

Dear Senators MARTIN, Riggs, Stennett, and
Representatives WOOD, Vander Woude, Chew:

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

IDAPA 16.06.01 - Child and Family Services - Temporary and Proposed Rule (Docket No.
16-0601-2201);

IDAPA 16.06.01 - Child and Family Services - Proposed Rule (Docket No. 16-0601-2202);

IDAPA 16.06.02 - Child Care and Foster Care Licensing (ZBR Chapter Rewrite, Fee Rule) -
Proposed Rule (Docket No. 16-0602-2201).

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 10/24/2022. 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 11/21/2022.

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: October 06, 2022

SUBJECT: Department of Health and Welfare

IDAPA 16.06.01 - Child and Family Services - Temporary and Proposed Rule (Docket No. 16-0601-2201)

IDAPA 16.06.01 - Child and Family Services - Proposed Rule (Docket No. 16-0601-2202)

IDAPA 16.06.02 - Child Care and Foster Care Licensing (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 16-0602-2201)

Summary and Stated Reasons for the Rule

Docket No. 16-0601-2201: This temporary and proposed rule increases reimbursement rates for foster care to account for increases in cost of living. The funding for the increased rates was included in a 2022 appropriation bill, H.B. 773. The Governor finds that the temporary rule is appropriate because it confers a benefit.

Docket No. 16-0601-2202: This proposed rule concerns services to prevent children at risk from entering foster care. The rule references the federal Family First Prevention Services Act, Public Law 115-123, which provides funding for these services, and clarifies that rates for prevention service providers will be set by the Department. This will ensure that rates are standard statewide; otherwise, rates might be inconsistent across contracts with various providers.

Docket No. 16-0602-2201: This proposed rule involves a chapter rewrite of rules concerning child care and foster care licensing. The rules have been updated to simplify and streamline language in accordance with Executive Order 2020-01 and also to be consistent with model licensing standards identified in the federal Family First Prevention Services Act, Public Law 115-123. Additionally, rules relating to children's agencies and children's treatment facilities have been removed from this chapter to another chapter. This rule includes daycare licensing fees; however, none of the fees have been increased over the fees in the previous incarnation of the rule.

Negotiated Rulemaking / Fiscal Impact

Docket No. 16-0601-2201: Negotiated rulemaking was not conducted due to the simple nature of the rule change. The fiscal impact on the state general fund will be \$3,284,900, which was allocated via appropriation by the 2022 Legislature.

Paul Headlee, Deputy Director Legislative Services Office	Kristin Ford, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Glenn Harris, Manager Information Technology
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Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

Docket No. 16-0601-2202: Negotiated rulemaking was not conducted due to the simple nature of the rule change. The fiscal impact on the state general fund is expected to be less than \$100,000 in the first year of prevention services.

Docket No. 16-0602-2201: Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

Statutory Authority

Docket No. 16-0601-2201: This rulemaking appears to be authorized pursuant to multiple statutes in Titles 16, 39, and 56, Idaho Code.

Docket No. 16-0601-2202: This rulemaking appears to be authorized pursuant to multiple statutes in Titles 16, 39, and 56, Idaho Code.

Docket No. 16-0602-2201: This rulemaking appears to be authorized pursuant to multiple statutes in Title 39 and Title 56, Idaho Code.

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

***** 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

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2201

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 18, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho continues to experience increased cost of living. These changes provide for increased reimbursement to foster parents and address the increased cost in caring for a child in foster care. During the 2022 legislative session, the Division of Family and Community Services (FACS) requested an increase to the budget to allow for an increase to the reimbursement to foster parents and to increase the reimbursement amount for youth age eighteen through twenty-one (18-21) in extended foster care. JFAC approved this request and utilized additional funds to make the increase effective April 1, 2022. The funding for this increased foster care reimbursement is included in appropriation bill H0773 (2022).

Not updating this rule would leave foster parents with reimbursement rates out of alignment with approved budget and fees. Community members will be unable to care for children in foster care without having to use their own finances to do so. There would be a continued decline in the number of community members willing to provide foster care.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This confers a benefit to foster parents and foster children and the need to increase reimbursements to prevent the further decline of foster parents and their financial ability to participate in the Foster Parent Program.

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

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:

Funds are provided through State General Funds and federal Title IV-E and IV-B funds. The total increased spending associated with this change is \$6,103,400 (\$3,284,900 State General Fund and \$2,818,500 Federal funds). These amounts were allocated by the 2022 Idaho Legislature for this purpose (H0733-2022). These funds will go directly to foster and adoptive families. The FACS case management system has been updated to generate the new rates, and there is no fiscal impact to the case management system change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are simple in nature.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Julie Sevcik, 208-863-4229 and Michelle Weir, 208-334-5651.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
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 TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0601-2201
(Only Those Sections With Amendments Are Shown.)**

483. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483				
Ages	0-5	6-12	13-17	18-20
Monthly Room and Board	\$395632	\$439702	\$584759	\$674876

~~(3-15-22)~~(8-18-22)T

01. Gifts. An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. (3-15-22)

02. Clothing. Costs for clothing will be paid, based upon the Department’s determination of each child’s needs. All clothing purchased for a child in alternate care becomes the property of the child. (3-15-22)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department’s determination of the child’s needs. (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2202

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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.

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

In 2018 the Family First Act (Public Law (P.L.) 115-123), became effective allowing for the use of federal funds to prevent children at risk from entering foster care. Idaho is currently negotiating our five-year prevention plan that outlines the requirements that define when a family qualifies for the use of these funds to prevent a qualifying child from entering foster care. Idaho contract requirements include that when multiple contracts will be issued for the same services that the rates must be published.

Under Core Child and Family Services, the prevention services and community support services will be combined to reflect the application of services to prevent children at risk of entering foster care. The rule will further clarify for the purpose of entering into multiple statewide contracts the rates that have been set for statewide service provision and where those rates are located. This will provide clarity to prevention services and rates paid to private agencies by the department.

If these rates are not promulgated, the Division of Family and Community Services (FACS) will be unable to implement multiple contracts for services across the state that have standard rates for the provision of services. Not having prevention service rates published statewide would lead to inconsistency in the rate of payment to private agencies who provide services.

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

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 resulting from this rulemaking:

There will be an increase in Title IV-E federal funds to pay for prevention services currently covered by state general funds and other federal grants. Based on current use of in-home parenting and intensive parent-child therapy this impact is expected to be less than \$100,000 during the first 12 months of prevention services. Due to stand up time for services this cost will be significantly less in SFY 2023. Prevention Services will be eligible for Title IV-E funds at 50% of Federal Medical Assistance Percentage (FMAP) through 2026 and then at the full FMAP rate.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule will provide guidance on how services rates are determined and where rates are located. These changes are simple in nature, needed to align with federal requirements, and to maintain consistency in rates of payment.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Julie Sevcik, 208-863-4229

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 September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
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 DOCKET NO. 16-0601-2202
(Only Those Sections With Amendments Are Shown.)

030. CORE CHILD AND FAMILY SERVICES.

~~The following core services are the state and federally mandated services provided by or through regional Child and Family Services offices.~~ State and federally mandated core services provided by or through regional Child and Family offices include: (3-15-22)()

01. Crisis Services. Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger ~~as a result~~ because of child abuse, neglect, or abandonment. Crisis services require immediate access to services, ~~twenty-four (24) hours per day; seven (7) days per week~~ always to assess safety and place in alternate care, if necessary, to ensure safety for the child. (3-15-22)()

02. Screening Services. Initial contact with families and children to gather information to determine whether ~~or not~~ the child meets eligibility criteria to receive child protection or adoption services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (3-15-22)()

03. Assessment and Safety/Service Planning Services. ~~P~~Assessment process in which the safety threats to the child, and the family's concerns, strengths, and resources are identified. ~~Based on this assessment, a~~ after which a written plan is developed by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally-specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. (3-15-22)()

04. Preventative Prevention Services. ~~Community~~ Evidence-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. (3-15-22)()

a. These services are provided in the Family First Prevention Services Act (Public Law 115-123) under the categories of mental health, substance use prevention and treatment, and in-home parent skill-based programs and services. Additional services can ~~involve direct services, but are primarily~~ be implemented through community education, and partnerships with other community agencies such as schools and courts. (3-15-22)()

b. The Department sets the maximum hourly or flat rates for Prevention Services covered by Title IV-E federal funding and are based on the cost for services. When services are provided by private providers, payment

must be made according to a contract authorized by the Child and Family Services Program Manager, based on the cost for services to be provided. Current information about services and rates can be obtained from Child and Family Services website. (3-15-22)()

05. Court-Ordered Services. These services primarily involve court-ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. (3-15-22)

06. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for children and youth who are victims of child abuse, neglect, or abandonment. ~~These out-of-home placements are arranged for and financed, in full or in part, by the Department.~~ The Department arranges and finances, in full or in part, out-of-home placements. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment will be made on behalf of a child placed in the licensed home of an individual or relative, a ~~public or private~~ child care institution, a home licensed or approved by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a ~~public or private~~ child placement or child care agency. (3-15-22)()

07. Community Support Services. Services provided to a child and family in a community-based setting designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include respite care and family preservation. (3-15-22)

08. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho will be considered. On very rare occasion the Department may contract with a residential facility out-of-state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101, et seq., Idaho Code, the "Interstate Compact on the Placement of Children." Placements must ~~be in compliance with~~ follow all state and federal laws. (3-15-22)()

09. Independent Living. Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. (3-15-22)

a. Eligibility ~~Requirements for~~ Current Foster Youth. To be eligible for independent living services, ~~a current foster~~ the youth must: (3-15-22)()

i. Be fourteen (14) to twenty-one (21) years of age; (3-15-22)

ii. Currently be under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and twenty-one (21) years of age; and (3-15-22)

b. Eligibility ~~Requirements for~~ Former Foster Youth. To be eligible for independent living services, ~~a former foster~~ the youth must: (3-15-22)()

i. Be a former foster youth who is currently under twenty-three (23) years of age; and (3-15-22)

ii. Have been under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and (3-15-22)

iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching sixteen (16) years of age or have aged out of foster care; or (3-15-22)

iv. Be eighteen (18) to twenty-three (23) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. (3-15-22)

c. Eligibility Limit. Once established as in Subsection 030.09.b. in this rule, a youth's eligibility is maintained up to their twenty-third birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. (3-15-22)

10. **Adoption Services.** Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of ~~all~~ parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services ~~also seeks~~ to build the community's capacity to deliver adoptive services. (3-15-22)()

11. **Administrative Services.** Regulatory activities and services that assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. ~~These services~~ include: (3-15-22)()

- a. Child care licensing; (3-15-22)
- b. Daycare licensing; (3-15-22)
- c. Community development; and (3-15-22)
- d. Contract development and monitoring. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~923. DISRUPTION OF INTERNATIONAL ADOPTIONS:~~

~~The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state guardianship as a result of termination of the parental rights of the adoptive parent and the dissolution of the adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the Department's Permanency Program Specialist in January of each year.~~ (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.06.02 – CHILD CARE AND FOSTER CARE LICENSING
DOCKET NO. 16-0602-2201 (ZBR CHAPTER REWRITE, 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, 39-1207, 39-1211, 39-1213, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Virtual Public Hearing via WebEx
Tuesday, September 20, 2022 5:00 p.m. to 7:00 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m76d5d134d0e6b722493699e4837da1d9
Join by meeting number Meeting number (access code): 2762 142 2199 Meeting password: TSw4x8tJ4bm (87949885 from phones and video systems)
Tap to join from a mobile device (attendees only) +1-415-527-5035,,27621422199#87949885# United States Toll +1-303-498-7536,,27621422199#87949885# United States Toll (Denver) Some mobile devices may ask attendees to enter a numeric password.
Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)

Virtual Public Hearing via WebEx

Friday, September 23, 2022
10:00 a.m. to 12:00 p.m. (MT)

Join from the meeting link

<https://idhw.webex.com/idhw/j.php?MTID=m2479a71d7d04956c8df82935987d003b>

Join by meeting number

Meeting number (access code): 2762 209 9532

Meeting password: 4xXM4K3X85s (49964539 from phones and video systems)

Tap to join from a mobile device (attendees only)

+1-415-527-5035,,27622099532#49964539# United States Toll

+1-303-498-7536,,27622099532#49964539# United States Toll (Denver)

Some mobile devices may ask attendees to enter a numeric password.

Join by phone

+1-415-527-5035 United States Toll

+1-303-498-7536 United States Toll (Denver)

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.

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

Under [Executive Order 2020-01](#) and the schedule set by the Division of Financial Management, this chapter underwent a complete rewrite. Additional requirements have been added for licensed foster parents to align with the state policy to assure that children in foster care receive care, services, and safe physical surroundings when they are unable to remain safely with their parent or legal guardian. The additional requirements will assist the state in maintaining standards for foster homes and child care institutions that are reasonably consistent with the final model licensing standards identified in Public Law 115-123. Additional rules will include updates to foster parent qualifications and suitability, foster parent training, home environment and safety requirements, and the maximum number of children in a foster home. Rules related to children's agencies and children's treatment facilities have been removed to an IDAPA chapter under licensing and certification. The title of this chapter is changing to "Child Care and Foster Care Licensing."

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

Under this chapter, non-refundable Daycare fees must be paid to the Department prior to the issuance or renewal of a daycare license. The fee is determined by size and type of daycare center or facility. None of the fees in this chapter of rules are being changed.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022 and April 6, 2022, Idaho Administrative Bulletins, [Vol. 22-3, pages 18-21](#), and [Vol. 22-4, pages 32-34](#).

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 documents incorporated by reference in these rules are not being changed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the following:

- FACS - Julie Sevcik (208) 863-4229, and Michelle Weir (208) 334-5651
- Self-Reliance - Ericka Rupp (208) 224-5641, and Marilyn Peoples (208) 442-9989

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 24, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
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. 16-0602-2201
(Zero Based Regulation (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, 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. ()

001. SCOPE, POLICY, EXCEPTIONS, AND EXEMPTIONS TO LICENSING.

01. Scope. These rules establish requirements for licensing, maintaining, and operating the following facilities: ()

- a. Daycare centers; ()
- b. Group daycare facilities; ()
- c. Family daycare homes (voluntarily); and ()
- d. Foster homes. ()

02. Policy. It is the Department’s policy to assure that children receive adequate substitute parental care in the absence or 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. ()

03. 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; or ()

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

04. 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: ()

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 ()

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. ()

002. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in this chapter of rules. ()

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. ()

02. Crib Safety. Consumer Product Safety Commission, Crib Safety Tips can be found on the Internet at <https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs>. ()

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

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

02. When License is Granted. The applicant(s) and any other adult(s) living in a foster home must have a completed background check, including clearance, prior to licensure. ()

03. Individuals Subject to Background Check Requirements. The following individuals must receive background check clearance prior to licensure: ()

a. Adoptive Parents. The background check requirements are found in Subsection 671.02 of these rules. ()

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. ()

c. Licensed Foster Care Home. The background check requirements are found in Section 404 of these rules and in Section 39-1211(4), Idaho Code. ()

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 age and continue to reside in the same licensed foster home. ()

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

a. Is a resident or an adult living in a licensed foster home; or ()

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. ()

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. ()

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

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. ()

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. ()

c. 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. ()

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. ()

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

08. 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. ()

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. ()

b. Includes Extended Foster Care for children placed through Child and Family Services. ()

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. ()

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

12. Department. The Idaho Department of Health and Welfare and its authorized representatives. ()

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. ()

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

15. 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. ()

16. 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. ()

17. 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. ()

19. 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. ()

20. 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. ()
- 03. Person.** Any individual, group of individuals, associations, partnerships, or corporations. ()
- 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. ()
- 05. 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. ()
- 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. ()
- 07. 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. ()
- 08. Restraint.** Physical interventions to control the range and motion of a child. ()
- 09. 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.” ()
- 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. ()
- 12. Supervision.** Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “supervision” is defined as within sight and normal hearing range of the child or children being cared for. ()
- 13. Time-Out.** Separation of a child from group activity as a means of behavior management. ()
- 14. 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. ()
- 15. Variance.** A temporary non-application of a foster care licensing rule that is resolved within six (6) months of approval. ()
- 16. 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. ()

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

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

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. ()

04. Return of License. The foster parent or 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 by the Department; or ()
- c. Upon voluntary discontinuation of service. ()

101. APPLICATIONS FOR LICENSE.

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. ()

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. ()

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

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

- a. Full time or daycare; ()
- b. The number of children who may receive care at any one (1) time; and ()
- c. Age range and gender, if there are conditions in the foster home making such limitations necessary; ()
- d. 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 ()
- f. 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. ()

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; ()
 - c. All other licensing requirements have been met; ()
 - d. The approval of a waiver of any foster home 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 ()
 - 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; ()
 - 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; ()
 - 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 ()
 - e. The approved variance must be reviewed for continued need and approval annually. ()
- 05. Provisional License.** A provisional license 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. ()
- a. A provisional license will be in effect for not more than six (6) months. ()
 - 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. ()
- 06. Limited License.** A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided: ()
- 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. ()
- 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 the date on the denial of application. ()
- 08. Failure to Complete Application Process.** ()
- a. 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. ()

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

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license 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 name, and only to the specified address identified 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. ()

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. ()

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. ()

104. MANDATORY VISITATIONS.

Under Section 39-1217, Idaho Code, the Department must 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. ()

105. REVISIT AND RELICENSE.

Revisit and relicensure 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 must be made by the operator on the form furnished by the Department and filled out prior to the expiration date of the license currently in force. 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. ()

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. ()

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. ()

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. ()

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license may be suspended for infractions of these rules. Such suspension 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. ()

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

If it is found that an applicant, 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. ()

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 applicant, foster parent, operator, or the person proposed as chief executive officer: ()

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; ()

c. Has been found guilty of or is under investigation for the commission of any felony; ()

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

e. 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. ()

110. (RESERVED)

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

The Department may summarily suspend a foster home, 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. ()

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: ()

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. ()

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. ()

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

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. ()

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. ()

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

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. -- 299. (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. ()

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. ()

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. ()

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. ()

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. ()

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

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: ()

- 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 regularly on the premises. ()

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: ()

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

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. ()

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. ()

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. ()

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. ()

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. ()

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: ()

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

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

c. Group daycare facility - one hundred dollars (\$100). ()

d. Family daycare home voluntary license - one hundred dollars (\$100). ()

02. Daycare Fire Inspection Fee. Daycare fire inspection fees are payable to the local fire department or fire district official. ()

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. ()

01. Completed, Signed, and Dated Application by Applicant. ()

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. ()

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 criminal history and background check have received a clearance from the Department required in Section 309 of these rules. ()

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. ()

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. 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. ()

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. ()

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. ()

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: ()

- a.** Daycare Center License; ()
- b.** Group Daycare Facility License; or ()
- c.** Family Daycare Home License. ()

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. ()

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

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

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

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: ()

- 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 First Aid Certification from a Certified Instructor. ()

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

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: ()

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 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. ()

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. ()

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: ()

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

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. ()

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

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

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. ()

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 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 ()

c. 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. ()

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: ()

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

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

04. Napping Children. Napping children who are not within sight of a staff member must always be within easy hearing distance. ()

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

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

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

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: ()

01. Physical Force. Any kind of 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 a child's family. ()

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. ()

01. Child Development Training. Training must be related to continuing education in child development. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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 facilities 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. ()

351. 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. 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. ()

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

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. ()

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 must 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. 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 which is audible in the sleeping area. ()

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). ()

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: ()

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. 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. ()

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. ()

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. ()

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. Food must be 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. 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. 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. 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. Restrooms, Water Supply, and Sewage. All daycare facilities must have restrooms. ()

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. ()

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). ()

- 13. 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. ()
- 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." ()
- 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. ()
- a.** Any individual under the influence of alcohol or drugs is not be permitted at or in the daycare facility. ()
 - b.** Illegal drugs are prohibited by law and therefore are not allowed on the premises of a licensed daycare facility at any time. ()
- 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. ()
- 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. ()
- 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. ()
- 19. Immunizations.** Daycare operators must comply with requirements under IDAPA 16.02.11, "Immunization Requirements for Licensed Day care Facility Attendees." ()
- 361. MISCELLANEOUS SAFETY REQUIREMENTS.**
Each daycare center, group daycare facility, or family daycare home voluntarily 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. Portable heating devices must be limited and approved for use and location by the Fire Inspector prior to use within a facility. ()

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. 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. ()

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: ()

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 will be restricted to prevent easy access to the hazard. ()

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. ()

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 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. ()

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 always visible and are easily supervised by a staff member. ()

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. ()

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. ()

01. Posting of License and Other Information. ()

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. ()

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

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. ()

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

a. Serious injury or death of a child at the facility; ()

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. ()

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. ()

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 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. ()

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. ()

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. ()

401. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.

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

402. 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. ()

- 02. Character.** Be of good character. ()
- 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. ()
- 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. ()
- 403. 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 a background check. ()
- 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. ()

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. ()

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). ()

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. ()

404. 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; ()

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 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. ()

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 names, including maiden or other names used, and ages of the applicant(s); ()

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 statement of income and financial resources and the family's management of these resources; ()

g. Marital relationship, if applicable, including decision making, communication, and roles within the family; ()

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 names, ages, and addresses of all biological and adopted children currently residing in or outside the home; ()

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 attitudes toward foster care by immediate and extended members of the family and other persons who reside in the home; ()

v. The applicant's attitudes about a foster child's family and the applicant's willingness to work with the child's family and tribe; ()

- 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 applicant(s) willingness to abide by the children's agency policies and procedures for discipline; ()
- 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 capacity and willingness to transport a foster child in a motor vehicle. ()

405. SUBSEQUENT EVALUATIONS.

A foster parent must comply with the following for the subsequent evaluation required for a foster care license: ()

- 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, for child supervision purposes, and to conduct a recertification study. ()
- 02. Update Information.** Provide all changes to the information contained in the initial evaluation and subsequent evaluations. ()
- 03. Family Functioning.** Provide information on any changes in family functioning and inter-relationships. ()
- 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. ()

406. FOSTER PARENT DUTIES.

A foster parent must do the following: ()

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

407. FOSTER PARENT TRAINING.

Each foster parent must comply with the following: ()

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

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. ()

408. -- 429. (RESERVED)

430. 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. ()

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: ()

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; ()

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 430.01.b of this rule. ()

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. ()

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: ()

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 430.01.c in this rule. ()

04. Irrigation Canals or Similar Body 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. ()

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. ()

431. 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). ()

432. FIRE SAFETY, EMERGENCY PLANNING, AND EVACUATION PLAN.
Each foster home must meet the following standards: ()

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 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. ()

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. ()

433. 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. ()

434. 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. ()

435. 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. ()

436. 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. ()

437. 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. ()

438. 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. ()

439. 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 Section 49-672, Idaho Code, and Section 49-673, Idaho Code. ()

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. ()

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

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

442. 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: ()

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 442.04 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. ()

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. ()

443. 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. ()

444. 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. ()

445. 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 readily accessible to children and the foster parent; ()

ii. Is readily opened from the inside of the room; and ()

iii. Is of sufficient size and design to allow for the evacuation of children and caregivers. ()

h. Is free of the following: ()

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 Subsection 002.02 of these rules. ()

446. 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. ()

447. 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. ()

448. 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. ()

449. 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. ()

450. 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. ()

451. 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. ()

452. 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. ()

453. 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. ()

454. 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. ()

455. 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. ()

456. MAIL.

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

457. 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. ()

458. -- 469. (RESERVED)

470. 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. ()

471. 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. Illness, Injury, or Death. Serious illness including physical or mental health, injury, or death of a foster parent or a household member. ()

02. Arrests, Citations, Withheld Judgments, or Criminal Convictions. Any arrests, citations, withheld judgments, or criminal convictions of a foster parent or household member. ()

03. Parole and Probation. Initiation of court-ordered parole or probation of a foster parent or household member. ()

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. Employment. A change of employment status of a foster parent. ()

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. ()

472. 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. ()

473. 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. ()

474. -- 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: Family and Community Services

Agency Contact: Julie Sevcik **Phone:** 208-334-6953

Date: May 18, 2022

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 16.06.02 Child Care Licensing

Fee Rule Status: XX **Proposed** **Temporary**

Rulemaking Docket Number: 16-0602-2201

STATEMENT OF ECONOMIC IMPACT:

There are no fees associated with the licensing of foster parents and the fees are unchanged from the previous year's review and approval by the Idaho Legislature.