



Exploring the New Licensing Regulations



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Purpose of the Final Rulemaking

- On Dec. 2, 2016, the Office of the State Superintendent (“OSSE”) published a Notice of Final Rulemaking in the *DC Register* (63 DCR 50) updating the regulations governing the licensure of child development facilities throughout the District of Columbia.
- The purpose of the Final Rulemaking is to ensure that care and education provided in a licensed Child Development Facility in the District is safe and supports children’s healthy development and future academic achievement and success by establishing the minimum requirements necessary to protect the health, safety, welfare, and positive development of children in care.
- The Final Rulemaking updates the District’s regulatory framework for child development facilities to reflect current research and best practices in child development, to comply with the federal the Child Care and Development Block Grant Act of 2014 (CCDBG Act), and incorporate relevant District laws and regulations that impact child development facilities.



Purpose of the Final Rulemaking

- OSSE will provide a summary and overview of the key regulatory changes, including compliance deadlines by mid-December. This summary document will be translated into Spanish, French, Amharic, Chinese, and Vietnamese by January 2017.
- OSSE has scheduled meetings across the city beginning Dec. 6 through Jan. 30 to review the licensing regulations, answer providers' questions, and identify technical assistance needs. Translation will be offered as requested.
- Licensing specialists will provide technical assistance and monitoring to help facilities meet all the new requirements.



Effective Dates and Implementation Timeline

The final rulemaking became effective on Dec. 2, 2016. However, certain provisions have delayed compliance deadlines, including:

- **Health and Safety Trainings:** Pursuant to the District's Child Care and Development Fund Plan, all licensed facilities shall be in compliance with health and safety training requirements for all current and new staff members by Sept. 30, 2017.
- **Criminal background check requirements:** Pursuant to the CCDBG Act, facilities shall be in compliance with criminal background check requirements for all current and new staff members by Sept. 30, 2017.
- **Applications for Licensure:** All initial and renewal licensing applications submitted prior to Dec. 2, 2016 will be evaluated under the prior regulations in Chapter 29 of Chapter 3 of the DC Municipal Regulations (DCMR) and if compliance is determined, the license will be valid for one (1) year. For these programs, the licensing specialists will provide additional technical assistance and monitoring to help them meet the new requirements by Sept. 30, 2017.



Effective Dates and Implementation Timeline

Staff Qualifications: New staff qualifications for center directors, teachers, assistant teachers, and caregivers have varying compliance deadlines depending on the position and current level of staff education:

- **Center Directors*:** BA in early childhood education or a BA with at least 15 semester credit hours in early childhood by December 2022
- **Teachers*:** AA in early childhood education or an AA with at least 24 semester credit hours in early childhood by December 2020
- **Assistant Teachers:** Child Development Associate by December 2018
- **Home Caregivers:** Child Development Associate by December 2018
- **Home Associate Caregiver:** Child Development Associate by December 2018
- **Expanded Home Caregiver:** AA in early childhood education or an AA with at least 24 semester credit hours in early childhood by December 2019

*The regulations provide a waiver option for directors and teachers that have been in this type of position consecutively for the past 10 years.



Effective Dates and Implementation Timeline

Emergency Preparedness and Response Planning

- As required by the CCDBG Act, 5A DCMR § 148 sets forth expanded requirements for licensed child development facilities to have emergency and disaster plans.
- OSSE is collaborating with other District agencies to develop a plan to ensure an effective and coordinated response in the event of a disaster. This collaboration will allow OSSE to develop a comprehensive plan for providing child care service immediately following a disaster, as well as maintaining child care services during the recovery process.
- This plan will ensure that thousands of children in the District, who may be impacted by a disaster, can be sheltered and cared for during an emergency, and that parents have a place they can leave their children as they recover, rebuild or return to work after a disaster.



Organization of 5A DCMR Chapter One

The sections of Chapter 1 of Title 5A DCMR are organized into the following subject areas accordingly:

- General Licensure Provisions: §§ 100-102 and § 199
- License Application and Maintenance: §§ 103-117
- Requirements for All Licensees: §§ 118-121
- Facilities, Supplies, Equipment and Environmental Health: §§ 122-126
- Administration and Operation: §§ 127-131
- Staffing: §§ 132-139
- Program Activities for Healthy Development: §§ 140-141
- Health Promotion and Protection: §§ 142-161
- Additional Requirements for Licensed Centers: §§ 162-166
- Additional Requirements for Licensed Child Development Homes: §§ 167-168
- Additional Requirements for Licensed Expanded Child Development Homes: §§ 169-171
- Additional Requirements for Out-of-School-Time Programs: §§ 172-176



General Licensure Provisions

Exemptions

- To clarify which services are exempt from obtaining a license to operate a child development facility based on the definition of a child development facility, OSSE expanded the list of exempted services.
- Occasional babysitting in a babysitter's home or a child's home for the children of one (1) family;
- Care provided in a child's home by a caregiver paid for by a child's family;
- Care provided for more than one (1) child in a Nanny-Share, as defined in this chapter;
- Adult gyms or clubs that provide temporary babysitting as a benefit in order for members to utilize services; and
- Adult education programs that provide child care services while parent(s) are on the same campus as the child attending a class or education program for a temporary period of time.



General Licensure Provisions

Quality Rating and Improvement System (QRIS)

- All licensed facilities that accept public funding are required to participate in OSSE's QRIS. Any licensed facility that does not accept public funding has the option to participate in the Quality Rating and Improvement System.



General Licensure Provisions

Types of Licenses

- In the final rulemaking, the provisional license was replaced with a “restricted license,” which is now the only license that will be issued with pending deficiencies.
- A restricted license may be issued by OSSE as an alternative to suspending or revoking an existing license when a facility has one or more deficiencies.



General Licensure Provisions

License Types	
Prior Regulations	New Regulations
<p>Initial License: An initial license may be issued by OSSE to an applicant who is not currently licensed;</p> <p>Provisional License: A provisional license may be issued by OSSE if the facility is taking appropriate ameliorative action in accordance with an established timetable;</p> <p>Renewal License: A renewal license may be issued by OSSE to a current licensee demonstrating substantial compliance with this chapter that applies for renewal before the expiration of the current license; or</p> <p>Restricted License: A restricted license may be issued by OSSE that prohibits the facility from accepting new children or from delivering certain specified services that it would otherwise be authorized to deliver.</p>	<p>Initial License: An initial license may be issued by OSSE to an applicant who is not currently licensed;</p> <p>Renewal License: A renewal license may be issued by OSSE to a current licensee demonstrating substantial compliance with this chapter that applies for renewal before the expiration of the current license; or</p> <p>Restricted License. A restricted license may be issued by OSSE as an alternative to suspending or revoking an existing license when a facility has one or more deficiencies.</p>



License Application and Maintenance

Application for an Amended License

- The final rulemaking clarifies the requirements for applying for an amended license. An application for an amended license shall be subject to the same review and requirements as an application for an initial or renewal license, including an on-site inspection if OSSE determines it would be necessary or useful.



License Application and Maintenance

Contingency Location

- 5A DCMR § 103 sets forth the components of an initial application for a license to operate a child development facility, which includes what qualifies as a valid building use agreement, which is used to secure a contingency location. To ensure a child's safety and stability, a licensee may relocate to its identified contingency location for no more than thirty days due to temporary closure.



License Application and Maintenance

Waiver

- Prior to the final rulemaking, the only flexibility available to licensees and applicants was a variance from the physical or structural requirements. 5A DCMR 106, however, provides OSSE with authority to grant waivers for any licensing provision that does not jeopardize the health, safety, or welfare of children or staff. All new and existing facilities may apply for a waiver. OSSE will use information gathered through the waiver process to inform future rulemaking.



License Application and Maintenance

Waivers	
Prior Regulations	New Regulations
<p>Variations</p> <p>The Director may grant a variance from compliance with one or more physical or structural requirements of this Chapter if the Director determines that compliance with the requirement(s) would result in exceptional or undue hardship.</p>	<p>Waivers</p> <p>OSSE may waive compliance with one or more provisions in this chapter, if OSSE determines, upon clear and convincing evidence the following:</p> <ul style="list-style-type: none">(a) The demonstrated immediate economic impact or hardship on the facility or staff member is sufficiently great to make immediate compliance impractical despite diligent efforts;(b) The facility or staff member is meeting or exceeding the intent of the regulation for which the waiver is requested; and(c) The health and welfare of staff and children are not jeopardized as alternative means have been put in place that ensure the health, safety, and welfare of children and staff.



License Application and Maintenance

Licensing Periods and Fees

- The licensing period is now three years for applicants submitting an initial or renewal application on or after Dec. 2, 2016. The licensing period has been increased to align with national best practices, and is intended to shift the focus toward monitoring the quality, health, and safety of care. However, due to the longer licensing period, license fees have been increased. Additional fees to amend or replace a license are also applicable. In order to aid facilities with the cost of both the license and the application fee, OSSE will allow facilities to set up a payment plan agreement.



License Application and Maintenance

Consumer Education

The CCDBG Act requires OSSE to make available to the public by electronic means, no later than Sept. 30, 2017, a list of all of the facilities licensed and includes the following information for each licensed Facility:

- Dates of monitoring and inspection;
- Results of monitoring and inspection reports;
- Any corrective action taken;
- Substantiated complaints; and
- The number of deaths, serious injuries, and instances of substantiated child abuse that occurred in each facility.



License Application and Maintenance

Enforcement Actions

- 5A DCMR §§ 112 through 115 sets forth the overarching provisions for all enforcement actions a facility may be subject to, which remain consistent with the prior regulatory framework. OSSE added language to provide clarity around the uses of each action and added examples of imminent harm and a prohibition on reapplying for a license for three (3) years if a previous license was revoked.



Fire Safety Inspections

- 5A DCMR § 122 requires that all facilities must undergo fire safety inspections and receive annual certifications from the District of Columbia Fire Emergency and Medical Services (FEMS) that the facility conforms to all applicable fire safety and related codes.
- Previously, child development homes were not required to have an annual fire inspection.
- In addition, a facility should obtain a new fire inspection, and Certificate of Occupancy, if there was an increase in the number of children enrolled under 30 months of age as this would impact a facility's ability to safely serve the number of children and evacuate in an emergency.

*Please note that the cost of the initial inspections is covered by OSSE; however, child development facilities are responsible for any necessary repairs.



Helmets for Wheeled Equipment

- As recommended by Caring for Our Children, 5A DCMR § 126 requires that if children are riding wheeled equipment, then helmets must be worn to ensure the safety of children while in the care of child development facilities.
- Wheeled equipment qualifies as tricycles, bicycles, scooters, roller skates, roller blades, or skateboards, regardless of whether the equipment is being ridden indoors or outdoors.
- Helmets could be provided by the school, parents, or donated.



Criminal Background Checks

- The CCDBG Act, and its implementing regulations, requires all child care staff members (including prospective staff members) of all licensed, regulated, or registered child care providers to have a comprehensive background check, unless they are related to all children in their care.
- OSSE also clarifies in this section that the renewal timeframe for all criminal background checks is three (3) years.
- Comprehensive background checks must be conducted prior to hiring and at least once during each three-year license period.



Drug and Alcohol Testing

- Helping to clarify requirements set forth under District law, 5A DCMR 136 requires drug and alcohol testing policies and procedures for all staff employed at child development facilities who have direct contact with children, directly care for children, and whose normal job duties may affect children's health, welfare, or safety, that include testing at the following times:
 - Prior to employment;
 - Upon reasonable suspicion; and
 - As soon as reasonably possible following an accident.



Staff Member Physical Requirements

- Each staff member of a licensed child development facility must be physically capable of caring for children, and must have an annual physical examination with a health care practitioner to document that the staff member does not have tuberculosis or other communicable diseases, and that he or she is physically capable of caring for children.
- 5A DCMR § 137 requires being able to lift at least 40 pounds, perform all activities with children for extended periods of time, and be outdoors for regular, prolonged activities. If a staff member is unable to meet these requirements, there must be enough other staff members present at the facility to ensure that children are adequately cared for and supervised.



Health and Safety Training, and Professional Development

- The educational requirements for child development center directors, teachers, and assistant teachers, and for child care home providers have increased.
- Any person who is employed as a center director or a qualified teacher in a licensed child development center in the District of Columbia on the effective date of these regulations, and who has continuously served in these positions for the past ten (10) years may submit an application to OSSE for a waiver of the qualification requirements.



Health and Safety Training and Professional Development

- Within 30 days of being hired, staff whose duties or responsibilities include the care of enrolled children must receive health and safety training as outlined in the regulations.
- Staff whose responsibilities include the care of enrolled children and are required to receive additional health and safety training within 90 days of being hired.
- Staff members who provide direct care for children must be supervised until training is completed in pediatric first aid and CPR, standard precautions to prevent communicable diseases, poison prevention, and safe sleep practices and shaken baby syndrome/abuse head trauma, if applicable to the population of children served.



Health and Safety Training and Professional Development

Ongoing annual health and safety training, and professional development: Staff shall participate in annual professional development, including annual training that maintains and updates the health and safety standards, as follows:

- Child development center staff shall participate in at least 21 hours of professional development annually;
- Center directors are expected to participate in 12 hours of training in program management, business operations, and evaluation Section 164.6;
- Child development home caregivers and staff shall participate in at least 12 hours of professional development annually; and
- Expanded home caregivers and staff shall participate in at least fifteen 15 hours of professional development annually.



Storage of Licensed Weapons and Ammunition

- A licensee shall ensure that licensed firearm, shotguns, rifles or other licensed weapons and ammunition are inaccessible to children served in a child development home or expanded home, unloaded, secured with an appropriate trigger locking device, and stored in a safe storage depository which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon or ammunition contained therein. Ammunition shall also be stored in a safe storage depository.
- A licensee shall ensure that parent(s) or guardian(s) of children served in a child development home or expanded home with licensed firearm, shotguns, rifles or other licensed weapons and ammunition are provided notice that a licensed firearm, shotguns, rifles or other licensed weapons and ammunition are on the premises of the child development home or expanded home.



Requirements for a Child Development Facility during Swimming and Water Play

- As recommended by Caring for Our Children, 5A DCMR § 157 sets forth the requirements for swimming and water play. The ratios were clarified to distinguish requirements for proper supervision during various water activities.
- A licensee shall ensure when children are swimming or playing in water, including baby pools, wading pools, and full-depth pools, the licensee shall maintain the following adult-to-child ratios, in addition to complying with the water safety requirements as provided in 5A DCMR 157.



Notice of Community Meetings

DATE OF MEETING	TIME OF MEETING	LOCATION
Dec. 6, 2016	5:00 – 7:00 p.m.	National Children’s Center (NCC) 3400 Martin Luther King Jr. Ave. SE Washington, DC 20032
Dec. 9, 2016	2:00 – 4:00 p.m.	Tenley-Friendship Neighborhood Library 4450 Wisconsin Ave. NW Washington, DC 20016
Dec. 15, 2016	2:00 – 4:00 p.m.	Shaw (Watha T. Daniel) Neighborhood Library 1630 Seventh St. NW Washington, DC 20001
Dec. 16, 2016	10:00 a.m. – 12:00 p.m.	Office of the State Superintendent of Education 810 First St. NE Washington, DC 20002
Dec. 20, 2016	2:00 – 4:00 p.m.	Bellevue (William O. Lockridge) Neighborhood Library 115 Atlantic St. SW Washington, DC 20032
Jan. 24, 2017	6:30 – 8:30 p.m.	Mary’s Center 2333 Ontario Rd. NW Washington, DC 20009



OSSE Supports and Resources

OSSE will be providing the following supports and resources to assist providers with becoming familiar with the new licensing regulations:

- Offering additional health and safety training;
- Covering the cost of fire inspections until Sept. 30, 2017;
- Covering the cost of processing criminal background checks until Sept. 30, 2017;
- Hosting multiple community meetings on the new licensing regulations;
- Releasing a summary of changes to the licensing regulations document, which will be translated;
- Printed copies of the new licensing regulations for every facility; and
- Increased technical assistance training.



Q&A



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| Thank you!