

Interpretative Guide for Legally License Exempt Child Care Providers

The purpose of this guide is to provide the CCDF Provider Eligibility Inspectors with a tool for determining compliance with a particular CCDF provider laws and rules. This guide also provides information on the purpose of each law or rule, as well as, any special instructions necessary for compliance determination. Thus it should serve as a useful document for CCDF provider applicants to allow for a better understanding of the laws and rules in preparation for certification and for on-going compliance.

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

- ❖ The complete text of the law is first. The symbol ■ is used to indicate the law or rule.
- ❖ Following the rule or the law is the 'intent' statement. The intent statement summarizes the purpose of the law or rule. The symbol ♦ is used to indicate the intent.
- ❖ Next is the 'assessment method'; this provides CCDF inspectors guidance on the means for evaluating compliance with the rule. The symbol ● is used to indicate the assessment method. The symbol * is used to indicate the assessment method for a center, if different.
- ❖ Last is the 'threshold of compliance'; this provides CCDF inspectors guidance on determining whether or not a law or rule should be cited as non-compliant. The symbol ▲ is used to indicate the threshold of compliance.

Please note not all laws or rules have an interpretative guide and not all interpretative guides have the four components.

CCDF providers are subject to both Indiana Code (IC) and Indiana Administrative Code (IAC). IC is statute or law created by the Indiana Legislature. IAC is rule developed by the Indiana Family and Social Service Administration through the public process required by Indiana statute.

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

INDIANA ADMINISTRATIVE CODE
CHILD CARE AND DEVELOPMENT FUND VOUCHER PROGRAM;
PROVIDER ELIGIBILITY

■ **IC 12-17.2-3.5-1**

Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. However, except as provided in section 4(b) of this chapter, a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter.

(b) If a school age child care program that is:

(1) described in IC 12-17.2-2-8(10); and

(2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

◆ [Intent](#)

To establish this law represents the standards required for participation by a provider in the Child Care and Development Fund voucher program and the receipt of government funds. These codes support the parental role in the selection of a child care provider. The Indiana administrative code associated with this Indiana code was developed through a public process involving various constituencies.

INDIANA CODE
CHILD CARE DEVELOPMENT FUND VOUCHER PROGRAM;
PROVIDER ELIGIBILITY

IC 12-17.2-3.5-4 Ineligible provider; enforcement actions; decertification; division consideration or religious instruction or activity

Sec. 4 (a) A provider is ineligible to receive a voucher payment if the provider

(1) has been 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; 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 relating to:

(i) the health or safety of children; or

(ii) welfare fraud;

- (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 IC 12-17.2-5-35, 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;
- (2) allows an individual who has been convicted of a crime specified under subdivision (1) to reside with the provider, if the provider operates a child care program in the provider's home;
- (3) employs an individual or allows an individual to volunteer who:
 - (A) has direct contact with a child who is receiving child care from the provider; and
 - (B) has been convicted of a crime specified in subdivision (1);
- (4) has had a revocation of eligibility under this chapter during the immediately preceding two years; or
- (5) fails to meet the requirements of this chapter.
- (b) A provider whose:
 - (1) license under IC 12-17.2-4 or IC 12-17.2-5; or
 - (2) compliance with this chapter;
 is subject to an enforcement action is ineligible to receive a voucher payment, regardless of whether the provider meets the requirements of this chapter, until the outcome of any proceeding under IC 4-21.5 reflects a final determination that the provider's license or eligibility is in good standing.
- (c) If the division decertifies a provider under this chapter, the provider:
 - (1) may reapply for eligibility to receive a voucher payment at any time that the provider is able to demonstrate compliance with this chapter; and
 - (2) is not eligible to receive a voucher payment under this chapter until the provider receives notice from the division that the provider's application under subdivision (1) has been approved.
- (d) In determining whether a provider meets the requirements of this chapter, the division may not consider religious instruction or activities.

◆ 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 to comply with a National criminal history check.

● Assessment Method:

Check the online database of National Criminal History check results.

IC 12-17.2-3.5-4.1 Perpetrators ineligible

Sec. 4.1. (a) This section applies to the following:

- (1) A provider, if the provider is an individual.
- (2) If a provider operates a child care program in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age.
- (3) An individual who:

- (A) is employed; or
 - (B) volunteers; at the facility where a provider operates a child care program.
- (b) If information used by the division under IC 31-33-26-16(a)(10) or obtained by the division under section 18 of this chapter indicates that an individual described in subsection (a) has been named as a perpetrator, the following are ineligible to receive a voucher payment:
- (1) The individual.
 - (2) A provider in whose home the individual resides if the provider operates a child care program in the provider's home.
 - (3) A provider that:
 - (A) employs the individual; or
 - (B) allows the individual to volunteer; at the facility where the provider operates a child care program.

As added by P.L.109-2002, SEC.3. Amended by P.L.18-2003, SEC.13; P.L.225-2013, SEC.9.

◆ Intent:

To protect children from a caregiver or an adult child care home household member who present risk due to inappropriate action toward a child. The statute compels adults who have access to children in a child care to consent to a check of the Child Protection Index (CPI).

● Assessment Method:

Consent is provided for a Child Protection Index (CPI) check through the completion and submission of state form 53323 'Consent to Release'. Once submitted to FSSA, a check is completed of the CPI database to determine if the individual has been listed in the database. Results are reported back to the verifying agency.

IC 12-17.2-3.5-5 Facility requirements; activities; nutrition; educational materials

Sec. 5 (b) A provider shall meet sanitation standards for bathrooms and hand washing, as established by the division.

◆ Intent: Hand washing

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 before meals and snacks and after toilet use. Ensure the proper hand washing method is followed:

- (1) Wet hands.
- (2) Apply soap.
- (3) Clean hands and 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.

◆ Intent: Diapering

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 fully intact washable surface which can be sanitized on which the child is placed.
- 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 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.

◆ Intent: Sanitation

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

● Assessment

Flush toilets which are accessible to children to confirm at least one is in working order. Observe the toilet and restroom are clean and free of harmful bacteria such as mold or the presence of blood or other body fluids.

(c) A provider shall have, and maintain compliance with, a written policy describing the practice of the provider concerning the following:

- (1) Safe conditions in the facility and on the grounds.
- (2) Safety of motor vehicles used to transport children.

◆ Intent:

The provider shall ensure no conditions exist in the child care or on the grounds where child care services are provided that would endanger the health, safety, or welfare of the children.

To ensure understanding the written policy shall include:

- Protection from hazards that can cause bodily injury such as, electrical hazards, bodies of water and vehicular traffic.
- The center shall make every effort to control the spread of communicable diseases and shall establish written health policies and precautions.
Infectious disease, including, but not limited to, the following:
 - (A) Hepatitis A.
 - (B) Cytomegalovirus (CMV).
 - (C) Chicken pox.
 - (D) Rubella.
 - (E) Measles.
 - (F) Pertussis (whooping cough).
 - (G) Fifth disease.
 - (H) Influenza.
 - (I) Tuberculosis.
 - (J) Shigellosis.
 - (K) Giardiasis.
 - (L) Meningococcal disease.
 - (M) Group A streptococcus.
 - (N) Ringworm.
 - (O) Scabies.
 - (P) Lice.
 - (Q) Herpes.
 - (R) Cryptosporidiosis.
 - (T) Rotavirus.
 - (U) Campylobacterium.
 - (V) Salmonella.
 - (W) Diarrhea and vomiting.
- To ensure the handling and storage of hazardous materials and the appropriate disposal of biocontaminants.
- Building and physical premise safety, including:
 - (A) Identification of and protection from hazards that can cause

● Assessment:

Observe the written policy for safe condition and transportation of children is posted in a public location within the child care area. Confirm the stated policy has been

provided to each child's parent or guardian. This policy is not subject to approval by the division.

▲ Threshold for compliance:

Any subsequent change to the stated policy must be filed with the division, posted in a public location in the child care area and provided to the child's parent or guardian.

(e) A provider must make available daily activities appropriate to the age, developmental needs, interests, and number of children in the care of the provider, including the following:

(1) Both active and quiet play. The provider may include the use of safe, age-appropriate toys, games, and equipment for indoor and outdoor play.

(2) Daily outdoor play, unless one (1) of the following applies:

(A) Severity of the weather poses a safety or health hazard.

(B) A health related reason for a child to remain indoors is documented by the child's parent, guardian, or physician.

◆ Intent: Active and quiet play

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.

◆ Intent: Outdoor play

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.

(f) A provider shall make available to each child in the provider's care the following:

- (1) Appropriately timed, nutritious meals and snacks in a quantity sufficient to meet the need of the child.
- (2) Drinking water at all times.

◆ Intent:

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

Each child with a food allergy shall have a special care plan prepared for the child care program by the child's physician or health professional. That plan should 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 specify symptoms that would indicate the need to administer one or more medications.

Based on the child's special care plan, the child's teachers 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.

● 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:

- Review written plans for handling and providing special diets.
- Ask Director and food service staff about procedures to implement written plans.
- Check files for children with special diets for documentation and written statement from physician or parent, based on reason for the diet.
- Observe the food preparation to prevent contamination.
- Check for posting of special instructions for special diets.

This does not eliminate sack lunches brought from home.

(g) The division may make available to a provider education materials related to quality of child care as follows:

- (1) The materials are available at no cost to the provider.
- (2) The materials are appropriate to the ages of children cared for by the provider.
- (3) The materials are current.
- (4) The materials are available electronically.

(5) Use of the materials by the provider is voluntary.

◆ Intent:

To ensure providers have access to developmentally appropriate materials for children in their care.

IC 12-17.2-3.5-5.5 Supervision of children; safe sleeping; ratios and group sizes

Sec 5.5 (b) A provider that cares for children who are less than twelve (12) months of age shall:

- (1) Complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices; and
- (2) Ensure that all caregivers of children who are less than twelve (12) months of age follow safe sleeping practices.

◆ Intent:

To protect children by ensuring that the provider and all employees or volunteers caring for children less than twelve (12) months of age have 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.

▲ Threshold of Compliance:

Observe the sleeping area. There should not be any toys, stuffed animals, crib bumpers, positioning devices, or extra bedding in the crib or other safe 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.

(c) A provider that care for:

- (1) Not more than sixteen (16) children at a facility where the provider operates a child care program shall maintain:
 - (A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirement; and
 - (B) the same group sizes as specified in the group size requirements;that apply to a child care home under IC 12-17.2-5; and

◆ 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 caregiver(s). Count the children in care at the visit. Determine the ages of the children by interview or review of files. Checking enrollment records and

children's schedules will also provide information on the capacity. Children less than 14 years must be counted unless the child is the provider'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:

- The ratio for children when all are younger than 24 months is 4 children to one caregiver.
- The ratio for a mixed age group (birth to age 14) is 5:1
- Over capacity and non-compliance with child/staff ratios are always cited

(2) More than sixteen (16) children at a facility where the provider operates a child care program shall maintain:

(A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirements; and

(B) the same group sizes as specified in the group size requirements: that apply to a child care center under IC 12.-17.2-4

◆ Intent:

To protect children from harm; understanding it is permissible for a staff member to leave the classroom only to use the restroom or to take care of an emergency situation for a particular child in a classroom and return immediately provided there is at least one qualified staff person remaining in the classroom. This is not advisable in a room of infants or toddlers.

To ensure the understanding that maximum group sizes shall apply at all times inside, outside and for special events. Research has shown that group size and child/staff ratios are among the most important determinants of child safety and quality of care. This rule does allow a program flexibility in mixing age groups, as long as, there is adequate supervision and attention to the development needs of children. Maximum group sizes for special events can be adjusted by keeping each classroom or children together during the presentation.

During rest time, groups may be in the same room; however, each classroom of children must be kept together and kept separate from the other groups in the room. Rest time ratios must be maintained for each group.

● Assessment Method:

Observe the number of caregiver(s) in each classroom. Count the children in each classroom at the visit. Determine the ages of the children by interview or review of files. All the children present are counted. Determine the appropriate number of caregivers needed for the child of the youngest age in each classroom.

▲ Threshold of Compliance:

- The ratio and maximum group size as stated on the Child/Staff Ratios for Licensed Child Care Centers chart must be followed.
- Over capacity and non-compliance with child/staff ratios are always cited.

Note: Children transitioning to the next age group or starting the facility may start visiting or be placed in the next age group of children with a transition period of 2 weeks before and 2 weeks after their birthday. The ratio maintained is the ratio of the classroom into which the child is moving.

IC 12-17.2-3.5-7 Parent notification plan; discipline policy; parent visits

Sec. 7 (b) A provider shall:

- (1) maintain a written child discipline policy;
- (2) ensure that all employees and volunteers follow the child discipline policy;
- (3) provide to the parent or legal guardian of each child cared for by the provider a written copy of the child discipline policy; and
- (4) maintain in each child's file a copy of the child discipline policy that has been signed by the parent and legal guardian described in subdivision (3).

◆ 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.

▲ Threshold of Compliance:

Observation of a caregiver using a discipline method inconsistent with the home's policy is grounds for citing non-compliance.

(c) A provider shall allow unscheduled visits by a parent or legal guardian to a facility where the provider operates a child care program during the hours the child care program is in operation.

◆ Intent:

To provide the parents the opportunity to observe the home and premises.

● Assessment Method:

Interview the caregiver to determine if the parents have the opportunity to view the home.

IC 12-17.2-3.5-8 Caregiver requirements; education; documentation

Sec. 8. (b) The following apply to an individual who is employed or volunteers as a caregiver at a facility where the provider operates a child care program:

(2) If the individual is:

(A) at least eighteen (18) years of age, the individual may act as a caregiver without supervision of another caregiver; or

(B) less than eighteen (18) years of age, the individual may act as a caregiver on if the individual:

(i) is at least fourteen (14) years of age; and

(ii) is, at all times when child care is provided, directly supervised by a caregiver who is at least eighteen (18) years of age.

◆ 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 caregiver to ensure adequate care and protection of the children in care.

● 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 18 years of age. 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:

A caregiver under the age of eighteen (18), if present, has not been left alone with the children in the provider's care.

(3) Before beginning employment or volunteer duties, the individual must receive a formal orientation to the facility and the child care program.

◆ Intent:

To ensure the provider, caregivers or volunteers have received orientation on all topics required by the division.

● Assessment:

Review staff files for documentation of completed orientation requirements for the provider, caregivers or volunteers.

(4) Unless the provider is a parent, stepparent, guardian, custodian, or other relative to each child in the care of the provider, the individual annually must receive at least twelve (12) hours of continuing education approved by the division and related to the age appropriate educational development, care, and safety of children, the hours of continuing education required by this subdivision may include the training described in this chapter concerning child abuse detection and prevention, first aid, cardiopulmonary resuscitation, and safe sleeping practices.

◆ Intent:

Ongoing training is required for caregivers to increase their knowledge of working with young children

● Assessment:

Review each provider / staff's file for written documentation of all in-service training including:

- (A) Date of training; and
- (B) Number of clock hours of training; and
- (C) Type of training; and
- (D) Content of the training; and
- (E) Name and credentials of trainer.

▲ Threshold of Compliance:

Providers shall measure training on an annual basis. New providers / staff shall average one (1) hour of training per month during the first year of service.

(5) Not more than three (3) months after the individual begins employment or volunteer duties, the individual must receive training approved by the division concerning child abuse detection and prevention.

◆ Intent

To ensure each employee is aware of the signs of child abuse/neglect including the prevention of shaken baby syndrome and abusive head trauma and reporting procedures.

● Assessment:

Review documentation of individual's training to determine it has been received.

(c) A provider shall:

- (1) maintain at the facility where the provider operates a child care program documentation of all training and completion of continuing education required by this section; and
- (2) make the documentation available to the division up request.

● Assessment:

Review of documentation required to demonstrate compliance with IC 12-17.2-3.5

IC 12-17.2-3.5-8.5 Child abuse or neglect reporting

Sec. 8.5. (a) A provider shall provide to all employees and volunteers of the provider the written material prepared and made available by the division under subsection (c).

(b) An employee or a volunteer of a provider who has reason to believe that a child in the provider's care is a victim of child abuse or neglect shall make a report as required under IC 31-33-5.

- (c) The division shall do the following:
- (1) Prepare written material specifying the following:
 - (A) The duty to report known or suspected child abuse under IC 31-33-5.
 - (B) That knowing failure to make a report required by:
 - (i) IC 31-33-5; or
 - (ii) IC 31-33-5-2;is a Class B misdemeanor under IC 31-33-22-1.
 - (3) Make the written material under subdivision (1) available to providers.

◆ Intent

To ensure caregivers and volunteers understand it is their responsibility to report child abuse and neglect. Staff must be trained on the identification and reporting of child abuse and neglect.

▲ Threshold of Compliance

The verifying agency must ensure an adequate supply of child abuse materials is available to the applicant in print or available for download.

IC 12-17.2-3.5-11 Safety

Sec. 11. (a) A provider shall provide for a safe environment by ensuring that the following items are placed in areas that are inaccessible to the children in the provider's care:

- (1) Firearms and ammunition.
- (2) Poisons, chemicals, bleach, and cleaning materials.
- (3) Medications.

(b) A provider shall do the following with respect to transporting children away from the facility where the provider operates a child care program:

- (1) Obtain written permission from the child's parent or legal guardian to transport the child.
- (2) Ensure that the child is transported only by an employee or a volunteer who:
 - (A) is at least eighteen (18) years of age;
 - (B) holds a valid driver's license; and
 - (C) transports the child in a properly licensed and insured motor vehicle.

◆ 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 child care program.
Observe the medication documentation.

◆ Intent:

To protect children who are transported while in the care of the caregiver and to ensure parents consent to their child leaving the 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.

IC 12-17.2-3.5-12 National criminal history background check; temporary eligibility; exceptions; fees or costs; meet certain requirements by July 1, 2014

Sec. 12. (a) Except as provided in subsection (f) and subject to subsection (g), a provider shall, at no expense to the state, do the following:

(1) If the provider is an individual, submit the provider's fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(2) If the provider operates a child care program in the provider's home, require:

a. The provider's spouse; and

b. Any individual who resides with the provider and who is:

i. At least eighteen (18) year of age; or

ii. Less than (18) years of age but has 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.

(3) Require any individual who:

a. Is employed or volunteers; and

b. Has direct contact with a child who is receiving child care from the provider;

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

A provider shall require an individual described in subdivision (3) to submit fingerprints 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.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any;

(1) police investigations;

(2) arrests; and

(3) criminal convictions of which the provider is aware regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the division receives the national criminal history background check required under subsection (a) from the state police department if:

(1) the provider:

(A) has:

(i) submitted; or

(ii) required an individual described in subsection (a)(2) or (a)(3) to submit;

fingerprints for a national criminal history background check as required under subsection (a); and

(B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer; and

(2) the local criminal history does not reveal that an individual has been convicted of 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) Misdemeanor related to the health or safety of a child;

(C) 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) Misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, 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.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a national criminal history background check is required under this section has been convicted of a:

(1) felony:

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

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

(C) that is a dangerous felony; or

(D) 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;

- (2) Misdemeanor related to the health or safety of a child;
- (3) 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
- (4) Misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, 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.

until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a national criminal history background check is required under this section to report any criminal convictions of the individual to the provider.

(f) Notwithstanding IC 10-13-3-28, the state police department may not charge a church or religious society any fees or costs (other than fees or costs charged by the Federal Bureau of Investigation or a private entity) for responding to a request for a release of a national criminal history background check record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

(g) A provider that holds a license or registration under this article on July 1, 2103, shall, at no expense to the state, meet the requirements under subsection (a) not later than July 1, 2014.

◆ 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 12-17.2-3.5-16 Decertification and revocation of eligibility

Sec. 16. (a) The division may, according to rules adopted under IC 4-22-2, decertify a provider for any of the following reasons:

- (1) The provider fails to comply with this chapter.
- (2) The provider refuses to allow, during normal business hours, the division or an agent of the division to inspect the facility where the provider operates a child care program.

◆ Intent:

This statute establishes the grounds the division may use to decertify a provider.

(b) A provider is ineligible, and the division may revoke for a period of not less than two (2) years from the date on which a final determination is made under IC 4-21-5 a provider's eligibility, to receive a voucher payment under this chapter for any of the following reasons:

- (1) The provider is determined by the division to have made false statements in the provider's:
 - (A) Application for eligibility to receive a voucher payment; or

- (B) Records required by the division under this chapter.
- (2) Credible allegations of fraud have been made against the provider, as determined by the division.
- (3) Criminal charges of welfare fraud have been filed against the provider.
- (4) Allegations of welfare fraud committed by the provider have been substantiated by the division.

◆ Intent:

This statute establishes the grounds the division may use to revoke a provider.

IC 12-17.2-3.5-17 Imminent threats to children

Sec. 17. (a) A provider is ineligible to receive a voucher payment under this chapter if any of the following conditions exist, posing an imminent threat to the life or well-being of a child in the care of the provider at a facility where the provider operates a child care program;

- (1) Building damage due to:
 - (A) Earthquake;
 - (B) Flooding or water damage;
 - (C) Tornado;
 - (D) Severe wind;
 - (E) Ice storm;
 - (F) Fire;
 - (G) Lead contamination; or
 - (H) Asbestos.
- (2) Sewage problem as follows:
 - (A) Sewage backup.
 - (B) Toilets cannot be flushed or are overflowing.
 - (C) Sewage system is not operating properly.
- (3) Inadequate or unsafe water supply as follows:
 - (A) Contaminated water supply.
 - (B) Water supply not functioning.
- (4) No electricity in the building.
- (5) Heating system problems.
- (6) Gas, carbon monoxide, or other noxious gases leak.
- (7) Filthy conditions.
- (8) Rodent, roach, or vermin infestation.
- (9) Building renovation occurring in a room or area occupied by children.
- (10) Building condition that is structurally unsafe.
- (11) Lack of supervision that results in the death or serious injury of a child.
- (12) The presence at the facility where the provider operates a child care program of an individual who is, based on the results of a criminal history background check required by this chapter, prohibited under this chapter from being present at the facility.

(b) If an employee or agent of the division determines that a condition described in subsection (a) exists at a facility where a provider that is currently eligible to receive a voucher payment under this chapter operates a child care program, the division shall:

- (1) issues an emergency or another temporary order under IC 4-21.5-4 decertifying the provider; and
- (2) contact the parent or guardian of each child in the care of the provider to inform the parent or guardian.
 - (A) That the division has issued an order decertifying the provider; and
 - (B) Of the reason for decertification;

pending the outcome of proceedings conducted under section 14 of this chapter. However, a provider's eligibility may be reinstated in accordance with subsection (e).

(c) An emergency or other 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.

(e) If, within the fifteen (15) day period beginning on the date on which an order is issued under subsection (b), the provider:

- (1) submits to the division a remediation plan that is approved for implementation by the division; and
- (2) completes the remediation plan to the satisfaction of the division:

the order issued under this section is void and the provider's eligibility to receive a voucher payment is reinstated.

◆ 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.

IC 12-17.2-3.5-18 Child abuse and neglect

Sec. 18. (a) Upon receiving notice of a claim of abuse or neglect in a facility where a provider operates a child care program, the department of child services shall:

- (1) forward a copy of the notice to the division; and
- (2) conduct an investigation of the claim.

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether abuse or neglect occurred at the facility.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the facility is substantiated, the department shall send a copy of the department's report to the appropriate office of the division.

IC 12-17.2-3.5-19 Notification of injury or death of child

Sec. 19. (a) A provider shall immediately notify the parent or legal guardian of a child in the care of the provider concerning any of the following that occur during the hours that the child is in the care of the provider:

- (1) A:
 - (A) Bodily injury (as defined in IC 35-31.5-2-29); or
 - (B) Serious bodily injury (as defined in IC 35-31.5-2-292);of a child that requires the attention of a physician, dentist, registered nurse, licensed practical nurse, paramedic, or emergency medical technician.
- (2) Death of a child.

◆ Intent

To ensure a parent or legal guardian have been appropriately informed of their child's well being so appropriate medical care can be administered.

(b) A provider shall:

- (1) not more than twenty-four (24) hours after the occurrence of an incident described in subsection (a)(1); and
- (2) immediately after the occurrence of an incident described in subsection (a)(2); notify the division of the occurrence of the incident.

◆ Intent

To ensure the division has received notification of injury to allow for appropriate action on the part of the division to protect children from further injury, if necessary.

(c) Information that:

- (1) is obtained under subsection (b);
- (2) concerns a bodily injury or serious bodily injury described in subsection (a)(1); and
- (3) could be used to identify an individual child;

is confidential.

◆ Intent

To ensure a child's medical information remains confidential.

■ **470 IAC 3-18-1 Definitions**

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 1 For the purpose of this rule only, the following definitions apply:

- (1) 'Applicant' means the individual who will receive payment from the CCDF voucher program or the individual authorized to sign for a corporation, partnership, or sole proprietor's business.
- (2) 'Approved water source' means a municipal water supply or well water supply with documented annual water quality tests indicating the water is free of coliform bacteria and any other know contaminant that is above safe drinking water standards, or demonstrated compliance with Indiana department of environmental management drinking water standards.

◆ Intent:

To ensure that children have access to safe water for drinking.

● Assessment Method:

Collect a water bill, statement from landlord verifying water source, or real estate listing identifying the water source. If it is other than a municipal water supply, review documentation of current water quality test. The test should verify that the water is free of the coliform bacteria or other dangerous or harmful contaminant.

* Assessment Method:

If the facility'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. Current documentation from IDEM must be provided.

- (3) 'Caregiver' means an individual who is assigned by a provider the responsibility of supervising or participating in the daily routine of a specific child in the care of the provider.
- (4) 'CCDF' means the Child Care and Development Fund program administered under 45 CFR 98.
- (5) 'Certification' means a provider has demonstrated compliance with the requirements of this rule.
- (6) 'Child' means any individual under eighteen (18) years of age.
- (7) 'Child care' means a service to families that provides for the health, safety, and supervision of a child's social, emotional, and educational growth during the time that children are in the care of a provider.
- (8) 'Child care program' means the activities provided for children during the time that children are in the care of the provider.
- (9) 'CPR' means cardiopulmonary resuscitation
- (10) 'Decertification' means a CCDF program provider who is no longer eligible to participate.
- (11) 'Division' means the Division of Family and Children.
- (12) 'DOT' means the U.S. Department of Transportation.
- (13) 'Employee' means an individual who performs services for compensation other than an allowance, stipend or other support under the federal Foster Grandparent Program.
- (14) 'Facility' means the location where child care is provided.
- (15) 'Hazardous materials' are those materials defined as hazardous under the rules of the fire prevention and building safety commission.
- (16) 'Hot water' means water with a temperature of at least one hundred (100) degrees Fahrenheit.
- (17) 'Inaccessible' means the material shall be stored in a remote area of the facility in a location that is out of a child's reach or maintained in locked storage.
- (18) 'Ineligible provider' means a provider who fails to meet the requirements of this rule.
- (19) 'Legally licensed exempt' means a child care program that can operate legally without obtaining license or registration under IC 12-17.2

◆ Intent: Legally license exempt home

To provide a clear definition of a legally license exempt child care home. This type of 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 child care setting provides care for five or fewer unrelated children.

- Assessment Method: Legally license exempt home

- 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 the verifying agency 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 the home meets the definition. When visiting the home, the children should be observed and counted to determine need for licensure.

- Relative children*

- ❖ Applicants should be interviewed and asked 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: Legally license exempt home:

- Residential structure*

- ❖ If the structure is not residential, the applicant should be advised they must qualify as a legally license exempt center.

- 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 and birth certificates should be used to determine compliance.

- (20) 'Poisons' means any material labeled harmful or fatal if swallowed and any prescriptions or nonprescription medication.
- (21) 'Provider' means an individual who provides child care services and is directly paid for the provision of child care under the federal CCDF voucher program administered under 45 CFR 98 and 45 CFR 99 regardless of whether the child care facility is licensed or registered.

- (22) ‘Related’ 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, stepsisters, stepbrothers, uncles, aunts and first cousins.
- (23) ‘Supervision’ means children shall be within sight and sound of a caregiver at all times including children related to the provider under seven (7) years of age.
- (24) ‘Temporary eligibility’ means the provider eligibility period not to exceed forty-five (45) days.
- (25) ‘Valid expiration date’ means a fire extinguisher that has been recharged in the previous twelve (12) months or a single use extinguisher that has been purchased in the previous twenty-four (24) months.
- (26) ‘Verifying agency’ means the state, an agency of the state, or other entity designated by the state to verify compliance with minimum standards of this rule.
- (27) ‘Volunteer’ is defined in IC 12-7-2-199.2 and “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 a child care ministry for at least eight (8) hours per month.

▲ Threshold of Compliance:

A visitor/guest is a person who visits the child care 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.

- (28) ‘Volunteer caregiver’ means an individual who provides or participates in the child care of a specific child without compensation.
- (29) ‘Voucher agent’ means the state, an agency of the state, a person, or an entity that contracts with the division to operate any function of the CCDF voucher program.
- (30) ‘Voucher payment’ means payment for child care services through the federal CCDF program administered by the state under 42 U.S.C. 9858 et seq., 45 CFR 98 and 45 CFR 99.
- (31) ‘Voucher program’ means the federal CCDF program administered by the state under 42 U.S.C. 9858 et seq., 45 CFR 98, and 45 CFR 99.
- (32) ‘Voucher provider’ means a child care provider that has been approved by the division as eligible to receive child care reimbursement through the CCDF program.

470 IAC 3-18-3 Fire and smoke detection systems

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec 3. (a) A provider providing care in a residential building must have working smoke detectors that meet the standards adopted by rule for licensed child care home at 470 IAC 3-1.1-46(1).

◆ 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.

(b) A provider providing care in a nonresidential building must have fire alarm and suppression systems as required by the applicable rule of the fire prevention and building safety commission.

◆ Intent:

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

*Center Assessment Method:

Obtain a copy of the "Receipt of Inspection" form provided by the State or Local Fire Marshall. The inspection should be no more than 12 months old at time of certification. If a facility is unable to obtain a timely inspection, obtain proof an inspection has been scheduled or requested. If the annual inspection has not occurred at the time of certification, confirm all fire extinguishers are properly charged and the fire alarm system is working. New facilities must have a documented Fire Marshall inspection prior to approval. Public schools are considered to be in compliance with this standard.

▲ Threshold of Compliance *:

If there is reason to believe that this facility is not in compliance with state or local fire codes, contact the State Fire Marshall's office at 317-232-2222.

470 IAC 3-18-4 Fire extinguishers

Authority: IC 12-13-5-3; IC 12-17.2-335-15

Affected: IC 12-17.2-3.5

Sec. 4. A provider must provide a two and one-half (2 ½) pound or greater ABC multiple purpose fire extinguisher with valid expiration date that shall be located on each floor of the facility in which child care services are provided and an additional extinguisher located in the kitchen area of the facility.

◆ 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.

- *Center Assessment Method

Child care programs operated in a public school are considered compliant with this rule.

470 IAC 3-18-5 Exits

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 5 (a) As follows, a facility where a provider operates a child care program must have two (2) exits that:

- ◆ Intent

To ensure the children can be evacuated from the home if there is a fire. 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. A provider's facility where care was provided and CCDF payments were received prior to June 30, 2002, as long as CCDF health and safety certification has been maintained is exempt from this section.

- * Center Assessment Method

Child care programs operated in a public school are considered compliant with this rule.

(1) Do not require passage through a garage or storage area where hazardous materials are stored.

- ◆ 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.

(2) Are not windows.

(3) Are on different sides of the facility.

(4) Are not blocked.

- ◆ 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.

(5) Are operable from the inside without the use of a key or any special knowledge using a one-step process.

- ◆ 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.

(6) Have a permanently attached stairway or ramp if not at ground level.

470 IAC 3-18-6 Fire drills

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 6. (1) A provider shall conduct a monthly fire drill in accordance with the rules of the fire prevention and building safety commission that includes complete evacuation of all children and adults who provide child care in the facility.

(b) The provider shall maintain documentation of all fire drills conducted during the immediately preceding twelve (12) month period, including the following:

- (1) The date and time of the fire drill.
- (2) The name of the individual who conducted the fire drill.
- (3) The weather conditions at the time of the fire drill.
- (4) The amount of time required to fully evacuate the facility.

◆ Intent

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

● Assessment Method:

Observe the written plan of evacuation and documentation of fire drills.

470 IAC 3-18-7 Certification

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 7. (a) The provider, employee, and volunteer caregivers shall maintain current certification in first aid procedures, provided by a certified trainer or licensed health professional.

(b) The certified first aid procedures shall include the following:

- (1) Control of bleeding.
- (2) Treatment of shock.
- (3) Artificial respirations.
- (4) Treatment of poisoning.
- (5) Procedures for choking.
- (6) Treatment for seizure.

(c) The provider shall ensure at least one (1) individual is present at all times who maintains annual certification in CPR for all age groups of children receiving care. The CPR certification must meet Journal of American Medical Association (JAMA) standards.

◆ 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.

- Assessment Method:

Review staff files for documentation of certification in first aid and CPR. Observe at least one caregiver trained in CPR is present on site at time of inspection.

- ▲ Threshold of Compliance:

First aid certification is valid for 3 years. CPR certification is valid for one year regardless of the stated expiration date of certification.

470 IAC 3-18-8 Running water

Authority: IC 12-13.5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5-5

Sec 8. (a) The child care facility shall have hot and cold running water from an approved water source from a sink that is available in the area of the facility where the provider operates a child care program.

- ◆ 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:

Collect a water bill, statement from landlord verifying water source, or real estate listing identifying the water source. If it is other than a municipal water supply, review documentation of current water quality test. The test should verify that the water is free of the coliform bacteria or other dangerous or harmful contaminant. 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.

Observe to determine hot and cold running water is available on each floor where child care is provided. Take the temperature of the hot water to ensure it is at least 100°F.

- *Center Assessment Method

A public school is considered compliant with this rule. If the facility's well serves more than 25 people, it is considered a public water system by the Department of Environmental Management (IDEM) and must follow IDEM's rules for public water systems.

(b) The provider must notify the verifying agency of any change in water supply immediately.

- ◆ Intent:

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

470 IAC 3-18-9 Communication devices

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 9. (a) A provider shall have at least one (1) working telephone in each facility where the provider operates a child care program.

(b) A provider shall, in each facility where the provider operates a child care program, have a communication device (which may be a telephone required by subsection (a)) that is:

- (1) approved by the division; and
- (2) compatible with an automated time and attendance tracking system approved by the division.

◆ 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 the division to contact the home. Additionally, the communication device must be able to transmit CCDF attendance data for accurate payment calculations.

● Assessment Method:

Observe home to determine if there is a working telephone.

▲ Threshold of compliance

The available communication device must be compatible with the division's automated time and attendance tracking system.

470 IAC 3-18-10 Safe environments

Authority: IC 12-13.5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 10. (a) A provider shall provide for a safe environment by ensuring firearms and ammunition are secured in a locked area, by key or combination, where children cannot gain access.

(b) A provider shall provide for a safe environment by ensuring poisons, medicines, chemicals, bleach, and cleaning materials are stored in areas inaccessible to children.

◆ 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. Areas that are inaccessible may still need to be entered in cases where a regulatory item is located within the area. Locked firearms/ammunition, required smoke detectors, required fire extinguisher, etc. Firearms and ammunition are to be directly observed to determine compliance.

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.

▲ Threshold of Compliance

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.

470 IAC 3-18-11 Supervision

Authority: IC 12-13.5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 11. The provider shall ensure each child in the provider's care shall be continually supervised including children related to the provider less than seven (7) years of age.

◆ 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 as 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.

470 IAC 3-18-12 Emergency plans

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 12. (a) The provider shall have written plans posted in the facility where the provider operates a child care program notifying the parent of the following:

- (1) Illness, serious injury, or death of the provider.
- (2) How care will be provided in an emergency.
- (3) The identity of the person or persons responsible for notifying parents.
- (4) The identity of the person or persons responsible for providing care should the provider be unable to provide care due to an emergency.

◆ Intent

To ensure the safety and well-being of children when the provider is unable to provide child care.

• Assessment

Observe to determine if an appropriate care plan has been developed and posted in a conspicuous place at the facility.

(b) The provider must have written emergency evacuation plans posted in the facility where the provider operates a child care program that identifies the following:

- (1) Safe shelter in the case of emergency evacuation.
- (2) Safe area or areas for shelter in severe weather.

◆ Intent:

To ensure the safety of children and staff and that policies and procedures are in place for emergency preparedness and response planning for emergencies resulting from a natural disaster or man-caused event (such as violence at a child care program).

To ensure that children and staff can efficiently exit the home in case of fire or other emergency or relocate to a safe shelter area.

- Assessment Method:

Review the program's written emergency preparedness and response planning, evacuation plans and verify they are posted in a conspicuous place at the facility.

470 IAC 3-18-13 Mantoux tuberculin skin test; requirement

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 13. (a) The following individuals must provide to the verifying agency the results of an intradermal tuberculin skin test with documented results prior to residence, employment, or volunteer service:

- (1) The provider.
- (2) All individuals eighteen (18) years of age or older residing in the home where child care is provided.
- (3) All employees and volunteer caregivers at the facility where child care is provided.

(b) An individual with a history of latent or active tuberculosis shall provide documentation of an annual health assessment by a physician reflecting the results of symptom screening.

- ◆ Intent:

To ensure that the health and physical condition of the child care staff and household members does not present risk to children. .

- Assessment Method:

Review staff and household member records to verify the results of an intradermal tuberculin skin test are negative.

- ▲ Threshold of Compliance:

For providers or caregivers with a history of latent tuberculosis, a physician's annual health assessment must show the individual is free of communicable tuberculosis.

470 IAC 3-18-15 Drug testing

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: 12-17.2-3.5

Sec. 15. (a) The provider shall, at no expense to the verifying agency, provide to the verifying agency a copy of drug testing results for the following:

- (1) The provider.

- (2) All individuals at least eighteen (18) years of age living in a home where child care is provided.
- (3) All employees and volunteer caregivers at the facility where child care is provided.

(b) If the test results provided under this section indicate the presence of an illegal controlled substance, the provider is ineligible to receive voucher payments until the individual is suspended or dismissed from employment, no longer cares for children at the facility, or no longer reside with the provider.

(c) The provider shall maintain a written policy providing for reinstatement of a suspended individual following rehabilitation and drug testing results that are negative for illegal controlled substances.

(d) Drug tests must meet the following criteria:

- (1) Urine panel that tests for amphetamines, cocaine, opiates, phencyclidine, and THC metabolites.
- (2) Urine collection is consistent with chain of custody guidelines established by the DOT.
- (3) Specimen processing by a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMSHA).
- (4) Evaluation of urine panel results by a certified medical review officer using positive cutoffs established by the DOT.
- (5) Completed no more than sixty (60) days prior to receipt of initial application by the verifying agency or employee hire date.
- (6) Employees hired prior to July 1, 2002, may provide drug test results that have been completed after July 1, 2002, or no more than sixty (60) days prior to employment.

(e) The provider shall perform or submit to a random drug testing program on a protocol established by or approved by the division.

(f) The division may require the provider to perform additional drug testing.

(g) The verifying agency shall keep drug test results confidential and will not use drug test results for any other purpose other than for this rule.

◆ 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. 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.

▲ Threshold of Compliance

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. Employees hired prior to July 1 2002, may provide drug test results done after to July 1, 2002, or no more than sixty (60) days prior to employment.

470 IAC 3-18-17 Immunization records

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 17. (a) The provider shall maintain and annually update documentation provided by a health care professional for each child who is cared for in a facility indicating that the child has received complete age appropriate immunizations as determined by the state department of health including the following:

- (1) Conjugated pneumococcal vaccine.
- (2) Varicella vaccine or a demonstrated immunity to varicella.

(b) The provider's records must include the following:

- (1) A current list of all children cared for at the facility.
- (2) The child's date of birth.
- (3) The month, day, and year of each immunization received or;
 - (A) a written statement from the child's physician, updated annually, stating a medical reason the child should not be immunized; or
 - (B) written documentation, updated annually, that the parent objects to immunizations for religious reasons.

(c) The documentation required by this section shall be made available to the verifying agency.

◆ 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.

Children who are homeless and children in foster care, the physical examination must be provided within ninety (90) days of enrollment.

A written statement from the parent/guardian in the child's files stating they are homeless. This grace period would also be allowed for children in foster care.

● 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 or if the child is in a "catch up" plan with their medical provider.

470 IAC 3-18-18 Tobacco and substance policy

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 18. (a) A provider, other than a child care center or child care ministry, shall have a written policy prohibiting the use of the following in the facility where the provider operates a child care program when child care is being provided:

- (1) Tobacco.
- (2) Alcohol.
- (3) A potentially toxic substance in a manner other than the substance's intended purpose.
- (4) An illegal substance or the possession of an illegal substance.

(b) A provider that is a child care center or child care ministry shall have a written policy prohibiting the use of the following in the facility where the provider operates a child care program when child care is being provided:

- (1) Tobacco.
- (2) Alcohol.
- (3) A potentially toxic substance in a manner other than the substance's intended purpose.
- (4) An illegal substance or the possession of an illegal substance.

◆ Intent:

To protect children from harm by requiring applicants 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).

470 IAC 3-18-19 Records

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 19. The provider shall maintain the following records and documents at the facility, which shall be made available to the verifying agency upon request:

- (1) A current list of all persons living in the child care home.
- (2) A current list of all employees and volunteer caregivers.
- (3) Staff records.
- (4) Drug test results.
- (5) A Mantoux tuberculin test or tuberculin screening, or both, if appropriate.
- (6) Statewide criminal history checks.
- (7) Current first aid certification.
- (8) State central registry results.
- (9) Annual age appropriate CPR certification.
- (10) A signed tobacco/substance policy.
- (11) A signed criminal history policy.
- (12) A written drug testing policy.
- (13) A current list of all children cared for at the facility.
- (14) Children's emergency contact information.
- (15) Children's immunization records updated annually.
- (16) Emergency assistance telephone numbers near a telephone, including the following:
 - (A) Police.
 - (B) Fire.
 - (C) Ambulance
 - (D) Poison Control.
- (17) A posted record of monthly fire drills.
- (18) A written and posted plan for notification of serious injury/death of a provider.
- (19) A written and posted plan for emergency evacuation or shelter route or routes in case of fire or severe weather.
- (20) A record of continuous telephone service.
- (21) A record of an annual water quality test, if applicable.

◆ 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 policies. To establish what records are required to demonstrate compliance with the standards.

● Assessment

Review applicant records to determine all relevant information is available and complete.

470 IAC 3-18-20 Application

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 20. (a) A provider must complete the application process prior to participation in the CCDF voucher program.

(b) The provider must apply on forms provided by the verifying agency.

(c) The provider must submit the required information as part of the application.

(d) The provider must submit the information required under this rule to the verifying agency as part of the application process.

◆ Intent:

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

(e) The provider must apply annually to continue participation in the CCDF program.

(f) The provider remains eligible to participate in the CCDF program when the provider submits a timely application to renew participation, unless the division issues a notice of order terminating the provider participation in the CCDF program.

◆ Intent:

To allow an applicant to continue to operate even if their certification has expired provided that the applicant has submitted a complete application for the renewal of the certification within the required timeframes.

470 IAC 3-18-21 Incomplete application

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 21. (a) The verifying agency will not act upon an incomplete application.

(b) The verifying agency shall return an incomplete application with a notation as to omissions.

(c) The return of an incomplete application shall be without prejudice.

◆ 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.

470 IAC 3-18-22 Inspection

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 22. (a) The verifying agency shall conduct at least an annual inspection of the facility for any provider applying for participation in the CCDF voucher program.

(b) An announced or unannounced inspection shall be conducted any time during the facility's hours of operation.

- (c) Activities may include on-site inspections, record review, observation, and interview.
- (d) The verifying agency shall require that evidence of compliance with this rule be presented in a form and manner specified by this rule
- (e) The CCDF program provider shall maintain and make available verification of the following:
 - (1) A current list of all persons living in the child care home.
 - (2) A current list of all employees and volunteer caregivers.
 - (3) A current list of all children cared for at the facility.
 - (4) Records documenting that all employees and volunteer caregivers have complied with the requirements of this rule.
 - (5) Records documenting that all household members have complied with the requirements of this rule.
 - (6) Parent or custodial adult contact information for each child in the provider's care.
 - (7) Records documenting that all children have received complete age appropriate immunizations.
 - (8) Emergency assistance telephone numbers near a telephone, including the following:
 - (E) Police.
 - (F) Fire.
 - (G) Ambulance
 - (H) Poison Control.
 - (9) Documentation that water is from an approved water source.
 - (10) A record of continuous telephone service.
 - (11) A posted record of monthly fire drills.
 - (12) A written and posted plan for notification of serious injury/death of a provider.
 - (13) A written and posted plan for emergency evacuation or shelter route or routes in case of fire or severe weather.

◆ 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 thorough investigation of any person seeking certification. It allows the division to make both announced and unannounced visits to investigate a child care. It also establishes the division's authority to set the standards for evidence of compliance with the rules.

470 IAC 3-18-23 Denial of application

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 4-21.5-3; IC 12-17.2-3.5

Sec. 23. (a) The division shall deny an application when an applicant fails to meet the requirements of this rule.

(b) The division shall provide written notification of denial in the form of a notice or order in accordance with IC 4-21.5-3 stating the reason for the denial.

- (c) An administrative hearing concerning the denial shall be provided upon written request by the applicant.
- (d) A request for an administrative hearing for a denial must be made prior to the effective date of the order.
- (e) The administrative hearing shall be scheduled within sixty (60) calendar days of the written request.
- (f) The administrative hearing shall be held in accordance with 470 IAC 1-4.
- (g) 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 certification. It establishes the responsibility of the division to provide due process to the applicant and establishes timelines for the due process procedure.

470 IAC 3-18-24 Grounds for denial

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

- Sec. 24. (a) Any of the following constitute sufficient grounds for a denial of an application:
- (1) A failure to meet any of the requirements of this rule.
 - (2) A failure to allow the verifying agency access to the provider’s facility during normal business hours.
 - (3) A determination by the division that the applicant made false statements in the provider’s application for participation in the CCDF program.
 - (4) A determination by the division that the applicant made false statements in the applicant’s records required by the division.

470 IAC 3-18-25 Maintenance of compliance and insufficiencies

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

- Sec. 25. (a) The provider shall maintain compliance with the requirement of this rule. Ative hearing for a decertification must be made prior to the effective date of the order.
- (b) A provider determined to be not in compliance with this rule may be given up to twenty-one (21) calendar days by the division to correct the insufficiency.

(c) The provider's failure to document compliance within the prescribed time shall result in denial or decertification of the provider's participation in the CCDF program.

470 IAC 3-18-26 Decertification

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 26. (a) The division shall decertify CCDF participation when a provider fails to comply with the requirements of this rule.

(b) The division shall provide the provider written notification of decertification in the form of a notice or order in accordance with IC 4-21.5-3 stating the reason or reasons for the decertification.

(c) An administrative hearing concerning the revocation shall be provided upon written request by the applicant.

(d) A request for an administrative hearing for a decertification must be made prior to the effective date of the order.

(e) The administrative hearing shall be scheduled within sixty (60) calendar days after receiving the written request.

(f) The administrative hearing shall be held in accordance with 470 IAC 1-4.

470 IAC 3-18-27 Grounds for decertification

Authority: IC 12-13-5-3; IC 12-17.2-3.5-15

Affected: IC 12-17.2-3.5

Sec. 27. Any of the following constitute sufficient grounds for decertification as a CCDF program provider:

- (1) Failure to meet any of the requirements of this rule.
- (2) Failure to allow the verifying agency access to the facility during normal business hours.
- (3) A determination by the division that the applicant made false statements in the applicant's application for certification.
- (4) A determination by the division that the applicant made false statements in the applicant's records required by the division.
- (5) Failure to correct an insufficiency within the prescribed time.
- (6) Multiple insufficiencies regardless of whether they were corrected within the prescribed time.