

Dear Senators VANORDEN, Zuiderveld, Wintrow, and
Representatives VANDER WOUDE, Erickson, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Health and Welfare:

IDAPA 16.06.02 - Foster Care Licensing (ZBR Chapter Rewrite) - Proposed Rule (Docket No.
16-0602-2301);

IDAPA 16.06.03 - Daycare Licensing (New Chapter, Fee Rule) - Proposed Rule (Docket No.
16-0603-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/29/2023. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/27/2023.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen

DATE: August 4, 2023

SUBJECT: Department of Health and Welfare

IDAPA 16.06.02 - Foster Care Licensing (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 16-0602-2301)

IDAPA 16.06.03 - Daycare Licensing (New Chapter, Fee Rule) - Proposed Rule (Docket No. 16-0603-2301)

Summary and Stated Reasons for the Rule

Docket No. 16-0602-2301: This proposed rule separates foster care licensing rules from child care licensing rules by removing content relating to child care licensing. The rule changes are being made pursuant to legislative request.

Docket No. 16-0603-2301: This proposed rule includes the child care licensing rules that were removed in the previous docket.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted for either docket due to the nature of the rule change, which is to comply with a legislative request. There is no anticipated negative fiscal impact on the state general fund for either docket.

Statutory Authority

Docket No. 16-0602-2301: This rulemaking appears to be authorized pursuant to Chapter 12, Title 39, Idaho Code, and Chapter 10, Title 56, Idaho Code.

Docket No. 16-0603-2301: This rulemaking appears to be authorized pursuant to Chapter 11, Title 39, Idaho Code, and Chapter 10, Title 56, Idaho Code.

cc: Department of Health and Welfare
Frank Powell and Trinette Middlebrook

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

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***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.02 – FOSTER CARE LICENSING

DOCKET NO. 16-0602-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

VIRTUAL TELECONFERENCES Via WebEx
<p>Wednesday, August 17, 2023 10:00 a.m. - 12:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mf977f9364a62f4a2684571b6ae176e0d</p> <p>Join by meeting number Meeting number (access code): 2764 489 3359 Meeting password: jEhhamvs252 (53442687 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>
<p>Wednesday, August 17, 2023 4:00 p.m. - 6:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m9dd9bc1b157bcdc221553cc72c6ed5c4</p> <p>Join by meeting number Meeting number (access code): 2764 491 3545 Meeting password: XVjt3DKMS37 (98583356 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Meeting(s) will conclude after 30 minutes if no participants sign in or wish to comment in the meeting.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2023 Legislature requested that IDAPA chapter 16.06.02, “Child Care and Foster Care Licensing,” be separated by content for Child Care Licensing and Foster Care Licensing. IDAPA chapter 16.06.02 will now contain content for “Foster Care Licensing” and IDAPA 16.06.03 will contain content for “Child Care Licensing.” The update to this chapter will reflect the removal of the child care licensing rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This chapter does not have any fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the State General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2023 Legislature requested that this existing chapter of 16.06.02, “Child Care and Foster Care Licensing,” be split into two (2) different chapters. The administrative rulemaking deadlines did not allow for negotiated rulemaking meetings to take place and due to the legislative request the Department is going forward with the separation and will offer public hearings for all the stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The only remaining Incorporations By Reference will be for Crib Safety (Full Size Cribs and Non-Full Size Cribs) in Section 004 of these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kaela Whitehead: 208-789-4789 and Andie Blackwood: 208-334-5960 (FACS); Aubrie Hunt: 208-334-5686 (SR).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2023.

DATED this 6th day of July, 2023.

Trinette Middlebrook and Frank Powell
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0602-2301
(ZBR Chapter Rewrite)

16.06.02 – ~~CHILD CARE AND~~ FOSTER CARE LICENSING

000. LEGAL AUTHORITY.

~~Under Sections 39-1107, 39-1111, 39-1207, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), and 56-1007, Idaho Code, the Idaho Legislature authorizes the Department and the Board to adopt and enforce rules for licensing daycare centers, group daycare facilities, family daycare homes, and foster homes.~~ (3-28-23)()

~~001. SCOPE AND POLICY.~~

~~01. Scope. These rules establish requirements for licensing, maintaining, and operating the following facilities:~~ (3-28-23)

~~a. Daycare centers;~~ (3-28-23)

~~b. Group daycare facilities;~~ (3-28-23)

~~c. Family daycare homes (voluntarily); and~~ (3-28-23)

~~d. Foster homes.~~ (3-28-23)

~~02. Policy. It is the Department's policy to assure that children receive adequate substitute parental care in the absence of temporary or permanent inability of parents to provide care and protection for their children, or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is because children are vulnerable and not capable of protecting themselves. When parents have relinquished their children's care to others, there arises the possibility of risks to those children's lives, health, and safety. This requires the Department oversight of licensing and registration found in these rules.~~ (3-28-23)

002. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference in this chapter of these rules. (3-28-23)()

~~01. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041.~~ (3-28-23)

~~021. Crib Safety - Full-Size Baby Cribs. Consumer Product Safety Commission, Compliance information for full size Cribs Safety Tips can be found on the Internet at <https://www.cpsc.gov/Regulations-Laws-Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs> at [https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3028%5d=3028](https://www.cpsc.gov/Business-Manufacturing/Business-Education/FAQ?p=3019&tid%5b3028%5d=3028).~~ (3-28-23)()

~~02. Crib Safety - Non-Full-Size Baby Cribs. Consumer Product Safety Commission, Compliance information for non-full size cribs can be found at <https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3029%5d=3029>.~~ ()

003. -- 008. (RESERVED)

009. ~~CRIMINAL HISTORY AND~~ BACKGROUND CHECK REQUIREMENTS.

01. ~~Compliance with Department Background Check~~ Compliance. Background checks are required for individuals ~~who are~~ licensed under these rules. ~~Individuals who are required to have background checks~~ and must comply with IDAPA 16.05.06, "Criminal History and Background Checks," except for those individuals described in Subsection 009.04 of this rule. (3-28-23)()

02. When License is Granted. The applicant(s) and any other adult(s) living in a foster home must have a completed background check under IDAPA 16.05.06, "Criminal History and Background Checks," including clearance, prior to licensure. (3-28-23)()

03. Individuals Those Subject to Background Check Requirements. The following individuals must receive ~~background check~~ Department clearance prior to licensure: (3-28-23)()

a. Adoptive Parents. ~~The background check requirements are found in IDAPA 16.04.18, "Children's Agencies and Residential Licensing," Section 009.~~ (3-28-23)()

b. ~~Daycare Center, Group Daycare Facility, and Family Day Care Home. The background check requirements are found in Section 309 of these rules and in Sections 39-1105, 39-1113, and 39-1114, Idaho Code.~~ (3-28-23)

eb. Licensed Foster ~~Care Home~~ Parents. ~~The background check r~~Requirements are ~~found in under~~ Section ~~403202~~ of these rules ~~and in Section 39-1211(4), Idaho Code;~~ and (3-28-23)()

c. Adults residing in a licensed foster home. ()

04. Exceptions to Background Checks ~~for Certain Youths~~. Background checks are optional for certain youth ~~placed in licensed foster homes and licensed residential care facilities such as youth~~ in foster care who reach the age of eighteen (18) but are less than twenty-one (21) years ~~old of~~ age and continue to reside in the same licensed foster home. (3-28-23)()

05. Background Check at Any Time. The Department can require a background check at any time on any individual who: (3-28-23)

a. Is a resident or an adult living in a licensed foster home; or (3-28-23)

b. ~~Is an owner, operator, daycare center staff, group daycare facility, family daycare home, and all other individuals who are thirteen (13) years old or older who have unsupervised direct contact with children or who are regularly on the premises.~~ (3-28-23)

010. DEFINITIONS A THROUGH M.

01. Attendance. ~~Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, the number of children present at a daycare facility at any given time.~~ (3-28-23)

02. Board. The Idaho ~~State~~ Board of Health and Welfare. (3-28-23)()

03. Caregiver. A foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. ()

04. Chief Administrator. The duly authorized representative or designee of an organization responsible for day-to-day operations, management, and compliance with these rules and Title 39, Chapter 12, Idaho Code. ()

05. Child. ()

a. Under Title 39, Chapter 12, Idaho Code, and ~~Sections 400 through 999 of~~ these rules, "child" means an individual less than eighteen (18) years old, ~~synonymous with juvenile or minor.~~ (3-28-23)()

b. Includes individuals age eighteen (18) to twenty-one (21) who are ordered into or voluntarily entered Extended Foster Care through ~~Child and Family Services~~ the Department. (3-28-23)()

e. ~~Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, "child"~~

~~means an individual less than thirteen (13) years old.~~ (3-28-23)

~~06. Child Care. The care, control, supervision, or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.~~ (3-28-23)

~~07. Child Staff Ratio. The maximum number of children allowed under the care and supervision of one (1) staff person.~~ (3-28-23)

~~085. Children's Agency. The Department and a person who operates a business for the placement of children in foster homes, or for adoption in a permanent home and who does not provide child care as part of that business. A children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. A business for the placement of children in foster homes or for adoption and who does not provide child care as part of that business. A children's agency includes those providing home studies, post-placement supervision, post-finalization services, and other domestic and international adoptive services under Title 39, Chapter 1202(4), Idaho Code. A children's agency does not include an Idaho certified adoption specialist. (3-28-23)()~~

~~09. Continued Care.~~

~~a. The ongoing placement of an individual in a foster home or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years old.~~ (3-28-23)

~~b. Includes Extended Foster Care for children placed through Child and Family Services.~~ (3-28-23)

~~10. Daycare. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, marriage, adoption, or legal guardianship to the person(s) providing the care, in a place other than the child's or children's own home.~~ (3-28-23)

~~11. Daycare Center. A place or facility providing daycare for compensation for thirteen (13) or more children.~~ (3-28-23)

~~1206. Department. The Idaho Department of Health and Welfare and/or its authorized representatives.~~ (3-28-23)()

~~13. Direct Care Staff. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the child staff ratio requirements.~~ (3-28-23)

~~14. Family Daycare Home. A home, place, or facility providing daycare for six (6) or fewer children.~~ (3-28-23)

~~1507. Foster Care. The twenty-four (24) hour substitute parental care for children placed away from their parents or guardians by persons who may or may not be related to the child and for whom the state agency has placement and care responsibility.~~ ()

~~1608. Foster Home. The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute parental care to six (6) or fewer children.~~ ()

~~1709. Foster Parent. A person(s) residing in a private home under their direct control to whom a foster care license has been issued.~~ ()

~~18. Group Daycare Facility. A home, place, or facility providing daycare for seven (7) to twelve (12) children.~~ (3-28-23)

~~190. Medical Professionals. Persons who have received a degree in nursing or medicine and are licensed as a registered nurse, nurse practitioner, physician's assistant, or medical doctor.~~ ()

~~2011.~~ **Household Member.** Any person, other than a foster child, who resides in, or on the property of, a foster home. ()

011. DEFINITIONS N THROUGH Z.

01. Noncompliance. Violation of, or inability to meet, the requirements of these rules or terms of licensure. ()

~~02. Operator.~~ An individual who operates or maintains a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department. (3-28-23)

~~03. Person.~~ Any individual, group of individuals, associations, partnerships, or corporations. (3-28-23)

~~04. Placement.~~ The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. (3-28-23)

~~052. Plan of Correction.~~ The detailed procedures and activities developed between the Department and caregiver required to bring a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster family into conformity with these rules. (3-28-23)()

~~06. Regularly on the Premises.~~ For Sections 009 and 309 of these rules, “regularly on the premises” means twelve (12) hours or more in any one (1) month, or daily during any hours of operation. (3-28-23)

~~073. Relative.~~ Under Section 39-1202, Idaho Code, “relative” means a child’s grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling, and half-sibling. ()

~~084. Restraint.~~ Physical interventions to control the range and motion of a child. ()

~~095. Second Degree of Relationship.~~ Refers to persons related by blood or marriage and includes their spouses. The number of degrees between two (2) relatives is calculated by summing the number of ties between each relative and the common ancestor. ()

~~10. Social Worker.~~ An individual licensed under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners.” (3-28-23)

~~11. Staff.~~ Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “staff” means a person who is sixteen (16) years old or older and employed by a daycare owner or operator to provide care and supervision at a daycare facility. (3-28-23)

~~1206. Supervision.~~ Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “supervision” is defined as being within sight and normal hearing range of the child or children being cared for. (3-28-23)()

~~13. Time Out.~~ Separation of a child from group activity as a means of behavior management. (3-28-23)

~~1407. Training.~~ The preparation, instruction, and education related to child care that increases the knowledge, skill, and abilities of a foster parent or children’s agency or volunteers. ()

~~1508. Variance.~~ A temporary non-application of a foster care licensing rule that is resolved within six (6) months of approval. ()

~~1609. Waiver.~~ The permanent non-application of a foster care licensing rule for relatives, if in the Department’s judgment, the health and safety of the child is not compromised. ()

012. -- 099. (RESERVED)

LICENSING
(Sections 100-299)

100. LICENSING.

The purpose of licensing is to set requirements and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to protect the health, safety, and well-being of the children in their care. Physical surroundings must present no hazards to the children in care. (3-28-23)

~~01. Responsibilities of the Foster Parent or Operator.~~ A foster parent or operator must conform to the terms of the license. (3-28-23)

~~02. Responsible for Knowledge of Standards.~~ The foster parent or operator is responsible for knowing the rules applying to and covered by the type of foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, covered by the care license, and for always conforming to them. (3-28-23)()

~~03. Responsible for Agency Staff Knowledge.~~ The operator of a child care facility or agency is responsible for ensuring that all staff members are familiar with these rules. (3-28-23)

~~04. Return of License.~~ The foster parent or operator must immediately return their license to the Department under any of the following circumstances: (3-28-23)()

- a. Changes of management or aAddress changes; (3-28-23)()
- b. Upon suspension or revocation of the license by the Department; or ()
- c. Upon voluntary discontinuation of service. ()

~~05. Exceptions and Exemptions to Daycare Licensing.~~ Under Section 39-1103, Idaho Code, the licensing requirements in these rules do not apply to: (3-28-23)

~~a. Daycare facilities regulated, licensed, or certified by a city or county with local options under Section 39-1108, Idaho Code; (3-28-23)~~

~~b. The occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily in the business of providing daycare; (3-28-23)~~

~~c. The operation of a private school or religious school for educational purposes for children over four (4) years old, or a religious kindergarten; (3-28-23)~~

~~d. The provision of occasional care exclusively for children of parents who are simultaneously in the same building; (3-28-23)~~

~~e. The operation of day camps, programs, and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week; or (3-28-23)~~

~~f. The provision of care for children of a family within the second degree of relationship under Section 011 of these rules. (3-28-23)~~

~~06. Exceptions and Exemptions to Daycare and Foster Home Licensing.~~ Under Sections 39-1213(b) and 39-1211, Idaho Code, the licensing requirements in these rules do not apply to: (3-28-23)

~~a. Foster homes approved by a licensed children's agency provided the standards for approval by such agency are no less restrictive than the rules established by the Board and that such agency is maintained, operated, and conforms with these rules; or (3-28-23)~~

~~b. The occasional or irregular care of a neighbor's, relative's, friend's child, or children by a person not ordinarily engaged in child care. (3-28-23)~~

101. APPLICATIONS FOR LICENSE. (RESERVED)

~~An application for a license must be submitted to the Department. Licensing studies will follow the format of these rules and will contain a specific recommendation for terms of the license. All foster homes, daycare centers, group daycare facilities, and family daycare homes voluntarily licensed by the Department must comply with applicable city and county ordinances. (3-28-23)~~

102. DISPOSITION OF APPLICATIONS.

The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of home ~~or facility~~. Upon receipt of a completed application and study, the Department will review the materials for compliance with these rules. (3-28-23)()

01. Approval of Application. ~~A license will be issued~~ **The Department will issue a license** to any ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster home found in compliance~~ **complying** with these rules. The license is issued under the terms specified in the licensing study and will be mailed to the applicant. (3-28-23)()

02. Regular License. ~~A regular license will be issued~~ **The Department will issue a regular license** to any ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster home found in compliance~~ **complying** with these rules and will specify the terms of licensure, such as: (3-28-23)()

~~a. Full time or daycare; (3-28-23)~~

~~ba. The number of children who may receive care at any one (1) time; and ()~~

~~eb. Age range and gender if there are conditions in the foster home making such limitations necessary; ()~~

~~dc. The regular license for a foster home is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; ()~~

~~e. A regular license for a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and (3-28-23)~~

~~fd. If the license for a foster home is for a specific child ~~only~~, the name of that child will be shown on the foster home license. (3-28-23)()~~

03. Waiver. A regular license may be issued to the foster home of a relative who has received a waiver of licensing rules provided: ()

a. The waiver is considered on an individual case basis; ()

b. The waiver is approved ~~only~~ for non-safety foster care rules; (3-28-23)()

c. All other licensing requirements have been met; ()

d. The approval of ~~a waiver of~~ any ~~foster home~~ **waiver of** rules requires the Department to document a description of the reasons for issuing a waiver, the rules being waived, and assurance that the waiver will not compromise the child's safety; and (3-28-23)()

e. The approved waiver must be reviewed for continued need and approved annually. ()

04. Variance. A regular license will be issued to a foster home approved for a variance of a licensing

rule provided:

()

a. The variance is considered on an individual case basis; ()

b. The variance is approved for a non-safety licensing rules; (3-28-23)()

c. The ~~approval of a~~ variance must have no adverse effect on the health, safety, and well-being of any child in care at the foster home; (3-28-23)()

d. The ~~approval of a~~ variance is documented by the Department and includes a description of the reasons for issuing a variance and assurances that the variance will not compromise any child's health, safety, and well-being; and (3-28-23)()

e. The ~~approved~~ variance must be reviewed for continued need and approval annually. (3-28-23)()

05. Provisional License. A ~~provisional license m~~May be issued to a foster home, when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety, and well-being of any child in care at the home. (3-28-23)()

a. A ~~provisional license w~~Will be in effect for not more than six (6) months. (3-28-23)()

b. Only one (1) provisional license will be issued to a foster home in any twelve-month period ~~of time~~ under Section 39-1216, Idaho Code. (3-28-23)()

06. Limited License. A ~~limited license for a foster home m~~May be issued for the care of a specific child in a home which may not meet the requirements for a license, provided: (3-28-23)()

a. The child is already in the home and has formed strong emotional ties with the foster parents; and ()

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than ~~would~~ removal to another home. (3-28-23)()

07. Denial of Application. If an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until ~~after~~ one (1) year ~~has elapsed from after~~ the date on the denial of application. (3-28-23)()

08. Failure to Complete Application Process. ()

a. Failure ~~of the applicant~~ to complete the application process within six (6) months ~~of from~~ the original date of application will result in ~~a denial of the~~ application denial. (3-28-23)()

b. An applicant whose application has been denied for being incomplete may not reapply until ~~after~~ one (1) year ~~has elapsed from after~~ the date ~~on the denial~~ of application denial. (3-28-23)()

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Department-Issued License. A license ~~a~~Applies only to the foster home, ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department,~~ or the person and premises designated. Each license is issued in the ~~business name or individual's~~ name, and ~~only~~ to the ~~specified~~ address ~~identified~~ specified on the application ~~of the foster home, daycare center, group daycare facility or family daycare home voluntarily licensed by the Department.~~ A license issued in the name of a foster parent, ~~daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department~~ applies ~~only~~ to the period and services specified in the license. Any change in ~~management or~~ address renders the license null and void, and the foster parent ~~or operator~~ must immediately return the license to the Department ~~under Section 100 of these rules.~~ (3-28-23)()

02. Nontransferable. A license is nontransferable or assignable from one (1) individual to another; ~~from one (1) business entity or governmental unit to another,~~ or from one (1) location to another. (3-28-23)()

03. Change in ~~Ownership, Operator, or Location.~~ When there is a change in ~~ownership, operator, or location,~~ the foster home, ~~daycare center, group daycare facility or family daycare home voluntarily licensed by the Department~~ must reapply for a license ~~under Section 101 of these rules. The new owner or operator must obtain a license before starting operations.~~ (3-28-23)()

104. MANDATORY VISITATIONS.

Under Section 39-1217, Idaho Code, the Department ~~must~~ will visit and be given access to the premises of each ~~licensed~~ foster home, ~~as often~~ as deemed necessary by the Department to assure compliance with these rules but at intervals not to exceed twelve (12) months. (3-28-23)()

105. REVISIT AND RELICENSE.

Revisit and relicense studies will document how the ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department,~~ or foster home continues to meet licensing standards. Consideration must be given to each standard, including a review of the previous study and original application to determine what changes have occurred. ~~An application for renewal of a license~~ application must be made by the ~~operator~~ foster home on the Department-furnished form ~~furnished by the Department~~ and filled out prior to the expiration date of the license ~~currently in force~~ effective. When a renewal application has been completed correctly, the existing license will, unless officially revoked, remain ~~in force~~ effective until the Department has acted on the application for renewal. (3-28-23)()

106. COMPLAINTS ~~AGAINST DAYCARE CENTERS, GROUP DAYCARE FACILITIES, FAMILY DAYCARE HOMES, AND FOSTER HOMES.~~

01. Investigation. The Department will investigate complaints regarding ~~daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department,~~ or foster homes. The investigation may include further contact with the complainant, scheduled or unannounced visits to the foster home, ~~daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department,~~ collateral contacts including interviews with the victim, parents or guardian, ~~operator, staff,~~ consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. (3-28-23)()

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents, ~~operator, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department~~ will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. (3-28-23)()

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT ~~OR OPERATOR.~~

When circumstances occur over which the foster parent ~~or operator~~ has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, ~~child care facility, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department~~ out of compliance with these rules, the license must be suspended until the nonconformity is remedied. (3-28-23)()

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license may be suspended for infractions of these rules. ~~Such suspension~~ and may lead to revocation if the foster parent ~~or operator~~ fails to satisfy the Department that the infractions have been corrected in compliance with the rules. (3-28-23)()

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

If it is found that an applicant, or foster parent, ~~or operator~~ has failed or refused to comply with any of the provisions of the ~~Basic Daycare License Law, Sections 39-1101 through 39-1120, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1201 through 39-1224, Idaho Code,~~ with these rules, or with any provision of the license, the Department may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any ~~daycare center, group daycare facility, family daycare home voluntarily licensed~~

by the Department, ~~child care facility~~ or foster home when any of the following occurs. (3-28-23)()

01. Criminal Conviction or Relevant Record. Any ~~one providing direct care or working onsite under these rules~~ adult residing in a foster home is denied clearance or refuses to comply with IDAPA 16.05.06, "Criminal History and Background Checks." (3-28-23)()

02. Other Misconduct. The applicant, or foster parent, ~~operator, or the person proposed as chief executive officer:~~ (3-28-23)()

a. Fails to furnish any data, statistics, records, or information requested by the Department without good cause or provides false information; ()

b. ~~Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility or children's agency;~~ (3-28-23)

b. Has been found guilty of, or is under investigation for, ~~the commission of~~ any felony; (3-28-23)()

c. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or ()

d. Has knowingly permitted, aided, or abetted the commission of any illegal act on the premises of the ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department,~~ or foster home. (3-28-23)()

110. (RESERVED)

111. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF CHILDREN.

The Department may summarily suspend a foster home license, ~~daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department.~~ Children in a foster home require the program to transfer children when the Department has determined a child's health and safety are in immediate jeopardy. ~~Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the home or facility, instead the parent or legal guardian will be contacted.~~ (3-28-23)()

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF CHILDREN.

The Department may revoke the license of a foster home, ~~daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department,~~ when the Department determines the home, facility, or operator is not in compliance with these rules. ~~Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted.~~ Revocation and transfer of children may occur under the following circumstances: (3-28-23)()

01. Endangers Health or Safety. Any condition that endangers the health or safety of any child. ()

02. Not in Substantial Compliance. A foster home, ~~daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department~~ is not in substantial compliance with these rules. (3-28-23)()

03. No Progress to Meet Plan of Correction. A foster home, ~~daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department~~ has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. (3-28-23)()

04. Repeat Violations. Repeat violations ~~of any requirement~~ of these rules or ~~provisions~~ of Title 39, Chapters 11 and 12, Idaho Code. (3-28-23)()

05. Misrepresented or Omitted Information. A foster home, ~~daycare center, group daycare facility,~~

~~or family daycare home voluntarily licensed by the Department~~ has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (3-28-23)()

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, ~~daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department~~ and its grounds, facilities, and records. (3-28-23)()

07. Violation of Terms of Provisional License. A foster home, that has violated any of the terms ~~or conditions~~ of a provisional license. (3-28-23)()

113. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the Department will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. ()

114. -- ~~2199.~~ (RESERVED)

STANDARDS FOR DAYCARE
(Sections 300-399)

~~300. STANDARDS FOR DAYCARE.~~

~~**01. Daycare Standards.** In addition to meeting the rules under Sections 000 through 299 of these rules, each owner, operator, or applicant seeking licensure from the Department as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must also meet the requirements under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules. (3-28-23)~~

~~**02. Minimum Age of Applicant.** An individual, applying to the Department to be licensed for a daycare center, group daycare facility, or family daycare home, must be at least eighteen (18) years old. (3-28-23)~~

~~301. TYPES OF DAYCARE LICENSES.~~

~~Subject to the requirements under Title 39, Chapter 11, Idaho Code, and these rules, the Department will determine the type of daycare license required by an owner or operator providing daycare by counting each child in attendance, regardless of relationship to the person(s) providing the care. The following types of daycare licenses may be issued by the Department. (3-28-23)~~

~~**01. Daycare Center License.** Is issued for a place or facility providing daycare, where thirteen (13) or more children, regardless of relationship to the person(s) providing the care, are in attendance. (3-28-23)~~

~~**02. Group Daycare Facility.** Is issued for a place or facility providing daycare, where seven (7) to twelve (12) children, regardless of relationship to the person(s) providing the care, are in attendance. (3-28-23)~~

~~**03. Family Daycare Home.** Is not required to be licensed. However, a family daycare home may voluntarily elect to be licensed by the Department. (3-28-23)~~

~~302. — 308. (RESERVED)~~

~~309. CRIMINAL HISTORY AND BACKGROUND CHECK FOR DAYCARE STANDARDS.~~

~~**01. Background Check for Daycare Centers and Group Daycare Facilities.** Each owner, operator, or applicant seeking licensure for a daycare center, group daycare facility, or a family daycare home must submit evidence that is satisfactory to the Department that the following individuals have successfully completed and received a clearance for a Department background check under Sections 39-1105 and 39-1113, Idaho Code: (3-28-23)~~

- ~~a. Owners, operators, and staff; (3-28-23)~~

~~b. All other individuals thirteen (13) years old or older who have unsupervised direct contact with children; or - (3-28-23)~~

~~e. All other individuals thirteen (13) years old or older who are regularly on the premises. (3-28-23)~~

~~02. **Juvenile Justice Records.** The criminal history and background check for any individual under eighteen (18) years of age, must include a check of the juvenile justice records, as authorized by the minor and their parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) years of age through eighteen (18) years of age. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, paying for the costs of a check of the juvenile justice records, and submitting them to the Department for review. A check of the juvenile justice records must include the following: - (3-28-23)~~

~~a. Juvenile justice records of adjudication of the magistrate division of the district court; (3-28-23)~~

~~b. County probation services; and (3-28-23)~~

~~e. Department records. (3-28-23)~~

~~03. **Background Check for Family Daycare Homes.** Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with Sections 39-1105 and 39-1113, Idaho Code. (3-28-23)~~

~~04. **Background Check for Private Schools and Private Kindergartens.** Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years old or a private kindergarten is required to comply with Sections 39-1105 and 39-1113, Idaho Code. - (3-28-23)~~

~~05. **Cost of Background Check and Juvenile Justice Records.** Each individual who requests and obtains a Department background check is responsible for the cost of the background check and check of juvenile justice records. - (3-28-23)~~

~~06. **On-going Duty to Report Convictions.** Following completion of a background check and clearance, additional criminal convictions and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self disclosed by the individual to the owner or operator of a daycare center, group daycare facility, or family daycare home. The owner or operator must report these additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. (3-28-23)~~

~~310.—319. (RESERVED)~~

~~320. **DAYCARE LICENSING FEES.**~~

~~A nonrefundable licensing fee must be paid to the Department prior to the issuance or renewal of a daycare license. - (3-28-23)~~

~~01. **Daycare Licensing Fee Amounts.** The total fee for initial licensure or renewal of a daycare center, group daycare facility, or family daycare home voluntarily licensed must not exceed the following amounts: - (3-28-23)~~

~~a. Daycare center with more than twenty five (25) children in attendance at any given time—three hundred twenty five dollars (\$325). (3-28-23)~~

~~b. Daycare center with thirteen (13) to twenty five (25) children in attendance at any given time—two hundred fifty dollars (\$250). (3-28-23)~~

~~e. Group daycare facility—one hundred dollars (\$100). (3-28-23)~~

- ~~d. Family daycare home voluntary license—one hundred dollars (\$100). (3-28-23)~~
- ~~02. **Daycare Fire Inspection Fee.** Daycare fire inspection fees are payable to the local fire department or fire district official. (3-28-23)~~
- ~~**321. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.**
Any individual applying for licensure as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must be at least eighteen (18) years old. The applicant must apply on forms provided by the Department and provide information required by the Department under this rule. (3-28-23)~~
- ~~01. **Completed, Signed, and Dated Application by Applicant.** (3-28-23)~~
- ~~02. **Licensing Fee.** The applicant must pay the appropriate licensing fee prior to the issuance of a daycare license. - (3-28-23)~~
- ~~03. **Inspection Reports.** The following reports must be submitted to the Department with the application that prove the facility or proposed facility meets: (3-28-23)~~
 - ~~a. Building code under IDAPA 24.39.30, “Rules of Building Safety (Building Code Rules),” where required; (3-28-23)~~
 - ~~b. Electrical code under IDAPA 24.39.10, “Rules of the Idaho Electrical Board,” where required; (3-28-23)~~
 - ~~e. Fire code under Section 41-253, Idaho Code, where required; and (3-28-23)~~
 - ~~d. Local planning and zoning requirements. (3-28-23)~~
- ~~04. **Proof of Insurance.** The applicant must provide proof of current fire and liability insurance coverage for the daycare facility. (3-28-23)~~
- ~~05. **Background Clearance.** Evidence that the applicant and all individuals required to have a criminal history and background check have received a clearance from the Department required in Section 309 of these rules. - (3-28-23)~~
- ~~06. **Statement to Comply.** The applicant must provide a written statement that these rules have been thoroughly read and reviewed and the applicant is prepared to comply with all provisions. (3-28-23)~~
- ~~07. **Statement Disclosing Revocation or Disciplinary Actions.** A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a daycare provider in any jurisdiction, or a statement from the applicant stating they have never been involved in any such action. - (3-28-23)~~
- ~~08. **Other Information as Requested.** The applicant must provide other information that may be requested by the Department for the proper administration and enforcement of these rules. (3-28-23)~~
- ~~09. **Additional Requirements for License Renewal.** A daycare license must be renewed every two (2) years. The daycare operator must submit to the Department the renewal application, fee, and all required documentation in this rule at least forty-five (45) days prior to the expiration of the current daycare license. - (3-28-23)~~
- ~~10. **Termination of Application Process.** Failure of the applicant to cooperate with the Department in the application process may result in the termination of the application process. Failure to cooperate means that the information requested is not provided within ninety (90) days, or not provided in the form requested by the Department, or both. (3-28-23)~~
- ~~**322.—324. (RESERVED)**~~

325. ISSUANCE OF LICENSE.

01. Department Action. ~~The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete and the licensing fee has been paid. (3-28-23)~~

02. Issuance of a Regular License. ~~If the Department determines the applicant is in compliance with these rules, the Department will, within sixty (60) days from the date the completed application is submitted, issue one (1) of the following licenses stating the type of facility, the number of children who may be in attendance, and the length of time the license is effective: (3-28-23)~~

a. ~~Daycare Center License; (3-28-23)~~

b. ~~Group Daycare Facility License; or (3-28-23)~~

c. ~~Family Daycare Home License. (3-28-23)~~

03. Denial of Licensure. ~~If the Department determines the applicant is not in compliance with these rules and further determines not to issue a daycare license the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial. (3-28-23)~~

04. Incomplete Application. ~~The Department is not required to take any action on an application until the application is complete. (3-28-23)~~

05. Notification of License Renewal. ~~The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. (3-28-23)~~

06. List of Licensed Daycare Facilities. ~~The Department will maintain a list of all licensed daycare facilities for public use. (3-28-23)~~

~~326.—329. (RESERVED)~~

330. STAFF AND OTHER RECORD REQUIREMENTS.

~~Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must maintain a current list covering the previous twelve month period of all staff and other individuals thirteen (13) years of age or older who have unsupervised direct contact with children, or are regularly on the premises. The list must specify, at a minimum, the following: (3-28-23)~~

01. Legal Name. (3-28-23)

02. Proof of Age. (3-28-23)

03. Phone Number. (3-28-23)

04. Training Records. (3-28-23)

05. Verification of Background Check Clearance. (3-28-23)

06. Results of Juvenile Justice Records. (3-28-23)

07. Verification of Pediatric Rescue Breathing, Infant Child CPR, and First Aid Certification from a Certified Instructor. (3-28-23)

08. Times, Dates, and Records of Hours on the Premises Each day. (3-28-23)

331. CHILD RECORD REQUIREMENTS.

~~Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by~~

~~the Department, must maintain records for each child in attendance covering the previous twelve-month period. The record must contain the following:-~~ (3-28-23)

- ~~01. Child's Full Name. (3-28-23)~~
- ~~02. Date of Birth. (3-28-23)~~
- ~~03. Parent or Guardian's Name, Address, and Contact Information. (3-28-23)~~
- ~~04. Emergency Contact Information. (3-28-23)~~
- ~~05. Child's Health Information. (3-28-23)~~
 - ~~a. Immunization record or waiver of exemption form or statement; (3-28-23)~~
 - ~~b. Any medical conditions that could affect the care of the child; and (3-28-23)~~
 - ~~e. Medications the child is taking or may be allergic to. (3-28-23)~~
- ~~06. Times, Dates, and Record of Attendance Each Day. (3-28-23)~~

~~332.—334. (RESERVED)~~

~~335. CHILD STAFF RATIO.~~

~~Under Section 39-1109, Idaho Code, the Department determines the maximum allowable child staff ratio based on a point system. - (3-28-23)~~

~~01. Daycare Child Staff Ratio Point System.~~

~~The maximum allowable points for each staff member is twelve (12), using the following point system which is based on the age of each child in attendance:- (3-28-23)~~

- ~~a. Under the age of twenty four (24) months, each child equals two (2) points. (3-28-23)~~
- ~~b. From the age of twenty four (24) months to under the age of thirty six (36) months, each child equals one and one half (1 1/2) points. (3-28-23)~~
- ~~e. From the age of thirty six (36) months to under the age of five (5) years, each child equals one (1) point. - (3-28-23)~~
- ~~d. From the age of five (5) years to under the age of thirteen (13) years, each child equals one half (1/2) point. - (3-28-23)~~

~~02. Compliance with Child Staff Ratios. Child staff ratios must always be maintained during all hours of operation when children are in attendance and when transporting children. (3-28-23)~~

- ~~a. Each child in attendance is counted by the Department for the purposes of calculating maximum allowable points, counting the number of children in attendance, and for determining compliance with child staff ratios; - (3-28-23)~~
- ~~b. Each adult staff member who is providing direct care for a child or children is counted by the Department as one (1) staff member for the purposes of counting the number of staff on duty and determining compliance with child staff ratios; and (3-28-23)~~
- ~~e. Each staff member sixteen (16) and seventeen (17) years old under the supervision of an adult staff member, when providing direct care for a child or children, may be counted by the Department as one (1) staff member for the purposes of counting the number of staff on duty and determining compliance with child staff ratios. - (3-28-23)~~

~~03. **Supervision of Children.** The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting the child-staff ratio requirements, the owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must ensure that at least one (1) adult staff member is: (3-28-23)~~

~~a. Always awake and on duty on the premises during regular business hours or when children are in attendance, and - (3-28-23)~~

~~b. Currently certified in pediatric rescue breathing, infant child CPR, and first aid. (3-28-23)~~

~~04. **Napping Children.** Napping children who are not within sight of a staff member must always be within easy hearing distance. (3-28-23)~~

~~05. **Overnight Daycare.** For daycare operators providing overnight care of children, the following must apply: - (3-28-23)~~

~~a. A sleeping child must sleep on the same level as the staff member who must be able to hear the child; and - (3-28-23)~~

~~b. A staff member must be awake and on duty to release and receive a child. (3-28-23)~~

~~336. **BEHAVIOR MANAGEMENT AND DISCIPLINE.**~~

~~Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. All of the following types of punishment of a child are prohibited: (3-28-23)~~

~~01. **Physical Force.** Any kind of punishment inflicted on the body, including spanking; (3-28-23)~~

~~02. **Cruel and Unusual Physical Exercise.** Includes forcing a child to take an uncomfortable position; (3-28-23)~~

~~03. **Use of Excessive Physical Labor.** With no benefit other than for punishment; (3-28-23)~~

~~04. **Restraint(s).** (3-28-23)~~

~~05. **Locking a Child in a Room.** Or any area of the home or facility; (3-28-23)~~

~~06. **Denying Necessities.** Includes necessary food, clothing, bedding, rest, toilet use, personal care and sanitation, or entrance to the home or facility; (3-28-23)~~

~~07. **Mental or Emotional Cruelty.** (3-28-23)~~

~~08. **Verbal Abuse.** Includes ridicule, humiliation, profanity, threats, or other forms of degradation directed at a child or a child's family. (3-28-23)~~

~~337.—339. (RESERVED)~~

~~340. **DAYCARE CENTER TRAINING REQUIREMENTS.**~~

~~Each owner or operator of a daycare center licensed by the Department must receive and ensure that each staff member receives and completes four (4) hours of ongoing training every twelve (12) months after the staff member's date of hire. - (3-28-23)~~

~~01. **Child Development Training.** Training must be related to continuing education in child development. - (3-28-23)~~

~~02. **Training Hours.** It is the responsibility of the owner or operator of the daycare center to ensure that~~

~~each staff member has completed four (4) hours of training each year. The training must be documented in the staff member's record. - (3-28-23)~~

~~**03. Pediatric Rescue Breathing, Infant Child CPR, and First Aid Training.** Pediatric rescue breathing, infant child CPR, and first aid training will not count towards the required four (4) hours of annual training. - (3-28-23)~~

~~**04. Staff Training Records.** Each owner or operator of the daycare center is responsible for maintaining documentation of staff's training and may be asked to produce documentation at the time of license renewal. - (3-28-23)~~

~~**341.—344. (RESERVED)**~~

~~**345. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT.**~~

~~Under Section 16-1605, Idaho Code, daycare personnel, including the owners, operators, staff, and any other person who has reason to believe that a child has been abused, abandoned, or neglected, or is being subjected to conditions or circumstances which would reasonably result in abuse, abandonment, or neglect, must report or cause to be reported within twenty-four (24) hours, such conditions or circumstances to the Department or the proper law enforcement agency. - (3-28-23)~~

~~**346. VISITATION AND ACCESS.**~~

~~**01. Visitation Rights.** Parents and guardians have the absolute right to enter the daycare premises when their child is in the care of the daycare operator. Failure or refusal to allow parental or guardian entry to the daycare premises or access to their child may result in the suspension or revocation of a daycare license. - (3-28-23)~~

~~**02. Denied or Limited Visitation Rights by Court Order.** If a parent or guardian has been granted limited visitation rights or denied visitation rights by a court of competent jurisdiction, and the daycare operator has written documentation from the court, Subsection 346.01 of this rule does not confer a right to visitation upon the parent or guardian. - (3-28-23)~~

~~**03. Department Access.** The owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must allow the Department access to the premises for reinspection at any time during the licensing period. - (3-28-23)~~

~~**347.—349. (RESERVED)**~~

~~**350. FIRE SAFETY STANDARDS.**~~

~~Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire safety standards in this rule. - (3-28-23)~~

~~**01. Inspections.** Inspections must be completed by the local fire official or designee. For a daycare located outside of the area of authority under Section 39-1109, Idaho Code, the Department can designate an approved inspector for daycare licensing purposes only. - (3-28-23)~~

~~**02. Unobstructed Exits.** Required exits must be located in such a way that an unobstructed path outside the building is provided to a public way or area of refuge. - (3-28-23)~~

~~**a.** Exit doors must open from the inside without the use of a key or any special knowledge or effort. - (3-28-23)~~

~~**b.** There must be at least two (2) exits located a distance apart of not less than one-half (1/2) the diagonal dimension of the building or portion used for daycare, but not to exceed seventy five (75) feet. An exception may be made for the following: - (3-28-23)~~

~~**i.** The distance between exits may be extended to ninety (90) feet if the building is totally protected throughout with smoke detectors; or - (3-28-23)~~

~~ii. The distance between exits may be increased to one hundred ten (110) feet if the building is equipped with an automatic fire sprinkler system. (3-28-23)~~

~~e. The required dimensions of exits must not be less than thirty two (32) inches of clear exit width and not be less than six (6) feet, eight (8) inches in height. An exception for sliding patio doors will be accepted as a required second exit in a family daycare home and group daycare facilities only. (3-28-23)~~

~~d. Sleeping room exits must be provided with at least one (1) emergency egress window having at least a single net clear opening of five point seven (5.7) square feet, minimum height twenty four (24) inches, minimum width twenty (20) inches, and maximum finished sill height not over forty four (44) inches. (3-28-23)~~

~~i. Approved egress windows from sleeping areas must be operable from the inside without the use of separate tools. - (3-28-23)~~

~~ii. In lieu of egress windows, an approved exit door is acceptable. (3-28-23)~~

~~iii. An approved piece of furniture or platform, if anchored in place, may be approved to sit in front of a window if the sill height is over forty four (44) inches. (3-28-23)~~

~~e. Where children are located on a story below the level of exit discharge (basement), there must be at least two (2) exits, one (1) of which must open directly to the outside. More than one (1) exit from the basement opening directly to the outside may be required, depending on the structure of the building, to ensure the safety of the occupants. - (3-28-23)~~

~~f. Where children are located on a story above the level of exit discharge, there must be two (2) exits, one (1) of which must open directly to the outside and comply with building codes. (3-28-23)~~

~~**351. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.**
Occupant load is determined by the local fire official or designee. (3-28-23)~~

~~**01. Area for Daycare Use Only.** The local fire official or designee will only use those areas used for daycare purposes when determining the occupant load. (3-28-23)~~

~~**02. Facilities with an Occupancy Load of Fifty or More.** Facilities with an occupancy load of fifty (50) or more occupants must meet the requirements in Section 350 of these rules in addition to this rule. (3-28-23)~~

~~**a.** Exit doors must swing in the direction of egress. (3-28-23)~~

~~**b.** Exit doors from rooms, if provided with a latch, must have panic hardware installed. (3-28-23)~~

~~**03. Exit Signs.** Exit signs must be installed at required exit doorways and wherever else necessary to clearly indicate the direction of egress. (3-28-23)~~

~~**352. FIRE EXTINGUISHERS AND SAFETY REQUIREMENTS.**
Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire extinguisher and safety requirements in this rule as applicable for size and type of facility. - (3-28-23)~~

~~**01. Portable Fire Extinguisher.** There must be an approved portable fire extinguisher (minimum 2A-10BC) mounted securely in a visible location not to exceed five (5) feet from the floor to the top of the extinguisher and not more than seventy five (75) feet travel distance to an extinguisher and maintained properly. (3-28-23)~~

~~**02. Kitchen Area.** An approved fire extinguisher must be present, or a hood type fire suppression system must be installed in the kitchen area. (3-28-23)~~

~~**03. Fire Extinguishers.** Approved fire extinguishers must be maintained properly. (3-28-23)~~

~~04. **Facilities Over Three Thousand Square Feet.** Each daycare facility over three thousand (3,000) square feet is required to have additional fire extinguishers as approved by the local fire official or designee.~~

~~(3-28-23)~~

~~05. **Fire Alarm System.** Each daycare facility with over fifty (50) children, must have an approved fire alarm system installed.~~

~~(3-28-23)~~

~~06. **Smoke Detectors.** Smoke detectors must be installed and maintained in the following locations:~~

~~(3-28-23)~~

~~a. On the ceiling, wall outside, or each separate sleeping area in the immediate vicinity of bedrooms;~~

~~(3-28-23)~~

~~b. In each room used for sleeping purposes; and~~

~~(3-28-23)~~

~~c. In each story within a facility including basements.~~

~~(3-28-23)~~

~~d. If there is a basement, there must be a smoke detector installed in the basement having a stairway which opens from the basement into the facility. Such detector must be connected to a sounding device or other detector to provide an alarm which is audible in the sleeping area.~~

~~(3-28-23)~~

~~07. **Automatic Sprinkler Systems.** An automatic sprinkler system must be provided in all daycare facilities greater than twenty thousand (20,000) square feet in area or when the number of children under the age of eighteen (18) months exceeds one hundred (100).~~

~~(3-28-23)~~

~~353. **FIRE SAFETY AND EVACUATION PLANS.**~~

~~Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must have an approved fire safety and evacuation plan prepared that includes the following:~~

~~(3-28-23)~~

~~01. **Evacuation.** Procedures and policies for accounting for staff and children after an evacuation is completed.~~

~~(3-28-23)~~

~~02. **Evacuation Plan and Assembly Point for Children and Staff.**~~

~~(3-28-23)~~

~~03. **Locations of Facility Exits.**~~

~~(3-28-23)~~

~~04. **Evacuation Routes.**~~

~~(3-28-23)~~

~~05. **Location of Fire Alarms.**~~

~~(3-28-23)~~

~~06. **Location of Fire Extinguishers.**~~

~~(3-28-23)~~

~~07. **Annual Review.** Fire safety and evacuation plans must be reviewed or updated annually and available in the facility for reference and review.~~

~~(3-28-23)~~

~~08. **Frequency of Fire and Emergency Evacuation Drills.** Fire and evacuation drills must be conducted on a routine schedule and all staff and children must participate.~~

~~(3-28-23)~~

~~354.—359. **(RESERVED)**~~

~~360. **HEALTH STANDARDS.**~~

~~Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the following. Health inspections will be completed by a qualified inspector designated by the Department.~~

~~(3-28-23)~~

~~01. **Food Source.** Food must be from an approved source under IDAPA 16.02.19, "Idaho Food Code."~~

~~Food must not be served past expiration or “use-by” date. (3-28-23)~~

~~**02. Food Preparation.** Food for use in daycare facilities must be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination. (3-28-23)~~

~~**a.** Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process. Food must be cooked to proper temperatures under IDAPA 16.02.19, “Idaho Food Code.” (3-28-23)~~

~~**b.** Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes. (3-28-23)~~

~~**03. Food Temperatures.** Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures under IDAPA 16.02.19, “Idaho Food Code.” Refrigerators must be equipped with an accurate thermometer. (3-28-23)~~

~~**04. Food Storage.** All food that is served in daycare facilities must be stored in such a manner that protects it from potential contamination. There must be no evidence of pests present in the daycare facility. (3-28-23)~~

~~**05. Food Contact Surfaces.** Food contact surfaces must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards. (3-28-23)~~

~~**06. Dishwashing Sanitizing.** Dishes, glasses, utensils, silverware, and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures. (3-28-23)~~

~~**07. Utensil Storage.** Clean utensils must be stored on clean shelves or drawers and not subject to recontamination, and sharp knives and other sharp objects be kept out of reach of children. (3-28-23)~~

~~**08. Garbage.** Garbage must be kept covered or inaccessible to children. (3-28-23)~~

~~**09. Hand Washing.** Children and facility staff must be provided with individual or disposable towels for hand drying, and the hand washing area be equipped with soap and warm and cold running water. (3-28-23)~~

~~**10. Diaper Changing.** Diaper changing must be conducted in such a manner as to prevent the spread of communicable diseases, be separate from food preparation and serving areas, and have easy access to a hand-washing sink. (3-28-23)~~

~~**11. Sleeping Areas.** Children sleeping at the facility must have separate cots, mats, or beds and blankets. (3-28-23)~~

~~**12. Restrooms, Water Supply, and Sewage.** All daycare facilities must have restrooms. (3-28-23)~~

~~**a.** Each facility must have at least one (1) flushable toilet and at least one (1) hand washing sink with warm and cold water per restroom. (3-28-23)~~

~~**b.** Plumbing and bathroom fixtures must be in good condition. (3-28-23)~~

~~**e.** All daycare facilities and homes must comply with IDAPA 24.39.30, “Rules of Building Safety (Building Code Rules).” (3-28-23)~~

~~**13. Water Supply.** The facility's water supply must meet one (1) of the following requirements: (3-28-23)~~

~~**a.** Be from a public water system that is maintained under IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” at the time of initial or renewal application; or (3-28-23)~~

~~b. Be from a private source, such as well or spring, be tested annually for bacteria and nitrate, and be approved by the Department. (3-28-23)~~

~~e. Water used for consumption at a daycare facility is from an acceptable source. Temporary use of bottled water or boiled water may be allowed for a period specified by the Department. (3-28-23)~~

~~14. **Sewage Disposal.** Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." (3-28-23)~~

~~15. **Use of Alcohol and Illegal Drugs.** Alcohol and illegal drugs must not be used by operators, children, staff, volunteers, visitors at daycare facilities, in the presence of children during hours of operation, or in vehicles while transporting children. (3-28-23)~~

~~a. Any individual under the influence of alcohol or drugs is not be permitted at or in the daycare facility. (3-28-23)~~

~~b. Illegal drugs are prohibited by law and therefore are not allowed on the premises of a licensed daycare facility at any time. (3-28-23)~~

~~16. **Smoke-Free Environment.** Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all staff must ensure that no smoking or other tobacco use occurs within the facility, in outdoor areas, or in vehicles when children are present. (3-28-23)~~

~~17. **Medication.** No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise inaccessible to children. (3-28-23)~~

~~18. **Adequate Heat, Light, and Ventilation.** A daycare facility must have adequate heat, light, and ventilation. Windows and doors must be screened if used for ventilation. (3-28-23)~~

~~19. **Immunizations.** Daycare operators must comply with requirements under IDAPA 16.02.11, "Immunization Requirements for Licensed Day care Facility Attendees." (3-28-23)~~

~~**361. MISCELLANEOUS SAFETY REQUIREMENTS.**~~

~~Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the following. (3-28-23)~~

~~01. **Telephone.** An operable telephone or cell phone must always be available in the facility with the following conditions: (3-28-23)~~

~~a. The telephone number used must be made available to parents and guardians. (3-28-23)~~

~~b. Emergency phone numbers to include 911, an adult emergency substitute operator, and the address and phone number of the facility must be posted by the telephone or in a location that is easily and always visible. (3-28-23)~~

~~02. **Heat Producing Equipment.** A furnace, fireplace, wood burning stove, water heater, and other flame or heat producing equipment must be installed and maintained as recommended by the manufacturer and protected on all surfaces by screens or other means. (3-28-23)~~

~~03. **Portable Heating Devices.** Portable heating devices must be limited and approved for use and location by the Fire Inspector prior to use within a facility. (3-28-23)~~

~~04. **Storage of Weapons, Firearms, and Ammunition.** Firearms or other weapons stored at a daycare~~

~~facility must be kept in a locked cabinet, gun safe, or other container that is inaccessible to children, while children are in attendance. Keys to these containers must also be inaccessible to children. (3-28-23)~~

- ~~a. Ammunition must be stored in a locked container separate from firearms. (3-28-23)~~
- ~~b. Matches, lighters, and any other means of starting fires must be kept away from and out of the reach of children. (3-28-23)~~
- ~~c. Other weapons that could cause harm must be stored out of reach of children. (3-28-23)~~

~~**05. Animals and Pets.** Any pet or animal present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The operator must maintain the animal's vaccinations and vaccination records which will be made available to the Department upon request. (3-28-23)~~

~~**06. Storage of Hazardous Materials.** Cleaning materials, flammable liquids, detergents, aerosol cans, pesticides, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children. (3-28-23)~~

~~**362.—364. (RESERVED)**~~

~~**365. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT:**~~

~~Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the following: (3-28-23)~~

~~**01. Appliances and Electrical Cords.** All appliances, lamp cords, exposed light sockets, and electrical outlets will be protected to prevent electrocution. (3-28-23)~~

~~**02. Balconies and Stairways.** Balconies and stairways accessible to children will have substantial railings as required by IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)". (3-28-23)~~

~~**03. Stairway Protection.** Where an operator cares for children less than three (3) years old, stairways will be protected to prevent child access to stairs. (3-28-23)~~

~~**04. Hazardous Area Restrictions.** Based on the age and functioning level of children in care and the type of hazard and the area surrounding the hazard will be restricted to prevent easy access to the hazard. (3-28-23)~~

~~**05. Fueled Equipment.** Fueled equipment including motorcycles, mopeds, lawn care equipment, and portable cooking equipment will not be stored or repaired in areas where children are present. (3-28-23)~~

~~**06. Water Hazards.** Above and below ground pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: (3-28-23)~~

~~a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following: (3-28-23)~~

~~i. The fence will be at least four (4) feet high with no vertical opening more than four (4) inches wide and designed so that a young child cannot climb or squeeze under or through the fence. The fence will surround all sides of the pool and have a self closing gate that has a self latching mechanism in proper working order that is out of the reach of young children. (3-28-23)~~

~~ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool will have alarms that produce an audible sound when the door is opened. (3-28-23)~~

~~b. Furniture or other large objects will not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub,~~

~~pond, or other body of water is not fenced and locked, there will be a secured protective covering that prevents access by a child. - (3-28-23)~~

~~e. Wading pools and buckets will be empty when not in use. (3-28-23)~~

~~d. Children will be under direct supervision of an adult staff member who is certified in pediatric rescue breathing, infant child CPR, and first aid while using a bathtub, pool, hot tub, pond, or other body of water. - (3-28-23)~~

~~e. A minimum of a four (4) foot high fence that prevents access from the daycare facility premises, if the daycare premises are adjacent to a body of water. (3-28-23)~~

~~07. Indoor Play Areas and Toys. The indoor play areas will be clean, have age appropriate toys, and be free from accumulation of dirt, rubbish, or other health hazards. (3-28-23)~~

~~08. Outdoor Play Areas and Toys. Any outdoor play area must be maintained free from hazards such as wells, machinery, and animal waste. (3-28-23)~~

~~a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area will be enclosed with a fence in good repair that is at least four (4) feet high without any holes or spaces greater than four (4) inches in diameter. (3-28-23)~~

~~b. Outdoor equipment, such as climbing apparatus, slides, and swings will be anchored firmly and placed in a safe location and according to the manufacturer's instructions. (3-28-23)~~

~~e. Outdoor play areas will be designed so that all parts always visible and are easily supervised by a staff member. - (3-28-23)~~

~~d. Toys, play equipment, and any other equipment used by the children will be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides will be kept in good repair and well maintained. (3-28-23)~~

~~e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects, and balloons will not be accessible to children ages three (3) and under or children who are known to place such objects in their mouths. (3-28-23)~~

~~366.—389. (RESERVED)~~

~~390. CONTINUED COMPLIANCE, REPORTING CHANGES, AND CRITICAL INCIDENTS.~~

~~Each daycare owner or operator must always remain in compliance with fire, safety, and health requirements under these rules. - (3-28-23)~~

~~01. Posting of License and Other Information. (3-28-23)~~

~~a. A daycare license issued by the Department to operators must be posted in plain view where it can be seen by parents and the public upon entering the facility. (3-28-23)~~

~~b. A daycare must post the Department's contact information and the statewide number to file daycare complaints. - (3-28-23)~~

~~02. Reporting Changes. The Department must be notified of any changes that would affect the terms of licensure or could affect the health, well being, or safety of children. (3-28-23)~~

~~03. Critical Incidents. A daycare operator must report any of the following to the Department within twenty four (24) hours: (3-28-23)~~

~~a. Serious injury or death of a child at the facility; (3-28-23)~~

~~b. Any arrests, citations, withheld judgments, or criminal convictions of disqualifying crimes under Section 39-1113, Idaho Code, of an operator or any individual regularly on the premises of the facility and provide documentation that the individual is not working with children or is not on the premises. (3-28-23)~~

~~391.—394. (RESERVED)~~

~~395. FAILURE TO COMPLY.~~

~~01. Misdemeanors to Operate Without a License. It is a misdemeanor to operate a daycare center or group daycare facility without first obtaining a daycare license from the Department or to operate a daycare center or group daycare facility without posting the license in a place easily seen by a parent or the general public. (3-28-23)~~

~~a. The Department may grant a grace period of no more than sixty (60) days to allow the daycare facility to comply with these rules and with Title 39, Chapter 11, Idaho Code. (3-28-23)~~

~~b. The operator or owner must agree to begin the application process under Section 321 of these rules within one (1) business day of identification by the Department that a daycare owner or operator is noncompliant with Title 39, Chapter 11, Idaho Code, or this chapter of rules. (3-28-23)~~

~~02. Misdemeanor to Operate Without Obtaining a Background Check. It is a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining the required background check under Section 39-1105, Idaho Code. If there is an initial citation for violation of Section 39-1115, and a person makes the applications required within twenty (20) days, the complaint will be dismissed. Operating a family daycare home for four (4) or more children after failure to pass the required background check is a misdemeanor. (3-28-23)~~

~~03. Misdemeanor to Provide Daycare if Guilty of Certain Offenses. It is a misdemeanor to provide daycare services if found guilty of any offenses under Section 39-1113, Idaho Code. (3-28-23)~~

~~396.—399. (RESERVED)~~

STANDARDS FOR FOSTER HOMES
~~(Sections 400-499)~~

~~400. STANDARDS FOR FOSTER HOMES.~~

~~The standards for licensing foster homes are to insure that children of the state who must live away from their parents receive adequate substitute parental care to address their need for safety, health, and well being, that the persons providing this care are capable and suitable to meet the protection needs of children living in foster homes, and the physical environment in which these children reside is a safe setting. (3-28-23)~~

~~401~~**200. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.**

~~These rules do not supersede the licensing authority of Indian tribes under the Indian Child Welfare Act, P.L. 95-608, 25 USC, Sections 1901 – 1963. ()~~

~~402~~**201. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.**

~~Foster parents must be physically and emotionally suited to care for children and to deal with the problems presented by children placed away from their own parents, family, and homes. An applicant for licensure as a foster parent must meet the following: ()~~

~~01. **Minimum Age.** Be twenty-one (21) years old or older. (3-28-23)()~~

~~02. **Be of Good Character.** Be of good character. (3-28-23)()~~

~~03. **Communication.** Be able to communicate with the child, the licensing agency, and health care and other service providers. ()~~

- 04. Personal Attributes and Experiences.** Have the maturity, interpersonal qualities, temperament, and life experiences that prepare the foster parent to provide foster care. ()
- 05. Availability for Child Placement.** Express a willingness to provide care for the kind of children the children's agency has available for placement. ()
- 06. Knowledge and Skill.** Demonstrate an understanding of the care that must be provided to the children served by the children's agency or express a willingness to learn how to provide that care. ()
- 07. Child Care and Supervision.** Have adequate time to provide care and supervision for children. ()
- 08. Income and Resources.** Have a defined and sufficient source of income and be capable of managing that income to meet the needs of the foster family without relying on the payment made for the care of a foster child. ()
- 09. Health.** Have the physical, intellectual, and emotional health to assure appropriate care of children. ()
- 10. Harmonious Home Life.** Establish and maintain a harmonious home life to give children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home. ()
- 11. Literacy.** At least one (1) adult caretaker in the home must have functional literacy. ()
- 12. Acceptance of Foster Children.** Demonstrate a willingness and ability to accept a child into the home as a member of the family. ()
- 13. Family Supports.** Demonstrate a willingness and ability to work with a foster child's legal family, future family, relatives, or Indian tribe. ()
- 14. Compliance with Licensing Rules.** Demonstrate a willingness and ability to comply with the licensing rules for foster homes these rules. ~~(3-28-23)~~()
- 15. Illegal Substance.** Foster parents will not use any illegal substances, abuse alcohol by consuming it in excessive amounts, or abuse legal prescription or nonprescription drugs, or both, by consuming them in excessive amounts or using them contrary to medication instructions. ()
- 16. Nicotine Use.** Foster parents and their guests will not smoke or vape in the foster family home, in any vehicle used to transport the child, or in the presence of the child in foster care. ()

~~403202. CRIMINAL HISTORY AND BACKGROUND CHECKS FOR FOSTER CARE LICENSE.~~

All applicants for a foster care license and other adult members of the household must comply with IDAPA 16.05.06, "Criminal History and Background Checks," and the following: ()

- 01. Required Procedures.** Each applicant for a foster home license, and any other adult household member, must ~~participate in~~ complete a background check. ~~(3-28-23)~~()
- 02. Change in Household Membership.** By the next working day after another adult begins residing in a ~~licensed~~ foster home, a foster parent must notify the children's agency of the change in household membership and assure that the new adult household member will complete a background check within fifteen (15) days of residence in the foster home. ()
- 03. Foster Parent's Child Turns Eighteen.** A foster parent's child who turns eighteen (18) and lives continuously in the home is not required to have a background check except as specified in ~~Subsection 404.03.c. of~~ this rule. ~~(3-28-23)~~()

a. After turning eighteen (18) years old, if the foster parent's adult child no longer lives in the foster parent's home and subsequently resumes living in the ~~licensed~~ foster home, they will be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. (3-28-23)()

b. If the adult child leaves the foster home for the purpose of higher education or military service, and periodically returns to the home for less than ninety (90) days, they are not considered to be an adult household member and are not required to complete a background check. While in the home, they cannot have any unsupervised direct care responsibilities for any foster children in the home. Should they remain in the foster home for more than ninety (90) days, they will immediately be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. ()

c. If the adult child continues to live in their parent's ~~licensed~~ foster home or on the same property, they must complete a background check within fifteen (15) days of turning twenty-one (21). This requirement is not necessary if the adult child has completed a background check between the ages of eighteen (18) and twenty-one (21). (3-28-23)()

04. Background Check at Any Time. The Department retains the authority to require a background check at any time on individuals who are residing in a ~~licensed~~ foster home or on the foster parent's property. (3-28-23)()

05. Emergency Placement of Children. An emergency occurs when a child enters or experiences an unplanned placement change in foster care. The Department may request that a criminal justice agency perform a Federal Interstate Identification Index name-based criminal history record check of each adult residing in the home. This refers to those limited instances when placing a child in the home of relatives or fictive kin, as a result of a sudden unavailability of the child's parent or caretaker. ()

a. All adult household members will submit fingerprints to the Department's Background Check Unit within ten (10) calendar days and follow requirements outlined in IDAPA 16.05.06, "Criminal History and Background Checks." The Department forwards the fingerprints to the State Central Record Repository for submission to the FBI within fifteen (15) calendar days from the date the name search was conducted. The Department's background check unit will positively identify the individual that is being considered to receive the child in an emergency situation as their fingerprints are submitted. ()

b. When placement of a child in a home is denied as a result of the Department review of the name-based criminal history record check of any adult household member, all adults must still comply with Subsection 202.05.a. of this rule and IDAPA 16.05.06, "Criminal History and Background Checks." ()

c. The child will be removed from the home immediately if any adult household member fails to provide written permission to perform a federal criminal history record check, submit fingerprints, or any adult household member is denied a Department background check clearance. ()

404203. INITIAL AND ONGOING EVALUATION.

An applicant must participate in the process and tasks to complete an initial evaluation for foster care licensure. ()

01. Applicant Participation. The applicant must do all the following: ()

a. Cooperate with and allow the children's agency to determine compliance with these rules to conduct an initial foster home study; ()

b. Inform the children's agency if the applicant is currently licensed or has been previously licensed as a foster parent or the applicant has been involved in the care and supervision of children or adults; ()

c. Provide a medical statement for each applicant, signed by a medical professional, within the twelve (12) month period prior to initial licensure for family foster care, indicating the applicant is in such physical and mental health ~~so as~~ to not adversely affect either the health or quality of care for children placed in the home;

(3-28-23)()

d. Provide the name of, and a signed release to obtain the following information about, each household member: ()

i. Admission to or release from a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; ()

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue; and ()

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s). An applicant will provide additional references upon the request of the children's agency. ()

02. Physical and Mental Health of Household Members. All household members must be in such physical and mental health that the health, safety, or well-being of a foster child will not be adversely affected. A health status report of any household member may be required from a medical professional if this appears advisable to the children's agency. To assure the safety and well-being of children, each household member must comply with these rules. (3-28-23)()

03. Disclosure of Information. An applicant must provide the children's agency with the following or any additional information the children's agency deems necessary to complete the initial family home study: ()

a. ~~The n~~Names, including maiden or other names used, and ages of the applicant(s); (3-28-23)()

b. Social Security Number; ()

c. Education; ()

d. Verification of marriages and divorces; ()

e. Religious and cultural practices of the applicant including their willingness and ability to accommodate or provide care to a foster child of a different race, religion, or culture; ()

f. ~~A s~~Statement of income and financial resources and the family's management of these resources; (3-28-23)()

g. Marital relationship, if applicable, including decision making, communication, and familial roles within the family; (3-28-23)()

h. Individual and family functioning and interrelationships with each household member; ()

i. Any current family problems, including medical or mental illness, illegal drug use, prescription drug abuse, and excessive alcohol use; ()

j. Previous criminal convictions and valid incidents of child abuse and neglect; ()

k. Family history, including how the applicant was disciplined, childhood experiences, and problem solving; ()

l. Child care and parenting skills; ()

m. Methods of discipline; ()

n. ~~The n~~Names, ages, and addresses of all biological and adopted children currently residing in or outside the home; (3-28-23)()

- o. Adjustment and special needs of the applicant's children; ()
- p. Interests and hobbies; ()
- q. Reasons for applying to be a foster parent; ()
- r. Understanding of the purpose and goals of foster care; ()
- s. Prior and current experiences with foster care; ()
- t. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the child's placement into applicant(s) home; ()
- u. ~~The a~~Attitudes toward foster care by immediate and extended family members ~~of the family~~ and other persons who reside in the home; (3-28-23)()
- v. ~~The a~~Applicant's attitudes about a foster child's family and the applicant's willingness to work with the child's family and tribe; (3-28-23)()
- w. Specifications of the children preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics of children preferred; ()
- x. Adequacy of the applicant's house, property, and neighborhood for the purpose of providing foster care as determined by onsite observations; ()
- y. ~~The a~~Applicant(s) willingness to abide by the children's agency policies and procedures for discipline; (3-28-23)()
- z. Three (3) personal references, at least two (2) that are from persons not related to the applicants, reflecting the applicants to be of good character and possess good habits; ()
- aa. Training needs of the applicant(s); and ()
- bb. ~~The e~~Capacity and willingness to transport a foster child in a motor vehicle. (3-28-23)()

405204. SUBSEQUENT EVALUATIONS.

A foster parent must comply with the following ~~for the subsequent evaluation required for a foster care license:~~ (3-28-23)()

01. Reasonable Access. A foster parent will allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child, and any household member to determine ~~continued~~ compliance with ~~licensing standards~~ these rules, for child supervision purposes, and to conduct a ~~recertification~~ relicense study. (3-28-23)()

02. Update Information. Provide all changes to the information ~~contained~~ in the initial evaluation and subsequent evaluations. (3-28-23)()

03. Family Functioning. Provide information on ~~any~~ changes in family functioning and inter-relationships. (3-28-23)()

04. Other Circumstances. Provide the children's agency with any information regarding circumstances within the family that may adversely impact the foster child. ()

05. ~~Written~~ Plan of Correction. Cooperate with the children's agency in developing and carrying out a written plan required to correct any rule noncompliance identified by any evaluation conducted by the children's agency. (3-28-23)()

406205. FOSTER PARENT DUTIES.

A foster parent must do the following: ()

01. Case Plan Implementation. Cooperate with, and assist the children's agency ~~in the~~ with implementation of the case plan for children and their families. (3-28-23)()

02. Reporting Progress and Problems. Promptly and fully disclose to the children's agency information concerning a child's progress and problems. ()

03. Termination of Placement ~~by the Foster Family.~~ Provide notification to the children's agency of the need for a child to be moved from the foster home not less than fourteen (14) calendar days before the move, except when a delay would jeopardize the child's care or safety, or the safety of members of the foster family. (3-28-23)()

04. Written Policies and Procedures ~~for Foster Families.~~ Maintain a copy of, be familiar with, and follow these rules and any other rules, policies, or procedures which an agency may require for foster parents and foster care. (3-28-23)()

407206. FOSTER PARENT TRAINING.

Each foster parent must comply with the following: ()

01. Orientation. Each foster home applicant ~~for a foster home license~~ will receive an orientation related to the foster care program and services. (3-28-23)()

02. Pre-Service. Complete not less than twenty-four (24) hours of identified training prior to the issuance of an initial foster care license. ()

03. First Year. Prior to first annual licensing renewal, complete not less than fifteen (15) hours of identified training. ()

04. Annual Training. Complete not less than ten (10) hours of training annually following the first year of licensing. ()

05. Individualized Training. Complete training identified by the Department as meeting the individual needs of the foster parent(s). ()

06. Additional Training. Complete any additional training ~~as~~ required by the children's agency foster parent training plan. (3-28-23)()

408207. -- 4229. (RESERVED)

4230. HOME ENVIRONMENT SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of a foster home must be constructed and maintained in good repair, ~~in a~~ clean condition, with proper trash and recycling disposal, and free from rodents or insect infestation, safety hazards, and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. (3-28-23)()

01. Living Space. The living space or structure of a foster home will be a house, mobile home (as defined under Title 39, Chapter 41, Idaho Code), housing unit, or apartment occupied by an individual or family. ()

02. Swimming Pools, Hot Tubs, Ponds, and Other Bodies of Water ~~for Use by Children.~~ Any licensed foster home with these water hazards on or adjacent to their property must provide the following safeguards: (3-28-23)()

a. Around any of the water hazards listed in ~~Subsection 430.02 of~~ this rule, a foster child must have

appropriate adult supervision consistent with the child's age, physical ability, and developmental level; ~~(3-28-23)~~()

b. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children under the age of twelve (12), children of any age who are not competent swimmers, or children who are developmentally younger than their chronological age of twelve (12); or ()

c. Above ground pools must have a four-foot barrier that may be the pool structure or attached fencing, or both with a maximum vertical clearance between the top of the pool and the bottom of the barrier not exceeding four (4) inches; and ()

i. The ladder must be removed and stored inaccessible to children under the age of twelve (12) when not in use; and ()

ii. If the ladder cannot be removed, the steps or ladder must be surrounded by a barrier as required in Subsection ~~4230.042.b.~~ of this rule. ~~(3-28-23)~~()

d. If the area surrounding any of the water hazards listed in ~~Subsection 430.02~~ of this rule, is not fenced and locked, there must be a secured protective covering that will not allow access by a child. ~~(3-28-23)~~()

i. Pool or hot tub covers must be completely removed when in use; ()

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; ()

iii. Covers must always be locked when the pool or hot tub is not in use. ()

03. Access by Children Five Years Old and Under. Any ~~licensed~~ foster home that cares for children five (5) years old and under and chooses to prevent access to a body of water by fencing must provide a fence that meets the following: ~~(3-28-23)~~()

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

c. If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and ()

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool; or ()

e. Above ground pools meet the requirements in Subsection ~~4230.042.eb.~~ in this rule. ~~(3-28-23)~~()

04. Irrigation Canals or Similar Bodies of Water. A ~~licensed~~ foster home caring for a child five (5) years old and under or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water by the child. ~~(3-28-23)~~()

05. Other Water Safety Precautions. ()

a. Wading pools must be empty when not being used; ()

b. Children must be under direct supervision of an adult while using a wading pool; ()

c. Toys that attract young children to the pool area must be kept picked up and away from the pool

area when not in use; ()

d. A child who does not know how to swim must use an approved lifesaving personal flotation device; ()

e. All swimming pools will be equipped with a life-saving device, such as a ring buoy; and ()

f. Swimming pools that cannot be emptied after each use will have a working pump and filtration system. ()

4231. INSTALLATION, MAINTENANCE, AND INSPECTION OF FLAME AND HEAT-PRODUCING EQUIPMENT.

A foster parent must assure: ()

01. Installation and Maintenance of Flame and Heat-Producing Equipment. That a furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment is installed and maintained as recommended by the manufacturer, and fireplaces are protected by screens or other means. ()

02. Portable Heating Devices. That portable heating devices will not be used during sleeping hours. ()

03. Fire Inspections. An inspection by a certified fire inspector may be required at the discretion of the children's agency. ()

04. Water Heater. The water temperature will not exceed 120 degrees Fahrenheit (49 degrees Celsius). ()

4232. FIRE SAFETY, EMERGENCY PLANNING, AND EVACUATION PLAN.

Each foster home must meet the following standards: ~~(3-28-23)~~()

01. Smoke Detectors. There will be at least one (1) single-station smoke detector (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer, and as follows: ()

a. One (1) smoke detector on each floor of the home, including the basement; ()

b. One (1) smoke detector in each bedroom used by a foster child; and ()

c. One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. ()

02. Carbon Monoxide Detectors. There will be at least one (1) carbon monoxide detector (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer. Living space that does not have equipment ~~which~~ that produces carbon monoxide or does not have an attached garage is exempt from this requirement. Multi-level homes will have one (1) carbon monoxide detector on each level of the home and at least one (1) near all sleeping areas. ~~(3-28-23)~~()

03. Additional Fire Safety Requirements. To be within the structure of the home: ()

a. Have at least one (1) operable fire extinguisher that is readily accessible; ()

b. Be free of obvious fire hazards such as defective heating equipment or improperly stored flammable materials; ()

c. Have a written emergency evacuation plan posted in a prominent place in the home and reviewed with children placed for foster care; ()

d. Maintain a comprehensive list of emergency telephone numbers including poison control and posted in a prominent place in the home; and ()

e. Maintain first aid supplies. ()

4233. EXITS.

There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct, safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if it complies with these rules. ()

4234. DANGEROUS AND HAZARDOUS MATERIALS.

Dangerous and hazardous materials, objects, or equipment, including poisonous, explosive, or flammable substances that could present a risk to a child placed in a foster home must be stored securely and out of reach of a child, as appropriate for the age and functioning level of the child. ()

4235. FIREARMS AND AMMUNITION.

Firearms at a foster home must be stored: ()

01. Trigger Locks. Unloaded and equipped with a trigger lock; ()

02. Unassembled and Inoperable. Unloaded, fully inoperable, and incapable of being assembled and fired; ()

03. Locked Cabinet or Container. Unloaded and locked in a cabinet or storage container that is inaccessible to children; or ()

04. Gun Safe. Locked in a gun safe that is inaccessible to children; ()

05. Ammunition. Stored and locked separately from all guns in the home. ()

4236. PETS AND DOMESTIC ANIMALS.

Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. Dogs must be vaccinated for rabies. ()

4237. ADEQUATE HEAT, LIGHT, AND VENTILATION.

A foster home must have adequate heat, light, and ventilation and windows and doors will be screened if used for ventilation. ()

4238. BATHROOMS, KITCHENS, WATER SUPPLY, AND SEWAGE DISPOSAL.

A foster home must meet the following: ()

01. Toilet Facilities. A foster home will have a minimum of one (1) flush toilet, one (1) washbasin that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all of which are in good working order. ()

02. Water Supply. The water supply will meet one (1) of the following requirements: ()

a. That it is from a source approved for a private home by the health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses; or ()

b. Water used for consumption at a foster home is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

03. Sewage Disposal. Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, under IDAPA 58.01.03 "Individual/Subsurface ()

Sewage Disposal Rules.” ()

04. Kitchen. A foster home will include a properly operating kitchen with a sink, refrigerator, stove, and oven. ()

4239. TRANSPORTATION.

A foster parent must comply with the following: ()

01. Legal Requirements for Transporting Children. A foster parent, or any person acting on behalf of a foster parent, that transports a child, will possess a valid driver's license, be insured under Idaho Law, and abide by all traffic laws including the requirement that all children are in proper safety restraints while being transported as required under Sections 49-672 and 49-673, Idaho Code, ~~and Section 49-673, Idaho Code.~~ (3-28-23)()

02. Reliable Transportation. A foster parent will arrange for safe, reliable transportation of any foster child in their care to assure the child has access to school, community services, and the children's agency. ()

a. Privately owned vehicles used to transport children in foster care will be properly maintained and be owned by the foster family or friends. ()

b. Public transportation includes all reliable public transportation. ()

03. Prohibitions of Foster Child Transportation. A foster parent will not transport a foster child while impaired by any substance including alcohol, prescription medication, or any illegal substances. ()

4240. CELL PHONE OR TELEPHONE.

Unless previously approved by the licensing agency, there must be an operating cell phone or telephone in a foster home. ()

4241. WHEELCHAIR ACCESS.

A foster home that provides care to a child who regularly requires the use of a wheelchair must be wheelchair accessible. ()

4242. CHILD PLACEMENT REQUIREMENTS.

A foster family must accept the placement of children into the home within the terms of the foster home license ~~or certification~~ and the children's agency placement agreement. The following provisions will be considered for determining placement: (3-28-23)()

01. Determining Factors. The number and the age group of children placed in a foster home will be determined by the following: ()

a. The accommodations and the space in the home; ()

b. The interest of the foster family; and ()

c. The experience or skill of the foster family. ()

02. Maximum Number of Children. Except as specified, the maximum number of children in care at any time, including the foster family's own children, or daycare children, will be limited to not more than six (6) children. ()

03. Children Under Two Years Old. Except as specified in Subsection 4242.04 of this rule, the maximum number of children under two (2) years old, including those of the foster family, will be limited to two (2) children or less. (3-28-23)()

04. Special Circumstances Regarding Maximum Numbers of Children. The maximum number of children in care at any time may be based on the children's agency assessment and at a minimum one (1) of the following: ()

- a. To allow siblings to remain together; ()
 - b. To allow a child who has an established, meaningful relationship with the family to remain with the family; ()
 - c. To allow a family with special training or skills to provide care for a child who has a severe disability; or ()
 - d. To allow a parenting youth in foster care to remain with the child of the parenting youth. ()
- 05. Continued Care.** A foster child who reaches the age of eighteen (18) may continue in foster care placement until the age of twenty-one (21) if the safety, health, and well-being of other foster children residing in the home is not jeopardized. ()

4243. INTERAGENCY PLACEMENT OF CHILDREN.

A foster family must only accept for placement children referred from the children's agency that licenses ~~or certifies~~ the foster home. A foster family may accept for placement a foster child from another children's agency only if that children's agency and the foster family have received prior approval for the placement of a child from the children's agency that licensed ~~or certified~~ the home. (3-28-23)()

4244. SUBSTITUTE CARE PLACEMENT AND CHILDREN'S AGENCY NOTIFICATION.

A foster parent must: ()

01. Substitute Care. Place a child in substitute care only with the prior knowledge and consent of the children's agency; and ()

02. Notification to Agency. Notify the children's agency before the beginning of any planned absence that requires substitute care of a child for a period of twenty-four (24) hours or more. ()

4245. BEDROOMS.

A foster parent must comply with the following: ()

- 01. Sleeping Arrangements.** A bedroom occupied by a foster child will: ()
 - a. Provide an adequate opportunity for both rest and privacy for each child; ()
 - b. Be readily accessible to adult supervision as appropriate for the age and functioning level of each child; ()
 - c. Have sufficient floor space to provide two (2) feet of space between beds; ()
 - d. Have sufficient space for the storage of clothing and personal belongings; ()
 - e. Have a finished ceiling, permanently affixed floor-to-ceiling walls, and finished flooring; ()
 - f. Have a latchable door that leads to an exit from the foster home; ()
 - g. Have at least one (1) outside window that complies with the following: ()
 - i. ~~Is~~Be readily accessible to children and the foster parent; (3-28-23)()
 - ii. ~~Is~~Be readily opened from the inside of the room; and (3-28-23)()
 - iii. ~~Is~~Be of sufficient size and design to allow for the evacuation of children and caregivers. (3-28-23)()

- h.** ~~Is~~**Be** free of the following: ~~(3-28-23)~~()
- i. Household heating equipment excluding baseboard heating systems; ()
- ii. Water heater; and ()
- iii. Clothes washer and dryer. ()
- 02. Non-Ambulatory Child.** A child who is non-ambulatory and cannot readily be carried by one (1) household member will sleep in a bedroom located at ground level. ()
- 03. Sharing Bedroom with a Non-Parent Adult.** A child will not share a bedroom with a non-parent adult unless the child and adult are of the same gender and there is not more than four (4) years difference in age between the adult and the youngest child in the bedroom. ()
- 04. Sharing a Bedroom with a Foster Parent.** A child three (3) years old or older will not routinely share the bedroom with a foster parent unless the child has special health or emotional needs that require the attention of the foster parent(s) during sleeping hours. ()
- 05. Maximum Number of Children in a Bedroom.** No more than four (4) children will occupy a bedroom. The placement of more than one (1) child in a bedroom will be based on the age, behavior, functioning, individual needs of each child, and sufficient available space. ()
- 06. Children of the Opposite Gender.** Children of the opposite gender, any of whom are more than five (5) years old, will not share the same bedroom. ()
- 07. Number of Children in a Bed.** Each child will have an individual bed, except that two (2) brothers or two (2) sisters of comparable age may share a bed if they have previously shared a bed or when there are no health, behavioral, or other factors indicating this is undesirable. ()
- 08. Restrictions on Sleeping Arrangements.** The following must not be used for sleeping purposes: ()
- a. A room or area of the foster home that is primarily used for purposes other than sleeping; ()
- b. A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor; or ()
- c. A detached building, except in the case of an older child preparing for emancipation when it can be documented that the child's needs can best be met by that arrangement. ()
- 09. Appropriate Bedding.** A child will have a bed that is appropriate for the age and development of the child. Beds will be equipped with a clean and comfortable mattress that complies with the Consumer Product Safety Commission standard (<https://www.cpsc.gov/>), pillow, linens, and blankets appropriate for the weather. ()
- 10. Infants.** Adults and children, or both, will not co-sleep or bed-share with infants. Cribs will comply with ~~Sub~~section 002-02 of these rules. ~~(3-28-23)~~()

4246. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. ()

- 01. Prohibitions.** The following types of punishment of a foster child are prohibited: ()
- a. Physical force or any kind of punishment inflicted on the body, including spanking; ()

- b. Cruel and unusual physical exercise or forcing a child to take an uncomfortable position; ()
- c. Use of excessive physical labor with no benefit other than for punishment; ()
- d. Mechanical, medical, or chemical restraint; ()
- e. Locking a child in a room or area of the home; ()
- f. Denying necessary food, clothing, bedding, rest, toilet use, bathing facilities, or entrance to the foster home; ()
- g. Mental or emotional cruelty; ()
- h. Verbal abuse, ridicule, humiliation, profanity, threats, or other forms of degradation directed at a child or a child's family; ()
- i. Threats of removal from the foster home; ()
- j. Denial of visits or communication with a child's family unless authorized by a children's agency in its service plan for the child and family; and ()
- k. Denial of necessary educational, medical, counseling, or social services. ()

02. Restraint. A foster parent who has received specific training in the use of child restraint may use reasonable restraint methods, approved by the children's agency, to prevent a child from harming themselves, other persons or property, or to allow a child to gain control of themselves. ()

03. Authority. The authority for the discipline of a foster child must not be delegated by a foster parent to other members of the household. ()

04. Agency Consultation. A foster parent must consult with the children's agency prior to using any behavior management or discipline technique that exceeds the scope of these rules. ()

4247. MEDICAL AND DENTAL CARE.

01. Health Care Services. A foster parent must follow and carry out the health or dental care plan for a child as directed by a medical professional. ()

02. Child Injury and Illness. Follow the children's agency approved policies for medical care of a child who is injured or ill. ()

03. Dispensing of Medications. Provide prescription medication as directed by a medical professional. A foster parent must not discontinue or in any way change the medication provided to a child unless directed to do so by a medical professional. ()

04. Storage of Medication. A foster parent must store vitamins, prescriptions, and over-the-counter medications in an area that is inaccessible to a child. ()

4248. PERSONAL CARE AND HYGIENE.

A foster parent must instruct the child in personal care, hygiene, and grooming and provide the child with necessary personal care, hygiene, and grooming products appropriate to the age, gender, and needs of the child. The foster parents will seek approval from the children's agency before altering a child's physical appearance including haircuts, body piercing, and tattooing. ()

4249. FOOD AND NUTRITION.

A foster parent must provide a foster child with meals that are nutritious, well-balanced, of sufficient quantity, and

serve the foster child the same meals as other members of the household unless a special diet has been prescribed by a medical professional, or unless otherwise dictated by differing needs based on a child's age, medical condition, or cultural or religious beliefs. A foster child is required to eat with other members of the family unless the child's medical condition dictates a different arrangement. Perishable foods must be refrigerated. Milk provided to foster children must be pasteurized, from a licensed dairy, or come from an animal that is documented to be free from tuberculosis, brucellosis, or other conditions that could be injurious to a child's health. ()

4250. NECESSARY CLOTHING.

A foster parent must provide a child with sufficient, clean, properly fitting clothing appropriate for the child's age, gender, individual needs, and season with clothing reflecting cultural and community standards. ()

4251. PERSONAL POSSESSIONS, ALLOWANCES, AND MONEY.

A foster parent must follow the children's agency policy regarding a child's personal possessions and when a child moves from a foster home, the foster parent will provide the child or the children's agency with all ~~of~~ the child's possessions. (3-28-23)()

4252. CHILD TASKS.

A parent must permit a child to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to the routine tasks expected of other members of the household of similar age and ability. ()

4253. EDUCATION.

A foster parent must cooperate with the children's agency and applicable educational organizations to implement the education and training plan for each child. ()

4254. RELIGIOUS AND CULTURAL PRACTICES.

A foster parent must provide a child in care with opportunity for spiritual development and cultural practices according to the wishes of the child and the child's parent or tribe. ()

4255. RECREATION.

A foster parent must provide or arrange access to a variety of indoor and outdoor recreational activities and encourage a child to participate in recreational activities that are appropriate for the child's age, interests, and ability. ()

4256. MAIL.

A foster parent must permit a child to send and receive mail according to the mail policy of the children's agency. ()

4257. REASONABLE AND PRUDENT PARENT STANDARD.

A caregiver must follow the reasonable and prudent parent standard. ()

01. Reasonable and Prudent Parent Standard Defined. The reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child that a caregiver must use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, or social activities. See "Caregiver" in the definitions. "Age or developmentally appropriate" means the following: ()

a. Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and ()

b. In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. ()

02. Training. Each caregiver will complete training to include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical,

and behavioral capacities of a child, and applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one (1) or more days, and involving the signing of permission slips and arranging transportation for the child to and from extracurricular enrichment and social activities. ()

4258. -- 4269. (RESERVED)

4270. RECORD MANAGEMENT AND REPORTING REQUIREMENTS.

A foster parent must maintain a record for each child in the home that will include all written material provided to the foster home by the children's agency and additional information gathered by the foster parent that includes the following: ()

01. **Personal Data.** The child's name, gender, date of birth, religion, race, and tribe, if applicable; ()
02. **Any Known History of Abuse and Neglect of the Child.** ()
03. **Any Known Emotional and Psychological Needs of the Child.** ()
04. **Any Information Known about the Child's Health.** ()
05. **Any Known Behavioral Problems of the Child.** ()

4271. REPORTING FOSTER HOME CHANGES.

A foster parent must report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: ()

01. **Serious Illness Including Physical or Mental Health, Injury, or Death of a Foster Parent or Household Member.** ~~Serious illness including physical or mental health, injury, or death of a foster parent or a household member.~~ (3-28-23)()

02. **Arrests, Citations, Withheld Judgments, or Criminal Convictions of a Foster Parent or Household Member.** ~~Any arrests, citations, withheld judgments, or criminal convictions of a foster parent or household member.~~ (3-28-23)()

03. **Initiation of Court-Ordered Parole and or Probation of a Foster Parent or Household Member.** ~~Initiation of court-ordered parole or probation of a foster parent or household member.~~ (3-28-23)()

04. **Admission or Release From Facilities.** Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental health, or substance abuse issue of a foster parent or household member. ()

05. **Change of Employment Status of a Foster Parent.** ~~A change of employment status of a foster parent.~~ (3-28-23)()

06. **Counseling, Treatment, or Therapy.** Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent or household member. ()

07. **Change of Residence.** A foster parent will inform the children's agency of any planned change in residence and apply for licensure at the new address not less than two (2) weeks prior to a change in residence. ()

08. **Household Members.** Inform the children's agency of changes in household members including minor children. ()

09. **Additional Licensing Application.** A foster parent will notify the children's agency within five (5)

calendar days after filing an application for a certified family home, daycare, or group daycare license. ()

4272. CONFIDENTIALITY.

A foster parent must maintain the confidentiality of any information and records regarding a foster child and the child's parents and relatives. A foster parent will release information about the foster child only to persons authorized by the children's agency responsible for the foster child. Foster parents will follow the Department's policies for the use of social media and posting of pictures of children in foster care. ()

4273. CRITICAL INCIDENT NOTIFICATION.

The foster parent must immediately notify the responsible children's agency of any of the following incidents: ()

01. Death. Death or near death of a child in care. ()

02. Suicide. Suicidal ideation, threats, or attempts to commit suicide by the foster child. ()

03. Missing. When a foster child is missing from a foster home. ()

04. Illness. Any illness or injury that requires hospitalization of a foster child. ()

05. Law Enforcement Authorities. A foster child's detainment, arrest, or other involvement with law enforcement authorities. ()

06. Removal of Child. Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the children's agency. ()

4274. -- 999. (RESERVED)

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently in full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the State of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

**DEPARTMENT OF HEALTH AND WELFARE
IDAPA 16.06.02 – Foster Care Licensing
Proposed Rulemaking -- Docket No. 16-0602-2301**

(Include a brief description that explains the differences between the version of the materials or documents that are currently incorporated by reference and the materials or documents that are being proposed for adoption in this rulemaking.)

(You may use the following table or write a summary of the differences)

Incorporated Document Version/URL	IDAPA Section Number	Current Version of Incorporated Document	Substantive Changes in New Incorporation by Reference Version
https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3028%5d=3028	16.06.02.002.01	https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs	Codified Website no longer available
https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3029%5d=3029	16.06.02.002.02	https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs	Codified Website no longer available
The currently incorporated URL for Full-Size Cribs from CPSC is no longer available. The information is now split into two (2) websites from the Consumer Product Safety Commission (CPSC) – One (1) for Full Size Baby Cribs, and one (1) for Non-Full-Size Baby Cribs.			

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.03 – DAYCARE LICENSING

DOCKET NO. 16-0603-2301 (NEW CHAPTER, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1107, 39-1111, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

VIRTUAL TELECONFERENCES Via WebEx
<p>Wednesday, August 17, 2023 10:00 a.m. - 12:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mf977f9364a62f4a2684571b6ae176e0d</p> <p>Join by meeting number Meeting number (access code): 2764 489 3359 Meeting password: jEhhamvs252 (53442687 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>
<p>Wednesday, August 17, 2023 4:00 p.m. - 6:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m9dd9bc1b157bc221553cc72c6ed5c4</p> <p>Join by meeting number Meeting number (access code): 2764 491 3545 Meeting password: XVjt3DKMS37 (98583356 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Meeting(s) will conclude after 30 minutes if no participants sign in or wish to comment in the meeting.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The House Health and Welfare Committee of the 2023 Legislature requested that IDAPA chapter 16.06.02, “Child Care and Foster Care Licensing,” be separated by content for Daycare Licensing and Foster Care Licensing. IDAPA chapter 16.06.03 will now contain content for “Daycare Licensing” and IDAPA 16.06.02 will contain content for “Foster Care Licensing.” The update to this chapter will reflect only content regarding daycare licensing rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This chapter contains fees associated with Daycare Licensing, which specifies licensing fees for daycare centers, daycare facilities, group daycare facilities, and family daycare home voluntary licenses.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the State General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds. As required in state statute, any additional costs will be funded completely by the federal Child Care Development Block Grant using preexisting processes and automated systems. Such funds are sufficient to meet all proposed costs for the foreseeable future.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2023 Legislature requested that the existing chapter of 16.06.02, “Child Care and Foster Care Licensing,” be split into two (2) different chapters. The administrative rulemaking deadlines did not allow for negotiated rulemaking meetings to take place and due to the legislative request the Department is going forward with the separation and will offer public hearings for all the stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Incorporations By Reference (IBRs) include Occupational Safety Health Act (OSHA) and Crib Safety (for Full Size Baby Cribs and Non-Full Size baby Cribs) by the Consumer Product Safety Commission in Section 001 of these rules. The IBRs are not changing from the current version of IDAPA 16.06.02, “Child Care and Foster Care Licensing,” to this new chapter of proposed language in IDAPA 16.06.03, “Daycare Licensing.”

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Aubrie Hunt: 208-334-5686.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2023.

DATED this 6th day of July, 2023.

Trinette Middlebrook and Frank Powell
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0603-2301
(New Chapter)

16.06.03 – DAYCARE LICENSING

000. LEGAL AUTHORITY.

Sections 39-1107, 39-1111, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code, authorize the Department and the Board to adopt and enforce rules for licensing daycare centers, group daycare facilities, and family daycare homes. ()

001. INCORPORATION BY REFERENCE.

01. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041 or at <https://www.osha.gov/sites/default/files/publications/OSHA2001.pdf>. ()

02. Crib Safety – Full Size Baby Cribs. Crib Safety. Consumer Product Safety Commission, Compliance information for full size cribs can be found at <https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3028%5d=3028>. ()

03. Crib Safety -- Non-Full-Size Baby Cribs. Crib Safety. Consumer Product Safety Commission, Compliance information for non-full size cribs can be found at <https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3029%5d=3029>. ()

002. – 008. (RESERVED)

009. BACKGROUND CHECK REQUIREMENTS.

01. Compliance. Department enhanced background checks are required for individuals licensed under these rules and must comply with IDAPA 16.05.06, “Criminal History and Background Checks.” ()

02. Background Check Requirements. Each owner, operator, or applicant seeking licensure for a daycare facility must submit evidence that the following individuals successfully completed and received a clearance for a Department enhanced background check, at least every five (5) years, under Sections 39-1105 and 39-1113, Idaho Code: ()

a. Owners, operators, and staff; ()

b. All other individuals thirteen (13) years old or older who have unsupervised direct contact with children; or ()

c. All other individuals thirteen (13) years old or older who are in the household or regularly on the premises. ()

03. Family Daycare Homes. Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with Sections 39- 1105 and 39-1113, Idaho Code. ()

04. Background Check Frequency. The Department can require a background check at any time on any individual who is an owner, operator, staff, household member of a daycare facility, and all other individuals who are thirteen (13) years old or older who have unsupervised direct contact with children or who are regularly on the premises. ()

05. Juvenile Justice Records. The enhanced background check for individuals under eighteen (18) years, must include a check of the juvenile justice records, as authorized by the minor and their parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) through eighteen (18) years old. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, the associated costs of these records, and submitting them to the Department for review. A check of the juvenile justice records must include the following: ()

- a.** Juvenile justice records of adjudication of the magistrate division of the district court; ()
- b.** County probation services; and ()
- c.** Department records. ()

06. Cost of Background Check and Juvenile Justice Records. Each individual who requests and obtains a Department background check is responsible for the cost of the background check and check of juvenile justice records. ()

07. Private Schools and Private Kindergartens. Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years old or a private kindergarten must comply with Sections 39-1105 and 39-1113, Idaho Code. ()

08. Reporting Convictions. Following completion of a background check and clearance, additional criminal convictions, and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self-disclosed by the individual to the owner or operator of a daycare facility. The owner or operator must report these additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. ()

010. DEFINITIONS A THROUGH M.

01. Attendance. Under Title 39, Chapter 11, Idaho Code, and these rules, the number of children present at a daycare facility at any given time. ()

02. Board. The Idaho Board of Health and Welfare. ()

03. Child. Under Title 39, Chapter 11, Idaho Code, and these rules, "child" means an individual less than thirteen (13) years old. ()

04. Child-Staff Ratio. The maximum number of children allowed under the care and supervision of one (1) staff person. ()

05. Daycare. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child(ren) not related by blood, marriage, adoption, or legal guardianship to the person(s) providing the care, in a place other than the child(ren)'s own home. ()

06. Daycare Center. A place or facility providing daycare for compensation for thirteen (13) or more children. ()

07. Department. The Idaho Department of Health and Welfare or its designee. ()

08. Family Daycare Home. A home, place, or facility providing daycare for six (6) or fewer children. ()

09. Group Daycare Facility. A home, place, or facility providing daycare for seven (7) to twelve (12) children. ()

10. Household Member. Any individual who resides in, or on the property of, a daycare center, group daycare facility, or family daycare home. ()

011. DEFINITIONS N THROUGH Z.

01. Noncompliance. Violation of, or inability to meet, the requirements of these rules or terms of licensure. ()

02. Plan of Correction. The detailed procedures and activities developed between the Department and the owner, operator, or both, required to bring a daycare facility into conformity with these rules. ()

03. Regularly on the Premises. Means twelve (12) hours or more in any one (1) month, or daily during any hours of operation. ()

04. Relative. A child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling, and half-sibling. ()

05. Restraint. Physical interventions to control the range and motion of a child. ()

06. Second Degree of Relationship. Refers to persons related by blood or marriage, and includes their spouses. The number of degrees between two (2) relatives is calculated by summing the number of ties between each relative and the common ancestor. ()

07. Staff. A person who is sixteen (16) years old or older and employed by a daycare owner or operator to provide care and supervision at a daycare facility under Title 39, Chapter 11, Idaho Code, and these rules and includes the following: ()

a. Operator. An individual who operates or maintains a licensed daycare facility. ()

b. Owner. A person, individual, group of individuals, associations, partnerships, corporation, or any other entity that has legal control and authority over a daycare business. ()

c. Provider. A person who is sixteen (16) years old or older, who provides care and supervision at a daycare facility and is included in meeting the child-staff ratio requirements. ()

08. Supervision. Within sight and normal hearing range of the child(ren) being cared for under Title 39, Chapter 11, Idaho Code, and these rules. ()

09. Training. Preparation, instruction, and continuing education related to daycare services that increase the knowledge, skill, and abilities of a provider, owner, operator, staff, or volunteer. ()

012. – 099. (RESERVED)

100. DAYCARE LICENSING.

The purpose of licensing is to set requirements and to monitor compliance. Providers need to be physically and emotionally suited to protect the health, safety, and well-being of the children in their care. Physical surroundings must present no hazards to the children in care. ()

01. Operator Responsibilities. An operator must conform to the terms of the license. ()

02. Knowledge of Standards. The operator is responsible for knowing the rules applying to the daycare facility covered by the license, and for always complying with these rules. ()

03. Staff Knowledge. The operator of a daycare facility is responsible for ensuring that all staff are familiar with these rules. ()

04. Daycare Standards. Each owner, operator, or applicant seeking licensure from the Department as a daycare facility, must meet the requirements under Title 39, Chapter 11, Idaho Code, and these rules. ()

05. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use. ()

06. Exceptions and Exemptions to Daycare Licensing. Under Section 39-1103, Idaho Code, the licensing requirements in these rules do not apply to: ()

a. Daycare facilities regulated, licensed, or certified by a city or county with local options under Section 39-1108, Idaho Code; ()

b. The occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily in the business of providing daycare; ()

c. The operation of a private school or religious school for educational purposes for children over four (4) years old, or a religious kindergarten; ()

d. The provision of occasional care exclusively for children of parents who are simultaneously in the same building; ()

e. The operation of day camps, programs, and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week and after school programs for children over four (4) years of age or in kindergarten; and ()

f. The provision of care for children of a family within the second degree of relationship under Section 011 of these rules. ()

101. TYPES OF DAYCARE LICENSES.

Under Title 39, Chapter 11, Idaho Code, and these rules, the Department will determine the type of daycare license needed by an owner or operator providing daycare by counting each child in attendance, regardless of relationship to the person(s) providing the care. The following types of daycare licenses may be issued by the Department. ()

01. Daycare Center License. Issued for a place or facility providing daycare, where thirteen (13) or more children, regardless of relationship to the person(s) providing the care, are in attendance. ()

02. Group Daycare Facility. Issued for a place or facility providing daycare, where seven (7) to twelve (12) children, regardless of relationship to the person(s) providing the care, are in attendance. ()

03. Family Daycare Home. Not required to be licensed. A family daycare home, place, or facility may voluntarily elect to be licensed by the Department. ()

102. – 120. (RESERVED)

121. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.

Any individual applying for licensure as a daycare facility must be at least eighteen (18) years old, apply, and provide information required by the Department under this rule, to include: ()

01. Completed Licensing Application. ()

02. Licensing Fee. The applicant must pay the appropriate licensing fee prior to the issuance of a daycare license. ()

03. Inspection Reports. The following reports must be submitted to the Department with the application that prove the facility or proposed facility meets: ()

a. Building code under IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)," where required; ()

b. Electrical code under IDAPA 24.39.10, "Rules of the Idaho Electrical Board," where required;

- ()
- c.** Fire code under Section 41-253, Idaho Code, where required; and ()
- d.** Local planning and zoning requirements. All daycare facilities must comply with applicable city and county ordinances. ()
- 04.** **Proof of Insurance.** The applicant must provide proof of current fire and liability insurance coverage for the daycare facility. ()
- 05.** **Background Clearance.** Evidence that the applicant and all individuals required to have a background check have received a clearance from the Department. ()
- 06.** **Statement to Comply.** As part of the application, the applicant must thoroughly read and review these rules and agree that they are prepared to comply with all provisions. Providers must also certify that they will not harm, shake, or abuse children, and that children in their care will not experience maltreatment under 45 CFR 98.41. ()
- 07.** **Statement Disclosing Revocation or Disciplinary Actions.** A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a daycare provider in any jurisdiction, or a statement from the applicant stating they have never been involved in any such action. ()
- 08.** **Other Information as Requested.** The applicant must provide other information that may be requested by the Department for the proper administration and enforcement of these rules. ()
- 09.** **Health and Safety Inspection.** The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete and the licensing fee has been paid. ()
- 10.** **Additional Requirements for License Renewal.** A daycare license must be renewed every two (2) years. The daycare operator must submit to the Department the renewal application, fee, and all required documentation in this rule at least forty-five (45) days prior to the expiration of the current daycare license. ()
- 11.** **Relicense.** When a renewal application has been completed correctly, the existing license will, unless officially revoked, remain in force until the Department has acted on the application for renewal. ()
- 122. DAYCARE LICENSING FEES.**
A nonrefundable licensing fee must be paid to the Department prior to the issuance or renewal of a daycare license. The total fee for initial licensure or renewal of a daycare facility must not exceed the following amounts: ()
- 01.** **Daycare Center with More than Twenty-Five Children in Attendance at Any Given Time.** Three hundred twenty-five dollars (\$325). ()
- 02.** **Daycare Center with Thirteen to Twenty-Five Children in Attendance at Any Given Time.** Two hundred fifty dollars (\$250). ()
- 03.** **Group Daycare Facility.** One hundred dollars (\$100). ()
- 04.** **Family Daycare Home Voluntary License.** One hundred dollars (\$100). ()
- 123. DISPOSITION OF APPLICATIONS.**
The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of daycare license. Upon receipt of a completed application, the Department will review the materials for compliance with these rules. ()
- 01.** **Termination of Application Process.** Failure of the applicant to cooperate with the Department in the application process may result in the termination of the application process. Failure to cooperate means that the

information requested is not provided within ninety (90) days, or not provided in the form requested by the Department, or both. ()

02. Denial of Application. If an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until after one (1) year has elapsed from the date of the denial of application. ()

03. Failure to Complete Application Process. Failure of the applicant to complete the application process within six (6) months of the original date of application will result in a denial of the application. ()

04. Denial of Licensure. If the Department determines the applicant is not in compliance with these rules and further determines not to issue a daycare license, the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial. ()

05. Incomplete Application. The Department is not required to take any action on an application until the application is complete. ()

06. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. ()

124. ISSUANCE OF LICENSE.

01. Regular License. If the Department determines the applicant is complying with these rules, the Department will, within sixty (60) days from the date the completed application is submitted, issue one (1) of the following licenses: ()

a. Daycare Center; ()

b. Group Daycare Facility; or ()

c. Family Daycare Home. ()

02. Licensing Document. The license will state the type of facility, the occupancy load, number of children who may be in attendance if such limitations are necessary, and the length of time the license is effective. The license is issued under the terms specified and will be mailed to the applicant. ()

a. A regular license for a daycare facility licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier. ()

b. A daycare license issued by the Department to operators must be posted in plain view where it can be seen by parents and the public upon entering the facility. ()

125. – 149. (RESERVED)

150. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the daycare facility licensed by the Department, or the person and premises designated. Each license is issued in the business name or individual name, and only to the specified address identified on the application of the facility. A license issued in the name of a daycare facility licensed by the Department applies only to the period and services specified in the license. ()

02. Return of License. The operator must immediately return their license to the Department under any of the following circumstances: ()

a. Changes of management or address; ()

b. Upon suspension or revocation of the license; or ()

c. Upon voluntary discontinuation of service. ()

03. Nontransferable. A license is nontransferable or assignable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. ()

04. Change in Ownership or Location. When there is a change in ownership or location, the daycare facility must reapply for a license. A license must be obtained before starting operations. ()

151. – 199. (RESERVED)

200. STAFF AND OTHER RECORD REQUIREMENTS.

Each owner or operator of a daycare facility must maintain a current list covering the previous twelve-month period of all staff and other individuals thirteen (13) years old or older who have unsupervised direct contact with children, or are regularly on the premises. The record must contain the following: ()

01. Legal Name. ()

02. Proof of Age. ()

03. Phone Number. ()

04. Training Records. ()

05. Verification of Background Check Clearance. ()

06. Results of Juvenile Justice Records. ()

07. Verification of Pediatric Rescue Breathing, Infant-Child CPR, and Pediatric First Aid Certification from a Certified Instructor. ()

08. Times, Dates, and Records of Hours on the Premises Each Day. ()

201. CHILD RECORD REQUIREMENTS.

Each owner or operator of a daycare facility must maintain records for each child in attendance covering the previous twelve-month period. The record must contain the following: ()

01. Child's Full Name. ()

02. Date of Birth. ()

03. Parent or Guardian's Name, Address, and Contact Information. ()

04. Emergency Contact Information. ()

05. Child's Health Information. ()

a. Immunization record or waiver of exemption form or statement; ()

b. Any medical conditions or allergies that could affect the care of the child; and ()

c. Medications the child is taking or may be allergic to. ()

06. Times, Dates, and Record of Attendance Each Day. Sign-in/out records, electronic or manual, including the signature of a parent or guardian. ()

202. – 299. (RESERVED)

300. CHILD-STAFF RATIO.

Under Section 39-1109, Idaho Code, the Department determines the maximum allowable child-staff ratio based on a point system. ()

01. Daycare Child-Staff Ratio Point System. The maximum allowable points for each staff is twelve (12), using the following point system which is based on the age of each child in attendance: ()

a. Under twenty-four (24) months old, each child equals two (2) points. ()

b. From twenty-four (24) months old to under thirty-six (36) months, each child equals one and one-half (1 1/2) points. ()

c. From thirty-six (36) months old to under five (5) years, each child equals one (1) point. ()

d. From five (5) years old to under thirteen (13) years, each child equals one-half (1/2) point. ()

02. Child-Staff Ratios. Ratios must be maintained during all hours of operation when children are in attendance and when transporting children. ()

a. Each child in attendance is counted by the Department for the purposes of calculating maximum allowable points, counting the number of children in attendance, and for determining compliance with child-staff ratios; ()

b. Each adult staff who is providing direct care for a child(ren) is counted by the Department as one (1) staff for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios; and ()

c. Each staff sixteen (16) and seventeen (17) years old must be under the supervision of an adult staff, when providing direct care for a child(ren), and may be counted by the Department as one (1) staff for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios. ()

03. Supervision of Children. The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting the child-staff ratio requirements, the owner or operator of a daycare facility must ensure that: ()

a. At least one (1) adult staff is always awake and on duty on the premises during regular business hours or when children are in attendance; and ()

b. All providers, owners, and staff who provide direct care to children must have current certification in pediatric rescue breathing (CPR) and pediatric first aid from a certified instructor. Providers who do not have these certifications will not count in child-staff ratios. ()

04. Sleeping Children. Must be within sight and normal hearing range of a provider. ()

05. Overnight Daycare. For daycare operators providing overnight care of children, the following must apply: ()

a. A sleeping child sleeps on the same level as the staff member who must be able to hear the child; and ()

b. A staff member is awake and on duty to release and receive a child. ()

c. Children sleeping at the facility have separate cots, mats, or beds and blankets. ()

d. A child will not share a bed with a non-parent adult. ()

301. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. All of the following are prohibited: ()

01. Physical Force. Any punishment inflicted on the body, including spanking; ()

02. Cruel and Unusual Physical Exercise. Includes forcing a child to take an uncomfortable position; ()

03. Use of Excessive Physical Labor. With no benefit other than for punishment; ()

04. Restraint(s). ()

05. Locking a Child in a Room. Or any area of the home or facility; ()

06. Denying Necessities. Includes necessary food, clothing, bedding, rest, toilet use, personal care and sanitation, or entrance to the home or facility; ()

07. Mental or Emotional Cruelty. ()

08. Verbal Abuse. Includes ridicule, humiliation, profanity, threats, or other forms of degradation directed at a child or their family. ()

302. – 329. (RESERVED)

330. TRAINING REQUIREMENTS.

Each owner or operator of a daycare facility must receive and ensure that each staff receives and completes four (4) hours of ongoing child development training every twelve (12) months after the staff's date of hire. ()

01. Child Development Training. Must be related to continuing education in child development areas related to daycare such as continuing education in: ()

a. Child development; ()

b. Behavior management and support; ()

c. Teaching and curriculum; ()

d. Health and safety; and ()

e. Business practices. ()

02. Training Hours. It is the responsibility of the owner or operator of the daycare center to ensure that each staff has completed four (4) hours of training each year. The training must be documented in the staff's record. ()

03. Pediatric Rescue Breathing, Infant-Child CPR, and Pediatric First Aid Training. These trainings do not count towards the required four (4) hours of annual training. ()

04. Staff Training Records. Each owner or operator of the daycare facility is responsible for maintaining documentation of each staff's training and may be asked to produce documentation at license renewal. ()

331. – 349. (RESERVED)

350. PARENTAL VISITATION AND ACCESS.

01. Visitation Rights. Parents and guardians have the absolute right to enter the daycare premises when their child is in the care of the daycare operator. Failure or refusal to allow parental or guardian entry to the daycare premises or access to their child may result in the suspension or revocation of a daycare license. ()

02. Denied or Limited Visitation Rights by Court Order. If a parent or guardian has been granted limited visitation rights or denied visitation rights by a court of competent jurisdiction, and the daycare operator has written documentation from the court, this rule does not confer a right to visitation upon the parent or guardian. ()

351. – 359. (RESERVED)

360. FIRE SAFETY STANDARDS.

Each daycare facility must comply with the following. ()

01. Inspections. Must be completed by the local fire official or designee. For a daycare located outside of the area of authority under Section 39-1109, Idaho Code, the Department can designate an approved inspector for daycare licensing purposes only. ()

02. Daycare Fire Inspection Fees. Are payable to the local fire department or fire district official. ()

03. Unobstructed Exits. Required exits must be located in such a way that an unobstructed path outside the building is provided to a public way or area of refuge. ()

a. Exit doors must open from the inside without the use of a key or any special knowledge or effort. ()

b. There must be at least two (2) exits located a distance apart of not less than one-half (1/2) the diagonal dimension of the building or portion used for daycare, but not to exceed seventy-five (75) feet. An exception may be made for the following: ()

i. The distance between exits may be extended to ninety (90) feet if the building is totally protected throughout with smoke detectors; or ()

ii. The distance between exits may be increased to one hundred ten (110) feet if the building is equipped with an automatic fire sprinkler system. ()

c. The required dimensions of exits must not be less than thirty-two (32) inches of clear exit width and not be less than six (6) feet, eight (8) inches in height. An exception for sliding patio doors will be accepted as a required second exit in a family daycare home and group daycare facility only. ()

d. Sleeping room exits must be provided with at least one (1) emergency egress window having at least a single net clear opening of five point seven (5.7) square feet, minimum height twenty-four (24) inches, minimum width twenty (20) inches, and maximum finished sill height not over forty-four (44) inches. ()

i. Approved egress windows from sleeping areas must be operable from the inside without the use of separate tools. ()

ii. In lieu of egress windows, an approved exit door is acceptable. ()

iii. An approved piece of furniture or platform, if anchored in place, may be approved to sit in front of a window if the sill height is over forty-four (44) inches. ()

e. Where children are located on a story below the level of exit discharge (basement), there must be at least two (2) exits, one (1) of which must open directly to the outside. More than one (1) exit from the basement

opening directly to the outside may be required, depending on the structure of the building, to ensure the safety of the occupants. ()

f. Where children are located on a story above the level of exit discharge, there must be two (2) exits, one (1) of which must open directly to the outside and comply with building codes. ()

361. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.

Occupant load is determined by the local fire official or designee. ()

01. Area for Daycare Use Only. The local fire official or designee will only use those areas used for daycare purposes when determining the occupant load. ()

02. Facilities with an Occupancy Load of Fifty or More. Must meet the requirements in Section 360 of these rules and this rule. ()

a. Exit doors must swing in the direction of egress. ()

b. Exit doors from rooms, if provided with a latch, must have panic hardware installed. ()

03. Exit Signs. Must be installed at required exit doorways and wherever else necessary to clearly indicate the direction of egress. ()

362. FIRE EXTINGUISHERS AND SAFETY REQUIREMENTS.

Each daycare facility must comply with the following fire extinguisher and safety requirements as applicable for size and type of facility. ()

01. Portable Fire Extinguisher. There must be an approved portable fire extinguisher (minimum 2A-10BC) mounted securely in a visible location not to exceed five (5) feet from the floor to the top of the extinguisher and not more than seventy five (75) feet travel distance to an extinguisher and maintained properly. ()

02. Kitchen Area. An approved fire extinguisher must be present, or a hood-type fire suppression system be installed in the kitchen area. ()

03. Fire Extinguishers. Approved fire extinguishers must be maintained properly. ()

04. Facilities Over Three Thousand Square Feet. Each daycare facility over three thousand (3,000) square feet is required to have additional fire extinguishers as approved by the local fire official or designee. ()

05. Fire Alarm System. Each daycare facility with over fifty (50) children, must have an approved fire alarm system installed. ()

06. Smoke Detectors. Must be installed and maintained in the following locations: ()

a. On the ceiling, wall outside, or each separate sleeping area in the immediate vicinity of bedrooms; ()

b. In each room used for sleeping purposes; and ()

c. In each story within a facility including basements. ()

d. If there is a basement, there must be a smoke detector installed in the basement having a stairway which opens from the basement into the facility. Such detector must be connected to a sounding device or other detector to provide an alarm that is audible in the sleeping area. ()

07. Automatic Sprinkler Systems. Must be provided in all daycare facilities greater than twenty thousand (20,000) square feet in area or when the number of children under the age of eighteen (18) months exceeds one hundred (100). ()

363. FIRE SAFETY AND EVACUATION PLANS.

Each daycare facility must have an approved fire safety and evacuation plan prepared that includes the following:

- ()
- 01. Evacuation.** Procedures and policies for accounting for staff and children after an evacuation is completed. ()
- 02. Evacuation Plan and Assembly Point for Children and Staff.** ()
- 03. Locations of Facility Exits.** ()
- 04. Evacuation Routes.** ()
- 05. Location of Fire Alarms.** ()
- 06. Location of Fire Extinguishers.** ()
- 07. Annual Review.** Fire safety and evacuation plans must be reviewed or updated annually and available in the facility for reference and review. ()
- 08. Fire and Emergency Evacuation Drills.** Must be conducted on a routine schedule at least two (2) times each year and all staff and children must participate. ()

364. – 379. (RESERVED)

380. HEALTH STANDARDS.

Each daycare facility licensed by the Department, must comply with the following. Health inspections must be conducted annually by a qualified inspector designated by the Department and will be unannounced. ()

- 01. Food.** Must be from an approved source under IDAPA 16.02.19, “Idaho Food Code.” Food must not be served past expiration or “use by” date. ()
- 02. Food Preparation.** Food for use in daycare facilities must be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination. ()
- a.** Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process and cooked to proper temperatures under IDAPA 16.02.19, “Idaho Food Code.” ()
- b.** Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes. ()
- 03. Food Temperatures.** Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty-five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures under IDAPA 16.02.19, “Idaho Food Code.” Refrigerators must be equipped with an accurate thermometer. ()
- 04. Food Storage.** All food that is served in daycare facilities must be stored in such a manner that protects it from potential contamination. There must be no evidence of pests present in the daycare facility. ()
- 05. Food Contact Surfaces.** Must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards. ()
- 06. Dishwashing Sanitizing.** Dishes, glasses, utensils, silverware, and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures. ()

- 07. Utensil Storage.** Clean utensils must be stored on clean shelves or drawers and not subject to recontamination, and sharp knives and other sharp objects be kept out of reach of children. ()
- 08. Garbage.** Must be kept covered or inaccessible to children. ()
- 09. Hand Washing.** Children and facility staff must be provided with individual or disposable towels for hand drying, and the hand washing area be equipped with soap and warm and cold running water. ()
- 10. Diaper Changing.** Must be conducted in such a manner as to prevent the spread of communicable diseases, be separate from food preparation and serving areas, and have easy access to a hand washing sink. ()
- 11. Sleeping Areas.** Children sleeping at the facility must have separate cots, mats, or beds and blankets. ()
- 12. Safe Sleep.** Providers must place newborn infants up to twelve (12) months old in a safe sleep environment. Safe sleep practices include alone, on their backs, and in a Consumer Product Safety Commission (CPSC) certified sleep space. ()
- 13. Restrooms, Water Supply, and Sewage.** All daycare facilities must have restrooms. ()
- a.** Each facility must have at least one (1) flushable toilet and one (1) hand washing sink with warm and cold water per restroom. ()
- b.** Plumbing and bathroom fixtures must be in good condition. ()
- c.** All daycare facilities and homes must comply with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()
- 14. Water Supply.** The facility's water supply must meet one (1) of the following requirements: ()
- a.** Be from a public water system that is maintained under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of initial or renewal application; or ()
- b.** Be from a private source, such as well or spring, be tested annually for bacteria and nitrate, and be approved by the Department. ()
- c.** Water used for consumption at a daycare facility is from an acceptable source. Temporary use of bottled water or boiled water may be allowed for a period specified by the Department. ()
- 15. Sewage Disposal.** Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." ()
- 16. Alcohol and Illegal Drugs.** Must not be used by providers, owners, operators, staff, volunteers, children, or visitors at daycare facilities, in the presence of children during hours of operation, or in vehicles while transporting children. ()
- a.** Any individual under the influence of alcohol or drugs is not permitted at or in the daycare facility. ()
- b.** Illegal drugs are prohibited by law and therefore are not allowed on the premises of any licensed daycare facility at any time. ()
- 17. Smoke-Free Environment.** Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all staff must ensure that no smoking or other tobacco use occurs within the facility, in outdoor areas, or in vehicles when children are present.

()

18. Transportation. Provider that transports a child(ren) will possess a valid driver's license, be insured under Idaho Law, and abide by all traffic laws including the requirement that all children are in proper safety restraints while being transported under Section 49-672, Idaho Code, and Section 49-673, Idaho Code. Vehicles used to transport children will be properly maintained and in good working condition. ()

19. Disaster and Emergency Planning. Providers must have documented plans for emergencies resulting from a natural disaster, or human-caused event that include: ()

a. Procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, and accommodation of infants and toddlers and children with disabilities or chronic medical conditions. ()

b. Procedures for staff and volunteer emergency preparedness training and practice drills. ()

c. Guidelines for the continuation of daycare services in the period following the emergency or disaster. ()

d. Procedures for the prevention of and response to emergencies due to food and allergic reactions. ()

20. Medication. No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise in inaccessible to children. ()

21. Adequate Heat, Light, and Ventilation. A daycare facility must have adequate heat, light and ventilation. Windows and doors must be screened if used for ventilation. ()

22. Immunizations. Daycare operators must comply with requirements under IDAPA 16.02.11, "Immunization Requirements for Licensed Daycare Facility Attendees." ()

381. MISCELLANEOUS SAFETY REQUIREMENTS. Each daycare facility licensed by the Department must comply with the following: ()

01. Telephone. An operable telephone or cell phone must always be available in the facility with the following conditions: ()

a. The telephone number used must be made available to parents and guardians. ()

b. Emergency phone numbers to include 911, an adult emergency substitute operator, and the address and phone number of the facility must be posted by the telephone or in a location that is easily and always visible. ()

02. Heat-Producing Equipment. A furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment must be installed and maintained as recommended by the manufacturer and protected on all surfaces by screens or other means. ()

03. Portable Heating Devices. Must be limited and approved for use and location by the Fire Inspector prior to use within a facility and will not be used during sleeping hours. ()

04. Storage of Weapons, Firearms, and Ammunition. Firearms or other weapons stored at a daycare facility must be kept in a locked cabinet, gun safe, or other container that is inaccessible to children, while children are in attendance. Keys to these containers must also be inaccessible to children. ()

a. Ammunition must be stored in a locked container separate from firearms. ()

b. Matches, lighters, and any other means of starting fires must be kept away from and out of the reach of children. ()

c. Other weapons that could cause harm must be stored out of reach of children. ()

05. Animals and Pets. Any pet or animal present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The operator must maintain the animal's vaccinations and vaccination records which will be made available to the Department upon request. ()

06. Hazardous Materials. Cleaning materials, flammable liquids, detergents, aerosol cans, pesticides, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children. Biocontaminants must be disposed of appropriately. ()

382. – 399. (RESERVED)

400. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.

Each daycare facility licensed by the Department must comply with the following: ()

01. Appliances and Electrical Cords. All appliances, lamp cords, exposed light sockets, and electrical outlets will be protected to prevent electrocution. ()

02. Balconies and Stairways. Balconies and stairways accessible to children will have substantial railings as required by IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules). ()

03. Stairway Protection. Where an operator cares for children less than three (3) years old, stairways will be protected to prevent child access to stairs. ()

04. Hazardous Area Restrictions. Based on the age and functioning level of children in care and the type of hazard and the area surrounding the hazard, the area will be restricted to prevent easy access to the hazard. ()

05. Fueled Equipment. Fueled equipment including motorcycles, mopeds, lawncare equipment, and portable cooking equipment. This equipment will not be stored or repaired in areas where children are present. ()

06. Water Hazards. Above and below ground pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: ()

a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following ()

i. The fence will be at least four (4) feet high with no vertical opening more than four (4) inches wide and designed so that a young child cannot climb or squeeze under or through the fence. The fence will surround all sides of the pool and have a self-closing gate that has a self-latching mechanism in proper working order that is out of the reach of young children. ()

ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool will have alarms that produce an audible sound when the door is opened. ()

b. Furniture or other large objects will not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub, pond, or other body of water is not fenced and locked, there will be a secured protective covering that prevents access by a child. ()

c. Wading pools and buckets will be empty when not in use. ()

d. Children will be under direct supervision of adult staff who are certified in pediatric CPR and pediatric first aid while using a bathtub, pool, hot tub, pond, or other body of water. ()

e. A minimum of a four (4) foot high fence that prevents access from the daycare facility premises if the daycare premises are adjacent to a body of water. ()

07. **Indoor Play Areas and Toys.** The indoor play areas will be clean, have age-appropriate toys, and be free from accumulation of dirt, rubbish, or other health hazards. ()

08. **Outdoor Play Areas and Toys.** Any outdoor play area must be maintained free from hazards such as wells, machinery, and animal waste. ()

a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area will be enclosed with a fence in good repair that is at least four (4) feet high without any holes or spaces greater than four (4) inches in diameter. ()

b. Outdoor equipment, such as climbing apparatus, slides, and swings will be anchored firmly and placed in a safe location and according to the manufacturer's instructions. ()

c. Outdoor play areas will be designed so that all parts are always visible and easily supervised by staff. ()

d. Toys, play equipment, and any other equipment used by the children will be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides will be kept in good repair and well-maintained. ()

e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects, and balloons will not be accessible to children ages three (3) and under, or children who are known to place such objects in their mouths. ()

401. – 419. (RESERVED)

420. CONTINUED COMPLIANCE, REPORTING CHANGES, AND CRITICAL INCIDENTS.

Each daycare owner or operator must always comply with the fire, safety, and health requirements under these rules and the following: ()

01. **Department Access.** The owner, operator, or staff of a daycare facility must allow the Department access to the premises and records for reinspection at any time during the licensing period. ()

02. **Posting Information.** A daycare must post the Department's contact information and the statewide number to file daycare complaints. ()

03. **Reporting Changes.** The owner, operator, or staff of a daycare facility notifies the Department of any changes that affect the terms of licensure or could affect the health, well-being, or safety of children. ()

04. **Critical Incidents.** A daycare operator must report any of the following to the Department within twenty-four (24) hours: ()

a. Any injury that requires hospitalization of a child. ()

b. Death or near death of a child in care. ()

c. When a child is missing from a daycare facility. ()

d. Any arrests, citations, withheld judgments, or criminal convictions of disqualifying crimes under ()

Section 39-1113, Idaho Code, of an operator or any individual regularly on the premises of the facility and provide documentation that the individual is not working with children or is not on the premises. ()

421. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT.

Under Section 16-1605, Idaho Code, daycare owners, operators, staff, and any other person who has reason to believe that a child has been abused, abandoned, or neglected, or is being subjected to conditions or circumstances which would reasonably result in abuse, abandonment, or neglect, must report or cause to be reported within twenty-four (24) hours, such conditions or circumstances to the Department or the proper law enforcement agency. ()

422. – 439. (RESERVED)

440. FAILURE TO COMPLY.

01. Misdemeanors to Operate Without a License. It is a misdemeanor to operate a daycare center or group daycare facility without first obtaining a daycare license from the Department or to operate a daycare center or group daycare facility without posting the license in a place easily seen by a parent or the general public. ()

a. The Department may grant a grace period of no more than sixty (60) days to allow the daycare facility to comply with these rules and with Title 39, Chapter 11, Idaho Code. ()

b. The operator or owner must agree to begin the application process under Section 121 of these rules within one (1) business day of identification by the Department that a daycare owner or operator is noncompliant with Title 39, Chapter 11, Idaho Code, or these rules. ()

02. Misdemeanor to Operate Without Obtaining a Background Check. It is a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining the required background check under Section 39-1105, Idaho Code. If there is an initial citation for violation of Section 39-1115, and a person makes the applications required within twenty (20) days, the complaint will be dismissed. Operating a family daycare home for four (4) or more children after failure to pass the required background check is a misdemeanor. ()

03. Misdemeanor to Provide Daycare if Guilty of Certain Offenses. It is a misdemeanor to provide daycare services if found guilty of any offenses under Section 39-1113, Idaho Code. ()

441. COMPLAINTS AGAINST DAYCARE FACILITIES.

01. Investigation. The Department will investigate complaints regarding daycare facilities. The investigation may include further contact with the complainant, scheduled or unannounced visits to the daycare facility, collateral contacts including interviews with the victim, parents or guardian, operator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. ()

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the operator of the licensed daycare facility licensed by the Department will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. ()

442. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF OPERATOR.

When circumstances occur over which the operator has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the daycare facility out of compliance with these rules, the license must be suspended until the nonconformity is remedied. ()

443. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license may be suspended for infractions of these rules. Such suspension may lead to revocation if the operator fails to satisfy the Department that the infractions have been corrected in compliance with these rules. ()

444. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

If it is found that an owner or operator has failed or refused to comply with any of the provisions of the Basic Daycare License Law, Sections 39-1101 through 39-1120, Idaho Code, with these rules, or with any provision of the license,

the Department may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any daycare facility when any of the following occurs. ()

01. Criminal Conviction or Relevant Record. Anyone providing direct care or working onsite under these rules is denied clearance or refuses to comply with IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. Other Misconduct. The owner, operator, or both: ()

a. Fail to furnish any data, statistics, records, or information requested by the Department without good cause or provide false information. ()

b. Have been found guilty of or is under investigation for fraud, deceit, misrepresentation, or dishonesty associated with the operation of a daycare facility licensed by the Department. ()

c. Have been found guilty of or is under investigation for the commission of any felony. ()

d. Have failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or ()

e. Have knowingly permitted, aided, or abetted the commission of any illegal act on the premises of the daycare facility. ()

445. – 449. (RESERVED)

450. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF CHILDREN. The Department may summarily suspend a daycare facility. Children in a daycare facility will not be transported from the facility, instead the parent or legal guardian will be contacted. ()

451. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF CHILDREN. The Department may revoke the license of a daycare facility when the Department determines the facility or operator is not complying with these rules. Children in a daycare facility will not be transported from the facility, instead the parent or legal guardian will be contacted. Revocation may occur under the following circumstances: ()

01. Endangers Health or Safety. Any condition that endangers the health or safety of any child. ()

02. Not in Substantial Compliance. A daycare facility is not in substantial compliance with these rules. ()

03. No Progress to Meet Plan of Correction. A daycare facility has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. ()

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapters 11, Idaho Code. ()

05. Misrepresented or Omitted Information. A daycare facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. ()

06. Refusal to Allow Access. Refusal to allow Department or its representatives full access to the daycare facility and its grounds, facilities, and records. ()

07. Immediate Access to Documentation. Fails to provide, upon written request by the Department or its agents, immediate access to documentation required to be maintained. ()

08. Abusive Conduct. Has been found to have engaged in abusive conduct that fails to meet professionally recognized standards for daycare, or results in physical harm, pain, or mental anguish to children.

()

452. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the Department will not accept an application from any person, corporation, or partnership, including any managing employee, officer, owner, or spouse, partner, or relative of an owner of an entity who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. ()

453. – 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Department of Health and Welfare

Agency Contact: Aubrie Hunt **Phone:** 208-334-5686

Date: 06/23/23

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 16.06.03, "Daycare Licensing"

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 16-0603-2301

STATEMENT OF ECONOMIC IMPACT:

This new chapter reflects the fees that were previously codified in 16.06.02 – Child Care and Foster Care Licensing. The 2023 Legislature requested that the chapter be split into 2 chapters with specific content for Daycare Licensing in one and Foster Care Licensing in the other. This chapter, IDAPA 16.06.03, "Daycare Licensing," contains the exact same fees that were codified for Daycare Licensing. There are no changes to these fees.

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently in full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the State of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

**DEPARTMENT OF HEALTH AND WELFARE
IDAPA 16.06.03 – Daycare Licensing
Proposed Rulemaking -- Docket No. 16-0603-2301**

(Include a brief description that explains the differences between the version of the materials or documents that are currently incorporated by reference and the materials or documents that are being proposed for adoption in this rulemaking.)

(You may use the following table or write a summary of the differences)

Incorporated Document Version/URL	IDAPA Section Number	Current Version of Incorporated Document	Substantive Changes in New Incorporation by Reference Version
https://www.osha.gov/sites/default/files/publications/OSHA2001.pdf	16.06.03.002.01	N/A	NEW
https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3028%5d=3028	16.06.03.002.02	N/A	NEW
https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3029%5d=3029	16.06.03.002.03	N/A	NEW
The content for this chapter is separated from Foster Care Licensing content that was previously codified with Child Care Licensing in 16.06.02, "Child Care and Foster Care Licensing." The incorporated documents are considered new as this this a new chapter that focuses only on Daycare Licensing content.			