

DEPARTMENT OF ~~HUMAN SERVICES~~ LICENSING AND REGULATORY  
AFFAIRS

~~DIRECTOR'S OFFICE~~ BUREAU OF COMMUNITY AND HEALTH SYSTEMS

LICENSING ~~RULES FOR~~ CHILD CARE CENTERS

Filed with the secretary of state on

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(By authority conferred on the director of the ~~Department of Human Services~~ **department of licensing and regulatory affairs** by section 2 of 1973 PA 116, **MCL 722.112**, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2004-4, ~~MCL 722.112~~, and **2015-1**, MCL 330.3101, 445.2001, 445.2011, and 400.226, and **400.227**.)

R 400.8101, R 400.8104, R 400.8107, R 400.8110, R 400.8113, R 400.8119, R 400.8122, R 400.8125, R 400.8128, R 400.8131, R 400.8134, R 400.8137, R 400.8140, R 400.8143, R 400.8146, R 400.8149, R 400.8152, R 400.8155, R 400.8158, R 400.8161, R 400.8164, R 400.8167, R 400.8170, R 400.8173, R 400.8176, R 400.8179, R 400.8182, R 400.8185, R 400.8188, R 400.8191, R 400.8301, R 400.8305, R 400.8310, R 400.8315, R 400.8320, R 400.8325, R 400.8330, R 400.8335, R 400.8340, R 400.8345, R 400.8350, R 400.8355, R 400.8360, R 400.8365, R 400.8370, R 400.8375, R 400.8380, R 400.8385, R 400.8501, R 400.8505, R 400.8510, R 400.8515, R 400.8520, R 400.8525, R 400.8530, R 400.8535, R 400.8540, R 400.8560, R 400.8565, R 400.8701, R 400.8720, R 400.8730, R 400.8740, R 400.8750, R 400.8760, R 400.8801, R 400.8810, R 400.8820, R 400.8830 and R 400.8840 of the Michigan Administrative Code are amended, and R 400.8102, R 400.8103, R 400.8112, R 400.8112a, and R 400.8112b are added, as follows:

September 11, 2019

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#### PART 1. GENERAL PROVISIONS FOR ALL CHILDREN

##### R 400.8101 Definitions; **A through I.**

Rule 101. As used in these rules:

(a) “Accredited college or university” means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the United States Department of Education.

**(b) “Act” means 1973 PA 116, MCL 722.111 to 722.128, regarding child care organizations.**

**(c) “Adult” means a person 18 years of age or older.**

**(d) “Ages” means all of the following:**

(i) “Infant” - birth until 1 year of age.

(ii) “Toddler” – 1 year of age until 30 months of age.

(iii) “Preschooler” – 30 months of age until eligible to attend a grade of kindergarten or higher.

(iv) “School-ager” – a child who is eligible to attend a grade of kindergarten or higher, but less than 13 years of age. A child is considered a school-ager on the first day of the school year in which he or she is eligible.

**(e) “Applicant” means an individual who applies for a license to operate a child care center.**

~~(e) “Caregiver” means a person 18 years of age or older who provides direct care, education, supervision, and guidance of children. A 17-year-old shall qualify as a caregiver if he or she meets 1 of the following:~~

~~(i) Has satisfactorily completed at least 1 year of a vocational-occupational child care aide training program approved by the department of licensing and regulatory affairs.~~

~~(ii) Has completed 1 year of apprenticeship in a recognized child care apprenticeship program sponsored by the United State department of labor.~~

~~(d) “Center” means a child care center or day care center which is a facility other than a private residence, which receives 1 or more children under 13 years of age for care for periods of less than 24 hours a day, and at which the parents or guardians are not~~

immediately available to the children. “Center” includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, prekindergarten, play group, or drop-in center. “Center” does not include any of the following:

- (i) A Sunday school, a vacation Bible school, or a religious instructional class which is conducted by a religious organization and at which children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period, or a facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.
- (ii) A special education program or service conducted under the authority of article 3 of 1976 PA 451, MCL 380.1701 to 380.1766.
- (iii) A kindergarten operated by a local or intermediate school district under the authority of 1976 PA 451, MCL 380.1 to 380.761, or as part of a nonpublic elementary school. However, this exemption shall not apply to a nonpublic kindergarten operated as part of a center.
- (iv) A program that is primarily supervised, school-age child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age child-focused training.
- (v) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.

(ef) “CEU” means a continuing education unit awarded by an accredited college or university sponsor of continuing education units or equivalent awarded by the state board of education.

(g) “Child care aide” means an individual who is 17 years of age, who provides services and participates in child care activities in a child care center, who shall not have unsupervised access or provide unsupervised care or supervision of children, and who has satisfactorily completed at least 1 year of a vocational-occupational child care aide training program approved by the department.

(h) “Child care administration” means educational courses in child care administration, education administration, or business administration.

(i) “Child care background check system” means the database maintained by the department to document a comprehensive background check and eligibility determination pursuant to section 5n of the act, MCL 722.115n.

(j) “Child care center” means that term as defined in section 1(h) of the act, MCL 722.111.

(k) “Child care staff member” means that term as defined in section 1(a) of the act, MCL 722.111.

(l) “Child development associate credential” or “CDA” means a credential awarded by the Council for Professional Recognition or a similar credential approved by the department.

(m) “Child-related field” means 1 of the following:

(i) For an early childhood education program director and lead caregiver, academic courses in elementary education, child guidance, child counseling, child psychology, family studies, social work, or special education.

(ii) For a school-age program director, academic courses in early childhood education, elementary education, secondary education, special education, physical education and recreation, child development, child guidance, child counseling, child psychology, family studies, social work, human services, or youth development.

(n) “Communicable disease” means an infectious disease that is transmissible from person to person by direct contact with an infected individual or the individual's discharges, or by indirect means through a vector. Communicable disease includes, but is not limited to, all of the following:

(i) Chicken pox.

(ii) Hand, foot and mouth disease.

(iii) Influenza.

(iv) Measles.

(v) Mumps.

(vi) Pertussis, which is also referred to as whooping cough.

(vii) Rubella.

(viii) Tuberculosis.

(o) “Comprehensive background check” means a department review of an individual as required in section 5n of the act, MCL 722.115n.

(p) “Conducive to the welfare of children” means that term as defined in section 5m(13)(b) of the act, MCL 722.115m(13)(b).

(q) “Continuously employed child care staff member” means an individual who has not been disconnected from the child care background check system for a period of more than 180 days and has continuously resided in Michigan as referenced in section 5n(15) and (16) of the act, MCL 722.115n(15) and (16).

(r) “Conviction” means that term as defined in section 1(i) of the act, MCL 722.111.

(s) “Criminal history check” means that term as defined in section 1(j) of the act, MCL 722.111.

(t) “Degrees and semester hours” means only those degrees and hours from an accredited college or university.

(u) “Department” means the department of ~~human services~~ **licensing and regulatory affairs**.

(v) “Developmentally appropriate” means age appropriate as well as appropriate to the individual child.

(w) “Early childhood program director” means the program director of a center serving children of all ages.

(x) “Easily cleanable” means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(y) “Eligible” means that that term as defined in section 1(m) of the act, MCL 722.111.

(z) “Field trip” means children and ~~caregivers~~ **personnel** leaving the child care center premises for an excursion, trip, or program activity.

(~~kaa~~) "First aid kit" means a kit containing, at a minimum, all of the following: sterile gauze pads, assorted sizes, a roll of gauze, adhesive bandages, assorted sizes, adhesive cloth tape, an elastic bandage, tweezers, and scissors. A first aid kit is prohibited from containing any non-prescription or prescription medications as described under R 400.8152.

(~~hbb~~) "Group size" means the specified number of children assigned to a ~~caregiver~~ **child care staff member** or team of ~~caregivers~~ **child care staff members** occupying an individual classroom or well-defined space for each group within a larger room. Two or more groups may be combined for collective activities as long as appropriate ~~child/staff~~ **child-to-staff** ratios are maintained in the room or area.

(~~cc~~) "**Hours of experience**" means **experience serving the ages and developmental abilities of children for which the center is licensed.**

(~~dd~~) "**Immediately available**" means **a parent or guardian remains onsite at the address of the child care center.**

(~~ee~~) "**Ineligible**" means **that term as defined in section 1(n) of the act, MCL 722.111.**

~~-(m) "Licensee designee" means the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing.~~

~~-(n) "Parent" or "parental" means a child's, guardian, or other legally responsible person.~~

~~-(o) "Playspace" means a piece or pieces of age appropriate toys, play equipment, and materials that 1 child can use independently for 15 minutes.~~

~~-(p) "Program components" means the different services offered by a center. They include, but are not limited to, infant/toddler, preschool, and school-age care and education; nighttime care; food service; swimming; and transportation.~~

~~-(q) "Routine transportation" means regularly scheduled travel on the same day of the week, at the same time, to the same destination.~~

~~-(s) "School" means a building or part of a building which is owned or leased by, or under the control of, a public or private school or school system for the purpose of instruction as required by 1976 PA 451, MCL 380.1561 which is occupied by 6 or more students, and which is used 4 or more hours per day or more than 12 hours per week.~~

~~-(t) "Staff" means any compensated employee of the center.~~

~~-(u) "Volunteer" means a person 16 years of age or older who is not a compensated employee of the center. Volunteers may be counted in the caregiver to child ratios outlined in R 400.8182(3) if they meet the definition of caregiver as defined by subdivision (c) of this rule.~~

~~-(v) "Well defined space" means space designed and used exclusively for a specific group of children.~~

## **R 400.8102 Definitions; J through R.**

### **Rule 102. As used in these rules:**

(a) "**Lead caregiver**" means **a child care staff member who is responsible for planning and implementing the daily program of activities for a group of children in a child care center.**

(b) "**Licensee**" means **that term as defined in section 1(q) of the act, MCL 722.111.**

(c) "**Licensee designee**" means **that term as defined in section 1(cc) of the act, MCL 722.111.**

(d) “Michigan school age or youth development credential” means a credential issued by the Michigan Afterschool Association or similar credential approved by the department.

(e) “MiRegistry” is the electronic data system for child care providers that is maintained by the department of education to verify and track employment, training, and educational accomplishments. MiRegistry offers a statewide calendar of online and classroom training opportunities. MiRegistry can be accessed online at <http://www.miregistry.org>.

(f) “Montessori credential” means a credential issued by the Association Montessori International (AMI), American Montessori Society (AMS), or any Montessori teaching or training institution recognized by the Montessori Accreditation Council for Teacher Education (MACTE) that meets or exceeds 270 hours of academic training.

(g) “Parent” or “parental” means a child’s natural or adoptive parent who is legally responsible for the child or the child’s legal guardian.

(h) “Playspace” means a piece or pieces of age-appropriate toys, play equipment, and materials that 1 child can use independently for 15 minutes.

(i) “Personnel” means a licensee, licensee designee, child care staff member, and child care aide.

(j) “Portable crib” means a crib that can be folded or collapsed, without disassembly, to occupy a space less than it occupies when it is used. Products with mesh, fabric, or non-rigid sides, such as a bassinet or play yard, are not considered a portable crib.

(k) “Program components” means the different services offered by a center. They include, but are not limited to, infant and toddler, preschool, and school-age care and education; nighttime care; food service; swimming; and transportation.

(l) “Program director” means a licensee or child care staff member who is responsible for the general management of the center and ensures compliance with the act and these rules.

(m) “Routine transportation” means regularly scheduled travel on the same day of the week, at the same time, to the same destination. Any deviation is non-routine transportation.

#### **R 400.8103 Definitions; S through Z.**

##### **Rule 103. As used in these rules:**

(a) “Sanitized” means to wipe or spray the surface with a sanitizing solution, let the surface air dry or wipe dry after 2 minutes with a single service towel, or according to the manufacturer’s directions.

(b) “School” means a building or part of a building that is owned or leased by, or under the control of, a public or private school or school system for the purpose of instruction as required by the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, which is occupied by 6 or more students, and which is used 4 or more hours per day or more than 12 hours per week.

(c) “School-age child” means that term as defined in section 1(aa) of the act, MCL 722.111.

(d) “Serious injury” means that term as defined in section 2b of 1973 PA 116, MCL 722.122b.

(e) “School-age program director” means the program director of a center serving only school-age children.

(f) “Site supervisor” means an individual who oversees the daily operation of a school age program when a multi-site director has been named. The site supervisor must meet all requirements under R 400.8119.

(g) “Staff” means any compensated employee of a center.

(h) “Supervised volunteer” means a person 16 years of age or older, who provides service for a child care center that is not compensated, and who is supervised at all times when children are in care.

(i) “Unsupervised volunteer” means an individual who is 18 years of age or older, who provides service for a child care center that is not compensated, and who has been determined eligible by the department to be unsupervised with children.

(j) “Well-defined space” means space designed and used exclusively for a specific group of children.

R 400.8104 Rule variances.

Rule 104. (1) Upon written request of an applicant or licensee, the department may grant a variance from an administrative rule if the alternative proposed provides clear and convincing evidence that the health, welfare, and safety of children is protected.

(2) The decision of the department, including the conditions under which the variance was granted, must be kept on file at the **child care** center.

(3) The granted variance may remain in effect for as long as the licensee continues to comply with the conditions of the variance or may be time-limited.

(4) Variances must not be granted from statutory requirements.

R 400.8107—~~Center license applicant~~ **Applicant qualifications.**

Rule 107. (1)—~~A center license~~ **An applicant shall meet all of the following qualifications:**  
~~(a) Be of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47.~~

~~(ba)~~ **(b)** Be suitable to meet the needs of children.

~~(eb)~~ **(e)** Be able to ~~assure~~ **ensure** that the proposed services and facilities are conducive to the welfare of children.

**(c) Act in a manner that is conducive to the welfare of children.**

~~(d) Demonstrate a willingness and ability to comply with 1973 PA 116, MCL 722.111 to 722.128, the act and the these rules promulgated under the act.~~

**(2) An applicant for a license to operate a child care center shall complete, sign, and submit the department’s child care application form, along with the fee under section 5m of the act, MCL 722.115m, to the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, P.O. Box 30664, Lansing, MI 48909-8164.**

**(3) If the applicant elects a licensee designee pursuant to section 1(cc) of the act, MCL 722.111, then the applicant shall also complete, sign, and submit the department’s child care licensee designee form.**

**(4) The department’s child care application form and child care licensee designee form are available at no cost on the department’s website at**

[www.michigan.gov/michildcare](http://www.michigan.gov/michildcare). They are also available at no cost by calling the department at (517) 284-9738 or (866) 685-0006. They are also available at no cost at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 W. Ottawa St, Lansing, MI 48933-1070.

(25) Before issuance of the original ~~provisional~~ license, **and before the renewal of a license, a center license an applicant or licensee** shall comply with applicable ~~child care center laws~~ **and** administrative rules.

R 400.8110 ~~Licensee~~ **Applicant; licensee; licensee designee; requirements.**

Rule 110. (1) The licensee **or licensee designee** shall do all of the following:

~~(a) Be of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47.~~

~~(ba) Be suitable to meet the needs of children~~ **Act in a manner that is conducive to the welfare of children.**

~~(eb) Comply with section 5e of 1973 PA 116~~ **5n of the act, MCL 722.115e 722.115n,** requirements for **which requires** a Michigan department of state police criminal history record check, a criminal records check through the federal bureau of investigation, and a department of human services check for a history of substantiated abuse and neglect **comprehensive background check.**

~~(dc) Be responsible for compliance with 1973 PA 116, MCL 722.111 to 722.128 the act, and the these rules promulgated under the act.~~

~~(ed) Report to the department within 3 business days after any arraignment or conviction of 1 or more of the crimes listed in section 5r of the act, MCL 722.115r, and any subsequent conviction. as indicated in section 5e of 1973 PA 116, MCL 722.115e, and any subsequent conviction.~~

(2) The **applicant, licensee, and licensee designee** shall have the administrative capability to operate the center in order to provide the services and facilities that are conducive to the welfare of children.

(3) ~~The~~ **All of the** following ~~shall~~ **must** be in a place, accessible, and visible to parents:

(a) The current license and, if applicable, the letter extending the license beyond the expiration date.

~~(b) A copy of the current child care center administrative~~ **these** rules and a copy of **the last page of** any variances granted.

~~(c) A notice stating that the center requires a criminal history~~ **comprehensive background** check on its employees and ~~whether the center requires a criminal history check on its~~ **unsupervised** volunteers.

(4) There ~~shall~~ **must** be a licensing notebook on the premises ~~which~~ **that** includes all licensing inspection and special investigation reports and related corrective action plans **for the last 5 calendar years, since May 28, 2010** and a summary sheet outlining the documents contained in the notebook. The notebook ~~shall~~ **must** be in a **place accessible** ~~made available~~ to parents and prospective parents at all times during the center's normal hours of operation.

(5) The actual number and ages of children in care at any time ~~shall~~ **must** never exceed the number and ages of children for which the center is licensed.

**(6) The licensee or licensee designee shall maintain accurate records detailing daily arrival and departure times for each child care staff member, child care aide, and volunteer.**



(67) A child shall only be released to persons authorized by the **child's parent or guardian.**

(78) A child shall be released to either parent **or the child's guardian**, unless a court order prohibits release to a particular parent. A copy of the order prohibiting release ~~shall~~ **must** be kept on file at the center.

(89) Within 5 business days, the licensee shall notify the department of the separation of a **licensee designee**, program director, or a central administrator approved ~~by~~ **under R 400.8113(4612)**, and a plan for replacement of the ~~program director or or central administrator~~ **individual.**

~~(9) The licensee shall cooperate with any state or local department or agency inspections or investigations related to the child care license by both of the following:~~

~~(a) Providing access to all relevant records, materials, and staff.~~

~~(b) Assuring information provided is accurate and truthful.~~

(10) Written approval from the department ~~shall~~ **must** be obtained before making any changes in the terms of the license, including but not limited to, adding use space, changing age groups served, changing program components, changing the capacity of the center, or making changes to a room or well-defined space that will result in a change in capacity of the room or well-defined space.

(11) The records required by ~~1973 PA 116, MCL 722.111 to 722.128,~~ **the act and the rules promulgated under the act these rules** must be retained **for a minimum of 2 calendar years or longer as specified in these rules**, and made available to the department upon request. ~~for 2 years, except the following:~~

**(12) The following records must be retained and available to the department:**

(a) The name, address, and telephone number for each child enrolled and each employee for at least 2 years after ~~he/she~~ **the individual has left leaves** the center.

(b) Staff and volunteer health records, as required by R 400.8128, and documentation of qualifications ~~shall~~ **must** be retained until ~~that person has left~~ **the individual leaves** the center.

(c) The licensing notebook ~~shall~~ **must** be maintained and retained until the license is closed.

~~(1213)~~ Smoking **and vaping shall must** not occur in or during ~~either~~ **both** of the following:

(a) In the child care center or on real property that is under the control of the center and upon which the center is located.

(b) On field trips and in vehicles when children are present.

**(14) A center shall post a notice in a place accessible and visible to parents, staff, and visitors stating that smoking and vaping are prohibited in the center and on the center's property.**

#### **R 400.8112 Comprehensive background check; fingerprinting.**

**Rule 112. (1) Pursuant to section 5n of the act, MCL 722.115n, before an individual has unsupervised contact with children, the department shall determine the individual's eligibility to be any of the following:**

(a) A licensee.

(b) A licensee designee.

(c) A child care staff member.

(d) A child care aide.

- (e) An unsupervised volunteer.
- (2) An applicant or licensee shall do all of the following:
  - (a) Ensure that each individual who requires an eligibility determination under subrule (1) of this rule completes, signs, and submits all of the information required in subrule (5) of this rule, and in subrule (6) of this rule if applicable, on a form prescribed by the department. The forms are available on the department's website for the child care background check system, [www.michigan.gov/ccbc](http://www.michigan.gov/ccbc). The form or forms must be signed and dated prior to the individual's appointment to be fingerprinted.
  - (b) Maintain a copy of the completed and signed form or forms for each individual entered into the child care background check system under the license.
  - (c) Provide to the department, upon request, a copy of the individual's completed and signed form or forms.
  - (d) Establish and activate an account and accurately enroll each individual listed in subrule (1) of this rule in the child care background check system.
  - (e) Within the department's child care background check system, accurately complete and maintain the connection, disconnection, or withdrawn status of each individual associated with the license.
  - (f) Immediately disconnect each individual from the system once he or she is no longer a licensee, licensee designee, child care staff member, child care aide, or an unsupervised volunteer under the license.
- (3) An individual may serve as a child care staff member pending an eligibility determination by the department under section 5n(8) of the act, MCL 722.115n, and shall be supervised at all times by the licensee or a child care staff member who has been determined eligible.
- (4) For an individual who is determined ineligible by the department, a licensee shall immediately do all of the following:
  - (a) Prohibit the individual from being on the premises of the child care center.
  - (b) Prohibit the individual from having any contact with children in care.
  - (c) Disconnect the individual from the child care background check system.
- (5) An individual who requires a comprehensive background check under section 5n of the act, MCL 722.115n, shall submit to the department, on a form prescribed by the department, all personally identifiable information necessary to conduct the comprehensive background check, including all of the following:
  - (a) Full legal name.
  - (b) All other names used in the past, including any maiden name or alias, the approximate date the other name was used, and the reason for the name change.
  - (c) Suffix, if applicable.
  - (d) Social Security number.
  - (e) Date of birth.
  - (f) Place of birth.
  - (g) Country of citizenship.
  - (h) Height.
  - (i) Weight.
  - (j) Hair color.
  - (k) Eye color.
  - (l) Gender.

- (m) Race.
- (n) Current address.
- (o) If the individual resided outside this state during the last 5 years, then provide each of those addresses.
- (p) Driver's license identification number and state issuing the license or a state identification number and state issuing it, if available.
- (q) Phone number.
- (r) Email address, if available.
- (s) Any other information deemed reasonably necessary by the department to determine the eligibility of the individual based on a name-based registry match.
- (6) The department shall maintain the confidentiality of all personally identifiable information submitted pursuant to this rule to the extent permitted by law.

**R 400.8112a Department; information; eligibility determination.**

**Rule 112a.** The department may request information from an applicant, licensee, licensee designee, child care staff member, child care aide, or unsupervised volunteer regarding any of the conditions listed in sections 5n, 5q, 5r, and 11 of the act, MCL 722.115n, 722.115q, 722.115r, and 722.121, and any similar or equivalent conditions that occurred in another state or legal jurisdiction in which the individual resided, on a form prescribed by the department, and limited to information necessary to ascertain whether the individual should be deemed ineligible under the statutory requirements.

**R 400.8112b Eligibility determination; individual who resided out of the United States; self-certifying statement.**

**Rule 112b.** An individual who requires an eligibility determination under section 5n of the act, MCL 722.115n, and resided out of the United States within the preceding 5 years, shall also, under section 5n(2) of the act, MCL 722.115n(2), complete, sign and submit, on a form prescribed by the department, a self-certifying statement that the individual does not have any of the disqualifying conditions set forth in sections 5n, 5q, 5r, and 11 of the act, MCL 722.115n, 722.115q, 722.115r, and 722.121.

**R 400.8113 Program director qualifications; responsibilities.**

~~—Rule 113. (1) As used in this rule:~~

- ~~—(a) “Child related field” for an early childhood program director means elementary education, child guidance/counseling, child psychology, family studies, and social work.~~
- ~~—(b) “Child related field” for a school-age program director means early childhood education, elementary education, secondary education, physical education and recreation, child development, child guidance/counseling, child psychology, family studies, social work, human services, and youth development.~~
- ~~—(c) “Child care administration” means child care administration, education administration, or business administration.~~
- ~~—(d) “Child development associate credential (CDA)” means a credential awarded by the council for professional recognition or similar credential approved by the department.~~

- ~~-(e) “Early childhood program director” means the program director of a center serving children of all ages.~~
- ~~-(f) “Hours of experience” means experience serving the ages and developmental abilities of children for which the center is licensed.~~
- ~~-(g) “Montessori credential” means a credential issued by the Association Montessori Internationale (AMI), American Montessori Society (AMS), or any Montessori teaching training institution recognized by the Montessori Accreditation Council for Teacher Education (MACTE) that meets or exceeds 270 hours of academic training.~~
- ~~-(h) “Michigan school age/youth development credential” means a credential issued by the Michigan Afterschool Association or similar credential approved by the department.~~
- ~~-(i) “School age program director” means the program director of a center serving only school age children.~~

(21) Before hiring a new program director, a center licensee or licensee designee shall submit a **completed BCHS-CC 001 form, titled Child Care Licensing Information Request, and** the credentials of the proposed program director to the department for review and approval.

(32) A program director shall be present in the center in the following manner:

(a) Full time for programs operating less than 6 continuous hours.

(b) At least 50% of the time children are in care but not less than a total of 6 hours per day for programs operating 6 or more continuous hours.

(43) All program directors are responsible for the general management of the center, including the following minimum responsibilities:

(a) Developing, implementing, and evaluating program and center policies.

(b) Administering day-to-day operations, including being available to address parent, child, and staff issues.

(c) Monitoring staff, including an annual evaluations.

~~-(5) A program director may also serve as a caregiver, provided that role does not interfere with management and supervisory responsibilities.~~

(64) If absent from the center, the program director shall designate a **child care** staff member to be in charge ~~who at least meets the qualifications of caregiver.~~

(75) A substitute program director shall be appointed for a program director who has left employment or has a temporary absence that exceeds 30 consecutive workdays until return or replacement. A substitute program director shall at least meet the qualifications of lead caregiver. The department shall be notified when a substitute program director is appointed.

(86) ~~All~~ A program directors **director** shall have all of the following qualifications:

(a) Be at least 21 years of age.

(b) Have earned a high school diploma or ~~GED~~ **general equivalency diploma (GED)**.

(97) Early childhood program directors shall meet 1 of the following qualifications **shown in Table 1:**

<b>TABLE 1</b>			
<b>Early Childhood Program Director Qualifications</b>			
	Education	Coursework in Early Childhood Education or Child Development	Hours of Experience

(a)	Bachelor's degree or higher in early childhood education or child development		
(b)	Bachelor's degree or higher in a child-related field including →	18 semester hours and →	480 hours
(c)	<b>Montessori credential</b>	<b>18 semester hours and</b>	<b>480 hours</b>
(ed)	Associate's degree in early childhood education or child development including →	18 semester hours and →	480 hours
(d)	<del>Montessori credential with</del>	<del>18 semester hours and</del> →	<del>960 hours</del>
(e)	Valid child development associate credential with →	18 semester hours and →	960 hours
(f)	Sixty semester hours with →	18 semester hours and →	1,920 hours

(108) School-age program directors shall meet 1 of the following qualifications **shown in Table 2:**

<b>TABLE 2</b>			
<b>School-Age Program Director Qualifications</b>			
	Education	Coursework in a Child-Related Field	Hours of Experience
(a)	Bachelor's degree or higher in a child-related field		
(b)	<b>Montessori credential with</b>	<b>12 semester hours and</b>	<b>480 hours</b>
(bc)	Associate's degree in a child-related field and →		480 hours
(c)	<del>Montessori credential with</del>	<del>12 semester hours and</del> →	<del>480 hours</del>
(d)	Valid Michigan school-age/ youth development credential with	12 semester hours and →	480 hours
(e)	Valid child development associate credential with →	12 semester hours and →	480 hours
(f)	Sixty semester hours with →	12 semester hours and →	720 hours
(g)	<del>High school diploma/ GED</del> <b>diploma or GED with</b> →	6 semester hours and →	2,880 hours

~~(11) Program directors qualified under subrule (9)(e) or (10)(e) of this rule with an expired child development associate credential have 1 year from the effective date of these rules to obtain a valid child development associate credential.~~

~~(12) Program directors qualified under subrule (10)(d) of this rule with an expired Michigan school-age/youth development credential have 1 year from the effective date of these rules to obtain a valid Michigan school-age/youth development credential.~~

(439) All program directors shall have at least 2 semester hours or 3.0 CEUs in child care administration or have an administrative credential approved by the department. These semester hours may satisfy a portion of the requirements of subrules (97) and (408) of this rule. **The program director may also use 30 hours of administrative training from MiRegistry to meet these requirements.**

**(10) Any potential program director previously employed as an approved and qualified program director is exempt from meeting subrule (9) of this rule.**

(441) An early childhood program director **or school age program director** employed as a program director since ~~December 7, 2004~~ for more than 10 years without a break in service is exempt from the requirements in subrules (97) and (439) of this rule.

~~(15) A school age program director meeting the qualifications of subrule (10)(a) or (10)(b) of this rule or having 5 years of experience as a program director before December 7, 2006 is exempt from the requirements of subrule (13) of this rule.~~

(4612) A program director is exempt from the requirements of subrule (439) of this rule with verification that all duties required by subrule (43)(a) and (c) of this rule are handled by a central administrator, and the central administrator meets the requirements of subrule (439) of this rule. Verification of the duties and education of the central administrator must be made available to the department upon request.

(4713) Verification of the education, credentials, and experience of the program director ~~shall~~ **must** be kept on file at the center **or made available online at MiRegistry.**

**(14) A program that has only a before school program or an afterschool program, but not both, serving school-aged children may have a program director that meets the qualifications of a site supervisor, as specified in R 400.8119.**

R 400.8119 Site supervisor; qualifications; responsibilities.

Rule 119. (1) For multi-site school-age programs, with a school-age program director responsible for more than 1 center, a site supervisor shall be present **at each center** during all hours of operation.

(2) Site supervisors shall meet all of the following **requirements**:

- (a) Be at least 19 years of age.
- (b) Have earned a high school diploma, GED, or equivalent.
- (c) Have 480 hours of experience working as a ~~caregiver~~ **child care staff member** in a program serving school-age children.
- (d) Have completed 15 clock hours, 1 semester hour, or 1.5 CEUs of documented school-age training.

(3) Site supervisors are responsible for the daily operation and implementation of the site program, supervision of the site staff, and overall care and supervision of children.

- (4) Site supervisors shall assist the multi-site school-age program director in all of the following:
  - (a) Developing, implementing, and evaluating program and center policies.
  - (b) Administering day-to-day operations, including being available to address parent, child, and staff issues.
  - (c) Monitoring and overseeing staff.
- (5) Verification of the requirements of subrule (2) must be kept on file at the center.

R 400.8122 Lead caregiver; qualifications; responsibilities.

Rule 122.-(1) As used in this rule:

- ~~(a) “Child-related field” means elementary education, child guidance/counseling, child psychology, family studies, and social work.~~
- ~~-(b) “Child development associate credential (CDA)” means a credential awarded by the council for professional recognition or similar credential approved by the department.~~
- ~~-(c) “Montessori credential” means a credential issued by the association Montessori internationale (AMI), American Montessori society (AMS), or any Montessori teaching training institution recognized by the Montessori accreditation council for teacher education (MACTE) that meets or exceeds 270 hours of academic training.~~
- ~~-(d) “Hours of experience” means experience serving the ages and developmental abilities of children for whom the caregiver will provide care.~~

- (21) Lead caregivers are required only for groups of children who are preschool age and younger.
- (32) At least 1 lead caregiver shall be assigned to each group of children in a self-contained or well-defined space and shall be present and providing care in the assigned group in the following manner:
  - (a) Full time for programs operating less than 6 continuous hours.
  - (b) At least 6 hours per day for programs operating 6 or more continuous hours.
- (43) Lead caregivers shall be responsible for both of the following:
  - (a) Overseeing the planning, implementation, and evaluation of the classroom program and child assessment.
  - (b) Overseeing ~~caregiving staff~~ **child care staff members** for a specific group of children and overall care and supervision of children.
- (54) Lead caregivers shall have both of the following qualifications:
  - (a) Be at least 19 years of age.
  - (b) Have a high school diploma or GED.
- (65) Lead caregivers shall meet 1 of the following qualifications **shown in Table 3**:

<b>TABLE 3</b>			
<b>Lead Caregiver Qualifications</b>			
	Education	Coursework in Early Childhood Education, Child Development, or a Child-Related Field	Hours of Experience
(a)	Bachelor’s degree or higher in early childhood		

	education, child development, or a child-related field		
(b)	<b>Montessori credential with</b>		<b>480 hours</b>
(bc)	Associate's degree or higher in early childhood education or child development		
(c)	<del>Montessori credential with</del> →		480 hours
(d)	Valid child development associate credential with →		480 hours
(e)	High school diploma/ <del>GED</del> <b>diploma or GED</b> with →	12 semester hours and →	960 hours
(f)	High school diploma/ <del>GED</del> <b>diploma or GED</b> with →	A combination of: 12 semester hours, and/or 18 CEUs, or a <b>combination</b> to equal 180 clock hours with →	1,920 hours
(g)	High school diploma/ <del>GED</del> <b>diploma or GED</b> with →	A combination of: 6 semester hours, and/or 9 CEUs, or a <b>combination</b> to equal 90 clock hours with →	3,840 hours

~~(7) Lead caregivers hired after the effective date of these rules shall meet 1 of the qualifications of subrule (6)(a) to (f) of this rule.~~

**(6) Lead caregivers qualified under subrule (5), Table 3, row (g) of this rule, have 2 years from date of hire in this position to obtain an additional 6 semester hours, 9 CEUs, or a combination to equal 90 clock hours, or 90 hours from MiRegistry.**

~~(8) Lead caregivers qualified under subrule (6)(d) of this rule with an expired child development associate credential have 1 year from the effective date of these rules to obtain a valid child development associate credential.~~

~~(97) Lead caregivers for infants and toddlers shall have 3 semester hours, or 4.5 CEUs, or 45 hours of MiRegistry approved in infant/toddler infant and toddler development and care practices within 6 months of hire. These semester hours or CEUs may satisfy a portion of the requirements of subrule (6) of this rule.~~

~~(108) A substitute for a lead caregiver shall be appointed for a lead caregiver who has left employment or has a temporary absence that exceeds 30 consecutive workdays until return or replacement. A substitute lead caregiver shall meet at least the qualifications of lead caregiver or be currently enrolled in relevant training. has 90 days to meet the qualifications of a lead caregiver.~~



(119) Verification of the education, credentials, and experience of each lead caregiver shall be kept on file at the center **or at MiRegistry.**

R 400.8125 Staff; and ~~Volunteers~~ **volunteer; requirements.**

Rule 125. (1) All staff and volunteers shall provide appropriate care and supervision of children at all times.

(2) All staff **and volunteers** shall ~~be of responsible character and suitable to meet the needs~~ **act in a manner that is conducive to the welfare** of children.

**(3) All supervised volunteers shall receive a public sex offender registry (PSOR) clearance before having any contact with a child in care. A copy of this clearance must be kept on file at the center.**

~~(3) Both of the following shall be developed and implemented:~~

~~(a) A written screening policy for all staff and volunteers, including parents. The written screening policy shall include when a staff member cannot be present at the center as indicated in subrule (5) and (7) of this rule.~~

~~(b) A written policy regarding screening and supervision of staff and volunteers, including volunteers who are parents of a child in care. The policy must include a statement that any individual registered on the public sex offender registry (PSOR) is prohibited from having contact with any child in care. The written volunteer supervision policy shall include when a volunteer shall not have unsupervised contact with a child in care as indicated by subrule (6) and (8) of this rule.~~

~~(4) A criminal history check using the Michigan department of state police internet criminal history access tool (ICHAT), or equivalent, for a person's state of official residence, shall be completed before making an offer of employment to that person. A copy of the ICHAT shall be kept on file at the center.~~

~~(5) A staff member shall not be present in the center if he or she has been convicted of any of the following:~~

~~(a) A listed offense, as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.~~

~~(b) Child abuse or child neglect.~~

~~(c) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.~~

~~(6) Documentation shall be on file at the center that a volunteer has not been convicted of any of the following before having unsupervised contact with children:~~

~~(a) A listed offense, as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.~~

~~(b) Child abuse or child neglect.~~

~~(c) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of offering to volunteer at the center.~~

~~(7) A staff member shall not be present in the center until there is documentation from the department of human services on file at the center that he or she has not been named in a central registry case as a perpetrator of child abuse or child neglect.~~

~~(8) Documentation from the department of human services that a volunteer has not been named in a central registry case as the perpetrator of child abuse or child neglect shall be on file at the center before having unsupervised contact with a child in care.~~

~~(9) If a staff person has resided outside of this state as an adult within the 10 years immediately preceding the date of hire, a criminal history check equivalent to Michigan department of state police internet criminal history access tool (ICHAT) and the department of human services central registry clearance shall be requested for all states of previous residence during those 10 years. The out-of-state requests and any responses shall be kept on file at the center.~~

~~(10) The documentation required by subrule (4), (6), (7) and (8) of this rule shall be updated every 2 years at renewal and upon request by the department and shall be kept on file at the center.~~

~~(11) A written plan to assure compliance with section 3 of the child protection law, 1975 PA 238, MCL 722.623, shall be developed and implemented.~~

(125) A written statement ~~shall~~ **must** be signed and dated by staff and volunteers at the time of hiring or before volunteering indicating all of the following information:

- (a) The individual is aware that abuse and neglect of children is against the law.
- (b) The individual has been informed of the center's policies on child abuse and neglect.
- (c) The individual knows that all staff and volunteers are required by law to immediately report suspected abuse and neglect to children's protective services.

R 400.8128—~~Health of staff and volunteers.~~ **Staff; volunteer; tuberculosis.**

Rule 128. **A center shall keep on file at the center Evidence evidence to verify that all each child care staff members member and each volunteer who has contact with children at least 4 hours per week for more than 2 consecutive weeks is free from communicable tuberculosis (TB), verified. Verification of TB status is required within 1 year before employment or volunteering, shall be kept on file at the center.**

R 400.8131 Professional development requirements.

Rule 131. (1) The center shall provide an orientation ~~of~~ **about** the center's policies and practices and ~~the child care these~~ administrative rules ~~to~~ **for** all staff **personnel** hired after the effective date of these rules and before unsupervised contact with children.

(2) ~~Caregivers~~ **Child care staff members** shall have training that includes information about ~~infant safe sleep and shaken baby syndrome~~ **prevention of sudden infant death syndrome and use of safe sleep practices** before caring for infants and toddlers.

(3) **Before caring for children, all child care staff members and unsupervised volunteers who work directly with children shall be trained on prevention of shaken baby syndrome, abusive head trauma and child maltreatment, and recognition and reporting of child abuse and neglect.**

(34) Before unsupervised contact with children, ~~each all caregiver child care staff members who work directly with children, site supervisors, and program director~~ shall complete ~~blood-borne pathogen~~ **prevention and control of infectious disease** training, **including immunizations.**

(5) **Within 90 days of being hired, or the first day as an unsupervised volunteer, all child care staff members and unsupervised volunteers who work directly with children shall complete the following trainings, which may count toward annual professional development hours and are available at MiRegistry:**

- (a) **Administration of medication.**
- (b) **Prevention of and response to emergencies due to food and allergic reactions.**
- (c) **Building and physical premises safety.**
- (d) **Emergency preparedness and response planning.**
- (e) **Handling and storage of hazardous materials and appropriate disposal of bio-contaminants.**
- (f) **Precautions in transporting children, if applicable.**
- (g) **Child development.**

(46) All ~~program directors, site supervisors, and caregivers~~ **child care staff members who work directly with children** shall complete 16 clock hours of professional development annually on topics relevant to job responsibilities, ~~including, but not limited to, that include,~~ **but are not limited to, any of the following subjects:**

- (a) ~~child~~ **Child** development and learning;
- (b) ~~health~~ **Health**, safety, and nutrition;
- (c) ~~family~~ **Family** and community collaboration.
- (d) ~~program~~ **Program** management;
- (e) ~~teaching~~ **Teaching** and learning;
- (f) ~~observation~~ **Observation**, documentation, and assessment;
- (g) ~~interactions~~ **Interactions** and guidance;
- (h) ~~and the child~~ **Child** care center administrative rules.

(7) ~~The A~~ center may count CPR and first aid training for up to 2 hours of the annual professional development hours in the year taken. **Staff may use hours from MiRegistry to meet the professional development requirements in subrule (6) of this rule.**

(58) An on-going professional development plan ~~shall~~ **must** be developed and implemented to include all the training and professional development required by ~~the child care center~~ administrative ~~these~~ rules.

(69) On-line trainings and correspondence courses ~~shall~~ **must** have an assessment of learning.

(710) All ~~program directors, lead caregivers, and at least 1 caregiver on duty in the center at all times in programs serving preschool age children and younger~~ **child care staff members shall have current who work directly which children are required to be trained in first aid and pediatric, child, and adult cardiopulmonary resuscitation (CPR) within 90 days of being hired. first aid and infant, child, and adult CPR training. Prior to issuing a license to operate a child care center, and prior to the renewal of a license, the department shall verify that at least 50% of the child care staff members who work directly with children are currently certified in first aid and pediatric, child, and adult CPR. Each of these child care staff member's first aid and CPR certificates must be valid and retained on file in the center.**

(8) All ~~program directors, site supervisors, and at least 1 caregivers on duty in the center at all times in programs serving only school age children shall have current first aid and child and adult CPR training.~~

(911) Verification of all professional development required by this rule ~~shall~~ **must** be kept on file at the center **or online at MiRegistry**. Verification ~~shall~~ **must** be issued from the training organization or trainer and include the date of the course, the name of the training organization or trainer, the topic covered, and the number of clock hours. **Training hours from MiRegistry also meet this rule.**

**(12) When the department of licensing and regulatory affairs or the department of education publishes a notice that a new health and safety update document or a new health and safety update training activity has been published on MiRegistry, the licensee shall ensure that all personnel read and acknowledge the document or complete the activity within 6 month of the notice.**

R 400.8134 Hand washing.

Rule 134. (1) As used in this rule, "hand washing" means to cleanse the hands with soap and warm running water for at least 20 seconds.

(2) All staff and volunteers shall wash their hands at all of the following times:

- (a) Prior to starting the workday at the center.
- (b) Prior to care of children.
- (c) Before preparing and serving food and feeding children.
- (d) Before giving medication.
- (e) After each diapering.
- (f) After using the toilet or helping a child use the toilet.
- (g) After handling bodily fluids.
- (h) After handling animals and pets and cleaning cages.
- (i) After handling garbage.
- (j) When soiled.

(3) Staff and volunteers shall ~~assure~~ **ensure** that children wash their hands at all of the following times:

- (a) Before meals, snacks, or food preparation experiences.
- (b) After toileting or diapering.
- (c) After handling animals and pets.
- (d) When soiled.

(4) Guidelines for hand washing ~~shall~~ **must** be posted in food preparation areas, in toilet rooms, and by all hand washing sinks.

**(5) Staff may wash children's hands with non-toxic disposable wipes in the following situations:**

- (a) When the child is too heavy to hold for handwashing.**
- (b) When the child cannot stand safely at the sink.**
- (c) When the child is not developmentally ready to hold his or her head.**
- (d) When the child has a special need, so the child is not able to wash his or her own hands.**

~~(56)~~ When soap and running water are not available during an outing, hand sanitizers, ~~and/or~~ **or** single-use wipes may be used as a temporary measure.

R 400.8137 Diapering; toileting.

Rule 137. (1) **Except as provided in subrule (2) of this rule, Diapering diapering shall must** occur in a designated diapering area that complies with all of the following:

- (a) Is physically separated from food preparation and food service.
- (b) Is within close proximity to a sink that is used exclusively for hand washing.
- (c) Has non-absorbent, smooth, easily cleanable surfaces in good repair.

- (d) Is of sturdy construction with railings or barriers to prevent falls.
  - (e) Is ~~at an adult work surface height~~ **elevated diapering table or similar structure.**
  - (f) Is washed, rinsed, and sanitized after each use.
- (2) Children 1 year of age and older may be changed in a bathroom standing up or on a nonabsorbent, easily sanitized surface, with a changing pad between the child and the surface. ~~Subrule (1)(e) of this rule does not apply.~~
- (3) Diapering supplies ~~shall~~ **must** be within easy reach of the designated diapering area.
  - (4) A plastic-lined, tightly covered container ~~shall~~ **must** be used exclusively for disposable diapers and training pants and diapering supplies. ~~that shall~~ **The container must** be emptied and sanitized at the end of each day.
  - (5) Only single-use disposable wipes or other single-use cleaning cloths ~~shall~~ **must** be used to clean a child during the diapering or toileting process.
  - (6) Diapers and training pants ~~shall~~ **must** be checked frequently and changed when wet or soiled.
  - (7) Guidelines for diapering ~~shall~~ **must** be posted in diapering areas.
  - (8) Disposable gloves, if used for diapering, ~~shall~~ **must** only be used once for a specific child and be removed and disposed of in a safe and sanitary manner immediately after each diaper change.
  - (9) The following ~~shall~~ apply when cloth diapers or training pants are used:
    - (a) Each cloth diaper ~~shall~~ **must** be covered with an outer waterproof covering. Outer coverings ~~shall~~ **must** be removed as a singular unit with wet or soiled diapers and with wet or soiled training pants, if used.
    - (b) Diapers, training pants, and outer coverings ~~shall~~ **must** not be reused until washed and sanitized.
    - (c) ~~No rinsing of~~ **Rinsing** the contents ~~shall~~ **must not** occur at the center.
    - (d) Soiled diapers ~~shall~~ **must** be placed in a plastic-lined, covered container, **wet bag, or other waterproof container**, and used only for that child's soiled diapers.
    - (e) Soiled diapers or training pants ~~shall~~ **must** be stored and handled in a manner that will not contaminate any other ~~child-contact~~ items and ~~shall~~ **must** not be accessible to children.
    - (f) Soiled diapers or training pants ~~shall~~ **must** be removed from the center every day by the child's parent.
    - (g) A child's supply of clean diapers or training pants ~~shall~~ **may** only be used for that child.
  - (10) Toilet ~~learning/training~~ **learning or training** ~~shall~~ **must** be planned cooperatively between the child's regular caregivers and the **child's** parent so ~~that~~ the toilet routine established is consistent between the center and the child's home.
  - (11) Equipment used for toilet ~~learning/training~~ **learning or training** ~~shall~~ **must** be provided. All of the following equipment is acceptable for toilet ~~learning/training~~ **learning or training**:
    - (a) Adult-sized toilets with safe and easily cleanable modified toilet seats and step aids.
    - (b) Child-sized toilets.
    - (c) Non-flushing toilets (~~potty chairs~~) **or potty chairs**, if they are all of the following:
      - (i) Made of a material that is easily cleanable.
      - (ii) Used only in a bathroom area.
      - (iii) Used over a surface that is impervious to moisture.
      - (iv) Washed, rinsed, and sanitized after each use.

## R 400.8140 Discipline.

Rule 140. (1) Positive methods of discipline that encourage self-control, self-direction, self-esteem, and cooperation ~~shall~~ **must** be used.

(2) All of the following means of punishment ~~shall be~~ **are** prohibited:

(a) Hitting, spanking, shaking, biting, pinching, or inflicting other forms of corporal punishment.

**(b) Placing any substances in a child's mouth, including but not limited to, soap, hot sauce, or vinegar.**

~~(bc)~~ Restricting a child's movement by binding or tying him or her.

~~(ed)~~ Inflicting mental or emotional punishment, such as humiliating, shaming, or threatening a child.

~~(de)~~ Depriving a child of meals, snacks, rest, or necessary toilet use.

~~(ef)~~ Excluding a child from outdoor play or other gross motor activities.

~~(fg)~~ Excluding a child from daily learning experiences.

~~(gh)~~ Confining a child in an enclosed area, such as a closet, locked room, box, or similar ~~enclosure~~ **enclosure**.

**(i) Time out must not be used for children under 3 years of age.**

(3) Non-severe and developmentally appropriate discipline or restraint may be used when reasonably necessary, based on a child's development, to prevent a child from harming himself or herself or to prevent a child from harming other persons or property, excluding those forms of punishment prohibited by subrule (2) of this rule.

(4) A **written** policy ~~shall~~ **must** be developed and implemented regarding the **age appropriate, non-severe** discipline of children. The policy **must be provided to staff and parents**. ~~shall be all of the following:~~

~~(a) In written form.~~

~~(b) Age appropriate.~~

~~(c) Provided to staff and parents.~~

## R 400.8143 Children's records.

Rule 143. (1) At the time of ~~the~~ a child's initial attendance, ~~the~~ a center shall obtain a child information card, using a form provided by the department or a comparable substitute, **that is** completed and signed by the **child's** parent, ~~and the~~ **The** center shall keep it on file and accessible in the center.

(2) Child information cards ~~shall~~ **must** be reviewed and updated by parents at least annually and when the center becomes aware of changes.

(3) **For children under school-age, At** at the time of a child's initial attendance, ~~1 of the following shall be obtained and kept~~ **a center shall obtain, keep** on file, and **make** accessible in the center ~~for children under school-age, 1 of the following:~~

(a) A certificate of immunization showing a minimum of 1 dose of each immunizing agent specified by the department of ~~community~~ **health and human services (DHHS)**.

(b) A copy of a waiver addressed to ~~the department of community health~~ **DHHS** and signed by the parent stating immunizations are not being administered due to religious, medical, or other reasons.

(4) When a child under school-age whose immunizations were not up-to-date at the time of enrollment has been in attendance for 4 months, an updated certificate showing completion of all additional immunization requirements as specified by ~~the department of community health shall~~ **DHHS must** be kept on file, unless there is a signed statement by a licensed health care provider stating immunizations are in progress.

(5) **A center shall report to DHHS, by October 1 of each year and using the method established by the DHHS, immunizations for all children enrolled,** ~~Under~~ ~~under~~ section 9211(2) of the public health code, 1978 PA 368, MCL 333.9211(2), ~~immunizations shall be reported to the department of community health for all children enrolled, using the method established by the department of community health by October 1 of each year.~~

(6) Within 30 days of a **child's** initial attendance, ~~1 of the following shall be obtained and kept on file and accessible in the center:~~ **a center shall obtain, keep on file, and make accessible in the center a record of a physical evaluation of the child that notes any restrictions and is signed by a physician or the physician's designee. An electronic record from a physician's office will be accepted. The physical evaluation must be performed within 1 of the following time limits:**

(a) ~~For infants: A physical evaluation performed within the preceding 3 months signed by a licensed health care provider. Restrictions shall be noted.~~ **For an infant, within the preceding 3 months.**

(b) ~~For toddlers: A physical evaluation performed within the preceding 6 months signed by a licensed health care provider. Restrictions shall be noted.~~ **For toddlers, within the preceding 6 months.**

(c) ~~For preschoolers: A physical evaluation, performed within the preceding year signed by a licensed health care provider. Any restrictions shall be noted.~~ **For preschoolers, within the preceding 12 months.**

(7) Physical evaluations ~~shall~~ **must** be updated as follows:

- (a) Yearly for infants and toddlers.
- (b) Every 2 years for preschoolers.

(8) Upon enrollment and annually thereafter, ~~the~~ **a center shall obtain and keep on file at the center a signed statement from the a school-age child's parent confirming all of the following:**

- (a) The child is in good health with activity restrictions noted.
- (b) The child's immunizations are up-to-date.
- (c) The immunization record or appropriate waiver is on file with the child's school.

(9) ~~The~~ **A center shall assure ensure** that, if a parent objects to a physical examination or medical treatment on religious grounds, then the parent provides a signed statement annually that the child is in good health and that the parent assumes responsibility for the child's state of health while at the center.

(10) **A center that enrolls a homeless child pursuant to the section 722 of the McKinney-Vento homeless education assistance improvements act of 2001, as amended by section 9102 of the every student succeeds act, 42 USC 11432, shall not be cited for noncompliance when a homeless child is unable to produce health and immunization records. The licensee shall file any documentation of referring a child to the local educational agency liaison for homeless children and youths.**

(1011) ~~The~~ **A center shall maintain an accurate record of daily attendance at the center that includes each child's first and last name and each child's arrival and departure time.**

**Electronic records may be used. If electronic attendance records are used, then they must be available to the department at the time of an inspection. If the electronic attendance records are not available during an on-site inspection, then the center is in violation of this rule.**

~~(112) Parent's~~ **A parent's** written permission for the child's participation in field trips ~~shall~~ **must** be obtained at the time of enrollment or before each field trip, and kept on file at the center.

**(13) Parents shall be notified before each field trip.**

R 400.8146 Information provided to parents.

Rule 146. (1) A center shall provide a written information packet to each parent enrolling a child that includes at least all of the following:

- (a) Criteria for admission and withdrawal.
  - (b) Schedule of operation, denoting hours, days, and holidays during which the center is open; and services are provided.
  - (c) Fee policy.
  - (d) Discipline policy.
  - (e) Food service policy.
  - (f) Program philosophy.
  - (g) Typical daily routine.
  - (h) Parent notification plan for accidents, injuries, incidents, **and** illnesses.
  - (i) Transportation policy, if applicable.**
  - (j) Medication policy.**
  - ~~(k)~~ Exclusion policy for child illnesses.
  - ~~(l)~~ Notice of the availability of the center's licensing notebook. The notice ~~shall~~ **must** include all of the following:
    - (i) The licensing notebook contains all the licensing inspection and special investigation reports and related corrective action plans ~~since May 28, 2010~~ **for the last 5 years.**
    - (ii) The licensing notebook is available to parents during regular business hours.
    - (iii) Licensing inspection **reports, and** special investigation reports, **and corrective action plans** from at least the past ~~2~~ **3** years are available on the **department's** child care licensing website at [www.michigan.gov/michildcare](http://www.michigan.gov/michildcare). The website address must be in bold print.
  - (m) The website where parents can access these rules is [www.michigan.gov/michildcare](http://www.michigan.gov/michildcare).**
- (2) Written documentation that the parent received the written information packet, as required by subrule (1) of this rule, ~~shall~~ **must** be kept on file at the center.
- (3) For infants and toddlers, ~~parents shall~~ **a center shall provide parents with** receive a written daily record that includes at least the following information:
- (a) Food intake; time, type of food, and amount eaten.
  - (b) Sleeping patterns; **indicating** when and how long **the** child slept.
  - (c) Elimination patterns, including bowel movements, consistency, and frequency.
  - (d) Developmental milestones.
  - (e) Changes in the child's usual behaviors.



(4) Parents of children with special needs may request a written daily record that includes at least the information required by subrule (3) of this rule.

~~–(5) Parents shall be notified before each field trip.~~

R 400.8149 Parent permission for transportation.

Rule 149. (1) ~~Parent's~~ **A center shall obtain a parent's** written permission ~~shall be obtained~~ annually for routine transportation.

(2) ~~Parent's~~ **A center shall obtain a parent's** written permission for any **non-routine** transportation ~~not considered routine shall be obtained~~ before each trip.

(3) Permission for all transportation ~~shall~~ **must** be kept on file at the center.

R 400.8152 Medication; administrative procedures.

Rule 152. (1) Medication, prescription or nonprescription, ~~shall~~ **must** be given to a child by ~~an adult caregiver~~ **a child care staff member** only.

(2) A ~~caregiver~~ **child care staff member** shall give or apply medication, prescription or nonprescription, only with prior written permission from a parent.

(3) All medication ~~shall~~ **must** be **in** its original container, stored according to instructions, and clearly labeled for a named child, **including all nonprescription topical medications described in subrule (8) of this rule.**

(4) Prescription medication ~~shall~~ **must** have the pharmacy label indicating the physician's name, child's **first and last** name, instructions, ~~and~~ name and strength of the medication, and ~~shall~~ **must** be given according to those instructions.

(5) A ~~caregiver~~ **child care staff member** shall keep all medication out of the reach of children and shall return it to the child's parent or destroy it when the parent determines it is no longer needed or it has expired.

(6) A ~~caregiver~~ **child care staff member** shall give or apply any prescription or nonprescription medication according to the directions on the original container, unless **otherwise** authorized by a written order of the child's physician.

(7) A ~~caregiver~~ **child care staff member** shall not add medication to a child's bottle, beverage, or food unless indicated on the prescription label.

(8) Topical nonprescription medication, including, but not limited to **diapering cream, triple antibiotic, sunscreen, and insect repellent**, requires written parental authorization annually.

(9) ~~The~~ **A center shall maintain a record as to the time and the amount of medication given or applied, with the exception of medications described in subrule (8) of this rule, on a form provided by the department or a comparable substitute approved by the department. One form per medication is required.** The signature of the ~~caregiver~~ **child care staff member** administering the medication ~~shall~~ **must** be included.

R 400.8155 Child accidents and incidents; child and staff illness.

Rule 155. (1) ~~A plan for when and how parents will be notified when the center observes changes in the child's health, a child experiences accidents, injuries, or incidents, or when a child is too ill to remain in the group shall be developed and implemented.~~ **A center shall**

have a written plan for how and when a parent is notified when personnel observe any of the following:

- (a) **Changes in a child's health.**
- (b) **A child experiences an accident, injury, or incident.**
- (c) **A child is too ill to remain in the group.**
- (2) ~~The A~~ center shall ~~assure~~ **ensure** that a child **who is** too ill to remain in the group is placed in a separate area and is cared for and supervised until the parent arrives.
- (3) Items and facilities used by an ill child or adult ~~shall~~ **must** not be used by any other ~~person~~ **individual** until washed, rinsed, and sanitized.
- (4) If ~~the a~~ center becomes aware that a staff member, volunteer, or child in care has contracted a communicable disease, then the center shall notify parents ~~of both of the following~~ **and provide all of the following information:**
  - (a) The name of the communicable disease **the children were exposed to.**
  - (b) The symptoms of the disease.
  - (c) **Prevention measures as recommended by the U.S. Centers for Disease Control and Prevention (CDC) at the following website: <https://www.cdc.gov/DiseasesConditions>.**
- (5) A center shall have a written policy detailing when children, staff, and volunteers will be excluded from ~~child care~~ **the center** due to illness ~~shall be developed and implemented.~~

R 400.8158 Incident, accident, injury, illness, death, fire reporting.

Rule 158. (1) **In the event of the death of a child in care, a licensee, licensee designee, or program director shall do both of the following:**

- (a) **Immediately report it, in-person or via phone, directly to the child's parent.**
- (b) **Report it to the department within 24 hours, via phone.**
- (2) **A licensee, licensee designee, or program director shall report to the child's parent and the department, directly or via phone, fax, or email, within 24 hours of the occurrence of any of the following:**
  - (a) **A child is lost or left unsupervised.**
  - (b) **An incident involving an allegation of inappropriate contact.**
  - ~~(1) A center shall make a verbal report to the department within 24 hours of the occurrence of any of the following:~~
    - ~~(a) A child is lost or left unsupervised.~~
    - ~~(b) An incident involving an allegation of inappropriate contact.~~
    - ~~(c) The death of a child in care.~~
  - (~~c~~) **A fire on the premises of the center that requires the use of fire suppression equipment or results in loss of life or property.**
  - (~~d~~) **The center is evacuated for any reason.**
- (23) ~~A center~~ **licensee, licensee designee, or program director** shall ~~make a verbal~~ report to the department, **via phone, fax, or email**, within 24 hours of notification by a parent that a child received medical treatment or was hospitalized for an injury, accident, or medical condition that occurred while the child was in care.
- (34) ~~A center~~ **licensee, licensee designee, or program director** shall submit a written report to the department of the occurrences outlined in subrules (1), ~~and~~ (2), **and** (3) of this rule, in a format provided by the department, within 72 hours of the verbal report to the department.

(45) A center licensee, licensee designee, or program director shall keep a copy of the report on file at the center.

R 400.8161 Emergency procedures.

Rule 161. (1) Written procedures for the care of children and staff for each of the following emergencies ~~shall~~ **must** be developed and implemented:

- (a) Fire.
- (b) Tornado.
- (c) Other natural or man-made disasters.
- (d) Serious ~~accident/illness/injury~~ **accident, illness, or injury.**
- (e) Crisis management including, but not limited to, intruders, **active shooters**, ~~and~~ bomb threats, **and other man-made events.**
- (2) The written procedures ~~shall~~ **must** include all of the following:
  - (a) A plan for **evacuation.** ~~evacuating and safely moving children to a relocation site.~~
  - (b) **A plan for safely moving children to a relocation site.**
  - (c) **A plan for shelter-in-place.**
  - (d) **A plan for lockdown.**
  - (~~be~~) A ~~method~~ **plan** for contacting parents and reuniting families.
  - (~~ef~~) A plan for how each child with special needs will be accommodated during each type of emergency.
  - (g) **A plan for how infants and toddlers will be accommodated during each type of emergency.**
  - (h) **A plan for how children with chronic medical conditions will be accommodated during each type of emergency.**
- (3) The plans required by subrule (1)(a) to (d) ~~shall~~ **of this rule must** be posted in a place visible to staff and parents.
- (4) The crisis management plan **required by subrule (2)** ~~shall~~ **of this rule must** be maintained in a place known and easily accessible to ~~staff~~ **all personnel.**
- (5) A fire drill program, consisting of at least 1 fire drill quarterly, ~~shall~~ **must** be established and implemented.
- (6) A tornado drill program, consisting of at least 2 tornado drills between the months of ~~April~~ **March** through ~~October~~ **November**, ~~shall~~ **must** be established and implemented.
- (7) A written log indicating the date and time of fire and tornado drills ~~shall~~ **must** be kept on file at the center.
- (8) Each ~~staff~~ **child care staff** member shall be trained at least twice a year on his or her duties and responsibilities for all emergency procedures referenced in subrule (1) of this rule.
- (9) If cribs are used in emergency evacuations, then all doors within the means of egress ~~shall~~ **must** be wide enough to readily accommodate the crib evacuation.

R 400.8164 Telephone service.

Rule 164. (1) ~~A land-line telephone, excluding pay phones, cell phones, and cordless phones, shall be available, operable, and accessible in the building during the hours that the center is in operation. An operable land-line telephone does not require electricity in the~~

~~center to operate.~~ **An operable phone must be available and accessible in the building during the hours the center is in operation.**

(2) During the hours the center is in operation, a ~~telephone~~ **phone** number known to the public and available to parents to provide immediate access to the center ~~shall~~ **must** be provided.

(3) Emergency ~~telephone~~ **phone** numbers, including 911, fire, police, and the poison control center, and the facility's physical address and 2 main cross streets, ~~shall~~ **must** be conspicuously posted **in a place visible to staff.** ~~immediately adjacent to all center telephones.~~

#### R 400.8167 Indoor space.

Rule 167. (1) The required square footage of indoor space per child ~~shall~~ **must** be at least the following:

(a) Fifty square feet for infants and toddlers.

(b) Thirty-five square feet for preschoolers and school-agers.

(2) The following indoor space is excluded from the required square footage:

(a) Hallways.

(b) Bathrooms.

(c) Reception and office areas.

(d) Kitchens.

(e) Storage areas and ~~closets~~ **cloakrooms.**

(f) Areas used exclusively for resting, sleeping, or eating, except for infants and toddlers.

(3) A center shall provide a floor plan of all child use areas to the department at initial licensure and before making structural changes or adding any child use space. Only space that has received prior approval for child use by the department may be used for child care.

#### R 400.8170 Outdoor play area.

Rule 170. (1) As used in this rule:

(a) "Certified playground safety inspector" means an individual certified by the National Playground Safety Institute or the National Program for Playground Safety to conduct playground safety inspections.

(b) "Natural playground" means an outdoor play area that blends natural materials, features, and vegetation.

(2) The outdoor play area ~~shall~~ **is** considered an outdoor classroom and an extension of the learning environment.

(3) A center operating with children in attendance for 3 or more continuous hours per day shall provide daily outdoor play, unless prevented by inclement weather or other weather conditions that could result in children becoming overheated or excessively chilled.

(4) A center operating with children in attendance for 3 or more continuous hours a day shall have an outdoor play area that has at least 1,200 square feet. More than 1,200 square feet of outdoor play area may be required when the minimum amount is not adequate for the number of children for which the center is licensed.

(5) If outdoor space is not available adjacent to the center, then a center may use a park or other outdoor facility. ~~All of the following shall apply~~ **The outdoor space must meet all of the following requirements:**

- (a) The area ~~shall~~ **must** be easily accessible by a safe walking route.
- (b) The play area ~~shall~~ **must** be inspected before each use to ensure that no hazards are present.
- (c) The location of the alternative outdoor play area ~~shall~~ **must** be specified in writing to the department.
- (6) There ~~shall~~ **must** be a shaded area to protect children from excessive sun exposure, when necessary.
- (7) The outdoor play area ~~shall~~ **must** be in a safe location.
- (8) The outdoor play area ~~shall~~ **must** be protected from hazards, when necessary, by a fence or natural barrier that is at least 48 inches in height.
- (9) Children shall only use age-appropriate equipment.
- (10) An outdoor play area and any equipment located on the center's premises ~~shall~~ **must** be maintained in a safe condition and inspected daily before use to ensure that no hazards are present.
- (11) The playground equipment, use zones, and surfacing in the outdoor play area ~~shall~~ **must** be inspected by a certified playground safety inspector and an approval granted for playground equipment and areas used before issuance of an original ~~provisional~~-license, upon request of the department, and before using any newly added playground equipment. The center shall provide documentation of the inspection to the department upon request and shall keep it on file at the center.

**(12) School-age centers operating in school buildings approved by the Michigan department of education are exempt from subrule (11) of this rule, provided the licensee informs parents, in writing at the time of enrollment, if the center plans to use a public school's outdoor play area and equipment that do not comply with subrule (11) of this rule.**

**(13) All pieces of playground equipment that have an elevated playing or climbing surface, regardless of the height of the playing or climbing surface, must be surrounded by a shock absorbing surface and meet the guidelines defined by the Consumer Product Safety Commission (CPSC) Handbook for Public Playground Safety, which is available at no cost at [www.cpsc.gov](http://www.cpsc.gov). This handbook is also available for inspection, and distribution at no cost, at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933. The shock absorbing surface material may be either unitary or the loose-fill type. An exception to this subrule is provided for natural playgrounds.**

**(14) Shock-absorbing surfacing materials are not required for equipment that requires a child to be standing or sitting on the ground during play.**

~~(1215)~~ Loose-fill surfacing material ~~shall~~ **must** not be installed over concrete or asphalt.

~~(1316)~~ The depth of the loose-fill surface material ~~shall~~ **must** be restored to its required depth when it has moved or becomes otherwise compromised.

~~(1417)~~ If children's wheeled vehicles and pull toys are used, then a suitable surface ~~shall~~ **must** be provided for their use.

~~(1518)~~ Materials used on a natural playground ~~shall~~ **must** not be in the use zones for other playground equipment.

~~(1619)~~ The elevated playing surface of materials used on a natural playground ~~shall~~ **must** not exceed 30 inches.

~~(1720)~~ Materials used on a natural playground with elevated playing surfaces ~~shall~~ **must** not be installed over concrete or asphalt.

~~(1821)~~ Surfacing materials are not required under elevated playing surfaces on a natural playground.

~~(19)~~ School-age centers operating in school buildings approved by the Michigan department of education are exempt from subrule (11) of this rule, provided the licensee informs parents, in writing at the time of enrollment, if the center plans to use a public school's outdoor play area and equipment that does not comply with this rule.

#### R 400.8173 Equipment.

Rule 173. (1) A center shall not use equipment, materials, and furnishings recalled or identified by the United States ~~consumer product safety commission~~ **Consumer Product Safety Commission (CPSC)** (~~www.epse.gov~~) as being hazardous. **This information is available free of charge at the CPSC website, www.cpsc.gov.**

(2) The current list of unsafe children's products that is provided by the department ~~shall~~ **must** be conspicuously posted in the center, as required by section 15 of the children's product safety act, 2000 PA 219, MCL 722.1065.

**(3) Materials that have a warning label indicating they are toxic for children, or to keep out of reach of children, must not be used by children.**

(34) Play equipment, materials, and furniture, ~~shall~~ **must** be all of the following:

(a) Appropriate to the developmental needs and interests of children as required by R 400.8179(2).

(b) Safe, clean, and in good repair.

(c) Child-sized or appropriately adapted for a child's use.

(d) Easily accessible to the children.

**(45) A center shall provide a minimum of 3 playspaces per child multiplied by the number of children the center is licensed to serve. Sufficient materials and equipment shall ~~must~~ be available to provide a minimum of 3 playspaces per child in the licensed capacity.**

~~(56)~~ A minimum of 2 playspaces ~~shall~~ **must** be accessible per child in attendance on any given day during child-initiated activity time.

~~(67)~~ Children shall have access to equipment and materials in the following areas on a daily basis:

(a) Large and small muscle activity.

(b) Sensory exploration.

(c) Social interaction and dramatic play.

(d) Discovery and exploration.

(e) Early math and science experiences.

(f) Creative experiences through art, music, and literature.

(78) A current and accurate equipment inventory ~~shall~~ **must** be provided to the department before issuance of the original ~~provisional~~ license and **updated and made available** at each renewal.

(89) A first aid kit ~~shall~~ **must** be readily accessible to staff and securely stored in the center.

(910) A rocking chair or other comfortable, adult-sized seating ~~shall~~ **must** be provided for 50% of the ~~caregiving staff~~ **child care staff members** on duty who are providing infant and toddler care.

(1011) Trampolines **and bounce houses** ~~shall~~ **must** not be used by children in care **at the child care center**.

R 400.8176 Sleeping equipment.

Rule 176. (1) All bedding and sleeping equipment ~~shall~~ **must** be appropriate for the child; be clean, comfortable, and safe; and be in good repair.

**(2) Heavy objects that could fall on a child, such as shelving and televisions, must not be above sleeping equipment.**

(23) A crib or porta-crib ~~shall~~ **must** be provided for all infants in care.

(34) A crib, porta-crib, cot, or mat, and a sheet or blanket of appropriate size ~~shall~~ **must** be provided for all toddlers and preschoolers under 3 years of age in care.

(45) A cot or a mat and a sheet or blanket of appropriate size ~~shall~~ **must** be provided as follows:

- (a) For all preschoolers 3 years of age and older in care for 5 or more continuous hours.
- (b) For any child in care who regularly naps.
- (c) Upon a parent's request for any child in care.

(56) Car seats, infant seats, swings, bassinets, and ~~playpens~~ **play yards** are not approved sleeping equipment.

**(7) Documentation from the child's health care provider is required if a child has a health issue or special need that requires the child to sleep in something other than a crib or porta-crib for infants or toddlers, or cot or mat for toddlers. The documentation must include specific sleeping instructions and time frames for how long the child needs to sleep in this manner, including an end date.**

**(8) Swaddling with a sleep sack swaddle attachment or swaddle wrap is allowed only for infants up to 2 months of age. If a child has a health issue or special need that requires the child use a swaddle attachment or swaddle wrap after the child is 2 months of age, documentation from the health provider is required. The documentation must include specific sleeping instructions and time frames for how long the child needs to sleep in this manner, including an end date.**

(69) A center shall not use stacking cribs.

(710) Cribs and porta-cribs ~~shall~~ **must** comply with the federal product safety standards issued by the ~~consumer product safety commission~~ **United States Consumer Product Safety Commission, which are available at no cost at the commission's website, [www.cpsc.gov](http://www.cpsc.gov). These standards are also available for inspection or distribution at no cost from the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.**

(811) A crib or porta-crib ~~shall~~ **must** have a firm, tight-fitting waterproof mattress.

(912) A tightly fitted bottom sheet ~~shall~~ **must** cover the crib or porta-crib mattress with no additional padding placed between the sheet and mattress.

(1013) Soft objects, bumper pads, stuffed toys, blankets, quilts, comforters, and other objects that could smother a child ~~shall~~ **must** not be placed in, **or within reach of**, a crib or porta-crib with a resting or sleeping infant.

(1114) Blankets ~~shall~~ **must** not be draped over cribs or porta-cribs when in use.

(1215) Cots and mats ~~shall~~ **must** be constructed of a fabric or plastic ~~which~~ **that** is easily cleanable.

(1316) All sleeping equipment and bedding ~~shall~~ **must** be washed, rinsed, and sanitized when soiled, between uses by different children, and at least once a week regardless of use by different children.

(1417) When sleeping equipment and bedding are stored, both of the following apply:

- (a) Sleeping surfaces shall not come in contact with other sleeping surfaces.
- (b) Bedding ~~shall~~ **must** not come in contact with other bedding.

(1518) All occupied cribs, porta-cribs, cots, and mats ~~shall~~ **must** be placed in such a manner that there is a free and direct means of egress and ~~shall~~ **must** be spaced, as follows:

- (a) Cribs and porta-cribs **must be** at least 2 feet apart. Cribs or porta-cribs with solid-panel ends may be placed end-to-end.
- (b) Cots and mats **must be** at least 18 inches apart.

R 400.8179 Program.

Rule 179. (1) As used in this rule:

(a) “Confining equipment” means equipment used to assist in caring for infants, ~~and includes,~~ **including** but is not limited to, swings, stationary activity centers, infant seats, and molded seats.

(b) “Media” means use of electronic devices with a screen, including but not limited to, televisions, computers, tablets, multi-touch screens, interactive white boards, mobile devices, cameras, movie players, e-book readers, and electronic game consoles.

(c) “Interactive media” means media designed to facilitate active and creative use by children and to encourage social engagement with other children and adults.

(d) “Non-interactive media” means media ~~which are~~ **that is** used passively by children.

(2) A center shall implement a program plan ~~which that~~ includes daily learning experiences appropriate to the developmental level of the children. Experiences ~~shall~~ **must** be designed to develop all of the following:

- (a) Physical development.
- (b) Social development.
- (c) Emotional development.
- (d) Cognitive development.

(3) The program ~~shall~~ **must** be planned to provide a flexible balance of all of the following experiences:

- (a) Quiet and active.
- (b) Individual and ~~groups~~ **group**.
- (c) Large and small muscle.
- (d) Child initiated, and staff initiated.



(4) Developmentally appropriate experiences ~~shall~~ **must** be designed so that throughout the day each child has opportunities to do all of the following:

- ~~(a) Feel successful and feel good about him or herself and develop independence.~~
- ~~(b)~~ (ba) Practice social interaction skills.
- ~~(c)~~ (eb) Use materials and ~~takes~~ **take** part in activities ~~which~~ **that** encourage creativity.
- ~~(d)~~ (dc) Learn new ideas and skills.
- ~~(e)~~ (ed) Participate in imaginative play.
- ~~(f)~~ (fe) Participate in developmentally appropriate language and literacy experiences.
- ~~(g)~~ (gf) Participate in early math and science experiences.
- ~~(h)~~ (hg) Be physically active.

(5) A school-age program ~~shall~~ **must** supplement the areas of development not regularly provided for during the school day.

(6) A typical daily routine ~~shall~~ **must** be posted in a place visible to parents.

(7) When awake, use of confining equipment for infants ~~shall~~ **must** be minimized, not to exceed 30 minutes at a time.

**(8) Tummy time is required daily for all infants under 12 months of age, and must meet all of the following requirements:**

**(a) Infants shall be directly supervised at all times while engaged in tummy time.**

**(b) Infants shall be healthy, awake, and alert during tummy time. If an infant falls asleep, the infant must be immediately moved to a safe sleeping space.**

**(c) During tummy time, infants shall not be placed on or near soft surfaces, including but not limited to cushions, pillows, or padded mats.**

**(d) A parent may request in writing an exemption for their infant from tummy time. The request must be kept in the child's file.**

~~(89)~~ Use of media is prohibited for children under 2 years of age.

~~(910)~~ When media are used with children 2 years of age and older, all of the following apply:

(a) Activities ~~shall~~ **must** be developmentally appropriate.

(b) Interactive media ~~shall~~ **must** be used to support learning and to expand children's access to content, and ~~shall~~ be suitable to the age of the child in terms of content and length of use per session.

(c) Media with violent or adult content are prohibited while children are in care.

(d) Use of non-interactive media ~~shall~~ **must** not exceed 2 hours per week per child.

(e) When media are available for children's use, other activities ~~shall~~ **must** also be available to children.

~~(1011)~~ An exception to the requirements of subrule ~~(910)~~(d) of this rule may be made under the following conditions:

(a) School-age children ~~use~~ **using** computers and any other electronic devices for academic and educational purposes.

(b) Children ~~use~~ **using** assistive and adaptive technology.

~~(1112)~~ For children with special needs, care ~~shall~~ **must** be provided according to the child's needs as identified by parents, medical personnel, ~~and/or~~ **or** other relevant professionals.

~~(1213)~~ Parents may visit the center during hours of operation for the purpose of observing their children.

R 400.8182 Ratio and group size requirements.

Rule 182. (1) At least 2 adults, 1 of whom is a ~~caregiver~~ **child care staff member**, shall be present at all times when at least 3 children between the ages of birth and 3 years of age are present. A second ~~caregiver~~ **child care staff member** is required when needed to comply with subrule (3) of this rule.

(2) At least 2 adults, 1 of whom is a ~~caregiver~~ **child care staff member**, shall be present at all times when 7 or more children over 3 years of age are present. A second ~~caregiver~~ **child care staff member** is required when needed to comply with subrule (3) of this rule.

(3) In each room or well-defined space, the maximum group size and ratio of ~~caregivers~~ **child care staff members** to children, including children related to a staff member or the licensee, ~~shall must be the following as shown in Table 4:~~

<b>TABLE 4</b>			
<b>Child Care Staff Member to Child Ratios</b>			
	Age	<del>Caregiver</del> <b>Child Care Staff Member to Child Ratio</b>	Maximum Group Size
(a)	Infants and <del>Toddlers</del> <b>toddlers</b> , birth until 30 months of age	1 to 4	12
(b)	Preschoolers, 30 months of age until 3 years of age	1 to 8	16
(c)	Preschoolers, 3 years of age until 4 years of age	1 to 10	Not applicable
(d)	Preschoolers, 4 years of age until school-age	1 to 12	Not applicable
(e)	School-agers	1 to 18	Not applicable

~~(4) Volunteers may be counted in the caregiver to child ratios outlined in subrule (3) of this rule if they meet the definition of caregiver as defined by R 400.8101(e).~~

(4) ~~(5)~~ Children who have reached 33 months of age may, when developmentally appropriate, be enrolled in a 3-year-old classroom with written parental permission. The ratio listed in subrule (3)(c) of this rule ~~shall apply~~ **applies**.

(5) ~~(6)~~ Children who have reached 45 months of age may, when developmentally appropriate, be enrolled in a 4-year-old classroom with written parental permission. The ratio listed in subrule (3)(d) of this rule ~~shall apply~~ **applies**.

(6) ~~(7)~~ Children who have reached 57 months of age but who are not considered a school-ager ~~under R 400.8101(b)(iv)~~ may, when developmentally appropriate, be enrolled in a school-age classroom with written parental permission. The ratio listed in subrule (3)(e) of this rule ~~shall apply~~ **applies**.

(7) ~~(8)~~ If there are children of mixed ages in the same room or well-defined space, then the ratio and group size ~~shall be~~ **is** determined by the age of the youngest child, unless each group of children is clearly separated and the appropriate ~~caregiver~~ **child care staff member**-to-child ratios and group sizes, if applicable, for each age group are maintained.

(8) ~~(9)~~ An exception to the requirements of subrule (3) of this rule may be made when the center is transporting children and is in compliance with R 400.8760(1) and (2).

R 400.8185 Primary care.

Rule 185. (1) As used in this rule, “primary caregiver” means the ~~caregiver~~ **child care staff member** to whom the care of a specific infant or toddler is assigned. The primary caregiver is responsible for direct care, verbal and physical interactions, primary responses to the child’s physical and emotional needs, and continued interaction with the child’s parents regarding the child’s experiences.

(2) The center shall implement a primary care system so that each infant and toddler has a primary caregiver.

(3) Each infant and toddler shall have not more than 4 primary caregivers in a week. For centers operating less than 24 hours a day, an exception may occur during the first hour after the center opens and the hour before closing.

(4) Information regarding a child’s food, health, and temperament ~~shall~~ **must** be shared daily between **primary** caregivers when more than 1 primary caregiver is assigned to any infant or toddler.

(5) Primary caregiving assignments ~~shall~~ **must** be documented and provided to parents.

(6) An exception to ~~R 400.8185~~ **this rule** may be made when the center is transporting children and is in compliance with R 400.8760(1) and (2).

R 400.8188 Sleeping, resting, and supervision.

Rule 188. (1) Children under 3 years of age shall be provided opportunities to rest regardless of the number of hours in care.

(2) ~~The A~~ center shall permit children under 18 months of age to sleep on demand.

(3) Infants shall rest or sleep alone in cribs or porta-cribs.

(4) Infants shall be placed on their backs for resting and sleeping.

(5) Infants unable to roll from their stomachs to their backs and from their backs to their stomachs shall be placed on their backs when found face down.

(6) When infants can easily turn over from their stomachs to their backs and from their backs to their stomachs, they shall be initially placed on their backs, but shall be allowed to adopt whatever position they prefer for sleep.

(7) For an infant who cannot rest or sleep on her or his back due to disability or illness, written instructions, signed by the infant’s licensed health care provider, detailing an alternative safe sleep position ~~and/or~~ **or** other special sleeping arrangements for the infant ~~shall~~ **must** be followed and **kept** on file at the center. **The instructions must include an end date.**

(8) A sleeping infant’s breathing, sleep position, and bedding ~~shall~~ **must** be monitored frequently for possible signs of distress.

(9) An infant’s head ~~shall~~ **must** remain uncovered during sleep.

(10) Toddlers shall rest or sleep alone in cribs, porta-cribs, or on mats or cots.

(11) Infants and toddlers who fall asleep in a space that is not approved for sleeping shall be moved to approved sleep equipment appropriate for their age and size.

(12) Naptime or quiet time ~~shall~~ **must** be provided when children under school-age are in attendance 5 or more continuous hours per day.

**(13) For children under school age who do not sleep at rest time, quiet activities must be provided such as reading books or putting puzzles together.**

(~~13~~**14**) Resting or sleeping areas ~~shall~~ **must** have adequate soft lighting to allow the caregiver **child care staff member** to assess children.

(~~14~~**15**) Video surveillance equipment and baby monitors ~~shall~~ **must** not be used in place of subrule (8) of this rule and R 400.8125(1).

R 400.8191 Nighttime care.

Rule 191. (1) If a child is in care between the hours of 11 p.m. and ~~6~~ **5** a.m., a separate area, away from sleeping children, where the child can engage in quiet activities **must** be available.

(2) If a child is in care for more than 1 hour between the hours of 11 p.m. and ~~6~~ **5** a.m., a bed and mattress, with a waterproof covering, of a size appropriate to the age of ~~each~~ **the** child shall be available.

## PART 2. ENVIRONMENTAL HEALTH PROVISIONS

R 400.8301 Definitions.

Rule 301. As used in this part:

(a) “Bulk foods” ~~are~~ **means** larger quantities of food that are used over time, such as flour, sugar, noodles, **and** rice, ~~etc.~~ Food that is used up in a week or less, such as crackers, are not considered bulk foods.

(b) “Corrosion-resistant materials” means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bacterial solutions, and other conditions-of-use environment.

(c) “Food grade surface” means a surface that is easily cleanable and made from a material that will not migrate into, contaminate, or taint the food.

(d) “Food service equipment” means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a center.

(e) “Food” means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(f) “Food-contact surface” means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

(g) “Packaged” means bottled, canned, ~~cartoned~~, **in a carton**, or securely wrapped.

(h) “Potentially hazardous food” means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(i) “Ready to eat food” means food that does not require cooking and that will not be cooked before being served.

(j) “Sealed” means free of cracks or other openings that permit the entry or passage of moisture.

(k) “Single-service articles” means those food service articles intended for 1-time, 1-person use and then discarded.

(l) “Tableware” means multi-use eating and drinking utensils.

(m) “Utensil” means any implement used in the storage, preparation, transportation, or service of food.

R 400.8305 Plan review; approval; inspections.

Rule 305. (1) All local health department requirements regarding plan reviews and specifications ~~shall~~ **must** be followed. Written confirmation ~~to the department~~ that this has occurred ~~shall~~ **must** be submitted **to the department**.

(2) An inspection ~~shall~~ **must** be conducted by the local health department, and an approval granted indicating compliance with all of the rules in this part, except **R 400.8330, 400.8335, and 400.8340**, at all of the following **times**:

(a) Before issuance of an original ~~provisional~~ license.

(b) Every 2 years, at the time of renewal, if the center has a private well ~~and/or~~ **or** septic.

(c) Every 2 years, at the time of renewal, if the center provides food service where the food is prepared and served on-site, **unless the kitchen is currently licensed to provide food service**.

(d) Prior to adding a food service program.

(e) Prior to adding an ~~infant/toddler~~ **infant or toddler** program.

(f) When requested by the department.

R 400.8310 Food preparation areas.

Rule 310 (1) Food contact surfaces ~~shall~~ **must** be smooth, nontoxic, easily cleanable, durable, corrosion resistant, and nonabsorbent.

(2) Carpeting is prohibited in food preparation areas.

(3) Mechanical ventilation to the outside is required for all commercial cooking equipment, which includes but is not limited to, stoves, ranges, ovens, and griddles.

(4) If residential hood ventilation is used, then cooking equipment ~~shall~~ **must** be limited to residential stove and oven equipment.

(5) Mechanical ventilation to the outside may be required if a problem is evidenced.

(6) The use of deep fryers is prohibited.

(7) Live animals ~~shall be~~ **are** prohibited ~~from~~ **in** food preparation and eating areas.

(8) When the only food preparation is for feeding infants and toddlers, there ~~shall~~ **must** be a sink that is used exclusively for food preparation and clean up.

R 400.8315 Food and equipment storage.

Rule 315. (1) Each refrigerator ~~shall~~ **must** have an accurate working thermometer indicating a temperature **of** 41 degrees Fahrenheit or below.

(2) All artificial lighting fixtures located over, by, or within food storage, preparation, **and** service areas, or where utensils and equipment are cleaned and stored, ~~shall~~ **must** be properly shielded.

(3) Unpackaged bulk foods ~~shall~~ **must** be stored in clean covered containers, dated, and labeled as to the contents.

(4) Food not subject to further washing or cooking before serving ~~shall~~ **must** be stored in a way that protects it from cross-contamination from food requiring washing or cooking.

(5) Packaged food ~~shall~~ **must** not be stored in contact with water or undrained ice.

(6) Poisonous or toxic materials ~~shall~~ **must** not be stored with food, food service equipment, utensils, or single-service articles.

(7) Food, food service equipment, and utensils ~~shall~~ **must** not be located under exposed or unprotected sewer lines, open stairwells, or other sources of contamination. Automatic fire protection sprinkler heads are the exception.

(8) The storage of food, food service equipment, or utensils in toilet rooms is prohibited.

(9) Food and utensils ~~shall~~ **must** be stored **in a cabinet or a shelf above the floor. a minimum of 6 inches above the floor.**

(10) All food service equipment ~~shall~~ **must** be **above the floor 6 inches off the floor,** moveable, or be properly sealed to the floor.

(11) Meals that are transported ~~shall~~ **must** be prepared in commercial kitchens and delivered in carriers approved by the local health department.

#### R 400.8320 Food preparation.

Rule 320. (1) Food ~~shall~~ **must** be in sound condition, free from spoilage, filth, or other contamination and be safe for human consumption.

(2) Food ~~shall~~ **must** be prepared on food grade surfaces that have been washed, rinsed, and sanitized.

(3) Raw fruits and vegetables ~~shall~~ **must** be thoroughly washed before being cooked or served.

(4) Staff shall minimize bare-hand contact with foods that will be cooked.

(5) Ready to eat foods ~~shall~~ **must** not be prepared or served using bare hands.

(6) Food ~~shall~~ **must** be cooked to heat all parts of the food to the safe temperature as identified in the ~~2009 recommendations of the food and drug administration of the United States public health service 3-401, as referenced in the Michigan food law, 2000 PA 92, MCL 289.1107. These recommendations are available at no cost from the FDA at [www.fda.gov](http://www.fda.gov).~~ **document titled Safe Minimum Cooking Temperatures, published by the U.S. Food Safety Working Group. This document is adopted by reference in this rule and is available at no cost on the Foodsafety.gov website, <https://www.foodsafety.gov/keep/charts/mintemp.html>. It is also available for inspection and distribution at no cost from the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.**

(7) Potentially hazardous foods ~~shall~~ **must** be thawed using 1 of the following methods:

(a) In the refrigerator at a temperature not to exceed 41 degrees Fahrenheit.

(b) **Completely submerging the item Under under cold running water, at a temperature of 70 degrees Fahrenheit or below, that is running fast enough to float off loose ice particles.**

(c) In a microwave oven for either of the following:

(i) The food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process.

(ii) The entire cooking process takes place in the microwave oven.

(d) As part of the conventional cooking process.

(8) The temperature of potentially hazardous foods ~~shall~~ **must** be 41 degrees Fahrenheit or below, or 135 degrees Fahrenheit or above, at all times, except during necessary periods of preparation.

(9) Potentially hazardous foods that have been cooked and then refrigerated or frozen ~~shall~~ **must** be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility.

(10) Accurate metal stem-type food thermometers ~~shall~~ **must** be used to assure the attainment and maintenance of proper internal cooking, holding, reheating, or refrigeration temperatures of all potentially hazardous foods.

(11) On field trips, all foods ~~shall~~ **must** be protected from contamination at all times as required by this rule.

(12) In the absence of proper hand washing facilities on field trips, individuals preparing and serving food shall wear sanitary disposable food service gloves.

#### R 400.8325 Sanitization.

Rule 325. (1) All tableware, utensils, food contact surfaces, and food service equipment ~~shall~~ **must** be thoroughly washed, rinsed, and sanitized after each use. Multi-purpose tables ~~shall~~ **must** be thoroughly washed, rinsed, and sanitized before and after they are used for meals or snacks.

(2) Enamelware utensils are prohibited.

(3) Reuse of single service articles is prohibited.

(4) Multi-use tableware and utensils ~~shall~~ **must** be washed, rinsed, and sanitized using 1 of the following methods:

(a) A commercial dishwasher.

(b) A residential dishwasher with sanitizing capability.

(c) A 3-compartment sink and adequate drain boards.

(d) A 2-compartment sink for washing and rinsing, a third container suitable for complete submersion for sanitizing, and adequate drain boards.

(5) If the manual washing method is used, as referenced in subrule (4)(c) and (d) of this rule, all of the following ~~shall~~ **must** be done:

(a) Rinse and scrape all utensils and tableware before washing.

(b) Thoroughly wash in detergent and water.

(c) Rinse in clear water.

(d) Sanitize using 1 of the following methods:

(i) Immersion for at least 30 seconds in clean, hot water of at least 170 degrees Fahrenheit.

(ii) Immersion for at least 1 minute in a solution containing between 50 and 100 parts per million of chlorine or comparable sanitizing agent at a temperature of at least 75 degrees Fahrenheit. A test kit or other device ~~which that~~ measures parts per million concentration of the solution ~~shall~~ **must** be used when a chemical is used for sanitizing.

(e) Air dry.

(6) Sponges ~~shall~~ **must** not be used in a food service operation.

R 400.8330 Food services and nutrition generally.

Rule 330. (1) Snacks and meals ~~shall~~ **must** be provided by the center, except when 1 of the following circumstances occurs:

(a) A majority of the children are in attendance less than 2.5 hours.

(b) Food is provided by a parent.

(2) A written agreement ~~shall~~ **must** be kept on file at the center if the parent has agreed to provide formula, milk, or food. The center shall provide an adequate amount of formula, milk, or food if the parent does not.

(3) Beverages and food ~~shall~~ **must** be appropriate for the child's individual nutritional requirements, developmental stages, and special dietary needs, including cultural preferences.

(4) A center shall ensure a child ~~with~~ **who has** special dietary needs is provided with snacks and meals in accordance with the child's needs and with the instructions of the child's parent or licensed health care provider.

(5) A center shall provide adequate staff so that food service activities do not detract from direct care and supervision of children.

(6) A center shall make water available to drink throughout the day to children 1 year of age and older.

(7) Infants and toddlers shall be fed on demand.

(8) A child shall be served meals and snacks in accordance with the following schedule:

(a) Two and a half hours to 4 hours of operation: a minimum of 1 snack.

(b) Four hours to 6 hours of operation: a minimum of 1 meal and 1 snack.

(c) Seven hours to 10 hours of operation: a minimum of 1 meal and 2 snacks or 2 meals and 1 snack.

(d) Eleven hours or more of operation: a minimum of 2 meals and 2 snacks.

(9) A center shall not deprive a child of a snack or meal if the child is in attendance at the time when the snack or meal is served.

(10) Menus ~~shall~~ **must** be planned in advance, ~~shall be~~ dated, and ~~shall be~~ posted in a place visible to parents. Food substitutions ~~shall~~ **must** be noted on the menus the day the substitution occurs.

(11) A center shall not serve infants and toddlers or allow them to eat foods that ~~may~~ **could** easily cause choking, including, but not limited to, popcorn, seeds, nuts, hard candy and uncut round foods such as whole grapes and hot dogs.

(12) Cereal ~~shall~~ **must** not be added to a bottle or beverage container without written parental permission.

(13) If food, bottles, or beverage containers are warmed, then the warming ~~shall~~ **must** be done in a safe, appropriate manner.

(14) Warming bottles and beverage containers in a microwave oven **or a crockpot** is prohibited.

**(15) Bottle warmers must be placed where children cannot access them or reach the cords for them.**

**(16) Bottle warmers must be shut off when not in use. A child care staff member shall not hold a child while removing a bottle from the heating device.**



~~(1517)~~ Warmed food, bottles, and beverage containers ~~shall~~ **must** be shaken or stirred to distribute the heat, and the temperature ~~shall~~ **must** be tested before feeding.

~~(1618)~~ The contents of a bottle or beverage container ~~shall~~ **must** be discarded if any of the following apply:

(a) The contents appear to be unsanitary.

(b) The bottle or beverage container has been used for feeding for a period that exceeds 1 hour from the beginning of the feeding.

(c) The bottle or beverage container requiring refrigeration has been unrefrigerated for 1 hour or more.

~~(1719)~~ Formula and milk, including breast milk, left in a bottle or beverage container after a feeding ~~shall~~ **must** not be reused.

~~(1820)~~ Bottle propping is prohibited.

~~(1921)~~ When feeding, ~~caregivers~~ **child care staff members** shall hold infants, except when infants resist being held and are able to hold their bottle.

~~(2022)~~ Infants or toddlers shall not have bottles, beverage containers, or food in sleeping equipment.

~~(2123)~~ Children shall not have beverage containers or food while they are walking around or playing.

~~(2224)~~ **Staff Child care staff members** shall foster and facilitate toddlers' independence, language, and social interactions by doing all of the following:

(a) Encouraging self-feeding.

(b) Serving appropriate portion sizes.

(c) Sitting ~~and eating~~ with toddlers during meal times.

~~(2325)~~ Breastfeeding ~~shall~~ **must** be supported and accommodated.

~~(2426)~~ A designated place ~~shall~~ **must** be set aside for **use by** mothers who are breastfeeding ~~to use~~.

R 400.8335 Food services and nutrition; provided by center.

Rule 335. (1) Food and beverages provided by ~~the~~ a center ~~shall~~ **must** be of sufficient quantity and nutritional quality to provide for the dietary needs of each child according to the minimum meal requirements of the child and adult care food program (CACFP), as administered by the Michigan department of education, based on ~~7 C.F.R. Part~~ **CFR part** 226, 1-1-~~11~~**18** edition, **(2018)** of the United States ~~department of agriculture, food and nutrition services, child and adult care food program~~ **Department of Agriculture, Food and Nutrition Service, CACFP**, and is hereby adopted by reference. A copy can be obtained **at no cost** from CACFP at <http://www.fns.usda.gov/cacfp/meals-and-snacks>. **In addition, a copy is available for inspection and distribution at no cost at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.**

(2) Solid foods ~~shall~~ **must** be introduced to an infant according to the parent's or licensed health care provider's instructions.

(3) Infants shall only be served formula to drink unless written authorization is provided by the child's licensed health care provider.

(4) Children 12 months of age until 2 years of age shall be served whole homogenized Vitamin D-fortified cow's milk, except as provided in R 400.8330(4).

- (5) Formula ~~shall~~ **must** be commercially prepared and ready-to-feed.
- (6) All fluid milk and fluid milk products ~~shall~~ **must** be pasteurized and meet the grade “A” quality standards.
- (7) Milk ~~shall~~ **must** be served from ~~any~~ **1** of the following:
- (a) A commercially filled container stored in a mechanically refrigerated bulk milk dispenser.
  - (b) A commercially filled container not to exceed 1 gallon.
  - (c) A sanitized container only if poured directly from the original container.
- (8) All of the following ~~shall~~ apply to milk:
- (a) Containers ~~shall~~ **must** be labeled with the date opened.
  - (b) Milk ~~shall~~ **must** be served within 7 days of opening.
  - (c) Milk ~~shall~~ **must** not be served if the contents appear to be unsanitary or have been unrefrigerated for a period exceeding 1 hour.
  - (d) Milk ~~shall~~ **must** not be combined with the contents of other partially filled containers.
- (9) Contents remaining in single-service containers of milk shall **must** be discarded at the end of the snack or meal time.
- (10) All containers of ready-to-feed formula, once opened, ~~shall~~ **must** be labeled with the date and time of opening, refrigerated, and used within 48 hours or **be** discarded.
- (11) Prepared bottles and beverage containers of milk and formula ~~shall~~ **must** be refrigerated and labeled with the child’s **first and last** name, date, and time of preparation.
- (12) Contents of unused bottles of formula ~~shall~~ **must** be discarded, along with any bottle liners, after 48 hours.
- (13) All liners, nipples, formula, milk, and other materials used in bottle preparation ~~shall~~ **must** be prepared, handled, and stored in a sanitary manner.
- (14) Reusable nipples and bottles ~~shall~~ **must** be washed, rinsed, and sanitized before reuse.
- (15) Bottle liners and disposable nipples ~~shall~~ **must** be for single use only, by an individual child, and discarded with any remaining formula or milk after use.
- (16) Commercially packaged baby food ~~shall~~ **must** be served from a dish, not directly from a factory-sealed container, unless the entire container will be served to only 1 child and will be discarded at the end of the feeding period.
- (17) Uneaten food that remains on a dish from which a child has been fed ~~shall~~ **must** be discarded.
- (18) Food, **that has been** ~~already~~ served and handled by the consumer of the food, may not be served again, unless it is in the original, unopened wrapper.
- (19) Home canned products are prohibited.

R 400.8340 Food services and nutrition; provided by parents.

Rule 340. (1) As used in this rule:

- (a) “Same-day supply” means for use during a single day.
  - (b) “Multi-day supply” means for use over a multiple day period, up to 7 days.
- (2) Breast milk, formula, milk, or other beverages provided in a same-day supply ~~shall~~ **must** be furnished daily in either of the following:
- (a) Clean, sanitary, ready-to-feed bottles or beverage containers.
  - (b) A clean, sanitary, beverage container. The beverage ~~shall~~ **must** be poured into a clean, sanitary bottle or beverage container before each feeding.

(3) Breast milk, formula, milk, other beverages, and food furnished in a same-day supply ~~shall~~ **must** be covered and labeled with the child's first and last name and the date.

(4) Any food or beverages furnished in a same-day supply ~~shall~~ **must** be returned to the parent at the end of the day or discarded.

(5) Milk, other beverages, and non-perishable food items may be furnished in a multi-day supply in an unopened commercial container.

**(6) Breast milk may be supplied in a multi-day supply in a clean, sanitized container kept in the refrigerator for up to 4 days or kept in the freezer for no more than 2 weeks.**

(67) Milk and other beverages furnished in a multi-day supply ~~shall~~ **must** be labeled with the child's first and last name and the date of opening and ~~shall~~ be returned to the parent or discarded 7 days after opening.

(78) Non-perishable food items furnished in a multi-day supply ~~shall~~ **must** be labeled with the date of opening and when applicable, the first and last name of the child for whom its use is intended.

(89) Beverages and food ~~shall~~ **must** be fed only to the child for whom the item is labeled.

(910) Breast milk, formula, and milk ~~shall~~ **must** be refrigerated until used.

(1011) Other perishable beverages and food items ~~shall~~ **must** be refrigerated or otherwise kept at a safe temperature until used. **Fresh, whole fruits and vegetables may be unrefrigerated for up to 3 calendar days in a clearly labeled and dated container.**

#### R 400.8345 Water supply; plumbing.

Rule 345. (1) The water system ~~shall~~ **must** comply with the requirements of the local health department.

(2) Plumbing ~~shall~~ **must** be designed, constructed, installed, and maintained to prevent cross-connection with the water system.

(3) Sinks, lavatories, drinking fountains, and other water outlets ~~shall~~ **must** be supplied with safe water, sufficient in quantity and pressure, to meet conditions of peak demand.

(4) All plumbing fixtures and water and waste pipes ~~shall~~ **must** be properly installed and maintained in good working condition.

(5) Each water heater ~~shall~~ **must** be equipped with a thermostatic temperature control and a pressure relief valve, both of which ~~shall~~ **must** be in good working condition.

#### R 400.8350 Toilets; hand washing sinks.

Rule 350. (1) ~~The A~~ center shall provide toilet and hand washing sinks as follows:

(a) A center operating with children in attendance less than 5 continuous hours a day shall provide at least 1 toilet and 1 hand washing sink for every 20 children or fraction thereof.

(b) A center operating with children in attendance 5 or more continuous hours a day shall provide at least 1 toilet and 1 hand washing sink for every 15 children or fraction thereof.

(2) After December 6, 2006, any center that is new, adds an ~~infant/toddler~~ **infant and toddler** component, or increases the licensed ~~infant/toddler~~ **infant and toddler** capacity shall have a diapering area with a readily accessible, designated hand washing sink.

(3) After December 6, 2006, a separate hand washing sink is required in the kitchen for all of the following:

(a) A new center with a food service component.

- (b) A center with a food service component that remodels the kitchen.
- (c) Any center that adds a food service component.
- (4) Hand washing sinks for children ~~shall~~ **must** be accessible to children by platform or installed at children's level.
- (5) Hand washing sinks ~~shall~~ **must** have warm running water not to exceed 120 degrees Fahrenheit.
- (6) Soap and single service towels or other approved hand drying devices ~~shall~~ **must** be provided near hand washing sinks.
- (7) Toilet rooms for school-age children ~~shall~~ **must** provide for privacy.

R 400.8355 Sewage disposal.

Rule 350. (1) Sewage and other water-carried wastes ~~shall~~ **must** be disposed of through a municipal or private sewer system.

(2) Private ~~sewer/septic~~ **sewer and septic** systems ~~shall~~ **must** be designed and operated to safely dispose of all wastewater generated, ~~shall~~ be adequate in size for the projected use, and meet the criteria of the local health department.

R 400.8360 Garbage and refuse.

Rule 360. (1) All garbage ~~shall~~ **must** be removed from the center daily.

(2) Garbage containers ~~shall~~ **must** be washed when soiled.

(3) Garbage stored outside ~~shall~~ **must** be in sealed plastic bags in watertight containers with tight-fitting covers or in a covered dumpster.

(4) Outside garbage and refuse ~~shall~~ **must** be picked up or removed at a minimum of once a week.

R 400.8365 Heating; temperature.

Rule 365. (1) The temperature in child use areas ~~shall~~ **must** be maintained at a safe and comfortable level so that children in care do not become overheated or chilled.

(2) The indoor temperature ~~shall~~ **must** be at least 65 degrees Fahrenheit in child use areas at a point 2 feet above the floor.

(3) If temperatures exceed 82 degrees Fahrenheit, then a center shall take measures to cool the children.

R 400.8370 Light, ventilation, and screening.

Rule 370. (1) The total ventilation area in every habitable room, as provided by openable windows, ~~shall~~ **must** be not less than 4½% of the floor area, unless central air conditioning is provided.

(2) If ventilation is dependent on a mechanical system, then the system ~~shall~~ **must** be on at all times while the building is occupied and shall comply with the ventilation requirements of the applicable mechanical code of the authority having jurisdiction.

~~(3) Artificial light or natural light, or both, shall be capable of providing a minimum illumination of 20 foot candles over the entire room at a height of 3 feet from the floor.~~

(43) Windows and doors used for ventilation ~~shall~~ **must** be supplied with screening of not less than 16 mesh, which ~~shall~~ **must** be kept in good repair. This subrule does not apply to child care programs operating in school buildings.

R 400.8375 Premises.

Rule 375. (1) The center shall be located on land that provides good natural drainage or that is properly drained.

(2) Stairs, walkways, ramps, landings, and porches ~~shall~~ **must** meet all of the following requirements:

(a) If elevated, ~~shall~~ have barriers to prevent falls and handrails designed and constructed for use by children.

(b) ~~Shall be~~ **Be** maintained in a safe condition relative to the accumulation of water, ice, or snow and ~~shall~~ have nonslip surfacing.

(c) Landings ~~shall~~ **must** be located outside exit doors where steps or stairs are necessary and ~~shall~~ be at least as wide as the swing of the door.

(d) Stairway steps ~~shall~~ **must** be not more than 8 inches in height, with a minimum tread depth of 9 inches.

(e) If ramps are used, then they ~~shall~~ **must** have a minimum rise-to-run ratio of 1-to-12.

R 400.8380 Maintenance of premises.

Rule 380. (1) The premises ~~shall~~ **must** be maintained in a clean and safe condition and ~~shall~~ **must** not pose a threat to health or safety.

(2) The premises ~~shall~~ **must** be maintained so as to eliminate and prevent rodent and insect harborage.

(3) Roofs, exterior walls, doors, skylights, and windows ~~shall~~ **must** be weathertight and watertight and ~~shall be~~ kept in sound condition and good repair.

(4) Floors, interior walls, and ceilings ~~shall~~ **must** be kept in sound condition, ~~and~~ good repair, and ~~shall be~~ maintained in a clean condition.

(5) There ~~shall~~ **must** be no flaking or deteriorating paint on interior and exterior surfaces or on equipment accessible to children.

(6) All toilet room floor surfaces ~~shall~~ **must** be easily cleanable and ~~shall be~~ constructed and maintained so as to be impervious to water.

(7) Light fixtures, vent covers, wall-mounted fans, and similar equipment attached to walls and ceilings ~~shall~~ **must** be easily cleanable and maintained in good repair.

(8) A lead hazard risk assessment ~~shall~~ **must** be completed by a certified lead risk assessor on all centers built before 1978. Any lead hazards identified ~~shall~~ **must** be addressed as noted in the lead hazard risk assessment report before issuance of the original ~~provisional~~ license. The results of the assessment ~~shall~~ **must** be kept on file at the center. ~~Centers licensed before December 7, 2006 have 3 years from the effective date of these rules to comply with this rule.~~ Centers that operate in a school building serving only school-age children are exempt from the requirements in this rule.

(9) **A center shall adopt and implement an integrated pest management policy as** As required by section 8316 of **the natural resources and environmental protection act, 1994 PA 451, MCL 324.8316.**, ~~the center shall develop and implement an integrated pest~~

management program when pesticide applications occur on the premises. The integrated pest management program shall include, but not be limited to, the following:

- ~~—(a) An annual notification to parents or guardians informing them that they will receive advance notice of pesticide applications. The annual notice must be provided in September.~~
- ~~—(b) The annual notification to parents or guardians specifying 2 methods by which the advance notice of pesticide application will be given.~~
- ~~—(c) An advance notice containing information about the pesticide, including the target pest or purpose, approximate location, date of the application, contact information at the center, and a toll free number for a national pesticide information center recognized by the Michigan department of agriculture.~~
- ~~—(d) Liquid spray or aerosol insecticide applications may not be performed in a room of a center unless the room will be unoccupied by children for not less than 4 hours or longer if required by the pesticide label use directions.~~

R 400.8385 Poisonous or toxic materials.

Rule 385. Containers of poisonous or toxic materials ~~shall~~ **must** be clearly labeled for easy identification of contents and stored out of reach of children.

### PART 3. FIRE SAFETY PROVISIONS

R 400.8501 **National Fire Protection Association standards; Adoption adoption** by reference.

Rule 501. The following National Fire Protection Association (NFPA) standards, **as displayed in Table 5**, are adopted by reference in these rules. Copies of the adopted standards are available for inspection and may be purchased **at the NFPA website [www.nfpa.org](http://www.nfpa.org), or** from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9109, Quincy, Massachusetts 02269-9101, ~~internet address [www.nfpa.org](http://www.nfpa.org)~~. The cost of single copies of each standard at the time of the adoption of these rules is indicated after the title. **They are also available for inspection at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.**

<del>(i) NFPA 10, Standard for Portable Fire Extinguishers, 2010 edition.....</del>	<del>\$38.00</del>
<del>—(ii) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 edition.....</del>	<del>72.00</del>
<del>—(iii) NFPA 25, Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems, 2011 edition.....</del>	<del>44.00</del>
<del>—(iv) NFPA 72, National Fire Alarm Code and Signaling Code, 2010 edition.....</del>	<del>54.00</del>
<del>—(v) NFPA 80, Standard for Fire Doors and Other Opening Protectives, 2010 edition</del>	
<del>—(vi) NFPA 251, Standard Methods of Tests of Fire Resistance of Building Construction and Materials, 2006 edition.....</del>	<del>34.50</del>
<del>—(vii) NFPA 265, Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls, 2002 edition.....</del>	<del>34.00</del>

(viii) NFPA-701, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films, 2010 edition.....29.00

<b>TABLE 5</b>			
<b>National Fire Protection Association Standards</b>			
<b>Standard</b>	<b>Title</b>	<b>Edition</b>	<b>Cost</b>
<b>NFPA-10</b>	<b>Standard for Portable Fire Extinguishers</b>	<b>2018</b>	<b>\$54.00</b>
<b>NFPA-13</b>	<b>Standard for the Installation of Sprinkler Systems</b>	<b>2019</b>	<b>\$110.00</b>
<b>NFPA- 25</b>	<b>Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems</b>	<b>2017</b>	<b>\$63.50</b>
<b>NFPA-72</b>	<b>National Fire Alarm Code and Signaling Code</b>	<b>2019</b>	<b>\$102.50</b>
<b>NFPA-80</b>	<b>Standard for Fire Doors and Other Opening Protectives</b>	<b>2019</b>	<b>\$54.00</b>
<b>NFPA-251</b>	<b>Standard Methods of Fire Resistance of Building Construction and Materials</b>	<b>2006</b>	<b>\$49.00</b>
<b>NFPA-265</b>	<b>Standard Methods of Fire Tests for Evaluation Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls</b>	<b>2019</b>	<b>\$50.50</b>
<b>NFPA-701</b>	<b>Standard Methods of Fire Tests for Flame Propagation of Textiles and Films</b>	<b>2015</b>	<b>\$42.00</b>

R 400.8505 Definitions.

Rule 505. As used in this part:

(a) “Basement” means a story of a building or structure having ½ or more of its clear height below average grade for at least 50% of the perimeter.

(b) “Combustible” means materials will ignite and burn when subjected to a fire or excessive heat.

(c) “Conversion” means to alter the use of an existing building or room to a center.

(d) “Existing building” means a structure or part of a structure not currently used as a center.

(e) “Existing licensed center” means a center that was licensed December 7, 2006 and whose license continues uninterrupted.

(f) “Exit” means a way of departure from the interior of a building or structure to the open air outside at ground level.

(g) “Fire alarm” means a device used to alert the occupants of the building of fire or smoke conditions. The device ~~shall~~ **must** be audible in all parts of the building used as a center.

(h) “Fire alarm system” means an approved electrical closed circuit, self-supervised local system for sounding an alarm. The system is comprised of a central panel, manual pull stations near all outside exits, audible electric signal devices; and, where warranted, a remote

trouble annunciator. All system components ~~shall~~ **must** be listed by a nationally recognized testing laboratory and installed in accordance with NFPA-72.

(i) “Fire door assembly” means a side-hinged, labeled fire door and labeled frame constructed and installed in compliance with NFPA-80.

(j) “Fire-resistance rating” means the time for an element in a building to maintain its particular fire resistance properties in accordance with NFPA-251.

(k) “Fire-resistive construction” means a building having walls, ceilings, floors, partitions, and roof of non-combustible materials having a minimum fire-resistance rating of 1 hour. This subdivision ~~shall not be construed as prohibiting~~ **does not prohibit** finished wood floors, doors, and windows with assorted frames and trim.

(l) “Flameproof materials” means materials that will not propagate flame under the test conditions of NFPA-701. Flameproof materials are usually combustible materials with the addition of some treatment or coating to modify their burning properties.

(m) “Flammable” means materials capable of being readily ignitable from common sources of heat or at a temperature of 600 degrees Fahrenheit, 316 degrees Celsius, or less.

(n) “Hazard area” means those parts of a center building housing a commercial kitchen, heating plant, fire-fueled water heater, incinerator, or an area posing a higher degree of hazard than the general occupancy of the building.

(o) “Heating plant room” means a room or area housing fuel-fired equipment.

(p) “Interior finish” means the exposed interior surface materials of walls, fixed or movable partitions, and ceilings. This includes drywall, masonry, or wood substructure and surfacing materials such as paneling, tile, or other interior finish material and any surfacing materials, such as paint or wallpaper, applied thereto. Interior finish includes materials affixed to the building structure as distinguished from decorations or furnishings.

(q) “Means of egress” means a minimum of 36 inch wide continuous and unobstructed path of exit travel from any point in a building to the outside at grade.

(r) “New construction” means a created structure, addition, replacement, or alteration of structural components, such as walls.

(s) “Noncombustible” means materials that will not ignite and burn when subjected to fire.

(t) “Protected ordinary construction” means all of the following types of construction:

(i) Roofs and floors and their supports having a minimum of 1-hour fire-resistance rating.

(ii) Exterior bearing walls or bearing portions of exterior walls are of noncombustible or limited combustible materials and have a minimum of 1-hour fire-resistance rating and stability under fire conditions.

(iii) Nonbearing exterior walls are of noncombustible or limited combustible materials.

(iv) Roofs, floors, and interior framing are wholly or partly made of wood of smaller dimension than required for heavy timber construction.

(u) “Standard partition construction” means a substantial smoke-tight assembly consisting of walls, in conjunction with ceilings at which they terminate, that are covered on both sides with minimum standard lath and plaster or ½-inch drywall over 2”x 4” studs. Doorways in these walls are protected with minimum 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors and equipped with approved self-closing devices and positive latching hardware. One or more glass panes are permitted in these walls ~~and/or~~ **and** doors if each individual glass panel is fixed pane and not larger than 1,296 square inches of ¼-inch



wired glass with no linear dimension longer than 54 inches, or fire-rated safety glass, of any size, listed with a minimum fire rating of 45 minutes and installed as listed. In some cases, drywall or plaster is also necessary to protect the underside of stairs.

(v) “Textile material” means having a napped, tufted, looped, woven, non-woven, or similar surface.

(w) “Wired glass” means glass not less than ¼-inch thick, reinforced with wire mesh, number 24 gauge or heavier, with spacing not greater than 1 square inch.

(x) “Wood frame construction” means that type of construction in which exterior walls, bearing walls and partitions, and floor and roof constructions and their supports are made of wood or other combustible material.

R 400.8510 Plans and specifications; submission; approval; inspections.

Rule 5010. (1) A complete set of plans and specifications of any proposed center or proposed addition, alteration, or remodeling to an existing center ~~shall~~ **must** be submitted to the department for review and approval. **If the total cost of the project is \$15,000.00 or more, including labor and materials, the plans must bear the seal of a registered architect or engineer.**

(2) Written approval ~~shall~~ **must** be obtained from the department before initiating any construction.

~~(3) Plans shall bear the seal of a registered architect or engineer when the total cost of the project is \$15,000.00 or more, including labor and materials.~~

~~(43)~~ A fire safety inspection ~~shall~~ **must** be conducted by the bureau of fire services or a department-approved qualified fire inspector, and an approval granted, before issuance of the original ~~provisional~~ license and every 4 years thereafter, at the time of renewal.

~~(54)~~ If a boiler is used, then it ~~shall~~ **must** be inspected, and a certificate provided, as required, by the boiler division, department of licensing and regulatory affairs.

~~(65)~~ Fuel-fired furnaces ~~shall~~ **must** be inspected **by a licensed mechanical contractor** before issuance of an original ~~provisional~~ license and every 2 years at renewal ~~by a mechanical contractor licensed by the state of Michigan.~~

~~(76)~~ Fuel-fired water heaters ~~shall~~ **must** be inspected **by a licensed mechanical contractor or a licensed plumbing contractor** before issuance of an original ~~provisional~~ license and every 2 years at renewal ~~by either a mechanical contractor or a plumbing contractor licensed by the state of Michigan.~~

~~(87)~~ New furnace and water heater installations ~~shall~~ **must** be ~~either of the following:~~ —~~(a) Inspected~~ **inspected** and approved by the ~~department of licensing and regulatory affairs or local mechanical inspecting authorities~~ **authority** at the time of installation.

~~(b) Inspected and approved by a qualified fire safety inspector or the bureau of fire services to ensure continued compliance with appropriate fire safety provisions of these rules.~~

R 400.8515 Construction.

Rule 515. (1) If child occupancy is limited to the first or main floor, then the building may be of wood frame construction.

(2) If child occupancy is on the second floor, then all of the following are required:

(a) The building ~~shall~~ **must** be of protected ordinary construction.

(b) All required stairways and vertical openings ~~shall~~ **must** be enclosed by walls, in conjunction with openings therein, and ceilings at which they terminate that meet the requirements of standard partition construction to provide a protected means of egress to the outside with proper termination to grade.

(c) All door openings contained in subdivision (b) of this subrule ~~shall~~ **must** meet all of the following requirements:

(i) Be protected with 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors.

(ii) Be installed in fully stopped smoke-tight, substantial frames.

(iii) Be equipped with approved self-closing devices and non-locking-against-egress positive latching hardware.

(3) If child occupancy is above the second floor, then both of the following ~~shall be~~ **are** required:

(a) The building ~~shall~~ **must** be of 1-hour fire-resistive construction.

(b) All required stairways and other vertical openings ~~shall~~ **must** be enclosed by a minimum 1-hour fire-resistive construction to provide a protected means of egress to the outside with proper termination to grade.

(4) If any portion of a basement is used for more than 30 children, then 1 of the following provisions ~~shall be~~ **is** required:

(a) Two enclosed stairways of 1-hour fire-resistant construction ~~shall~~ **must** discharge directly to the outside with proper termination to grade, and all openings in the stairways shall be protected by a minimum of ~~1-hour~~ **45-minute rated** or ~~“B”~~ **“B”** labeled fire doors and frame assemblies. **“B” labeled fire doors are acceptable.**

(b) One approved exit from the occupied room or use area ~~shall~~ **must** discharge directly to the outside with proper termination to grade. Travel distance from any point in this room or area to this exit ~~shall~~ **must** be less than 50 feet.

(c) Two exits comprised of any combination of subdivisions (a) and (b) of this subrule.

(5) If basement occupancy is limited to not more than 30 children, then **all of** the following ~~shall~~ apply:

(a) One of the exits required by subrule (4) of this rule ~~shall~~ **must** discharge directly to the outside with proper termination to grade, or through a 1-hour fire-resistive enclosure.

(b) The second exit may terminate at the first floor level with an approved floor separation, meeting the requirements of standard partition construction, between the basement and the first floor.

(c) For new construction and conversions, the separation ~~shall~~ **must** be located at the first floor with travel distance from the door to an approved exit not ~~exceeding~~ **to exceed** 100 feet.

(6) All vertical openings and stairways that are not required ~~shall~~ **must** be constructed and arranged with effective fire and smoke separation under the requirements of standard partition construction. All door openings ~~shall~~ **must** be as follows:

(a) Protected with 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors.

(b) Installed in fully stopped smoke-tight substantial frames.

(c) Equipped with approved self-closing devices and non-locking-against-egress positive latching hardware.

R 400.8520 Interior finishes.

Rule 520. (1) The classifications of interior finishes for flame spread and smoke development, **as displayed** in Table 46, ~~shall~~ **must** be used as follows:

TABLE 6		
FLAME SPREAD AND SMOKE DEVELOPMENT FOR INTERIOR FINISHES		
Class	Flame Spread	Smoke Developed
A <del>OR</del> or I	0-25	0-450
B <del>OR</del> or II	26-75	0-450
C <del>OR</del> or III	76-200	0-450

(2) Basic materials in a means of egress and basement use occupancies ~~shall~~ **must** be class A or I or B or II.

(3) Basic materials in all other areas ~~shall~~ **must** be class C or III.

(4) Interior finish material more hazardous than class C or III ~~shall be~~ **is** prohibited in child use areas.

(5) If an approved automatic sprinkler system is installed and maintained in accordance with NFPA-13 and NFPA-25, then class C or III interior wall and ceiling finish materials ~~shall be~~ **are** permitted in any location where class B or II is required and class B or II interior wall and ceiling finish materials ~~shall be~~ **are** permitted in any location where class A or I is required.

(6) In an existing licensed center or conversion, existing interior finishes ~~which that~~ do not comply with the classifications in subrule (1) of this rule may have their surfaces protected with an approved fire-retardant coating to meet the classifications for interior finishes. The coatings ~~shall~~ **must** be applied to interior finishes that are attached to, or furred out not more than 1 inch from a noncombustible backing and applied according to manufacturer's recommendations. Documentation ~~shall~~ **must** be provided as required by the department.

(7) Interior finish materials of classes B or II and C or III ~~which that~~ are less than 1/4 inch in thickness ~~shall~~ **must** be applied directly against a noncombustible backing or ~~shall~~ be furred out not more than 1 inch unless, the tests under which such material has been classed were made without a backer.

(8) Centers licensed before December 7, 2006 may retain previously approved fire retardant coated interior finishes.

(9) Textile materials having a class A or I rating and used as an interior finish ~~shall be~~ **are** permitted as follows:

(a) On walls or ceilings of rooms or areas protected by an automatic sprinkler system approved by the department.

(b) On room partitions that are less than 3/4 of the floor-to-ceiling height not to exceed 8 feet in height.

(c) To extend up to 4 feet above the finished floor on ceiling-height walls and ceiling-height partitions.

(d) Textile materials ~~shall be~~ **are** permitted on walls and partitions where tested in accordance with and meeting the standards of NFPA-265. If compliance is achieved by

application of a flame-proofing product in accordance with NFPA-701, documentation ~~shall~~ **must** be provided as required by the department.

(10) Drapery material may be used for stage curtains, room dividers, and similar uses if the material has been tested and approved in accordance with NFPA-701.

(11) Drapery material applied to surfaces of a facility as an interior finish ~~shall~~ **must** meet the requirements of subrule (9) of this rule.

(12) All vinyl and wooden wall dividers ~~shall~~ **must** meet the interior finish requirements of subrules (1), (2), and (3) of this rule, as applicable.

(13) Bulletin boards ~~shall~~ **must** meet the interior finish requirements of subrules (2) and (3) of this rule.

(14) Combustible materials and decorations may be displayed on walls, not to exceed 20% of each wall in each room. Combustible materials and decorations suspended from or near the ceiling are prohibited.

#### R 400.8525 Exits.

Rule 525. (1) Except as referenced in R 400.8515(4)(b) and ~~400.8525(2)(e)~~, **subdivision (c)** of this subrule each occupied floor ~~shall~~ **must** have not less than 2 approved exits directly to the outside with proper termination to grade, remote from each other by 50% of the longest dimension of the floor or area served, and occupied rooms within the center ~~shall~~ **must** be located between means of egress, unless a first floor, self-contained, occupied room has an approved exit direct to the outside with proper termination to grade with a maximum travel distance of 50 feet from the most remote point in the room to the exit.

(2) Travel distance to an exit ~~shall~~ **must** be as follows:

(a) For infants and toddlers, travel shall be 50 feet or less from the door of the occupied room to the exit.

(b) For preschoolers and school-agers, travel shall be 100 feet or less from the door of the occupied room to the exit.

(c) Buildings having complete automatic sprinkler protection may increase their travel distances by 50 feet.

(d) Those areas approved before July 1, 2000 are exempt from the requirements of this rule.

(3) For all centers initially licensed after December 6, 2006, programs with infants and toddlers ~~shall~~ **must** have exits with proper termination and within 30 inches of grade or exits properly ramped to grade.

(4) Exit doors and all doors in the means of egress ~~shall~~ **must** be side-hinged and equipped with knob, lever-type, non-locking-against-egress, or panic-type hardware.

(5) Exit doors and doors in rooms occupied by 21 or more children ~~shall~~ **must** swing in the direction of egress.

(6) Means of egress ~~shall~~ **must** be maintained in an unobstructed, easily traveled condition at all times that the center is in operation. Means of egress ~~shall~~ **must** not be exposed to inherent hazards of the building, including the heating plant, flammable storage, commercial kitchen, or other similar conditions.

(7) In new construction, additions, remodeling, and conversions, there ~~shall~~ **must** be a floor or landing on each side of an exit door. The floor or landing ~~shall~~ **must** be at the same

elevation on each side of the door, except for variations in elevation due to differences in finish materials, which shall not exceed ½ inch.

(8) In conversions, landings ~~shall~~ **must** have a width not less than the width of the stairway or the width of the door, whichever is greater. Landings ~~shall~~ **must** have a length not less than the width of the door.

(9) In new construction, additions, and remodeling, landings ~~shall~~ **must** comply with the latch-side clearance requirements of sections 404.2.3 ~~through to~~ 404.2.3.5 of the ~~international code council/American national standards institute~~ **International Code Council/American National Standards Institute (ICC/ANSI) standard A117.1, Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1), 2003, which is adopted by reference in this rule accessible and usable buildings and facilities. Sections 404.2.3 through 404.2.3.5 of ICC/ANSI A117.1 are hereby adopted by reference. Copies of the adopted matter may be purchased from the international code council International Code Council at www.iccsafe.org or 1-800-786-4452 at a cost of \$47.50. They are also available for inspection at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.**

(10) For new construction, additions and remodeling, an exit door ~~shall~~ **must** be not less than 36 inches ~~in width~~ **wide**. Doors to multiple-use bathrooms ~~shall~~ **must** not be less than 32 inches ~~in width~~ **wide**.

(11) For the conversion of an existing building, exterior exit doors ~~shall~~ **must** be not less than 36 inches ~~in width~~ **wide**. Other use room doors ~~shall~~ **must** be not less than 28 inches ~~in width~~ **wide**. Single-use toilet room doors ~~shall~~ **must** not be less than 24 inches ~~in width~~ **wide**. Any remodeled door openings, other than the door swing, ~~shall~~ **must** comply with subrule (10) of this rule.

(12) Centers licensed before December 7, 2006 may retain previously approved door widths.

(13) Exterior exits ~~shall~~ **must** be marked or denoted by an approved exit sign. All exit signs ~~shall~~ **must** be distinctive in color and ~~shall~~ provide contrast with decorations, interior finish, or other signs. Each exit sign ~~shall~~ **must** have the word “~~exit~~” **“EXIT”** in plain, legible letters not less than 6 inches high, on a background of contrasting color, with strokes not less than ¾-inch wide. **The word “EXIT” must have letters that are not less than 2 inches wide, except the letter “I”.**

**(14) Exit signs must be internally or externally illuminated at all times. To ensure continued illumination for a duration of not less than 90 minutes, in case of primary power loss, the sign illumination means must be connected to an emergency power system provided from storage batteries, unit equipment, or an on-site generator.**

~~(1415)~~ When nighttime care is provided, the center shall have exits with proper termination and within 30 inches of grade or exits properly ramped to grade.

~~(1516)~~ When nighttime care is provided, exit signs ~~shall~~ **must** be illuminated, and emergency lighting provided at exits.

R 400.8530 Hazard Areas.

Rule 530. (1) Hazard areas ~~shall~~ **must** be separated from the parts of the building used as a center in the following manner:

(a) In centers licensed before June 4, 1980, areas used for the storage of combustibles and other hazard areas will continue to be approved if they are enclosed with a minimum ¾-hour fire resistive construction and doorways to the areas are protected with a minimum 1¾-inch flush solid core wood or 20-minute labeled fire-rated doors equipped with approved self-closing devices and positive latching hardware.

(b) In centers licensed between June 4, 1980 and July 1, 2000, **areas used for the storage of combustibles and other hazards will continue to be approved if they are enclosed by 1 of the following shall apply:**

(i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1-hour fire resistance rating, openings in the separation ~~shall~~ **must** be protected with a minimum of ~~1-hour or "B" labeled~~ **45-minute rated** fire door and frame assembly, including an approved self-closing device and positive latching hardware. **"B" labeled doors are acceptable.**

(ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum ¾-hour fire resistance rating, all door openings ~~shall~~ **must** be protected by minimum 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors hung in substantial frames and equipped with approved self-closing devices and positive latching hardware.

(c) In centers licensed after July 1, 2000, **areas used for the storage of combustibles and other hazards will continue to be approved if they are enclosed by 1 of the following shall apply:**

(i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1-hour fire resistance rating, openings in the separation ~~shall~~ **must** be protected with a minimum of ~~1-hour or "B" labeled~~ **45 minute-rated** fire door and frame assembly, including an approved self-closing device and positive latching hardware. **"B" labeled doors are acceptable.**

(ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum 1-hour fire resistance rating. All door openings ~~shall~~ **must** be protected by minimum 1¾ inch flush solid core wood doors or 20-minute labeled fire-rated doors in substantial frames and equipped with approved self-closing devices and positive latching hardware.

(2) Where a kitchen with commercial cooking equipment exposes a required means of egress or child use area, it ~~shall~~ **must** be separated from the remainder of the building with minimum 1-hour fire resistive construction, including a minimum of ~~1-hour or "B" labeled~~ **45-minute rated** fire door and frame assemblies in all common openings. Kitchens having commercial cooking equipment protected by an approved automatic kitchen hood suppression system are exempt from this requirement. **"B" labeled doors are acceptable.**

(3) The use of an incinerator is prohibited.

(4) Heating ~~shall~~ **must** be by a central heating plant or an approved permanently installed electrical heating system. If heating is provided by a central heating plant and located on the same floor that is used for child occupancy, it ~~shall~~ **must** be installed in an enclosure providing not less than a 1-hour fire-resistive separation, including a minimum of ~~1-hour or "B" labeled~~ **45-minute rated** fire door and frame assembly equipped with an approved self-closing device and positive latching hardware in any interior door opening. Door openings for heat plant enclosures not located on the same floor that is used for child occupancy may have 1¾-inch flush solid wood core doors or 20-minute labeled fire-rated doors having

positive latching hardware and an approved self-closing device. Air for proper combustion, a minimum of 1 square inch per 4,000 BTUs input, ~~shall~~ **must** be provided directly from the outside through a permanently opened louver or metal duct. **“B” labeled doors are acceptable.**

(5) In centers licensed before December 7, 2006, a properly installed heating plant located in a basement ~~which~~ **that** is not used for child occupancy does not require additional protection where there is a qualified fire separation and with at least a 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors hung in a substantial frame and equipped with an approved self-closing device and positive latching hardware in all stairway openings.

(6) Any fuel-fired water heater or other similar equipment ~~shall~~ **must** be located according to subrule (4) or (5) of this rule, as applicable.

(7) Where electric heating is used, it ~~shall~~ **must** be ~~underwriters’ laboratories, inc.~~ **Underwriters’ Laboratories, Inc. (UL)** listed, permanent, fixed-type electrical heating such as recognized panel or baseboard fixed-type. Electric heating ~~which~~ **that** complies with this requirement may be installed in any location.

(8) Auxiliary heating units, such as portable combustion or electrical types, are prohibited.

(9) The center shall not store flammable materials, including fuels, pressurized cans, cleaning fluids and supplies, polishes, and matches, in heat plant enclosures. These items may be stored outside of child use areas in metal cabinets or storage facilities accessible only to authorized personnel.

(10) The center shall not store combustible materials within the central heating plant or fuel-fired water heater rooms or in basements containing fuel-fired heating equipment, without a proper fire separation.

(11) The center shall not permit flammable gases, gasoline, or gasoline-powered equipment in the part of a building ~~which~~ **that** is used as a center or in other parts of the building from which there is a door, window, or other opening into the center, unless that part of the building is separated from the remainder of the building by minimum 2-hour fire resistive construction.

(12) If commercial-type laundry equipment is installed, then the equipment shall be enclosed to provide a 1-hour resistance to fire, including a minimum of ~~1-hour or “B” labeled~~ **45-minute rated** fire door and frame assembly in an interior door opening ~~which~~ **that** would expose the center. **“B” labeled doors are acceptable.**

(13) Dryer vents ~~shall~~ **must** be metal and vented completely to the exterior.

(14) ~~The department does not require Fire fire dampers shall not be required~~ in ¾-hour and 1-hour fire-resistive enclosures.

(15) All appliances and equipment in the center ~~shall~~ **must** be installed and maintained in accordance with their manufacturer’s specifications.

(16) Centers shall be kept free of all conditions that constitute fire safety hazards.

R 400.8535 Fire alarm.

Rule 535. (1) In any building used as a center, an approved fire alarm, either electrical or manual, ~~shall~~ **must** be ~~established~~ **installed.**

(2) In centers of more than 4 child-occupied rooms, excluding bathrooms, or in centers licensed for more than 60 children, an approved fire alarm system ~~shall~~ **must** be installed and maintained in compliance with NFPA-72.

(3) In new construction, conversions, remodeling, or newly licensed centers, the trouble signal for required fire alarm systems ~~shall~~ **must** be located in an area normally occupied by child care staff **members**.

R 400.8540 Smoke detectors; carbon monoxide detectors.

Rule 540. (1) ~~After July 1, 2000, newly constructed centers, additions, and conversions shall~~ **All child care centers shall**, at a minimum, be equipped with approved single station smoke detectors covering all use areas and their means of egress. These smoke detectors ~~shall~~ **must** be located and spaced according to NFPA-72.

(2) Centers with any fuel-fired heating systems shall have a carbon monoxide detector, listed by a nationally recognized testing laboratory, on all levels approved for child care and in each use area covered by a different furnace zone.

(3) Centers shall properly install and maintain all detectors in operable condition in accordance with manufacturer's recommendations.

R 400.8560 Multiple occupancy.

Rule 560. (1) Multiple occupancy of a building may qualify for licensure if the entire building does not present a life safety hazard. A center currently licensed in such a building may continue as long as such occupancies do not change in character.

(2) A building, part of which is used for hazardous operations or for occupancy that is unpredictable, such as taverns, garages, repair shops, and industrial operations, ~~shall~~ **are** not ~~be~~ permitted for center use. However, an exception may be made for a vocational education center approved by the department ~~of licensing and regulatory affairs~~.

R 400.8565 Fire safety; exemptions for public and nonpublic school buildings.

Rule 565. The rules with respect to fire prevention and fire safety ~~shall~~ **do** not apply to a center established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state-approved nonpublic school, or by a person or entity with whom a school contracts for services, if the center is located in a school building that is approved by the state fire marshal or other similar authority for school purposes.

#### **PART 4. TRANSPORTATION PROVISIONS**

R 400.8701. Definitions.

Rule 701. As used in this part:

(a) ~~“Child passenger restraint device” means a device that is used to restrain a child weighing less than 65 pounds that meets the requirements of federal motor vehicle safety~~



standard no. 213, child seating systems, 49 C.F.R. §571, revised 10-1-2002, and is hereby adopted by reference in this rule. Copies of the adopted matter may be obtained at no cost from the United States department of transportation at [www.nhtsa.dot.gov/cars/rules](http://www.nhtsa.dot.gov/cars/rules).

(ba) “Manufacturer’s rated seating capacity” means the number of places or spaces provided by the manufacturer of a vehicle for the driver and passengers to sit while the vehicle is in motion.

(eb) “Motor vehicle” means a self-propelled device in which persons are or may be transported upon a highway, ~~which is built on an automobile or truck chassis, which is specifically designed by the manufacturer to transport passengers, or specially modified to transport handicapped passengers, and which~~ **that** meets the safety equipment requirements of **sections 683 to 711** of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to ~~257.714b~~ **257.711**.

(dc) “Multifunction school activity bus” means ~~a vehicle rated for 11 or more passengers, including the driver, built after September 2, 2003 to school bus specifications defined in the federal motor vehicle safety standards. A multifunction school activity bus cannot be used for transporting children directly between home, school bus stops, and school.~~ **that term as described in section 7 of the pupil transportation act, 1990 PA 187, MCL 257.1807.**

(ed) “Safety belt” means an automobile lap belt or lap-shoulder belt combination designed to restrain and protect a passenger or ~~drive~~ **driver** of a vehicle from injury.

(e) “School bus” means **that term as defined in section 7 of the pupil transportation act, 1990 PA 187, MCL 257.1807.**

(f) “School transportation” means transportation **provided** by a public, non-public, or private school.

(g) “Transportation” means the conveyance of children by means of a motor vehicle to or from a center and to and from all activities planned for children by or through the center.

(h) “Transportation component” means **when a center uses center owned vehicles, vehicles of staff or volunteers, or other private or contracted transportation to transport children for any reason. Transportation component does not include either of the following:**

(i) **Transportation is not a component of the child care program if a child care center uses public transportation or public or private school transportation; however, certain transportation rules still apply.**

(ii) **If a child care center contracts with, or is established and operated by an intermediate school district, the board of a local school district, or by the board or governing body of a state-approved nonpublic school, then the school is responsible for the health and safety of children during transportation, and transportation is not considered a component of the child care program. If this paragraph applies, a child care center is not required to complete a comprehensive background check on the transportation staff through the Child Care Background Check System.**

(hi) “Volunteer motor vehicle” means a motor vehicle not owned by, leased by, or registered to the center or principle or employee of the center.

R 400.8720 All motor vehicles.

Rule 720. (1) All motor vehicles ~~shall~~ **must** be in safe operating condition.

(2) All motor vehicles, except multifunction school activity buses and school buses inspected by the department of state police as indicated in subrule (3) of this rule, ~~shall~~ **must** be inspected annually by a licensed mechanic. A copy of the inspection ~~shall~~ **must** be kept on file at the center. Volunteer vehicles are not required to be inspected.

(3) Centers that use multifunction school activity buses and school buses ~~shall~~ **must** do all of the following:

(a) Contact the department of state police to determine if an annual inspection by the department of state police is required under section 39 of the pupil transportation act, 1990 PA 187, MCL 257.1839.

(b) If directed by the department of state police, obtain an annual inspection by the department of state police. A copy of the inspection ~~shall~~ **must** be kept on file at the center.

(4) A statement verifying that all motor vehicles, including volunteer vehicles, are in compliance with Michigan vehicle code safety equipment requirements, as defined in ~~sections 683 to 711 of 1940 the Michigan vehicle code, 1949~~ PA 300, MCL 257.683 to ~~257.714b-257.711~~, ~~shall~~ **must** be kept on file at the center.

(5) The use of passenger vans with a rated seating capacity of 11 or more, including volunteer vehicles, is prohibited.

(6) Multifunction school activity buses used for transporting children ~~to and from school~~ ~~shall~~ **between the child care center and school must** comply with all minimum safety specifications, except color, identification, and alternating flashing lights, as defined in the ~~Pupil Transportation Act,~~ **pupil transportation act**, 1990 PA 187, MCL 257.1801 to ~~MCL~~ 257.1877.

(7) Motor vehicle seats used by children, staff, and volunteers ~~shall~~ **must** not face sideways.

(8) A truck ~~shall~~ **must** not be used to transport children, except in the cab.

(9) There ~~shall~~ **must** be no loose or heavy objects in the passenger compartment of any motor vehicle.

#### R 400.8730 Safety equipment in motor vehicles.

Rule 730. (1) All motor vehicles used to transport children ~~shall~~ **must** carry all of the following safety equipment:

(a) Three bidirectional emergency reflective triangles properly cased and securely stored in the motor vehicle.

(b) A first aid kit ~~shall~~ **be** securely stored in an accessible location in the driver compartment.

(2) Any motor vehicle with a manufacturer's rated seating capacity of more than 10 occupants used to transport children ~~shall~~ **must** carry both of the following additional safety equipment:

(a) Not less than 3 15-minute ~~fuses (flares)~~ **flares** or an approved battery-operated substitute properly cased and securely stored in the driver's compartment.

(b) Fire extinguisher of dry chemical type rated not less than 2A-10BC mounted in an accessible place in the driver's compartment. The fire extinguisher ~~shall~~ **must** be inspected and maintained in accordance with NFPA-10. The fire extinguisher ~~shall~~ **must** bear a tag indicating the last date of inspection or service and the initials of the person who performed the inspection or service.

(3) Volunteer motor vehicles are exempt from subrule (1)(a) of this rule.

R 400.8740 Manufacturer's rated seating capacity; restraint devices; safety belts.

Rule 740. (1) Each child transported shall be seated according to the manufacturer's rated seating capacity and properly restrained by a passenger restraint device as required by sections 710d and 710e of 1949 PA 300, MCL 257.710d~~(1)~~ and 257.710e~~(3) and (4)~~.

(2) Passenger restraint devices, as required by subrule (1) of this rule, are not required for children transported on a school bus or a multifunction school activity bus.

(3) Each restraint device ~~shall~~ **must** be properly anchored to the vehicle seat and used according to the manufacturer's specifications. Allowing 2 or more children to share a seat belt or restraint device is prohibited.

(4) The driver of a motor vehicle and all adult passengers shall be seated according to the manufacturer's rated seating capacity and properly restrained by safety belts when the motor vehicle is in motion.

(5) All safety belts and restraint devices used while transporting children and adults ~~shall~~ **must** be in good working condition.

R 400.8750 Motor vehicle operator.

Rule 750. (1) The driver of any motor vehicle transporting children shall comply with all of the following:

(a) Be at least 18 years of age.

(b) Possess a valid operator or chauffeur's license with the appropriate endorsement as required by **chapter III of the Michigan vehicle code**, 1949 PA 300, MCL 257.301 to 257.329.

(c) Have a personal driving record with not more than 6 active points as determined by the secretary of state.

(d) Have proof of valid automobile insurance and registration.

(e) Be familiar with the contents of the first aid kit.

(f) Be familiar with the operation of the fire extinguisher, if a fire extinguisher is required.

(2) All of the following documents ~~shall~~ **must** be kept on file at the center:

(a) A copy of each driver's driving record, except for drivers of volunteer motor vehicles, obtained from the secretary of state at least once a year.

(b) A self-certifying statement that all volunteer drivers comply with subrule (1) of this rule.

(c) A copy of a valid driver's license **for each driver**.

(3) Drivers shall be provided with a copy of the child information card or comparable substitute for each child being transported in their motor vehicles.

R 400.8760 ~~Staff/volunteer~~ **Staff and volunteer**-to-child ratio and supervision in transit.

Rule 760. (1) The ratio of ~~staff/volunteers~~ **staff and volunteers**-to-children in transit, including children related to ~~the staff member/volunteer~~ **a staff member, volunteer, licensee, or driver**, ~~shall~~ **must** be based on the following provisions:

(a) For infants and toddlers, there ~~shall~~ **must** be 1 ~~staff member/volunteer~~ **staff member or volunteer** for 4 children. The driver ~~shall~~ **does** not count in the ~~staff/volunteer~~ **staff and volunteer-to-child** ratio.

(b) For preschoolers under 3 years of age, there ~~shall~~ **must** be 1 ~~staff member/volunteer~~ **staff member or volunteer** for 8 children. The driver ~~shall~~ **does** not count in the ~~staff/volunteer~~ **staff and volunteer-to-child** ratio.

(c) For 3-year-olds, there ~~shall~~ **must** be 1 ~~staff member/volunteer~~ **staff member or volunteer** for 10 children. The driver may ~~be count~~ **counted** in the ~~staff/volunteer~~ **staff or volunteer-to-child** ratio.

(d) For 4-year-olds, there ~~shall~~ **must** be 1 ~~staff member/volunteer~~ **member or volunteer** for 12 children. The driver may ~~count~~ **be counted** in the ~~staff/volunteer~~ **staff or volunteer-to-child** ratio.

(e) For school-agers, there ~~shall~~ **must** be 1 ~~staff member/volunteer~~ **member or volunteer** for 18 children. The driver may count in the ~~staff/volunteer~~ **staff or volunteer-to-child** ratio. This requirement does not apply when school-age children are transported to and from school on school transportation or are using public transportation.

(f) An additional ~~staff member/volunteer~~ **member or volunteer** is not required if only 1 child under 36 months of age is transported.

(2) To count in the ~~staff member/volunteer~~ **member or volunteer-to-child** ratios, staff members or volunteers shall be all of the following:

- (a) At least 16 years of age.
- (b) Seated with the children.
- (c) Responsible for the supervision of the children.

(3) When children are entering or leaving the motor vehicle, the following safety precautions ~~shall~~ **must** be taken:

(a) The accompanying staff member, volunteer, or driver shall ~~assure~~ **ensure** that the children are received by a staff member, parent, or other person as designated by the parent.

(b) Children shall enter and leave the motor vehicle from the curbside unless the vehicle is in a protected parking area or driveway.

(4) Children shall not be left unattended in a motor vehicle.

(5) When children under school-age are entering or leaving the motor vehicle, the children shall be carried or helped into and out of the motor vehicle.

## PART 5. SWIMMING PROVISIONS

R 400.8801 Definitions.

Rule 801. ~~(1)~~As used in this part:

- (a) “Lifeguard” means a person who meets the following criteria:
  - (i) Possesses an appropriate and current life guard training and certification by **the American Red Cross, YWCA, YMCA, or equivalent** in 1 of the following:
    - (A) Basic lifeguard for pool only.
    - (B) Full life guarding for pool and all other water activities.
  - (ii) Is dressed suitably to act in an emergency.
  - (iii) Is providing constant supervision.

(b) “Public swimming pool” means, ~~as defined in the public health code (1978 PA 368), MCL 333.12521, an artificial body of water used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms. Public swimming pools include those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, mobile home parks, subdivisions, and the like. A pool or portable pool located on the same premises with a 1, 2, 3, or 4 family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made lake, an exhibitor’s swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 motel units is not a public swimming pool~~ **that term as defined in section 12521 of the public health code, 1978 PA 368, MCL 333.12521.**

R 400.8810 Swimming; ~~caregiver~~ **child care staff member**-to-child ratio.

Rule 810. (1) Written parental permission regarding their child’s participation in swimming activities ~~shall~~ **must** be kept on file at the center.

(2) A lifeguard shall be on duty at all swimming activities and shall not be included in the ~~caregiver~~ **child care staff member**-to-child ratio.

(3) For children under 3 years of age, there shall be an in-the-water ratio of 1 ~~caregiver~~ **child care staff member** to 1 child.

(4) For all non-swimmers 3 years of age and older, there shall be an in-the-water ratio of 1 ~~caregiver~~ **child care staff member** to 4 children when the water level is at the child’s chest height or lower. When the water level is above the child’s chest height, there shall be an in-the-water ratio of 1 ~~caregiver~~ **child care staff member** to 1 child.

(5) For swimmers 3 years of age and older, there shall be an in-the-water **child care staff member**-to-child ratio ~~of caregivers to children~~ as required by R 400.8182(3).

R 400.8820 Swimming activity supervision.

Rule 820. ~~(1)~~ All ~~caregiving staff~~ **child care staff members** counted in the ~~caregiver~~ **child care staff member**-to-child ratio shall be both of the following:

- (a) Actively engaged in providing direct care, supervision, and guidance.
- (b) Physically able to assist children quickly.

R 400.8830 Instructional swim.

Rule 830. (1) Instructional swim ~~shall~~ **must** be conducted under the supervision of a qualified water safety instructor (WSI), **who is certified by the American Red Cross**, in an organization such as the YMCA or YWCA, and where instructional swim is part of the organized program.

(2) The **child care staff member**-to-child ratio ~~of caregivers to children~~ under R 400.8182(3) ~~shall~~ **must** be maintained. The instructor shall not be included in the ratio.

R 400.8840 Swimming activity area.

- Rule 840. (1) All swimming areas ~~shall~~ **must** be maintained in a clean and safe condition.
- (2) A public pool used for swimming ~~shall~~ **must** be inspected by the local health department and issued a license by the department of environmental quality.
- (3) The water at a public or private beach ~~shall~~ **must** not be used if deemed unsafe by the local health department.
- (4) A working ~~telephone~~ ~~shall~~ **phone must** be accessible on the premises.
- (5) All of the following safety equipment ~~shall~~ **must** be readily accessible:
- (a) First aid kit.
  - (b) Rescue pole or throwing rope and ring buoy.
  - (c) Signaling device.
- (6) The use of hot tubs and private wading pools is prohibited.