3
Affected: IC 12-17.2

Sec. 1. A licensee who provides child care services for infants or toddlers shall meet all the requirements of this rule. If there is any difference in requirements, the specific information contained in this rule shall prevail.

♦ Intent:

To clarify that Rule 1.2 overrides the provisions of Rule 1.1 in any areas where the rules may conflict.

470 IAC 3-1.2-2 "Full-sized crib" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 2. As used in this rule, "full-sized crib" means a child's bed which has an interior dimension greater than fifty-two and three-eighths (52 3/8) inches plus or minus five-eighths (5/8) inch in length, and twenty-eight (28) inches plus or minus five-eighths (5/8) inch in width. With the mattress support in its lowest position and the crib side in its highest position, the vertical distance from the upper surface of the mattress support to the upper surface of the crib side or end panel shall not be less than twenty-six (26) inches.

♦ Intent:

To define the term "full-sized crib" for use in this rule.

○ Assessment Method:

When there is question whether a particular crib is full-sized, it shall be measured using a tape measure.

New crib standards were adopted by the Consumer Product Safety Commission effective 6/28/2011. Any crib manufactured prior to this date shall not be used. These guidelines apply to all types of cribs – full size, non full size, wooden, and metal. Non-compliant cribs may not be resold or donated. They must be disassembled prior to discarding.

470 IAC 3-1.2-3 "Portacrib" defined
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 3. As used in this rule, "portacrib" means a child's portable bed which has an interior dimension smaller than forty-nine and three-fourths (49 3/4) inches plus or minus five-eighths (5/8) inch in length but not less than thirty-six (36) inches in length, and twenty-five and three-eighths (25 3/8) inches plus or minus five-eighths (5/8) inch in width but not less than twenty-four (24) inches in width. With the mattress support in its lowest position, the vertical distance from the upper surface of the mattress support to the upper surface of the crib side or end panel shall not be less than twenty-two (22) inches.

♦ Intent: To define the term "portacrib" for use in this rule.

o Assessment Method:

When there is a question whether a particular crib is a portacrib, it shall be measured measuring a tape measure.

New crib standards were adopted by the Consumer Product Safety Commission effective 6/28/2011. Any crib manufactured prior to this date shall not be used. These guidelines apply to all types of cribs – full size, non full size, wooden, and metal. Non-compliant cribs may not be resold or donated. They must be disassembled prior to discarding.

470 IAC 3-1.2-4 Activities for healthy development
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 4. (a) The caregiver shall have stairways guarded by a gate or closed door.

♦ Intent:
To protect infants and toddlers from a fall.

○ Assessment Method:
Observe the room to determine if there is a stairway in the home. If there is a stairway, observe whether or not the door is closed to block the stairs or if there is a gate to block children's access. If the gate blocks a means of escape, determine if the gate is quickly and easily removed or swings open to allow quick escape. However, if the gate blocks one of the fire exits, it is not allowed and a variance would be required for no gate.

b) After discussion with the parent or legal guardian of each infant or toddler in care, caregiver shall:
(1) establish flexible routines for naps, feedings, diapering, and toilet training;
(2) provide opportunities for play and exploration of the environment; and
(3) periodically change the available toys and the place and position of infants not yet able to move about on their own.

♦ Intent:
To ensure that schedules for infants and toddlers are flexible to accommodate their individual and changing needs. Children have different needs and temperaments as well as differing parental expectations; the caregiver shall accommodate these differing needs while understanding the importance of routine and predictability for very young children. It is important to understand that children develop their multiple abilities (language, motor, discovery, social/emotional, and personal), often at the same time, and within and during the many activities they experience daily. During the early years young children develop their skills in an integrated way during the course of the day. The caregiver supports children's development during the activities that happen daily. Children's language skills improve and become more complex as their motor skills mature. They become much more social human beings as they become better at responding to others using gestures and words. Their cognitive skills become stronger as they are better able to move and problem solve and experience new ideas and activities. Meal time, diapering, reading stories, play time, quiet time, outside time, and other experiences that occur daily become natural opportunities to support learning and development.

○ Assessment Method:
Observe the infants and toddlers to determine if they have floor time and a variety of toys reflecting varying developmental stages. Interview the caregiver

regarding discussions with parents about their child's routines and learning opportunities.

470 IAC 3-1.2-5 Naps
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 5. (a) Licensee shall provide a separate crib, portacrib, or playpen in which each infant or toddler can sleep. Each crib, portacrib, or playpen shall be equipped with a firm-fitting mattress or pad made of waterproof materials. A parent or legal guardian may provide or approve the use of a bassinet for an infant and is responsible along with the caregiver to monitor its use closely. (Manufacturers of bassinets indicate that a bassinet should no longer be used once an infant begins moving and turning unassisted.)
(b) The licensee may use washable cots, sleeping bags, or mats for toddlers over twenty-four (24) months of age.

♦ Intent:

To protect children while they are sleeping by ensuring that the sleeping equipment is safe for children based on their development stage.

○ Assessment Method:

Observe the children's sleeping equipment to determine if each child younger than 24 months has a crib, portacrib, playpen, or bassinet. If a bassinet is used, determine if the parent has either provided or consented to the use of the bassinet. For the child older than 24 months and not using a crib, portacrib, or playpen for napping, determine if a cot, mat or sleeping bags is available for his or her use. If a child that is less than 24 months old would be better on a cot or mat due to climbing out of the crib or too large for the crib, the provider may apply for a variance with written parental permission. Stackable cribs are not allowed. Children less than 12 months of age shall never have any soft bedding such as pillows, quilts, comforters and sheepskins in the crib, portacrib, playpen, bassinet, or pack n play. There shall not be any toys, stuffed animals, crib bumpers, positioning devices, or extra bedding in the crib or other approved sleeping surface. Children less than 12 months of age must always be placed on their back to sleep. A child less than 12 months that falls asleep in other locations, such as a swing, car seat, or bouncy seat, must be immediately moved to a safe sleeping surface.

If an approved safe sleep surface is used for more than one child; the surface must be sanitized between uses and a clean sheet put on the mattress.

470 IAC 3-1.2-6 Diaper changing and toilet training
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 6. (a) The licensee shall provide an area for diaper changing with a washable surface on which the infant or toddler may be placed. The diaper changing surface must have waterproof material between the child and the surface of the changing area. This material shall be changed after each use. The diaper changing area shall be sanitized daily and when soiled.
(b) Licensee shall supply a covered container for wet or soiled diapers.
(c) Direct child care providers changing diapers shall wash their hands with soap and running water after each diaper change.

♦ Intent:

To protect the children from diseases particularly those diseases with a fecal-oral transmission.

○ Assessment Method:

Observe caregiver changing a child's diaper to determine that:

- There is an area designated for changing diapers
- There is a washable and sanitizable surface on which the child is placed and it is fully intact
- There is a waterproof material placed between the child and the diaper changing surface. The paper must be equal to the length of the child from neck to feet.
- That this material is changed after each use
- That the diaper changing surface is sanitized daily and when soiled with an appropriate sanitizing solution
- That the caregiver washes his/her hands with soap and running water after each diaper change. Hands shall be washed prior to touching the clean diaper. If gloves are used, the dirty gloves shall be removed prior to touching the clean diaper.
- There is a covered trash receptacle is close by for soiled diapers and diaper changing materials.

If it is not possible to observe a diaper change, interview the caregiver to determine if they are familiar with the procedure. Educate caregiver on the reasons for the steps in the procedure.

(d) When a chair designed specifically for toilet training is used, direct child care provider shall empty it after each use and sanitize it at least daily.

♦ Intent:

To protect children from the diseases associated with toileting. Child-sized toilets that are flushable, steps, and modified toilet seats provide for easier maintenance. Sanitary handling of potty chairs is difficult. Flushing toilets are superior to any type of device that exposes the staff to contact with feces or urine. Many communicable diseases can be prevented through appropriate hygiene and sanitation methods.

○ Assessment Method:

Observe the chair used for toilet training to determine if it appears clean; no urine or feces present. Observe the sanitation process if possible. If not, interview the caregiver to determine the sanitation process.

470 IAC 3-1.2-7 Feeding
Authority: IC 12-13-5-3
Affected: IC 12-17.2
Sec. 7. (a) Direct child care providers shall feed infants and toddlers according to their dietary needs and shall hold infants during bottle feedings until they demonstrate their ability to hold their own bottles.

(b) If more than one (1) infant or toddler in care is bottle fed, all bottles shall be labeled with the child's name.
(c) Direct child care providers shall not prop feeding bottles.

♦ Intent:

To ensure that infants and toddlers who are bottle fed have their nutritional and nurturing needs met. Holding a child while feeding provides the opportunity for each child to develop a personal and affectionate relationship with and attachment to the caregiver. The caregiver shall talk, listen to, and otherwise interact with infants as they feed them. Identification of the bottles prevents the potential for cross-infection when the home is caring for more than one bottle-fed infant. Bottle propping can cause choking and aspiration.

○ Assessment Method:

Observe the caregiver feeding the bottle fed children to determine if the children are held; if a child can hold their own bottle he or she does not have to be held. Observe the bottles to determine if they are labeled.

▲ Threshold of Compliance:

If only one bottle fed child is in care, bottles are not required to be labeled.

Rule 1.3. Class II Child Care Homes

470 IAC 3-1.3-1 Class II child care home services
Authority: IC 12-13-5-3
Affected: IC 12-17.2-5-6.5
Sec. 1. A Class II child care home serves more than twelve (12) children but not more than sixteen (16) full-time and part-time children at any one (1) time. A licensee who provides Class II child care shall meet all the requirements of 470 IAC 3-1.1 and 470 IAC 3-1.2 as well as the requirements of this rule. If there is any difference in requirements, the specific information contained in IC 12-17.2-5-6.5 shall prevail.

♦ Intent:

To define a Class II child care home and establish the rules that governs the operation of a Class II home. The rule establishes that if conflict exists between the rules and the statue, statute IC 12/17.2-5-6.5 prevails.

IC 12-17.2-5

Chapter 5. Regulation of Child Care Homes

■ IC 12-17.2-5-1
Operation of home without proper licensure; prohibition
Sec. 1. (a) A person may not operate a child care home without a license issued under this article.
(b) The state or a political subdivision of the state may not operate a child care home without a license issued under this article.
(c) A person may not operate a child care home if:
(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; and (2) the children are maintained in a building or place not designated by the license.

♦ Intent:

To establish that all child care operations in Indiana that meet the definition of 'child care home' shall be licensed.

■ IC 12-17.2-5-2

Consultation with fire prevention and building safety commission

Sec. 2. The fire prevention and building safety commission must provide consultation regarding the licensure of child care homes to the division upon request.

♦ Intent:

This statute is procedural in nature and related to the operation of state agencies. It compels the department of homeland security to provide consultation to the licensing agency.

■ IC 12-17.2-5-3

Applying for licenses

Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting that the applicant has not been:

(1) convicted of:

(A) a felony;

(i) related to the health and safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5-2);

(iii) that is a dangerous felony;

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (ten) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter; or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; and

(2) charged with:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or with a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter; or with a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or during the pendency of the application.

(d) An applicant must submit:

(1) the necessary information, forms, or consents and

(2) the fingerprints of the applicant and the applicant's spouse; for a national criminal history background check by Federal Bureau of Investigation.

(e) Subject to section 3.3 of this chapter an applicant shall require:

(1) an employee or a volunteer of the applicant who has direct contact with a child who is receiving child care from the applicant; and
(2) the applicant's household members who are:
(A) at least eighteen (18) years of age; or
(B) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court; to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation. An applicant shall require an individual described in subdivision (1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.
(f) In addition to the requirements under subsections (d) and (e), an applicant must report to the division any:
(A) police investigations;
(B) arrests; and
(C) criminal convictions;
of which the applicant is aware regarding the applicant, the applicant's spouse, or a person described in subsection (e).

♦ Intent:
To protect children from a caregiver or an adult child care home household member who present risk due to their criminal activity. The statute compels adults who have access to children in a child care home to comply with a National criminal history check.

○ Assessment Method:
Check the online data base of National Criminal History Check results.

■ IC 12-17.2-5-3.5
Drug testing
Sec. 3.5. (a) A child care home shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:
(1) the provider;
(2) an individual who resides with the provider and who is at least eighteen (18) years of age; and
(3) an individual who:
(A) is employed; or
(B) volunteers; as a caregiver at the child care home.
The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

♦ Intent:
To protect children from a caregiver or an adult child care home household member who present a risk due to their use of illegal drugs.

○ Assessment Method:
Review drug testing documentation for all caregivers and adult household members. The Licensed Home Substance Abuse Screening Test Consent Form shall be in each staff file along with a copy of the drug test results. Licensees shall follow the 7/1/2003 established Licensed Child Care Home Drug Testing

Guidelines. Drug test results shall be reviewed and signed by a Medical Review Officer (MRO) and the chain of custody shall be followed as outlined in the Guidelines. Electronic signatures are acceptable.

Drug test results can be transferred to another site as long as the licensee remains the same. For initial applications, drug tests are good for 60 days prior to application received date. Drug test results can be transferred when a provider moves from active LLEP status to licensed status and vice versa.

■ (b) A child care home shall maintain a written policy specifying the following:
(1) That the:
(A) use of:
(i) tobacco;
(ii) alcohol; or
(iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
(B) use or possession of an illegal substance; is prohibited in the child care home when child care is being provided.
(2) That drug testing of individuals who serve as caregivers at the child care home will be:
(A) performed based on a protocol established or approved by the division; and
(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).
(c) If:
(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or
(2) an individual refuses to submit to a drug test; the child care home shall immediately suspend or terminate the individual's employment or volunteer service.
(d) A child care home that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).
(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.
(f) A child care home that does not comply with this section is subject to:
(1) denial of an application for a license; or
(2) suspension or revocation of a license issued; under this chapter.

♦ Intent:

To protect children from harm by requiring licensees to develop and implement a written policy regarding the use of tobacco, alcohol, potentially toxic substances, and illegal substances. The written policy is developed under the guidance of the division and includes termination of employment or volunteer service of individuals refusing drug testing or testing positive. Employee and volunteers' right to confidentiality and due process are required.

○ Assessment Method:

Review the written policy to determine if it follows the division protocol and includes all required elements. Also check for the use of tobacco and illegal drugs in the home by observation and smell.

In July 2012, a law came into effect that banned smoking in a public place as well as a place of employment. Because child care facilities (homes, centers, and ministries) are intended for use by individuals younger than 18, even if it is your own residence, smoking is banned within 8 feet of the building at all times. There shall never be ashtrays or other smoking paraphernalia inside the facility or within 8 feet of any public entrance. At least two (2) signs must be posted inside the residence or facility that states "Smoking is Prohibited" or other similar language. Also, signs that read "State Law Prohibits Smoking within 8 feet of this Entrance" or "This is a tobacco free campus" or some other similar language must be posted at all public entrances (anywhere that anyone who is not an employee can enter and exit the facility).

■ **IC 12-17.2-5-4**

Grounds for denial of license applications

Sec. 4. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the applicant;

(B) a member of the applicant's household;

(C) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(D) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are direct supervision of the applicant.

(2) A criminal conviction of the applicant, an employee of the applicant who has direct contact with children who are receiving child care from the applicant, a volunteer of the applicant who has direct contact with children who are receiving child care from the applicant, or a member of the applicant's household, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.
(5) A determination by the division that the applicant previously operated a:
(A) child care center without a license under IC 12-17.2-4; or
(B) child care home without a license under this chapter.
(b) Notwithstanding subsection (a)(2), if:
(1) a license application is denied due to a criminal conviction of:
(A) an employee or a volunteer of the applicant; or
(B) a member of the applicant's household; and
(2) the division determines that the:
(A) employee or volunteer has been dismissed by the applicant; or
(B) member of the applicant's household is no longer a member of the applicant's household; the criminal conviction of the former employee, former volunteer, or former member does not require denial of a license application.

♦ Intent:

To protect children from harm by prohibiting licensure of a child care home that includes a caregiver or adult household who have a history that includes substantiated child abuse or neglect, a felony conviction, a misdemeanor related to the health or safety of children, a misdemeanor related to the operation of unlicensed child care facility. The statute allows the division to prohibit licensure of an applicant who falsifies an application or has illegally operated an unlicensed child care program. If an applicant or licensee moves to protect the children by terminating the employment or services of a caregiver or removing a household member with child abuse or neglect history or criminal history, the child care home may continue licensure. This statute provides the division grounds for an enforcement action against a licensee or applicant.

○ Assessment Method:

For verification of juvenile criminal history checks for student assistants, forms may be obtained from the Bureau of Child Care or the Indiana State Police. The process involves obtaining fingerprints for the juvenile and a parent/guardians signature on the form.

■ IC 12-17.2-5-5
Incomplete applications
Sec. 5. The division may not act on an incomplete application. The division shall return an incomplete application with a notation as to omissions. The return of an incomplete application shall be without prejudice.

♦ Intent:

This statute is procedural in nature and directs the actions of the division. The statute prohibits the division from acting on an incomplete application and requires that it be returned to the applicant.

■ IC 12-17.2-5-6
Investigation of applicants
Sec. 6. The division shall investigate a person seeking licensure to determine whether the person is in compliance with this article. The investigation shall be conducted any time the home is in operation in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The division may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

♦ Intent:

This statute is procedural in nature and directs the actions of the division. The statute provides the authority for the division to conduct a through investigation of any person seeking licensure. It allows the division to make both announced and unannounced visits to investigate a home. It also establishes the division's authority to set the standards for evidence of compliance with the rules.

■ IC 12-17.2-5-6.3
Class I child care home
Sec. 6.3. (a) To qualify for a license to operate a class I child care home under this chapter, a person must do the following:
(1) Provide documentation to the division that the licensee has received a high school diploma or a high school equivalency certificate as described in IC 12-14-5-2.
(2) Provide documentation to the division that the licensee:
(A) has completed;
(B) is enrolled in; or
(C) agrees to complete within the next three (3) years; a child development associate credential program or a similar program approved by the division.

♦ Intent:

To safeguard children's growth, development and well-being by ensuring that the licensee has the knowledge and skills to meet the children's developmentally needs. The child development associate (CDA) credential provides the necessary knowledge and skills for child care practitioners and is nationally recognized. The licensee has 3 years from the date of initial licensure to complete the CDA. Commitment to complete the CDA is documented on the Education Commitment Form.

This rule applies to licensees issued licenses on or after July 1, 2001. Licensees prior to that date are grandfathered and are not required to comply with this rule.

○ Assessment Method:

Determine by a review of documentation. Documentation shall include a copy of a high school diploma or equivalency certificate, and a copy of a CDA certificate or an Education Commitment Form. The Education Commitment Form is only valid for 3 years. Documentation can also include proof that the licensee/applicant has completed 12 credit hours in early childhood education or a related field from an accredited university or college with a "C" or better. A transcript must be provided to the Bureau for review and approval of the classes. The high school diploma or equivalency certificate must be from a State Department of Education accredited institution.

▲ Threshold of Compliance:

A variance to extend the Education Commitment Form can be granted for one year with a written variance request, documentation of enrollment in a CDA class, and any special hardship explained. The decision to award the variance is made by division.

When a provider has signed an educational form and agrees to complete her CDA by a certain date, but then closes before that time, the provider will be given additional time to get their CDA when they reopen. For example if a licensee was licensed on 1/1/03 and closes on 1/1/04, the licensee will have 2 additional years to complete the CDA. A new education form should be completed with the new date listed and an explanation of how calculated to the side of the form. If the licensee has less than 1 year of time left, the licensee must show proof of enrollment in school before license will be reissued

■ (3) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).

♦ Intent:

To protect children by ensuring that the licensee has been trained in safe sleep practices. The training is intended to reduce the risk of Sudden Infant Death Syndrome.

○ Assessment Method:

Determine by a review of documentation of completion of an approved course.

■ The division may grant a waiver or variance of the requirement under subdivision (2).
(b) A class I child care home may serve a school age child during a break in the school year that exceeds four (4) weeks if the following conditions are met:
(1) The school age child:
(A) was in the home part time during the four (4) months preceding the break; or
(B) has a sibling attending the child care home.

♦ Intent:

To allow for certain school age children to receive care during school breaks that are longer than 4 weeks. Those children must meet one of the following conditions: 1) has attended the home 4 months prior to a school break or 2) is the sibling of a younger child in the care of the home.

○ Assessment Method:

Review attendance records or children's files to determine if the school age child meets the conditions. Eligibility will be determined yearly and an "Additional School-Age Children" form will be issued prior to the school break by the division.

▲ Threshold of Compliance:

School age children are children enrolled in grade 1 or higher.

■ (2) The child care home meets the following requirements:
(A) Provides at least thirty-five (35) square feet for each child.
(B) Maintains the child to staff ratio required under rules adopted by the division for each age group of children in attendance.

(C) Provides age appropriate toys, games, equipment, and activities for each age group of children enrolled.

♦ Intent:

To ensure that the home that provides care for additional school age children meets the needs of the children enrolled by ensuring adequate space, staffing and activities. Child behavior tends to be more constructive when sufficient space is organized to promote developmentally appropriate skills. Crowding has been shown to be associated with increased risk of developing upper respiratory infections. Also, having sufficient space will reduce the risk of injury from simultaneous activities. (caring for Our Children) Children's need for adequate care, supervision and activities have been addressed previously in this document.

○ Assessment Method:

If care for additional school age children is provided, during the licensing visit, observe and interview the licensee to determine which space in the home is used for child care. Measure each room and space wall to wall to determine the total square footage available for the children's use; space that is not usable by the children shall be subtracted from the total square footage. For example, hallways (not used for child care), bathrooms, and the food preparation area of the kitchen (not portions used for child care) are subtracted; as well as items that cannot be moved or are permanent such as cabinets, built in shelves, etc. After the final total square footage available to children is determined, divide the total by 35 to determine the maximum capacity of the home. Document the measurements and final capacity on the summer care/additional school age children form.

■ (D) If the licensee does not reside in the child care home, the child care home has:
(i) at least two (2) exits that comply with the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission; and (ii) an illuminated exit sign over each required exit or emergency lighting for each required exit.

♦ Intent:

To set additional standards for the protection of children if the licensee does not live in the home licensed for child care and care for additional school age children is provided.

○ Assessment Method:

Observe home illuminated exit signs or emergency lighting over each required exit. Observe 2 exits on the first story of the home. The exits must be separated from each other by a distance that is equal to not less than ½ the largest diagonal dimension of that story.

■ (3) The licensee for the child care home has maintained a class I child care home license for at least twelve (12) children:
(A) for at least one (1) year; and
(B) without any citations for noncompliance.

♦ Intent:

To ensure that prior to caring for additional school age children the home has operated successfully for one year. The licensee needs experience in operating a child care home prior to including additional school age children.

○ Assessment Method:

Determine if the home has been licensed for a year and has not been on probation during that time if additional school age children are enrolled.

■ IC 12-17.2-5-6.5

Qualification for licensure of class II child care home

Sec. 6.5. (a) To qualify for a license to operate a class II child care home under this chapter, a person must do the following:
(1) Provide all child care services on the first story of the child care home unless the class II child care home meets the exceptions to the first story requirements contained in the Indiana building code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.
(2) Provide a smoke detection system that is:
(A) hard wired to the building's electrical system; and
(B) wired in a manner that activates all of the detector devices in the building when one (1) detector device is activated.
(3) Provide a fire extinguisher in each room that is used to provide child care services.
(4) Meet:
(A) the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission, except for any illumination requirements, in effect at the time the class II child care home provider initially applies for licensure; and
(B) the illumination requirements established in section 6.3(b)(2)(D) of this chapter.
(5) Provide a minimum of thirty-five (35) square feet for each child.
(6) Conduct fire drills required under article 37 of the Indiana fire prevention code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.
(7) Apply for a license before July 1, 1996, or after June 30, 2001.
(8) Comply with rules adopted by the division of family resources for class II child care homes.
(9) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).
(b) To qualify for a license to operate a class II child care home under this chapter, a person, before applying for the license, must have:
(1) a class I child care home license; or
(2) at least one (1) year of experience as a caregiver in a child care home or child care center.

♦ Intent:

To define and set physical plant requirements for a class II child care home and to require that a licensee be experienced prior to operating a class II home.

○ Assessment Method:

Determine if each of the requirements of the statute is met. Provider shall submit a notarized design professional form showing compliance on the form provided by the division.

■ IC 12-17.2-5-7
Issuance of licenses
Sec. 7. The division shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.

♦ Intent:
This statute is procedural in nature and directs the actions of the division. The statute requires the division to issue a license to an applicant who meets all of the rules.

■ IC 12-17.2-5-7.5
License indication of class I or II child care home; sanctions for noncompliance with number of children or requirements of home within class
Sec. 7.5. (a) The license issued to a person for the operation of a child care home under section 7 of this chapter shall indicate whether the child care home is licensed as a class I child care home or a class II child care home.
(b) A person who:
(1) holds a license to operate a class I child care home; and
(2) at any time serves a number of children greater than the number allowed under IC 12-7-2-33.7; is subject to sanctions under section 33 of this chapter, a civil penalty under section 34 of this chapter, and the criminal penalty set forth in section 35 of this chapter.
(c) A person who:
(1) holds a license to operate a class II child care home; and
(2) at any time:
(A) serves a number of children greater than the number allowed under IC 12-7-2-33.8; or
(B) fails to comply with the requirements for class II child care homes set forth in section 6.5 of this chapter; is subject to sanctions under section 33 of this chapter, a civil penalty under section 34 of this chapter, and the criminal penalty set forth in section 35 of this chapter.

♦ Intent:
This statute establishes the terms of the child care home licensee and the penalty for noncompliance with the terms of the license.

■ IC 12-17.2-5-8
Eligibility for waivers and variances
Sec. 8. A child care home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 12-17.2-2-10.

♦ Intent:
This statute establishes the right of an applicant or licensee to apply for waiver or variance from these rules.

■ IC 12-17.2-5-9
Denial of licenses
Sec. 9. (a) The division shall deny a license when an applicant fails to meet the requirements for a license.

(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.
(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made within thirty (30) calendar days after receiving the written notice under subsection (b).
(d) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.
(e) The administrative hearing shall be held in accordance with IC 4-21.5-3.
(f) The division shall issue a decision within sixty (60) calendar days after the conclusion of the hearing.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding the denial of a license. It establishes the responsibility of the division to provide due process to the applicant or licensee and establishes timelines for the due process procedure.

■ IC 12-17.2-5-10
Delegation of investigations; issuance or notification of denial of licenses; supervision and monitoring
Sec. 10. (a) The division may delegate the investigation of child care homes to a person. The person is responsible for completing a child care home licensing study that shows substantial compliance with child care rules and is the basis of a recommendation for licensure to the division.
(b) The division shall issue the license or notify the person if a license is not to be issued, giving the reasons for the denial.
(c) After licensure, the person shall supervise and monitor the child care home in relation to the rules for licensure and shall recommend subsequent licensing and enforcement actions.

♦ Intent:

This statute is procedural in nature and directs the actions of the division. This statute allows the division to delegate its authority to investigate, supervise and monitor child care homes to another person. The division may not delegate the issuance or denial of a license to another person.

■ IC 12-17.2-5-11
Investigation of unlicensed premises
Sec. 11. The division shall investigate any premises that the division has reason to believe are being used for child care without a license in circumstances where a license is required.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding allegations of unlicensed child care. See enforce policies and procedures.

■ IC 12-17.2-5-12
Expiration, transferability, display, and renewal of licenses; other information
Sec. 12. (a) A license for a child care home expires two (2) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.
(b) A license issued under this chapter:
(1) is not transferable;
(2) applies only to the licensee and the location stated in the application; and
(3) remains the property of the division.
(c) A current license shall be publicly displayed.

♦ Intent:
To further define the terms of the license and the requirement that license be displayed in order that the public may read the license.

○ Assessment Method:
Observe to determine if the license is prominently displayed in the home in order that parents can review it.

■ (d) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

♦ Intent:
To allow a licensee continue operate even if their license has expired provided that the licensee has submitted a complete application for the renewal of the license within the required timeframes.

■ (e) A licensee shall publicly display and make available, as a handout, written documentation of:
(1) any changes in the status of the licensee's license; and
(2) a telephone number and an Internet site where information may be obtained from the division regarding:
(A) the current status of the licensee's license;
(B) any complaints filed with the division concerning the licensee; and
(C) violations of this article by the licensee; and
(3) a telephone number of the office of the Indiana child care resource and referral program of the county in which the child care home is located.

♦ Intent:
To allow parents to be informed consumers of child care services by ensuring they have access to pertinent information about the child care home.

■ IC 12-17.2-5-13
Provisional licenses
Sec. 13. (a) The division may grant a provisional license to an applicant who is not able to demonstrate compliance with a rule because the child care home is not in full operation.
(b) The provisional license shall be granted for not more than one (1) year and is subject to review every three (3) months.

♦ Intent:
This statute is procedural in nature and directs the actions of the division.

■ IC 12-17.2-5-14
Probationary licenses
Sec. 14. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:
(1) the noncompliance does not present an immediate threat to the health and well-being of the children;
(2) the licensee files a plan with the division to correct the areas of noncompliance within the probationary period; and
(3) the division approves the plan.
(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.
(c) An existing license is invalidated when a probationary license is issued.
(d) At the expiration of the probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.
(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.
(f) The division shall:
(1) upon issuing a probationary license under this section, provide written notice to the licensee that the division will provide the notice required under subdivision (2); and
(2) not more than seven (7) days after issuing a probationary license under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care home of the:
(A) issuance of the probationary license; and
(B) reason for the issuance of the probationary license.

♦ Intent:
This statute is procedural in nature and directs the actions of the division.

■ IC 12-17.2-5-15
Inspections
Sec. 15. The division shall do the following:
(1) Make annual onsite inspections.
(2) Keep written records of the division's monitoring activities and inspections.

♦ Intent:
This statute is procedural in nature and directs the actions of the division.

■ IC 12-17.2-5-16
Cooperation by licensees
Sec. 16. The licensee shall cooperate with the division in carrying out these activities, including permitting the division to conduct announced or unannounced inspections.

♦ Intent:
To compel the licensee to cooperate with the division including permitting the division access to the child care home.

■ IC 12-17.2-5-17
Unscheduled visits by parents and guardians
Sec. 17. Unscheduled visits by a custodial parent or guardian of a child shall be permitted at any time the child care home is in operation.

♦ Intent:
To protect the children in care by allowing their parents to visit the child care home any time the home is in operation. Allowing parents access to the home is essential in order that parents are able to protect their children and be informed consumers of child care.

■ IC 12-17.2-5-17.5
Supervision of children
Sec. 17.5. A licensee shall ensure that a child in the licensee's care is continually supervised by a caregiver.

♦ Intent:
To protect children by establishing that it is the responsibility of the licensee to ensure that children are continually supervised by a caregiver. The definition of supervision was defined in the June 5, 2005 letter. Refer to 470IAC 3-1.1-36.5(b), the supervision section, for specifics.

■ IC 12-17.2-5-18
Records
Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the division requires and shall report to the division, upon request, the facts the division requires with reference to children.
(b) The division shall keep records regarding children and facts learned about children and their parents or relatives confidential.
(c) The following are permitted access to records regarding children and facts learned about children:
(1) A state agency involved in the licensing of the child care home.
(2) A legally mandated child protection agency.
(3) A law enforcement agency.
(4) An agency having the legal responsibility to care for a child placed at the child care home.
(5) The parent, guardian, or custodian of the child at the child care home.

♦ Intent:
To protect the confidentiality of children and their families by specifying who may access records in the child care home.

■ IC 12-17.2-5-18.1
Immunizations
Sec. 18.1. (a) After December 31, 2002, a licensee shall maintain and annually update documentation provided by the physician of each child who is cared for in a child care home where the licensee provides child care that the child has received complete age appropriate immunizations, including:
(1) conjugated pneumococcal vaccine; and

(2) varicella vaccine or a demonstrated immunity to varicella. The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.
(b) A licensee meets the requirement of subsection (a) if:
(1) a child's parent:
(A) objects to immunizations for religious reasons; and
(B) provides documentation of the parent's objection;
(2) the child's physician provides documentation of a medical reason the child should not be immunized; or
(3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations; and the licensee maintains and annually updates the documentation provided by the parent or physician under this subsection.

♦ Intent:
To protect children from exposure to vaccine preventable illnesses by establishing the minimum immunizations required for children in the care of a home. Exemptions for medical and religious reasons are provided.

○ Assessment Method:
Observe each child's record to determine if immunizations are current. If they are not current, determine if there is a religious exemption or medical documentation regarding the child's immunization status.

■ IC 12-17.2-5-18.2
Certifications required
Sec. 18.2. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care home shall be present at all times when a child is in the care of a child care home.
(b) An individual who:
(1) is employed; or
(2) volunteers; as a caregiver at a child care home shall maintain current certification in first aid applicable to all age groups of children cared for by the child care home.

♦ Intent:
To ensure that children's health is protected in case of an emergency by ensuring that a caregiver trained in CPR is always on-site.

○ Assessment Method:
Review staff files for documentation of certification in CPR; review staffing schedule to determine if a certified caregiver is always on-site. Certification can only be completed by demonstration of skills and cannot be done completely on-line.

▲Threshold of Compliance:
CPR certification is valid for one year regardless of the expiration date listed on the card.

■ IC 12-17.2-5-18.6
Duties of child care home regarding missing child reports
Sec. 18.6. (a) Upon receiving a report under IC 31-36-1-4, a child care home shall thoroughly inspect the report. If the child care home finds that a child on the report required under IC 31-36-1-4 is enrolled at the child care home, the child care home shall immediately notify the Indiana clearinghouse for information on missing children.
(b) Upon receiving a report under IC 31-36-1-4, a child care home shall attach a notice to the child's enrollment records stating that the child has been reported missing. The child care home shall remove the notice when the center is notified under IC 31-36-2-6 that the child has been found.
(c) If a request for the enrollment records of a missing child is received, the child care home shall:
(1) obtain:
(A) the name, address, and telephone number of the person making the request; and
(B) the reason that the person is requesting the school records; and
(2) immediately notify the Indiana clearinghouse for information on missing children.
(d) The child care home may not issue a copy of the enrollment records of a child reported missing without authorization from the Indiana clearinghouse for information on missing children and may not inform the person making the request that a notice that the child has been reported missing has been attached to the child's records.

♦ Intent:
To protect children by ensuring that child care homes receive notice regarding missing children and cooperate with any investigation regarding a possible missing child in the care of the home. Forms are provided by the division.

○ Assessment Method:
Interview the caregiver to determine if the report is received and if she or he is aware of their responsibilities.

■ IC 12-17.2-5-18.7
Violations posing immediate threat to life or well-being of child; orders
Sec. 18.7. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a licensee.
(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:
(1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operation of the child care home; and
(2) contact the parent or guardian of each child enrolled in the child care home to inform the parent or guardian:
(A) that the division has issued an order to require the licensee to cease operation of the child care home; and
(B) of the reason for the order to cease operation; pending the outcome of proceedings conducted under sections 20 through 22 of this chapter.
(c) An emergency or another temporary order issued by an employee or agent of the division must be approved by the director.
(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

♦ Intent:

This statute is procedural in nature and directs the actions of the division. This statute gives the division the authority to issue a cease operation order when a home presents imminent danger to the children in care. Emergency closure regulations detail reasons for closure (470 IAC 3-4.8-1).

■ IC 12-17.2-5-19
Notice of enforcement actions; informal meetings
Sec. 19. Except as provided in section 18.7 or 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding due process procedures.

■ IC 12-17.2-5-20
Administrative hearings
Sec. 20. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care home. The request must be made within thirty (30) calendar days after receiving notice under section 18.7 or 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.
(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding due process procedures.

■ IC 12-17.2-5-21
Procedure for administrative hearings
Sec. 21. A hearing requested under section 20 of this chapter shall be held in accordance with IC 4-21.5-3.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding due process procedures.

■ IC 12-17.2-5-22
Issuance of decisions
Sec. 22. The division shall issue a decision within sixty (60) calendar days after the conclusion of the hearing.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding due process procedures.

■ IC 12-17.2-5-23
Cessation of operations upon suspension of license
Sec. 23. If a license is suspended, a licensed child care home shall cease operation and may not display the license.

♦ Intent:
This statute establishes that a licensee shall cease the operation of the child care home if the license is suspended. The license shall also be removed from public display.

■ IC 12-17.2-5-24
Reinstatement of suspended licenses
Sec. 24. To reinstate a suspended license, the following must occur:
(1) The licensee must, within thirty (30) days of the notice of the suspension, submit a plan of corrective action to the division for approval.
(2) The plan must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the license.
(3) The division must approve the plan.

♦ Intent:
This statute establishes the conditions that shall be meet in order for a license to be reinstated after suspension.

■ IC 12-17.2-5-25
Actions of division following suspensions of licenses
Sec. 25. Following the suspension, the division shall do one (1) of the following:
(1) Reinstate the license for the term of the original license.
(2) Revoke the license.
(3) Issue a new license.
(4) Deny a reapplication.

♦ Intent:
This statute is procedural in nature and directs the actions of the division regarding due process procedures.

■ IC 12-17.2-5-26
Cessation of operations upon revocation of license
Sec. 26. A child care home shall cease operation when the license of the child care home is revoked.

♦ Intent:
This statute establishes that a licensee shall cease the operation of the child care home if the license is revoked. Note: Due process allows the provider to continue operating through the appeal process. When the appeal process has been exhausted, and was not found in favor of the provider, the home must cease operation.

■ IC 12-17.2-5-27
Notice of license revocation or suspension
Sec. 27. (a) After a license is revoked or suspended, the division shall publish notice under IC 5-3-1 and notify in writing each person responsible for the children in care that the license has been revoked or suspended.
(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child care home has been revoked or suspended.

♦ Intent:
To ensure that the public and the parents of children who were in the care of a home are aware of the status of the license. Note: This information is sent once the provider has exhausted their appeal rights.

■ IC 12-17.2-5-28
Judicial review
Sec. 28. A final decision of the division made after a hearing is subject to judicial review under IC 4-21.5-5.

♦ Intent:
This statute establishes that a licensee has the right to appeal a decision of the division. Note; After a provider has exhausted their administrative appeal rights, they may file for a judicial review in civil court. The provider is not allowed to operate during this phase of the appeal procedure unless a judge has issued a stay.

■ IC 12-17.2-5-29
Investigation of unlicensed facilities; injunctions; civil penalties; removal of children
Sec. 29. (a) The division shall investigate a report of an unlicensed child care home and report the division's findings to the attorney general and to the division's attorney and the prosecuting attorney in the county where the child care home is located.
(b) The attorney general or the county department of public welfare attorney may do the following:
(1) Seek the issuance of a search warrant to assist in the investigation.
(2) File an action for injunctive relief to stop the operation of a child care home if there is reasonable cause to believe that:
(A) the child care home is operating without a license required under this article; or
(B) a licensee's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.
(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a child care home is operating without a license required under this article.
(c) The division may provide for the removal of children from child care homes described in subsection (b).
(d) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.
(e) The civil penalties collected under this section shall be deposited in the division of family resources child care fund established by IC 12-17.2-3-2.
(f) Section 34 of this chapter does not apply to the civil penalties imposed under this section.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding due process procedures when investigating unlicensed care.

■ IC 12-17.2-5-30

Expiration of injunctions for operation without a license

Sec. 30. A court order granted under section 29(b)(2)(A) of this chapter expires when the child care home is issued a license.

♦ Intent:

This statute is procedural in nature and directs the court regarding the status of a case.

■ IC 12-17.2-5-31

Expiration of injunctions for creation of imminent danger

Sec. 31. A court order granted under section 29(b)(2)(B) of this chapter expires upon the later of the following:

(1) Sixty (60) calendar days after the order is issued.

(2) When a final division decision is issued under sections 20 through 22 of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

♦ Intent:

This statute is procedural in nature and directs the actions of the division regarding due process procedures.

■ IC 12-17.2-5-32

Grounds for revocation of licenses

Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) a member of the licensee's household;

(C) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(D) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, an employee of the licensee who has direct contact with children who are receiving child care from the licensee, a volunteer of the licensee who has direct contact with children who are receiving child care from the licensee, or a member of the licensee's household, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.
(4) A determination by the division that the licensee made false statements in the records required by the division.
(5) A determination by the division that the licensee previously operated a:
(A) child care center without a license under IC 12-17.2-4; or
(B) child care home without a license under this chapter.
(b) Notwithstanding subsection (a)(2), if:
(1) a license is revoked due to a criminal conviction of:
(A) an employee or a volunteer of the licensee's; or
(B) a resident of the licensee's household; and
(2) the division determines that the:
(A) employee or volunteer has been dismissed by the licensee; or
(B) member of the licensee's household is no longer a member of the licensee's household; the criminal conviction of the former employee, former volunteer, or former member does not require revocation of a license.

♦ Intent:
This statute establishes the grounds the division may use to revoke a license.

○ Assessment Method:
For verification of juvenile criminal history checks for student assistants, forms may be obtained from the Bureau of Child Care or the Indiana State Police. The process involves obtaining fingerprints for the juvenile and a parent/guardians signature on the form.

■ IC 12-17.2-5-33
Disciplinary sanctions
Sec. 33. (a) A licensee shall operate a child care home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds that the licensee has violated this article.
(b) The division may impose any of the following sanctions when the division finds that a licensee has committed a violation under subsection (a):
(1) After complying with the procedural provisions in sections 19 through 22 of this chapter:
(A) suspend the license for not more than six (6) months; or
(B) revoke the license.
(2) Seek civil remedies under section 29 of this chapter.

♦ Intent:
This statue establishes that the division may sanction a licensee for noncompliance.

■ IC 12-17.2-5-34
Civil penalty for violation of article
Sec. 34. (a) In addition to the other penalties imposed under this chapter, the division may impose a civil penalty of not more than one thousand dollars ($1,000) for the violation of this article.
(b) The division shall deposit the civil penalties collected under this section in the division of family resources child care fund established by IC 12-17.2-2-3.

♦ Intent:
This statute is procedural in nature and directs the actions of the division.

■ IC 12-17.2-5-35
Violations of chapter
Sec. 35. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

■ IC 12-17.2-5-36
Prohibition of care home classification for E building occupancy
Sec. 36. The fire prevention and building safety commission may not adopt rules that classify a child care home as an E building occupancy classification.

♦ Intent:
This statute is procedural in nature and related to the operation of state agencies.

■ IC 12-17.2-5-37
Investigation of abuse or neglect; child care home
Sec. 37. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect at a child care home.
(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not abuse or neglect occurred at the child care home.
(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the child care home is substantiated, the department shall send a copy of its report to the appropriate licensing office at the division.

♦ Intent:
This statute is procedural in nature and directs the actions of the division.

Related Definitions

■ IC 12-7-2-28.6 Child care home

Sec. 28.6. (a) "Child care home", for purposes of IC 12-17.2, means a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative **or any child who is at least fourteen (14) years of age and does not require child care)** at any time receive child care from a provider:

(1) while unattended by a parent, legal guardian, or custodian;

(2) for regular compensation; and

(3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(b) The term includes:

(1) a class I child care home; and

(2) a class II child care home.

As added by P.L.20-1992, SEC.9 and P.L.81-1992, SEC.9. Amended by P.L.1-1993, SEC.73; P.L.136-1993, SEC.2; P.L.124-2007, SEC.1.

♦ Intent:

This statute is procedural in nature and directs the actions of the division.

IC 12-7-2-33.7 Class I child care home

Sec. 33.7. (a) As used in this chapter, "class I child care home" means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least full day kindergarten. Except as provided in IC 12-17.2-5-6.3(b), the addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks.

(b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or

(2) who is at least fourteen (14) years of age and does not require child care; shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

As added by P.L.136-1993, SEC.3. Amended by P.L.106-1996, SEC.1; P.L.247-2001, SEC.5; P.L.124-2007, SEC.2.

♦ Intent:

This statute is procedural in nature and directs the actions of the division.

IC 12-7-2-33.8 Class II child care home

Sec. 33.8. (a) As used in this chapter, "class II child care home" means a child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time. (b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or

(2) **who is at least fourteen (14) years of age and does not require child care**; shall not be counted in determining whether the child care home is within the limit set

forth in subsection (a).
As added by P.L.136-1993, SEC.4. Amended by P.L.124-2007, SEC.3.

♦ Intent:
This statute is procedural in nature and directs the actions of the division.

IC 12-7-2-53.2 "Dangerous felony", for purposes of IC 12-17.2, means one (1) or more of the following felonies:
(1) Murder (IC 35-42-1-1).
(2) Attempted murder (IC 35-41-5-1).
(3) Voluntary manslaughter (IC 35-42-1-3).
(4) Involuntary manslaughter (IC 35-42-1-4).
(5) Reckless homicide (IC 35-42-1-5).
(6) Aggravated battery (IC 35-42-2-1.5).
(7) Kidnapping (IC 35-42-3-2).
(8) Rape (IC 35-42-4-1).
(9) Criminal deviate conduct (IC 35-42-4-2).
(10) Child molesting (IC 35-42-4-3).
(11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
(12) Robbery as a Class A or Class B felony (IC 35-42-5-1).
(13) Burglary as a Class A or Class B felony (IC 35-43-2-1).
(14) Battery as a felony (IC 35-42-2-1).
(15) Domestic battery (IC 35-42-2-1.3).
(16) Strangulation (IC 35-42-2-9).
(17) Criminal confinement (IC 35-42-3-3).
(18) Sexual battery (IC 35-42-4-8).
(19) A felony committed in another jurisdiction that is substantially similar to a felony in this section.
(20) An attempt to commit or a conspiracy to commit an offense listed in subdivisions (1) through (19).

IC 12-7-2-162.5 Related
Sec. 162.5. "Related", for purposes of IC 12-17.2, means any of the following relationships to an individual who is less than eighteen (18) years of age by marriage, blood, or adoption:
(1) Parent.
(2) Grandparent.
(3) Brother.
(4) Sister.
(5) Stepparent.
(6) Stepgrandparent.
(7) Stepbrother.
(8) Stepsister.
(9) First cousin.
(10) Uncle.
(11) Aunt.
As added by P.L.20-1992, SEC.22 and P.L.81-1992, SEC.23. Amended by P.L.1-1993, SEC.92; P.L.145-2006, SEC.60.

IC 12-7-2-199.2 Volunteer
"refers to an individual who, without compensation provides services to a child care home, child care center, provider (as defined in section 149.1(4) of this chapter), or child care ministry for at least eight (8) hours per month."

Best Practice Training Resources

Licensees have had the opportunity to learn gain knowledge and skills that enhance their care of children through a variety of training opportunities. To ensure convenient access to that information the following information is provided. This section is organized according to rule number that relates to the best practice and is not intended to set the standard for determining compliance.

■ 470 IAC 3-1.1-38 Activities for healthy development

Activities for Infants and toddler that support health development:
The caregivers shall:

- Hold and comfort children who are upset;
- Engage in social interchanges such as smiling, talking, touching, singing, and eating;
- Be play partners as well as protectors;
- Attune to children's feelings and reflect them back.

The home shall provide a safe and clean space, both indoors and outdoors, and colorful material and equipment arranged to support learning. The home shall provide opportunities for the child to act upon the environment by experiencing age-appropriate obstacles, frustrations, and risks in order to learn to manage inner feelings and resources, as well as the occurrences and demands of the outer world. The home shall provide opportunities for play that:

- Lessen the child's anxiety and help the child adapt to reality and resolve conflicts;
- Enable the child to explore the real world;
- Help the child practice resolving conflicts;
- Use symbols (words, numbers, and letters);
- Manipulate objects;
- Exercise physical skills;
- Encourage language development;
- Foster self-expression;
- Strengthen the child's identity as a member of a family and a cultural community.

Activities for Preschoolers:
The home shall provide opportunities for children to observe, explore, order and reorder, make mistakes and find solutions, and move from the concrete to the abstract in learning. The caregiver shall encourage and enhance expressive activities that include play, painting, drawing, story telling, music, singing, dancing, and dramatic play. The home shall be rich in first-hand experiences that offer opportunities for language development. The home shall also have an abundance of books of fantasy, fiction, and nonfiction, and provide chances for the children to relate stories. The caregiver shall foster language development by:

- Speaking with children rather than at them;
- Encouraging children to talk with each other by helping them to listen and respond;
- Giving children models of verbal expression;

- Reading books about the child's culture and history, which would serve to help the child develop a sense of self;
- Listening respectfully when children speak.

Activities for School-age children:
The home shall have a program of supervised activities designed especially for school-age children, to include:

- Free choice of play;
- Opportunities to develop physical fitness through a program of focused activity;
- Opportunities for concentration, alone or in a group;
- Time to read or do homework;
- Opportunities to be creative, to explore the arts, sciences, and social studies, and to solve problems;
- Opportunities for community service experience (museums, library, leadership development, senior citizen homes, etc.);
- Opportunities for adult-supervised skill-building and self-development groups, such as scouts, team sports, and club activities (as transportation, distance, and parental permission allow).

■ 470 IAC 3-1.1-41 Discipline

Discipline is a process used to teach children to control their own behavior. All caregivers should always show children positive alternatives rather than just telling them "no." The caregivers shall acknowledge and model desired behavior. Discipline shall include positive guidance, re-direction, and setting clear-cut limits that foster the child's ability to become self-disciplined. Disciplinary measures shall be clear and understandable to the child, shall be consistent, and shall be explained to the child before and at the time of any disciplinary action.

For children 3 or over, caregivers shall selectively use "time out" only to enable the child to regain control of him or herself. The caregiver shall keep the child within visual contact. The caregiver shall take into account the child's developmental stage, tolerances, and ability to learn from "time out." “Time out” shall not be longer than one minute for each year of the child’s age, for example, four minutes for a four year old.

Punitive methods of disciplining children do not support children developing self-control. Punitive methods can become abusive.

■ 470 IAC 3-1.1-42 Nutrition

Adhering to the following will help in ensuring that the children’s nutritional needs are met:

- Drinking water shall always be readily available to the children
- Children in care for 8 and fewer hours shall be offered at least one meal and two snacks or two meals and one snack
- Children in care more than 8 hours shall be offered at least two meals and two snacks or three snacks and one meal
- A nutritious snack shall be offered to all children in midmorning and in mid-afternoon

- Children shall be offered foods from all the food groups (grains, vegetables, fruits, milk, and meat and beans) over the course of the day; breakfast should include grains, milk and either a fruit or a vegetable; lunch and dinner should include milk, meat or beans, grains, two vegetables or fruit (or one of each); a snack should include two different food groups.

When children with food allergies attend the home, the following shall occur:

- Each child with a food allergy shall have a special care plan prepared for the facility by the child's source of health care, to include: 1) Written instructions regarding the food(s) to which the child is allergic and steps that need to be taken to avoid that food; 2) A detailed treatment plan to be implemented in the event of an allergic reaction, including the names, doses, and methods of administration of any medications that the child should receive in the event of a reaction. The plan shall include specific symptoms that would indicate the need to administer one or more medications.
- Based on the child's special care plan, the child's caregiver(s) shall receive training, demonstrate competence in, and implement measures for: 1) Preventing exposure to the specific food(s) to which the child is allergic; 2) Recognizing the symptoms of an allergic reaction; 3) Treating allergic reactions.
- Parents and licensee shall arrange for the home to have necessary medications, proper storage of such medications, and the equipment and training to manage the child's food allergy while the child attends the home.
- The caregiver shall promptly and properly administer prescribed medications in the event of an allergic reaction according to the instructions in the special care plan.
- The caregiver shall notify the parents of any suspected allergic reactions, the ingestion of the problem food, or contact with the problem food, even if a reaction did not occur.
- The caregiver shall notify the child's physician if the child has required treatment by the facility for a food allergic reaction.
- The caregiver shall contact the emergency medical services system immediately whenever epinephrine has been administered;
- Parents of all children in the home shall be advised to avoid any known allergies in class treats or special foods brought into the home.
- Individual child's food allergies shall be posted prominently.
- On field trips or when the child is off the premises, the written plan for the child with allergies shall be routinely carried.

■ 470 IAC 3-1.1-44 Health

A fully stocked first aid kit includes the following items:

- Disposable nonporous gloves
- Scissors
- Tweezers
- A non-glass thermometer to measure a child’s temperature
- Bandage tape
- Sterile gauze pads
- Flexible roller gauze
- Triangular bandages
- Safety pins

- Eye dressing
- Pen/pencil and note pad
- Instant cold pack
- CPR Barrier device
- Small plastic or metal splints
- Non-medicated adhesive strip bandages
- Plastic bags for cloths, gauze, and other materials used in handling blood

470 IAC 3-1.2-6 Diaper changing and toilet training

The following procedure is recommended for diaper changing and is designed to reduce the contamination of surfaces that will later come in contact with uncontaminated surfaces such as hands, furnishings, and floors.

Step 1: Get organized. Bring the child to the diaper changing area, wash hands, gather and bring needed items to the diaper changing table:

· Non-absorbent paper liner large enough to cover the changing surface from the child's shoulders to beyond the child's feet;
· Fresh diaper, clean clothes (if needed);
· Wipes for cleaning the child's genitalia and buttocks removed from the container or dispensed so the container will not be touched during diaper changing;
· A plastic bag for any soiled clothes;
· Disposable gloves, if you plan to use them (put gloves on before handling soiled clothing or diapers and remove before wiping child off or touching the clean diaper);
· A thick application of any diaper cream (when appropriate) removed from the container to a piece of disposable material such as facial or toilet tissue.

Step 2: Carry the child to the changing table, keeping soiled clothing away any surfaces you cannot easily clean and sanitize after the change.

· Always keep a hand on the child;
· If the child's feet cannot be kept out of the diaper or from contact with soiled skin during the changing process, remove the child's shoes and socks so the child does not contaminate these surfaces with stool or urine during the diaper changing;
· Put soiled clothes in a plastic bag and securely tie the plastic bag to send the soiled clothes home.

Step 3: Clean the child's diaper area.

· Place the child on the diaper change surface and unfasten the diaper but leave the soiled diaper under the child.
· If safety pins are used, close each pin immediately once it is removed and keep pins out of the child's reach. Never hold pins in the mouth.
· Lift the child's legs as needed to use disposable wipes to clean the skin on the child's genitalia and buttocks. Remove stool and urine from front to back and use a fresh wipe each time. Put the soiled wipes into the soiled diaper or directly into a plastic-lined, hands-free covered can.

Step 4: Remove the soiled diaper without contaminating any surface not already in contact with stool or urine.

· Fold the soiled surface of the diaper inward.
· Put soiled disposable diapers in a covered, plastic-lined, hands-free covered can. If reusable cloth diapers are used, put the soiled cloth diaper and its contents (without emptying or rinsing) in a plastic bag or into a plastic-lined, hands-free covered can to give to parents or laundry service.
· If gloves were used, remove them using the proper technique and put them into a plastic-lined, hands-free covered can.
· Whether or not gloves were used, use a disposable wipe to clean the surfaces of the caregiver's hands and another to clean the child's hands, and put the wipes into the plastic-lined, hands-free covered can.
· Check for spills under the child. If there are any, use the paper that extends under the child's feet to fold over the disposable paper so a fresh, unsoiled paper surface is now under the child's buttocks.

Step 5: Put on a clean diaper and dress the child.
· Slide a fresh diaper under the child.
· Use a facial or toilet tissue to apply any necessary diaper creams, discarding the tissue in a covered, plastic-lined, hands-free covered can.
· Note and plan to report any skin problems such as redness, skin cracks, or bleeding.
· Fasten the diaper. If pins are used, place your hand between the child and the diaper when inserting the pin.

Step 6: Wash the child's hands and return the child to a supervised area.
· Use soap and water, no less than 60 degrees F and no more than 120 degrees F, at a sink to wash the child's hands, if you can.
· If a child is too heavy to hold for hand washing or cannot stand at the sink, use commercial disposable diaper wipes or follow this procedure:
  · Wipe the child's hands with a damp paper towel moistened with a drop of liquid soap.
  · Wipe the child's hands with a paper towel wet with clear water.
  · Dry the child's hands with a paper towel.

Step 7: Clean and sanitize the diaper-changing surface.
· Dispose of the disposable paper liner used on the diaper changing surface in a plastic-lined, hands-free covered can.
· Clean any visible soil from the changing surface with detergent and water; rinse with water.
· Wet the entire changing surface with the sanitizing solution (e.g. spray a sanitizing bleach solution of 1/4 cup of household liquid chlorine bleach in one gallon of tap water, mixed fresh daily).
· Put away the spray bottle of sanitizer. If the recommended bleach dilution is sprayed as a sanitizer on the surface, leave it in contact with the surface for at least 2 minutes. The surface can be left to air dry or can be wiped dry after 2 minutes of contact with the bleach solution.

Step 8: Wash hands immediately including before changing another child’s diaper.