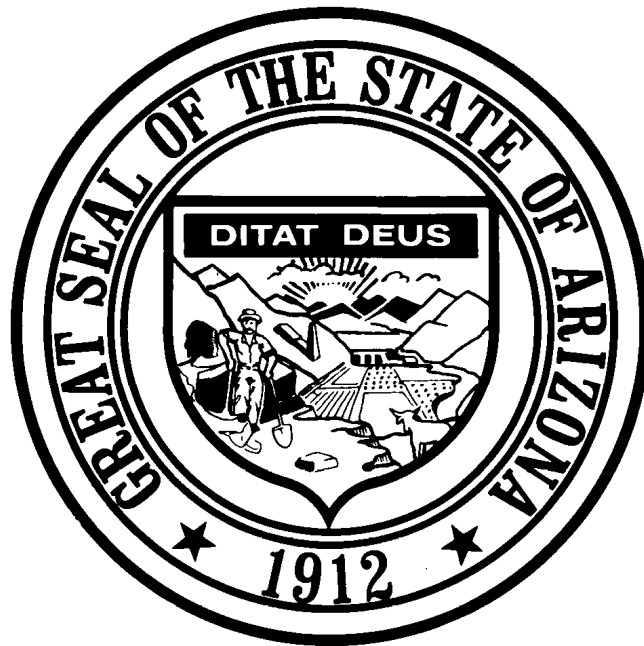


**ARIZONA DEPARTMENT OF HEALTH SERVICES**

**OFFICE OF CHILD CARE LICENSING**

**ARIZONA ADMINISTRATIVE RULES,  
SUBSTANTIVE POLICIES,  
AND ARIZONA REVISED STATUTES  
FOR CHILD CARE GROUP HOMES**



**MISSION STATEMENT**

“To monitor the health, safety and well being of children in child care centers and child care group homes throughout Arizona by regulating, establishing and enforcing appropriate rules, and by providing technical assistance and training to caregivers, and by providing consumer education.”



**TITLE 9. HEALTH SERVICES**  
**CHAPTER 3. DEPARTMENT OF HEALTH SERVICES**  
**CHILD CARE GROUP HOMES**

*Editor's Note: New 9 A.A.C. 3 made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).*

*Editor's Note: Chapter heading changed to "Expired" (Supp. 02-2).*

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**TITLE 9, CHAPTER 3: DEPARTMENT OF HEALTH SERVICES  
CHILD CARE GROUP HOMES**

**ARTICLE 1. GENERAL**

*Article 1, consisting of R9-3-101 through R9-3-103, made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).*

*Article 1, consisting of Section R9-3-101, expired on June 30, 1999 under A.R.S. § 41-1056(E) upon receipt of notice from the Governor's Regulatory Review Council (Supp. 99-3).*

*Article 1, consisting of Section R9-3-101, adopted effective October 22, 1992 (Supp. 92-2).*

*Article 1, consisting of Section R9-3-101, adopted by emergency action effective June 16, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

**R9-3-101. Definitions**

In addition to the definitions in A.R.S. § 36-897, the following definitions apply in this Chapter, unless otherwise specified:

1. "Abuse" has the meaning in A.R.S. § 8-201.
2. "Accident" means an unexpected occurrence that:
  - a. Causes physical injury to an enrolled child, and
  - b. May or may not be an emergency.
3. "Accredited" means approved by the:
  - a. New England Association of Schools and Colleges,
  - b. Middle States Association of Colleges and Secondary Schools,
  - c. North Central Association of Colleges and Schools,
  - d. Northwest Association of Schools and Colleges,
  - e. Southern Association of Colleges and Schools, or
  - f. Western Association of Colleges and Schools.
4. "Activity" means an action planned by a certificate holder or staff member and performed by an enrolled child while supervised by a staff member.
5. "Activity area" means a specific indoor or outdoor space or room within a certified area of a child care group home that is designated by a certificate holder for use by enrolled children for activities.
6. "Adaptive device" means equipment used to augment an individual's use of the individual's arms, legs, sight, hearing, or other physical part or function.
7. "Adult" means an individual 18 years of age or older.
8. "Age-appropriate" means consistent with a child's age and age-related stage of physical growth and mental development.
9. "Applicant" means an individual or business organization requesting one of the following:
  - a. An initial certificate under R9-3-201,
  - b. A renewal certificate under R9-3-203, or
  - c. Approval of a change affecting a certificate under R9-3-204.
10. "Application" means the documents that an applicant is required to submit to the Department to request a certificate or approval of a request for a change affecting a certificate.
11. "Arizona T3 training" means training approved by Arizona Train the Trainer, a collaborative effort of the Department, the Pima County Health Department, the University of Arizona Cooperative Extension, the Maricopa County Department of Public Health, the Arizona Department of Economic Security, Central Arizona College, the Arizona Department of Education, Glendale Community College, and the Southern Arizona Child Care Association.
12. "Assistant provider" means a staff member who meets the qualifications of R9-3-302(B) and who acts on behalf of the provider in the provider's absence.
13. "Association or cooperative" means a group of individuals other than a corporation, limited liability company, partnership, or joint venture who have joined together to operate a child care group home.
14. "Business" means an enterprise or organization that provides products or services for compensation or that involves the use or management of property for compensation.
15. "Business organization" means an entity such as an association or cooperative, corporation, limited liability company, or partnership.
16. "Certificate" means the written authorization issued by the Department to operate a child care group home in Arizona.
17. "Certificate holder" means a person to whom the Department has issued written authorization to operate a child care group home in Arizona.
18. "Certified area" means that portion of the child care group home, including the property around the residential building, that has been inspected and approved by the Department to be used for child care.
19. "Certified capacity" means the maximum number of enrolled children for whom a certificate holder is authorized by the Department to provide child care services at a child care group home at any given time.

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20. "Change in ownership" means a transfer of controlling legal or controlling equitable interest and authority in a child care group home.
21. "Child" means any individual younger than 13 years of age.
22. "Child care" means providing attention, supervision, and guidance to an enrolled child.
23. "Child care services" means the range of activities and programs provided by a certificate holder to an enrolled child, including personal care, supervision, education, guidance, and transportation.
24. "Child Protective Services" means the Child Protective Services Program of the Arizona Department of Economic Security.
25. "Clean" means:
  - a. To remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping; or
  - b. Free of dirt and debris.
26. "Clock hour" means a 60-minute period.
27. "Closely related field" means an area of study pertaining to the growth, development, physical or mental care, or education of children or to the management of a child care business.
28. "Communicable disease" has the meaning in A.A.C. R9-6-101.
29. "Compensation" means money or other consideration, including goods, services, vouchers, time, or another benefit, that is received as payment.
30. "Contiguous grounds" means real property that can be enclosed by a single unbroken boundary line that does not encompass property owned or leased by another person.
31. "Controlling person" has the meaning in A.R.S. § 36-881.
32. "Corporal punishment" means any physical act that inflicts pain to the body of a child or that may result in physical injury to a child.
33. "Corporation" means a legal entity:
  - a. Created under or subject to A.R.S. Title 10, Chapters 1 through 17;
  - b. Created under or subject to A.R.S. Title 10, Chapters 24 through 40; or
  - c. Created under the laws of another state and subject to A.R.S. Title 10, Chapter 15.
34. "CPR" means cardiopulmonary resuscitation.
35. "Credit hour" means an academic unit earned at an accredited college or university by attending a one-hour class session each week during a semester or equivalent shorter course term or completing equivalent practical work as part of a course.
36. "Crib" means a bed with enclosed sides that is designed and manufactured to be used as a sleeping area for an infant or 1- or 2-year-old child.
37. "Criminal history affidavit" means the document required by A.R.S. § 36-897.03(B).
38. "Custody documents" means papers establishing who has the legal authority over and duty to care for a child.
39. "Days" means calendar days, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or state holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday.
40. "Department" means the Arizona Department of Health Services.
41. "Developmentally appropriate" means consistent with a child's physical, emotional, social, cultural, and cognitive development, based on the child's age and family background and the child's personality, learning style, and pattern and timing of growth.
42. "Discipline" means to correct a child's behavior that does not meet generally accepted levels of social behavior.
43. "Emergency" means a potentially life-threatening occurrence involving an enrolled child or staff member that requires an immediate response or medical treatment.
44. "Emergency contact" means an individual designated by an enrolled child's parent on the Emergency Information and Immunization Record Card as an individual to be notified in case of the enrolled child's injury, illness, infestation, emergency, or serious injury if a parent cannot be located and notified.
45. "Endanger" means to expose an individual to a situation where physical or mental injury to the individual may occur.
46. "Enrolled child" means a child:
  - a. Who is not a child of the provider;
  - b. Who is not a resident at the child care group home;
  - c. Who has been placed to receive child care services by a parent, who may be a staff member other than the provider;
  - d. Who has been accepted by the provider to receive child care services; and
  - e. For whose care compensation may or may not be given.
47. "Evening and nighttime care" means child care services provided between the hours of 8:00 p.m. and 5:00 a.m.
48. "Excess liability insurance" means general liability insurance coverage in addition to the maximum dollar amount of coverage for which an insurer issues a general liability insurance policy.
49. "Factory-built building" has the meaning in A.R.S. § 41-2142.
50. "Family style" means a method in which food is self-served from a communal cooking or serving receptacle accessible to the individuals dining.
51. "Fever" means an elevation of body temperature that is:
  - a. 101° F or higher, if taken by mouth or ear; or

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- b. 100° F or higher, if taken under the arm.
- 52. "Field trip" means travel to a location away from a certified area for an activity and participation in the activity.
- 53. "File" means a portable folder, binder, or other container that holds documents.
- 54. "Food" means a raw, cooked, or processed edible substance or ingredient, including a beverage, used or intended for use in whole or in part for human consumption.
- 55. "Full-day care" means child care services provided for six or more hours per day between the hours of 5:00 a.m. and 8:00 p.m.
- 56. "General liability insurance" means a contract under which an insurance company agrees to indemnify a person against responsibility and any obligation to pay for the death, injury, or disability of a third party or for damage to the property of a third party, and does not include homeowner insurance.
- 57. "Governmental entity" means a board, commission, department, office, or other administrative unit of the United States, the state, or a political subdivision of the state.
- 58. "Grass" means any plant of the family Gramineae, having jointed stems, sheathing leaves, and seed-like grains.
- 59. "Guidance" means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
- 60. "Hazard" means a source of endangerment.
- 61. "Health care provider" means:
  - a. A physician;
  - b. A physician assistant;
  - c. A registered nurse;
  - d. A registered nurse practitioner;
  - e. An individual who is:
    - i. Licensed to practice psychology under A.R.S. Title 32, Chapter 19.1; or
    - ii. Licensed as a psychologist under the laws of another state;
  - f. An individual who is:
    - i. Licensed to practice occupational therapy under A.R.S. Title 32, Chapter 34;
    - ii. Employed as an occupational therapist by the U.S. government or one of its agencies and exempt from licensure under A.R.S. § 32-3422(3); or
    - iii. Licensed or certified as an occupational therapist under the laws of another state;
  - g. An individual who is:
    - i. Licensed to practice physical therapy under A.R.S. Title 32, Chapter 19;
    - ii. Practicing as a physical therapist in the U.S. Armed Services, U.S. Public Health Services, or Veterans Administration and exempt from licensure under A.R.S. § 32-2021(D)(2); or
    - iii. Licensed or certified as a physical therapist under the laws of another state; or
  - h. An individual who is:
    - i. Licensed as a respiratory therapist under A.R.S. Title 32, Chapter 35;
    - ii. Employed as a respiratory therapist by the U.S. government or one of its agencies and exempt from licensure under A.R.S. § 32-3521(B)(6); or
    - iii. Licensed or certified as a respiratory therapist under the laws of another state.
- 62. "High school equivalency diploma" means:
  - a. A document issued by the Arizona Department of Education under A.R.S. § 15-702 to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
  - b. A document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
  - c. A document issued by another country to an individual who has completed that country's equivalent of a 12th grade education, as determined by the Department based upon information obtained from American or foreign consulates or embassies or other governmental entities.
- 63. "Hours of operation" means the specific time during a day for which a certificate holder is certified to provide child care services.
- 64. "Illness" means physical manifestation or signs of sickness such as pain, vomiting, rash, fever, discharge, or diarrhea.
- 65. "Inaccessible" means out of the reach of a child.
- 66. "Individualized plan" means a written statement of information and instructions for the care of a special needs child that is developed by a team including a child care facility staff member or child care group home provider, the child's parent, and at least one health care provider.
- 67. "Infant" means:
  - a. A child 12 months of age or younger, or
  - b. A child 18 months of age or younger who is not yet walking.
- 68. "Infant care" means child care services provided to an infant.
- 69. "Infestation" means the presence of lice, pinworms, scabies, or other parasites.

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70. "Inspection" means:
  - a. On-site examination of a child care group home by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - b. On-site review of child care group home records by the Department;
  - c. On-site examination of a child care group home by another state or local governmental entity; or
  - d. On-site examination of a gas line or gas-powered heating or cooling device.
71. "Laboratory evidence of immunity" has the meaning in A.R.S. § 36-671.
72. "Level I" means that an individual:
  - a. Is at least 16 years of age,
  - b. Is a student or works in the field of child care, and
  - c. Meets the applicable requirements for a staff member in R9-3-303.
73. "Level II-A" means that an individual:
  - a. Is at least 18 years of age,
  - b. Is a student or works in the field of child care,
  - c. Has a high school diploma or a high school equivalency diploma,
  - d. Participates in S\*CCEEDS, and
  - e. Meets the applicable requirements for a staff member in R9-3-303.
74. "Level II-B" means that an individual:
  - a. Is at least 18 years of age;
  - b. Is a student or works in the field of child care;
  - c. Has a high school diploma or a high school equivalency diploma;
  - d. Has completed one of the following:
    - i. Three credit hours in early childhood education or child development, or
    - ii. 60 clock hours of training approved by S\*CCEEDS; and
  - e. Meets the applicable requirements for a staff member in R9-3-303.
75. "Limited liability company" means a legal entity:
  - a. Created under and subject to A.R.S. Title 29, Chapter 4; or
  - b. Created under and characterized as a limited liability company by the laws of another state.
76. "Local" means under the jurisdiction of a city or county in Arizona.
77. "Local health agency" has the same meaning as "health agency" in A.R.S. § 36-671.
78. "Local health officer" means an individual having daily control and supervision of a local health agency, or that individual's designee.
79. "Locked" means secured with a key, including a magnetic key, or combination so that opening is not possible except by using the key or entering the combination.
80. "Manufactured home" has the meaning in A.R.S. § 41-2142.
81. "Mat" means one of the following of sufficient size and thickness to accommodate the height, width, and weight of a reclining child's body:
  - a. A foam pad that has a waterproof cover, or
  - b. A foam pad that has a fabric cover and is machine-washable.
82. "Mechanical restraint" means a device, article, or garment attached or adjacent to a child's body that the child cannot easily remove and that restricts the child's freedom of movement or normal access to the child's body, but does not include a device, article, or garment:
  - a. Used for orthopedic purposes, or
  - b. Necessary to allow a child to heal from a medical condition.
83. "Medication" means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or that is available without a prescription for the treatment or prevention of illness or infestation.
84. "Menu" means a written description of food that a child care group home provides and serves as a meal or snack.
85. "Mobile home" has the meaning in A.R.S. § 41-2142.
86. "Motor vehicle" has the meaning in A.R.S. § 28-101.
87. "Naptime" means any period during hours of operation, other than evening and nighttime hours, that is designated by a certificate holder for the rest or sleep of enrolled children.
88. "Neglect" has the meaning in A.R.S. § 8-201.
89. "1-year old" means a child who is at least 12 months of age but not yet 2 years of age.
90. "1-year-old-child care" means child care services provided to a 1-year old.
91. "Parent" means:
  - a. A natural or adoptive mother or father,
  - b. A legal guardian appointed by a court of competent jurisdiction, or
  - c. A "custodian" as defined in A.R.S. § 8-201.
92. "Part-day care" means child care services provided for fewer than six hours per day between the hours of 5:00 a.m. and 8:00 p.m.



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93. "Partnership" means a joining of two or more individuals to conduct business, as governed by A.R.S. Title 29, Chapter 3 or 5 or the laws of another state.
94. "Perishable food" means food that becomes unfit for human consumption if not stored to prevent spoilage.
95. "Person" means an individual, business organization, or governmental entity.
96. "Personal items" means those articles of property that belong to an enrolled child and are brought to the child care group home for that enrolled child's exclusive use, such as clothing, a blanket, a sheet, a toothbrush, a hairbrush, a comb, a washcloth, or a towel.
97. "Physician" means an individual licensed as a doctor of:
- a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
  - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
  - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17;
  - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
  - e. Allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of another state.
98. "Physician assistant" means:
- a. The same as in A.R.S. § 32-2501, or
  - b. An individual licensed as a physician assistant under the laws of another state.
99. "Playpen" means an enclosure designed and manufactured to be used as a contained recreational area for an infant or 1- or 2-year-old child.
100. "Premises" means a child care group home's residential building and its contiguous grounds, including any structures on those grounds.
101. "Program" means a variety of activities organized and conducted by a staff member.
102. "Proof of immunity" means documentation of immunization or evidence of immunity that complies with A.A.C. R9-6-704.
103. "Reference" means an adult who is:
- a. Familiar with a staff member's character due to observations made as a friend or acquaintance, or
  - b. Familiar with a staff member's work abilities due to observations made as a superior or leader in a business, educational, church, or other organizational setting.
104. "Registered nurse" means:
- a. The same as in A.R.S. § 32-1601, or
  - b. An individual licensed as a registered nurse under the laws of another state.
105. "Registered nurse practitioner" means:
- a. The same as in A.R.S. § 32-1601, or
  - b. An individual licensed as a registered nurse practitioner under the laws of another state.
106. "Regular basis" means at recurring, fixed, or uniform intervals.
107. "Residence" means a residential building and its contiguous grounds, including any structures on those grounds, that are to be used as a child care group home.
108. "Resident" means an individual who uses a child care group home as the individual's principal place of habitation for 30 days or more during the calendar year.
109. "Residential building" means a dwelling, such as a house, used for human habitation.
110. "Resilient surface" means a shock-absorbing layer of material placed to cushion a fall, such as a rubber unitary surfacing material manufactured for use in outdoor activity areas, fine loose sand, pea gravel, wood fiber product, or shredded rubber.
111. "S\*CCEEDS" means Statewide Child Care and Early Education Development System, an early childhood professional career registry funded by the Arizona Department of Economic Security.
112. "Sanitize" means to use heat, a chemical agent, or a germicidal solution to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
113. "School-age child" means a child who:
- a. Meets one of the following:
    - i. Is 5 years old on or before January 1 of the current school year, or
    - ii. Was 5 years old on or before January 1 of the most recently completed school year; and
  - b. Meets one of the following:
    - i. Attends kindergarten or a higher level program in a "school," as defined in A.R.S. § 15-101, or "private school," as defined in A.R.S. § 15-101, during the current school year;
    - ii. Attended kindergarten or a higher level program in a "school," as defined in A.R.S. § 15-101, or "private school," as defined in A.R.S. § 15-101, during the most recently completed school year;
    - iii. Is home schooled at a kindergarten or higher level during the current school year; or
    - iv. Was home schooled at a kindergarten or higher level during the most recently completed school year.
114. "School-age-child care" means child care services provided to a school-age child.
115. "Separate" means to exclude a child from and have the child physically move away from other children, while keeping the child within a staff member's sight and sound.
116. "Serious injury" means trauma or damage to some part of the body that requires medical treatment.

117. "Service classification" means one of the following:
- a. Full-day care,
  - b. Part-day care,
  - c. Evening and nighttime care,
  - d. Infant care,
  - e. 1-year-old child care, or
  - f. School-age child care.
118. "Signed" means affixed with an individual's signature or, if the individual is unable to write the individual's name, with a symbol representing the individual's signature.
119. "Sippy cup" means a lidded drinking container that is designed to be leakproof or leak-resistant and from which a child drinks through a spout or straw.
120. "Soft" means yielding readily to touch or pressure, such as with a fleece, chenille, or velour blanket.
121. "Space utilization" means the designated use of specific areas within a certified area for specific child care services or activities.
122. "Special needs child" means:
- a. A child diagnosed with a physical or mental condition that substantially limits the child's ability to provide self-care or perform age-appropriate manual tasks or substantially limits any of the child's other major life functions such as walking, seeing, hearing, speaking, breathing, or learning;
  - b. A child with a "developmental disability" as defined in A.R.S. § 36-551; or
  - c. A "child with a disability" as defined in A.R.S. § 15-761.
123. "Staff member" means an individual who works at a child care group home providing child care, regardless of whether compensation is received by the individual in return for providing child care, and includes a provider or assistant provider.
124. "Supervised" means:
- a. When used in reference to a non-staff-member individual or a staff member at the child care group home, directly visually observed;
  - b. When used in reference to an enrolled child indoors, monitored and kept within sight or sound; and
  - c. When used in reference to an enrolled child outdoors, monitored and kept within sight and sound.
125. "Swimming pool" has the meaning in A.A.C. R9-8-801.
126. "Training" means instruction received through:
- a. Completion of a live or computerized conference, seminar, lecture, workshop, class, or course; or
  - b. Watching a video presentation and completing a Department-provided form to make a record of the video instruction.
127. "Tuberculosis control officer" has the meaning in A.R.S. § 36-711.
128. "Wading pool" has the meaning in A.A.C. R9-8-801.
129. "Week" means a seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.
130. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

#### **Historical Note**

Emergency rule adopted effective June 16, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Adopted effective October 22, 1992 (Supp. 92-4). Section expired on June 30, 1999 under A.R.S. § 41-1056(E) upon receipt of notice from the Governor's Regulatory Review Council (Supp. 99-3). New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

#### **R9-3-102. Time-frames**

- A. The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Chapter is set forth in Table 1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Chapter is set forth in Table 1 and begins on the date that the Department receives an application.
1. The Department shall send a notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the information or items needed to complete the application.
    - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is sent until the date that the Department receives all of the missing information or items from the applicant.
    - c. If an applicant fails to submit to the Department all of the information or items listed in the notice of deficiencies within 180 days after the date that the Department sent the notice of deficiencies, the Department shall consider the application withdrawn.
  2. If the Department issues a certificate or other approval to the applicant during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

- C. The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1 and begins on the date of the notice of administrative completeness.
1. As part of the substantive review for an application for an initial certificate or a certificate renewal, the Department shall conduct an inspection that may require more than one visit to the child care group home or residence.
  2. As part of the substantive review for a request for approval of a change affecting a certificate that requires a change in the use of physical space at a child care group home, the Department shall conduct an inspection that may require more than one visit to the child care group home.
  3. The Department shall send a certificate or a written notice of approval or denial of a certificate or other request for approval to an applicant within the substantive review time-frame.
  4. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.
    - a. If the Department determines that an applicant, a child care group home, or a residence is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
    - b. An applicant shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, written documentation of the corrections required in a statement of deficiencies, within 30 days after the date of the comprehensive written request for additional information or the supplemental request for information.
    - c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including, if applicable, documentation of corrections required in a statement of deficiencies.
    - d. If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
  5. The Department shall issue a certificate or approval if the Department determines that the applicant and the child care group home or residence are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, and the applicant submits documentation of corrections, which is acceptable to the Department, for any deficiencies.
  6. If the Department denies a certificate or approval, the Department shall send to the applicant a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**Table 1. Time-frames (in days)**

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Substantive Review Time-frame
Initial Certificate under R9-3-201	A.R.S. § 36-897.01	150	30	120
Certificate Renewal under R9-3-203	A.R.S. § 36-897.01	150	30	120
Approval of Change Affecting Certificate under R9-3-204(B)	A.R.S. §§ 36-897.01, 36-897.02	75	30	45

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-103. Individuals to Act for Applicant or Certificate Holder**

When an applicant or certificate holder is required by this Chapter to provide information on or sign an application form or other document, hold a fingerprint clearance card, or complete Department-provided orientation, the following shall satisfy the requirement on behalf of the applicant or certificate holder:

1. If the applicant or certificate holder is an individual, the individual;
2. If the applicant or certificate holder is a corporation, an officer of the corporation;
3. If the applicant or certificate holder is a partnership, one of the partners;
4. If the applicant or certificate holder is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;

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5. If the applicant or certificate holder is an association or cooperative, a member of the governing board of the association or cooperative;
6. If the applicant or certificate holder is a joint venture, one of the individuals signing the joint venture agreement; and
7. If the applicant or certificate holder is a business organization type other than those described in subsections (2) through (6), an individual who is a member of the business organization.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**ARTICLE 2. CERTIFICATION**

*Article 2, consisting of R9-3-201 through R9-3-206, made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).*

**R9-3-201. Application for a Certificate**

- A. To be eligible to obtain a certificate to operate a child care group home, an applicant for a certificate shall:
  1. Be at least 21 years of age;
  2. Possess a high school diploma, high school equivalency diploma, associate degree, or bachelor degree;
  3. Complete Department-provided orientation that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
  4. Hold a valid fingerprint clearance card.
- B. To obtain a certificate to operate a child care group home, an applicant shall submit to the Department an application completed using a Department-provided form and including:
  1. The applicant's name and social security number;
  2. The name to be used for the child care group home, if any;
  3. The address of the residence;
  4. The mailing address of the applicant, if different than the address of the residence;
  5. The phone number of the residence;
  6. The phone number of the applicant, if different than the phone number of the residence;
  7. The name and address of each controlling person;
  8. If the applicant is a business organization, the following:
    - a. The applicant's type of business organization;
    - b. The following information about an individual who is to service as the primary contact for information regarding the application:
      - i. Name;
      - ii. Address;
      - iii. Phone number; and
      - iv. Fax number, if any;
    - c. The following information about the applicant's statutory agent of the individual designated by the applicant to accept service of process and subpoenas for the applicant:
      - i. Name;
      - ii. Address;
      - iii. Phone number; and
      - iv. Fax number, if any;
    - d. The name, title, and address of each officer and board member or trustee;
    - e. A copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents, if applicable;
    - f. If the applicant is a corporation, a certificate of good standing issued to the applicant by the Arizona Corporation Commission and dated no earlier than six months before the date of application; and
    - g. If the applicant is a limited liability company, a certificate of good standing or a registration of good standing issued to the applicant by the Arizona Corporation Commission and dated no earlier than six months before the date of application;
  9. A list of the rooms to be used for child care services;
  10. A list of the service classifications to be offered at the child care group home;
  11. Whether the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building, the following:
  12. If the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building, the following:
    - a. The year of manufacture for the mobile home, manufactured home, or factory-built building; and
    - b. Copies of the following documents:
      - i. The installation permit required by A.A.C. R4-34-606;
      - ii. If the residential building is a factory-built building, the certificate of occupancy required by A.A.C. R4-34-801; and

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- iii. If the mobile home is a rehabilitated mobile home, the rehabilitation permit required by A.A.C. R4-34-606 and the certificate of compliance issued under R4-34-606;
- 13. A floor plan of the residential building to be used at the child care group home, showing:
  - a. The location and dimensions of each room in the residential building, with designation of the rooms to be used and not to be used for child care services;
  - b. The location of each exit from the residential building;
  - c. The location of each sink and toilet to be used by enrolled children;
  - d. The location of each smoke or heat detector in the residential building;
  - e. The location of each fire extinguisher in the residential building; and
  - f. The location of each telephone in the residential building;
- 14. A site plan of the residence showing:
  - a. The location and dimensions of the outdoor activity area,
  - b. The height of the fence around the outdoor activity area,
  - c. The location of each exit from the outdoor activity area,
  - d. The location of the residential building,
  - e. The location of each swimming pool,
  - f. The location of the fence around each swimming pool,
  - g. The height of the fence around each swimming pool, and
  - h. The location and dimensions of any other building or structure at the residence;
- 15. A copy of a certificate of completion issued by the Department showing that the applicant has completed the orientation required by subsection (A)(3);
- 16. A copy of the applicant's high school diploma, high school equivalency diploma, associate degree, or bachelor degree;
- 17. The following information about the applicant; each individual who is to be a staff member at the child care group home, including the individual who is to serve as the provider; and each individual who resides in the residential building to be used at the child care group home:
  - a. Full name;
  - b. Birth date;
  - c. If a staff member, job title;
  - d. If a resident, relationship to the applicant or provider;
  - e. If a staff member, hire date;
  - f. If an adult staff member or an adult resident, the following:
    - i. If a fingerprint clearance card has not yet been obtained, date that an application for a fingerprint clearance card was submitted to the Department of Public Safety;
    - ii. If a fingerprint clearance card has not yet been obtained, the Department of Public Safety application number;
    - iii. If a fingerprint clearance card has been obtained, expiration date of the fingerprint clearance card; and
    - iv. Date that a criminal history affidavit was completed;
- 18. A copy of the applicant's current and valid fingerprint clearance card;
- 19. A criminal history affidavit completed by the applicant;
- 20. A copy of a certificate of completion issued by the Department showing that the individual who is to serve as provider has completed the orientation required by subsection (A)(3);
- 21. An initial certificate application fee of \$1,000, in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services; and
- 22. The notarized signature of the applicant affirming:
  - a. That the individual signing on behalf of the applicant is an individual designated under R9-3-103 and has the authority to sign on behalf of the applicant;
  - b. That no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state, unless the denial was based on the controlling person's failure to complete the certification or licensing process according to a required time-frame;
  - c. That no controlling person has had a certificate to operate a child care group home or a license to operate a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
  - d. Whether the applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - e. That the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - f. That the applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
  - g. That the information provided in the application, including the information in the documents attached to the application form, is accurate and complete.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).  
Amended by final rulemaking December 2009.

**R9-3-202. Fingerprinting Requirements**

- A. A certificate holder shall hold a valid fingerprint clearance card issued under A.R.S. § 41-1758.03.
- B. A certificate holder shall ensure that each adult staff member and each adult resident at a child care group home:
  - 1. Holds a valid fingerprint clearance card issued under A.R.S. § 41-1758.03; or
  - 2. Submits to the certificate holder a copy of a fingerprint clearance card application showing that the application was submitted to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming an adult staff member or adult resident.
- C. If an adult staff member or adult resident holds a fingerprint clearance card that was issued before the staff member or resident became a staff member or resident at the child care group home, the certificate holder shall contact the Department of Public Safety within seven working days after the individual becomes a staff member or resident to determine whether the fingerprint clearance card is valid. The certificate holder shall make a written record of this determination, including the name of the staff member or resident, the date of the contact with the Department of Public Safety, and whether the fingerprint clearance card is valid.
- D. Except as provided in subsection (G), a certificate holder shall not allow an individual to be an adult staff member or adult resident if the individual has been denied a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1, and has not received an interim approval under A.R.S. § 41-619.55.
- E. Except as provided in subsection (G), a certificate holder shall not allow an individual to be an adult staff member or adult resident if the individual receives an interim approval under A.R.S. § 41-619.55 but is then denied a good cause exception under A.R.S. § 41-619.55 and a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1.
- F. A certificate holder shall ensure that each adult staff member and each adult resident submits to the certificate holder a completed criminal history affidavit, as required in A.R.S. § 36-897.03(B).
- G. An individual may be an adult resident even if the individual has been denied a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1; an interim approval under A.R.S. § 41-619.55; or a good cause exception under A.R.S. § 41-619.55, but the certificate holder shall ensure that the individual is never on the premises during hours of operation.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-203. Certificate Renewal**

- A. At least 45 days before the expiration of a current certificate, an applicant for renewal of a certificate shall submit to the Department an application completed using a Department-provided form and including:
  - 1. The applicant's name;
  - 2. The child care group home's certificate number;
  - 3. The child care group home's name, if applicable;
  - 4. The child care group home's street address, mailing address, and telephone number;
  - 5. The applicant's type of business organization, if applicable;
  - 6. If there have been any changes in the controlling person information submitted under R9-3-201(B)(7), a list of the changes;
  - 7. If there have been any changes to the organizational information submitted under R9-3-201(B)(8), a list of the changes and a copy of each new organizational document and each organizational document changed since the document was provided under R9-3-(B)(8);
  - 8. A renewal certificate application fee of \$1,000, in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services; and
  - 9. The notarized signature of the applicant affirming:
    - a. That the individual signing on behalf of the applicant is an individual designated under R9-3-103 and has the authority to sign on behalf of the applicant;
    - b. That no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state, unless the denial was based on the controlling person's failure to complete the certification or licensing process according to a required time-frame;
    - c. That no controlling person has had a certificate to operate a child care group home or a license to operate a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
    - d. Whether the applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
    - e. That the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
    - f. That the applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;

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- g. That the information provided in the application, including the information in the documents attached to the application form, is accurate and complete.
- B. An applicant that submits the items required by subsection (A) later than 45 days before the expiration of the current certificate shall submit to the Department a late filing fee of \$100 in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services.
- C. If an applicant submits to the Department the items required by subsection (A) and, if applicable, the fee required by in subsection (B) before the expiration date of the current certificate, the current certificate does not expire until the date specified in A.R.S. § 41-1092.11(A).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).  
Amended by final rulemaking December 2009.

**R9-3-204. Changes Affecting a Certificate**

- A. At least 30 days before the date of a change in a child care group home's name, a certificate holder shall send the Department written notice of the name change. Within 30 days after the date of receipt of the notice, the Department shall issue an amended certificate that incorporates the name change but retains the expiration date of the current certificate.
- B. At least 30 days before the date of an intended change in a child care group home's space utilization or certified capacity, a certificate holder shall submit a written request for approval of the change to the Department. The written request shall include:
  - 1. The certificate holder's name;
  - 2. The child care group home's name, if applicable;
  - 3. The child care group home's street address, mailing address, and telephone number;
  - 4. The name, telephone number, and fax number of a point of contact for the request;
  - 5. The child care group home's certificate number;
  - 6. The type of change intended:
    - a. Space utilization, or
    - b. Certified capacity;
  - 7. A narrative description of the intended change;
  - 8. If the intended change involves a modification of the residential building that requires a building permit, a copy of the building permit;
  - 9. A floor plan of the residential building that complies with R9-3-201(B)(13) and shows the intended changes; and
  - 10. The following additional information, as applicable:
    - a. If requesting a change in certified capacity, the square footage of the outdoor activity area and the square footage of the child care group home's indoor activity areas; and
    - b. If requesting a change in space utilization that affects individual rooms, the name and square footage of each affected room.
- C. The Department shall review a request submitted under subsection (B) according to R9-3-102. If the child care group home will be in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter with the intended change, the Department shall send the certificate holder an approval of the request and, if necessary, an amended certificate that incorporates the change but retains the expiration date of the current certificate.
- D. A certificate holder shall not implement any change described in subsection (B) until the Department approves the request and, if necessary, issues an amended certificate.
- E. At least 30 days before the date of a change in service classification, a certificate holder shall send the Department written notice of the change.
- F. At least 30 days before the date of a change in the ownership of a child care group home, a certificate holder shall send the Department written notice of the change. A new owner shall obtain a new certificate as prescribed in R9-3-201 before beginning operation of a child care group home.
- G. A certificate holder changing a child care group home's location shall apply for a new certificate as prescribed in R9-3-201. A certificate holder shall obtain a new certificate from the Department before beginning operation of a child care group home at a new location.
- H. Within 30 days after the date of a change in the organizational information provided under R9-3-201(B)(8), other than a change in ownership, a certificate holder that is a business organization shall send the Department written notice of the change.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-205. Inspections; Investigations**

- A. The Department shall inspect a residence before issuing an initial certificate and a child care group home before issuing a renewal certificate and as often as necessary to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter. An applicant, certificate holder, or provider shall allow the Department immediate access to all areas of the residence or child care group

- home that may affect the health, safety, or welfare of an enrolled child or to which an enrolled child may have access during hours of operation.
- B. During an inspection or investigation, an applicant or certificate holder shall demonstrate to the Department that the applicant or certificate holder and the residence or child care group home are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter.
- C. During an initial, annual, or renewal inspection, or upon request during an investigation, an applicant or certificate holder shall make the following available for Department review:
1. If the residence or child care group home has a gas-powered appliance or heating and cooling device, including a permanently installed gas-powered grill or a gas-powered swimming pool heater, a copy of a violation-free gas inspection conducted within 12 months before the date of inspection by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
  2. A certificate of general liability insurance or of combined general liability insurance and excess liability insurance, issued to the applicant or certificate holder, covering the child care group home, and including the following information about the insurance:
    - a. The effective and expiration dates,
    - b. The maximum liability limit,
    - c. The number of enrolled children covered, and
    - d. Whether the policy includes a waiver of coverage for physical or sexual abuse of an enrolled child; and
  3. If a staff member will or does transport enrolled children in a motor vehicle, the following information:
    - a. The year, make, and model of each motor vehicle used or to be used to transport enrolled children; and
    - b. For each motor vehicle used or to be used to transport enrolled children, an insurance policy that complies with A.R.S. Title 28, Chapter 9.
- D. During an initial inspection, an applicant shall make the following available at the residence for Department review:
1. If the residential building is a mobile home, manufactured home, or non-commercial factory-built building, the Insignia of Approval issued under A.A.C. R4-34-802; and
  2. If the residential building is a rehabilitated mobile home, the Insignia of Approval issued under A.A.C. R4-34-606.
- E. If the Department receives a complaint alleging a violation of A.R.S. Title 36, Chapter 7.1, Article 4 or this Chapter, the Department shall conduct an investigation. A certificate holder or provider shall permit the Department to interview each staff member or enrolled child outside of the presence of others as part of an investigation.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-206. Denial, Revocation, or Suspension of a Certificate**

- A. The Department may deny, revoke, or suspend a certificate to operate a child care group home if:
1. An applicant or certificate holder:
    - a. Has provided false or misleading information to the Department;
    - b. Fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information within the time prescribed in R9-3-102(C)(4)(b);
    - c. Fails to allow the Department to enter the child care group home during hours of operation or to inspect required records;
    - d. Fails to substantially comply with any provision in A.R.S. Title 36, Chapter 7.1, Article 4 or this Chapter; or
    - e. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, but refuses to submit or implement a plan acceptable to the Department to eliminate any deficiencies; or
  2. An applicant, certificate holder, or other controlling person:
    - a. Has been arrested or charged with an offense listed in A.R.S. § 41-1758.03(B) or (C);
    - b. Is the parent or guardian of a child adjudicated to be a dependent child as defined in A.R.S. § 8-201;
    - c. Has been denied a certificate or license to operate a child care group home or a certificate or license to operate a child care facility in this state or another state, unless the denial was based on the individual's failure to complete the certification or licensing process according to a required time-frame;
    - d. Has had a certificate or license to operate a child care group home or a child care facility revoked or suspended in this state or another state for reasons that relate to endangerment of the health and safety of children;
    - e. Has been denied a fingerprint clearance card or has had a fingerprint clearance card suspended or revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
    - f. Has had a formal enforcement action issued against the individual by the Department under A.R.S. Title 36, Chapter 7.1, Article 1 or Article 4; or
    - g. Has had a restraining order and injunction issued against the individual by the county attorney or the attorney general under A.R.S. Title 36, Chapter 7.1, Article 1 or Article 4.
- B. In determining whether to deny, suspend, or revoke a certificate, the Department shall consider the threat to the health and safety of enrolled children at a child care group home based on factors such as those listed in A.R.S. § 36-897.06(B)(1) through (10).

**Historical Note**



New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**ARTICLE 3. ADMINISTRATION**

*Article 3, consisting of R9-3-301 through R9-3-315, made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).*

**R9-3-301. Certificate Holder Responsibilities**

- A. The certificate holder for a child care group home shall designate in writing a provider who meets the qualifications of R9-3-302(A) to act on behalf of the certificate holder and to be responsible for the daily on-site operation of the child care group home.
- B. The certificate holder for a child care group home shall ensure that:
  - 1. The provider meets the qualifications of R9-3-302(A) and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - 2. An assistant provider meets the qualifications of R9-3-302(B) and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - 3. Each staff member, including the provider or assistant provider, meets the qualifications of R9-3-303 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - 4. Each non-staff-member resident meets the qualifications of R9-3-304 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
  - 5. The child care group home complies with all requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-302. Provider Qualifications and Responsibilities**

- A. To be a provider, an individual shall:
  - 1. Be at least 21 years of age;
  - 2. Satisfy one of the following:
    - a. Have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree and have completed at least:
      - i. Three credit hours in early education, child development, or a closely related field from an accredited college or university; or
      - ii. 60 clock hours of training in early education, child development, or a closely related field; or
    - b. Be registered as a Level II-B with S\*CCEEDS;
  - 3. Use the residential building at the child care group home as the individual's principal place of habitation;
  - 4. Complete Department-provided orientation that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
  - 5. Meet the qualifications for a staff member in R9-3-303.
- B. To be an assistant provider, an individual shall:
  - 1. Be at least 18 years of age;
  - 2. Satisfy one of the following:
    - a. Have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree; or
    - b. Be registered as a Level II-A with S\*CCEEDS;
  - 3. Have completed at least:
    - a. Two credit hours in early education, child development, or a closely related field from an accredited college or university; or
    - b. 30 clock hours of training in early education, child development, or a closely related field; and
  - 4. Meet the qualifications for a staff member in R9-3-303.
- C. The provider for a child care group home shall ensure that:
  - 1. Each staff member, including the provider or assistant provider, meets the qualifications of R9-3-303 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - 2. Each non-staff-member resident meets the qualifications of R9-3-304 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
  - 3. The provider designates in writing a staff member who meets the qualifications of subsection (B) to act as the assistant provider, who assumes the responsibilities of the provider when the provider is absent;
  - 4. The assistant provider is present and actively involved at the child care group home at all times during hours of operation when the provider is absent;
  - 5. The provider does not engage in outside employment during hours of operation and does not operate another business at or out of the residence during hours of operation;
  - 6. No other business is operated at or out of the residence during hours of operation unless the operation of the business does not involve persons coming into the residence because of the business;
  - 7. Child care is provided only in certified areas;

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8. Each parent of an enrolled child is informed that the parent has immediate access to all certified areas during hours of operation;
9. Each parent of an enrolled child is allowed immediate access to all certified areas during hours of operation;
10. The following are allowed immediate access to the child care group home during hours of operation:
  - a. The Department,
  - b. The local health agency,
  - c. Child Protective Services,
  - d. The local fire department or Office of the State Fire Marshal, and
  - e. An inspector from the local jurisdiction verifying compliance with local codes and ordinances;
11. The following information is posted in a location that can be viewed by individuals entering or leaving the child care group home:
  - a. The child care group home certificate;
  - b. The name of the provider;
  - c. The name of the assistant provider;
  - d. A sign stating:
    - i. That inspection reports for the child care group home are available for review at the child care group home,
    - ii. The address of the Office of Child Care Licensing, and
    - iii. The telephone number of the Office of Child Care Licensing;
  - e. The hours of operation for the child care group home; and
  - f. A weekly menu;
12. Each non-staff-member individual who is in a certified area of the child care group home where an enrolled child is present, including an outdoor activity area, is supervised by a staff member at all times;
13. Except as provided in R9-3-413(C), each enrolled child is supervised by a staff member at all times;
14. Each non-adult staff member or staff member who does not possess a high school diploma, high school equivalency diploma, associate degree, or bachelor degree is supervised at all times by the provider or, in the provider's absence, by the assistant provider;
15. Each staff member is able to communicate with each enrolled child who communicates verbally;
16. Each staff member is knowledgeable about and able to provide verbal or written information upon request about each enrolled child's progress in the acquisition of skills, emotional development, and new or unusual behavior during daily activities;
17. At least one staff member with current certification in CPR specific to infants and children and pediatric first aid is at the child care group home at all times during hours of operation;
18. Each staff member records the times of the staff member's arrivals and departures on each day that the staff member works;
19. The provider complies with all applicable requirements in 9 A.A.C. 6, Article 7;
20. The provider notifies the Department at least 72 hours in advance whenever the child care group home will be closed for one or more days;
21. Child Protective Services or a local law enforcement agency and the Department are notified immediately of any suspected child abuse or neglect, as required by R9-3-312;
22. The Department is notified orally within 24 hours and in writing within 72 hours after one of the following occurs:
  - a. An injury to an enrolled child at the child care group home that results in the child's needing medical attention;
  - b. The death of an enrolled child or other individual at the child care group home;
  - c. Damage to a building at the child care group home, to a vehicle used in transporting enrolled children, or to equipment used in providing child care that affects the provider's ability to provide child care services in compliance with this Chapter;
  - d. Loss of a utility at the child care group home, such as electricity or water, that affects the provider's ability to provide child care services in compliance with this Chapter;
  - e. Loss of an enrolled child for any period of time, for any reason;
  - f. Fire at the child care group home;
  - g. An incident requiring police response, fire response, or other emergency response at the child care group home during hours of operation; or
  - h. The provider is notified that a staff member or adult resident:
    - i. Has been denied a fingerprint clearance card, an interim approval under A.R.S. § 41-619.55, or a good cause exception under A.R.S. § 41-619.55;
    - ii. Has had the staff member's or adult resident's fingerprint clearance card revoked or suspended; or
    - iii. Has been arrested for or charged with an offense listed in A.R.S. § 41-1758.03(B) or (C);
23. A parent of each enrolled child is notified orally, or an attempt is made to notify a parent of each enrolled child orally, immediately and a parent of each enrolled child is notified in writing within 24 hours after an incident requiring police response, fire response, or other emergency response at the child care group home during hours of operation; and
24. The provider submits to the Department a document containing the information described in R9-3-201(B)(17) once every 12 months after initial certification.

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- D. An individual who is serving as a provider when this rule becomes effective is required to have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree, but is not required to comply with subsection (A)(2)(a)(i) or (ii) or subsection (A)(2)(b) until September 1, 2009.
- E. An assistant provider is required to have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree or to be registered as a Level II-A with S\*CCEEDS, but is not required to comply with subsection (B)(3)(a) or (b) until September 1, 2007.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-303. Staff Member Qualifications**

To be a staff member, an individual shall:

1. If the staff member will work with enrolled children only while supervised by the provider or assistant provider, be at least 16 years of age or registered as a Level I with S\*CCEEDS;
2. If the staff member will work with enrolled children without being supervised by the provider or assistant provider:
  - a. Be at least 18 years of age and have a high school diploma, high school equivalency diploma, associate degree, or bachelor degree; or
  - b. Be registered as a Level II-A with S\*CCEEDS;
3. Not be the parent or guardian of a child adjudicated to be a dependent child as defined in A.R.S. § 8-201;
4. If an adult, comply with the fingerprinting requirements in R9-3-202;
5. If an adult, submit to the certificate holder a criminal history affidavit completed by the staff member;
6. Demonstrate freedom from infectious pulmonary tuberculosis by submitting one of the following to the certificate holder:
  - a. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that a Mantoux skin test administered to the staff member no earlier than 12 months before and no later than 12 hours after becoming a staff member was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative at least 48 and no later than 72 hours after test administration;
  - b. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that another test for tuberculosis, recommended by the Centers for Disease Control and Prevention or the tuberculosis control officer, administered to the staff member no earlier than 12 months before and no later than 12 hours after becoming a staff member was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative; or
  - c. If the staff member cannot comply with subsection (6)(a) or (b), a statement dated no earlier than 12 months before becoming a staff member and written by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that the staff member is currently free from infectious pulmonary tuberculosis;
7. Unless opposed to immunization for religious reasons as described in subsection (8), demonstrate immunity to measles, rubella, diphtheria, and tetanus or establish a medical exemption from immunization:
  - a. By submitting to the certificate holder a copy of the staff member's proof of immunity or a written statement signed by the staff member attesting to immunity; and
  - b. For any of the diseases listed in subsection (7) for which a staff member has not received immunization and cannot attest to immunity, by submitting to the certificate holder a written statement signed by a physician, physician assistant, registered nurse practitioner, or registered nurse stating that the immunization would endanger the staff member's health or medical condition;
8. If opposed to immunization for religious reasons, submit to the certificate holder a written statement signed by the staff member attesting to the staff member's membership in a religion whose teachings are in opposition to immunization;
9. Complete training in the following subject areas within 10 days after becoming a staff member:
  - a. The statutes and rules that govern child care group homes, including staff member responsibilities;
  - b. The names, ages, and needs of enrolled children;
  - c. Guiding and disciplining enrolled children;
  - d. Hand washing;
  - e. Diapering, if any enrolled children are in diapers;
  - f. Toileting of enrolled children;
  - g. Recognizing signs of illness and infestation;
  - h. Sudden infant death syndrome awareness, if infant or 1-year-old child care is provided at the child care group home;
  - i. Detecting and preventing child abuse or neglect and reporting suspected child abuse or neglect; and
  - j. Responding to accidents and emergencies; and
10. Complete one of the following every 12 months after becoming a staff member:
  - a. At least 12 clock hours of Arizona T3 training;
  - b. At least one credit hour in early education, child development, or a closely related field from an accredited college or university; or
  - c. At least 12 clock hours of training in two or more of the following subject areas:
    - i. Responding to accidents and emergencies;

- ii. Recognizing signs of illness and infestation;
- iii. Child and family growth and development;
- iv. Detecting and preventing child abuse or neglect and reporting suspected child abuse or neglect;
- v. Care and teaching of young children;
- vi. Guiding and disciplining children;
- vii. Nutrition and developmentally appropriate eating habits;
- viii. Availability of community services and resources, including those available to special needs children;
- ix. Involving and communicating with parents;
- x. Developmentally appropriate child care activities;
- xi. Sun safety;
- xii. Outdoor activity area safety;
- xiii. Sudden infant death syndrome awareness; and
- xiv. Business administration and management.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-304. Resident Qualifications**

A non-staff-member resident shall:

- 1. If an adult, comply with the fingerprinting requirements in R9-3-202;
- 2. If an adult, submit to the certificate holder a criminal history affidavit completed by the adult resident;
- 3. If 12 years of age or older, demonstrate freedom from infectious pulmonary tuberculosis by submitting one of the following to the certificate holder:
  - a. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that a Mantoux skin test administered to the resident no earlier than 12 months before and no later than 12 hours after becoming a resident 12 years of age or older was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative at least 48 and no later than 72 hours after test administration;
  - b. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that another test for tuberculosis, recommended by the Centers for Disease Control and Prevention or the tuberculosis control officer, administered to the resident no earlier than 12 months before and no later than 12 hours after becoming a resident 12 years of age or older was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative; or
  - c. If the resident cannot comply with subsection (3)(a) or (b), a statement dated no earlier than 12 months before becoming a resident 12 years of age or older and written by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that the resident is currently free from infectious pulmonary tuberculosis;
- 4. Unless opposed to immunization for religious reasons as described in subsection (5), demonstrate immunity to measles, rubella, diphtheria, and tetanus or establish a medical exemption from immunization as follows:
  - a. By submitting to the certificate holder a copy of the resident's proof of immunity or a written statement signed by the resident or, if the resident is a minor, the resident's parent attesting to the resident's immunity; and
  - b. For any of the diseases listed in subsection (4) for which a resident has not received immunization and cannot attest to immunity, by submitting to the certificate holder a written statement signed by a physician, physician assistant, registered nurse practitioner, or registered nurse stating that the immunization would endanger the resident's health or medical condition; and
- 5. If opposed to immunization for religious reasons, submit to the certificate holder a written statement signed by the resident or, if the resident is a minor, the resident's parent attesting to the resident's membership in a religion whose teachings are in opposition to immunization.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-305. Recordkeeping Requirements**

- A. The provider for a child care group home shall maintain the following records at the child care group home:
  - 1. A file for each staff member that includes:
    - a. The following information about the staff member:
      - i. Full name,
      - ii. Birth date,
      - iii. Home address,
      - iv. Home telephone number,
      - v. Start date, and
      - vi. Job title;
    - b. The staff member's first-aid or CPR certificate, if applicable;

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- c. If the staff member is an adult:
    - i. If the staff member holds a valid fingerprint clearance card issued according to A.R.S. § 41-1758.03, a copy of the staff member's valid fingerprint clearance card;
    - ii. If the staff member has not yet obtained a fingerprint clearance card, a copy of the staff member's fingerprint clearance card application;
    - iii. If the staff member holds a valid fingerprint clearance card that was issued before the staff member became a staff member at the child care group home, documentation of verification of the validity of the staff member's fingerprint clearance card, as required by R9-3-202(C);
    - iv. If the staff member has an interim approval under A.R.S. § 41-619.55, a copy of the staff member's interim approval; and
    - v. A criminal history affidavit completed by the staff member;
  - d. If the staff member is the provider:
    - i. A copy of the provider's certificate of completion issued by the Department for Department-provided orientation that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
    - ii. A copy of the provider's high school diploma, high school equivalency diploma, associate degree, or bachelor degree; and
    - iii. Unless the provider is exempt under R9-3-302(D), a copy of documentation establishing the provider's compliance with R9-3-302(A)(2)(a)(i) or (ii) or R9-3-302(A)(2)(b); and
  - e. If the staff member is the assistant provider:
    - i. A copy of the assistant provider's high school diploma, high school equivalency diploma, associate degree, or bachelor degree or documentation of the assistant provider's achieving Level II-A with S\*CCEEDS; and
    - ii. Unless the assistant provider is exempt under R9-3-302(E), documentation establishing the assistant provider's compliance with R9-3-302(B)(3)(a) or (b);
  - f. If the staff member works with enrolled children without being supervised by the provider or assistant provider, a copy of the staff member's high school diploma, high school equivalency diploma, associate degree, or bachelor degree or documentation of the staff member's achieving Level II-A with S\*CCEEDS;
  - g. Documentation showing freedom from infectious pulmonary tuberculosis, as required by R9-3-303(6);
  - h. Documentation regarding immunity to measles, rubella, diphtheria, and tetanus, as required by R9-3-303(7) or (8);
  - i. Documentation showing that the staff member completed the training required by R9-3-303(9) within 10 days after becoming a staff member;
  - j. Documentation showing the staff member's compliance with the annual training requirement of R9-3-303(10); and
  - k. Documentation of the provider's good faith efforts to contact at least two previous employers of the staff member, as required by A.R.S. § 36-897.03(C), including the name of each employer, the date of the contact, and comments regarding the information obtained;
2. A file for each non-staff-member resident that includes:
- a. The following information about the resident:
    - i. Full name,
    - ii. Birth date, and
    - iii. Relationship to the certificate holder or provider;
  - b. If the resident is an adult:
    - i. If the resident holds a valid fingerprint clearance card issued according to A.R.S. § 41-1758.03, a copy of the resident's valid fingerprint clearance card;
    - ii. If the resident has not yet obtained a fingerprint clearance card, a copy of the resident's fingerprint clearance card application;
    - iii. If the resident holds a valid fingerprint clearance card that was issued before the resident became a resident at the child care group home, documentation of verification of the validity of the resident's fingerprint clearance card, as required by R9-3-202(C);
    - iv. If the resident has an interim approval under A.R.S. § 41-619.55, a copy of the resident's interim approval; and
    - v. A criminal history affidavit completed by the resident;
  - c. If the resident is 12 years of age or older, documentation showing freedom from infectious pulmonary tuberculosis, as required by R9-3-304(3); and
  - d. Documentation regarding immunity to measles, rubella, diphtheria, and tetanus, as required by R9-3-304(4) or (5);
3. A file for each enrolled child that includes:
- a. The Emergency Information and Immunization Record Card for the child;
  - b. The child's proof of immunity, if applicable;
  - c. The child's statement for medical exemption, as described in R9-3-308(C)(2), if applicable;
  - d. The child's statement for religious exemption, as described in R9-3-308(A)(2), if applicable;
  - e. A copy of a modified diet prescribed for the child, if applicable;
  - f. A copy of written instructions for feeding the child, if applicable, including as applicable;

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- i. Instructions for preparing, storing, and feeding formula, breast milk, or other food to an infant, as described in R9-3-403(6); and
  - ii. Instructions for feeding an infant or 1-year-old child cereal in a bottle, as described in R9-3-403(7);
  - g. A written record of notification of illness or infestation made under R9-3-311(B), if applicable;
  - h. Each written consent provided by the parent for bathing and bathing instructions, as required by R9-3-401(7), if applicable;
  - i. Each written consent provided by the parent for swimming, as required by R9-3-401(8), if applicable;
  - j. Records regarding administration of medication, if applicable, including, as applicable:
    - i. Each written authorization for administration of medication to the enrolled child, as required by R9-3-313(B)(3);
    - ii. Each written authorization for the child to receive injections at the child care group home, as required by R9-3-313(C); and
    - iii. Documentation of all medications administered to the child at the child care group home, as required by R9-3-313(B)(4);
  - k. If the child is a special needs child, a copy of the child's individualized plan, as required by R9-3-406;
  - l. A copy of a toilet training plan for the child and documentation of its implementation, as required by R9-3-408, if applicable;
  - m. Written authorization to transport the child in a motor vehicle, as required by R9-3-412(A), if applicable; and
  - n. If there are custody documents pertaining to the child, a copy of the custody documents, as required under R9-3-307(C);
  4. Staff member and enrolled child dated attendance records, as required under R9-3-302(C)(18) and R9-3-310(A);
  5. Weekly menus, as required under R9-3-410(F), each of which shall be kept until at least three months after the last date on the menu;
  6. A written log of all smoke detector battery tests completed as required by R9-3-504(B);
  7. A written log of all fire evacuation drills completed as required by R9-3-504(D);
  8. A written log of all swimming pool water quality tests conducted as required by R9-3-503(C)(1), if applicable;
  9. Documentation of each inspection conducted at the child care group home during the past three years, including:
    - a. An inspection checklist or report;
    - b. A statement of deficiencies, if applicable; and
    - c. Written documentation of corrections, if applicable;
  10. Documentation of each notification to the Department or a parent as required under R9-3-302(C)(20), (22), or (23), if applicable;
  11. Documentation of each notification of communicable disease or infestation required under R9-3-311(D), if applicable;
  12. Documentation of each report of suspected abuse or neglect of an enrolled child, as required by R9-3-312, including documentation of each telephonic or in-person report and a copy of each written report provided to Child Protective Services or a local law enforcement agency, if applicable;
  13. Documentation of each accident, emergency, or serious injury notification to a parent or emergency contact as required under R9-3-315, if applicable;
  14. If swimming is included in the program, documentation of a staff member's current certification in basic water rescue training completed through a nationally recognized health and safety training program such as American Red Cross Basic Water Rescue or American Safety and Health Institute Safety Training and Aquatic Rescue;
  15. Service and repair records for each motor vehicle used by a staff member to transport enrolled children, if applicable; and
  16. Field trip permission notices, as required by R9-3-413(A), and field trip attendance records, as required by R9-3-413(B)(3), if applicable.
- B. A provider shall maintain the file required in subsection (A) for each enrolled child, staff member, or non-staff-member resident at the child care group home during the entire period that the child is enrolled, the staff member is working, or the resident lives at the child care group home and for at least 12 months after the date that the child is disenrolled from, the staff member stops working at, or the resident stops living at the child care group home.
- C. Except as otherwise provided in subsections (A)(5), (A)(9), and (B), a provider shall maintain all records required to be maintained by this Section for at least 12 months after the date of the last event recorded in the record.
- D. A provider shall ensure that all of the records required to be maintained by this Section either are written in English or, if written in a language other than English, include an English translation.
- E. A provider shall ensure that all of the records required to be maintained by this Section are made available to the Department during an inspection.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-306. Staffing**

A provider shall ensure that:

1. The provider or the assistant provider is present and actively involved at the child care group home when one to five enrolled children are at the child care group home; and
2. At least one adult staff member in addition to the provider or the assistant provider is present and actively involved at the child care group home when six to 10 enrolled children are at the child care group home.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-307. Enrollment of Children**

- A. A provider shall require that a child be enrolled by the child's parent or by an individual authorized in writing by the child's parent.
- B. Before a child may attend a child care group home, the provider shall require the individual enrolling the child to submit:
  - 1. An Emergency Information and Immunization Record Card including:
    - a. The child's name;
    - b. Unless the child resides in a shelter for victims of domestic violence, the child's home address;
    - c. The child's home phone number;
    - d. The child's sex;
    - e. The child's date of birth;
    - f. The child's date of enrollment;
    - g. The names of the child's parents;
    - h. The work addresses for each of the child's parents;
    - i. Unless the child's parent resides in a shelter for victims of domestic violence, each parent's home address;
    - j. If the child's parent resides in a shelter for victims of domestic violence, a post office box or other mailing address where mail can be sent to the parent;
    - k. The home and work telephone numbers for each of the child's parents;
    - l. The name of each parent's employer;
    - m. The name, address, and telephone number of the child's primary physician;
    - n. The name, address, and telephone number of the hospital that the child's parents would prefer that the child be taken to in the event of an emergency;
    - o. Instructions on which individual the provider is to call first if the child is injured or shows signs of illness or infestation;
    - p. A statement that the parent signing the Emergency Information and Immunization Record Card authorizes any hospital or physician to render immediate aid as may be required for the health and safety of the child and that the parent understands that the parent accepts responsibility for the expense of this aid;
    - q. The names, addresses, and telephone numbers of at least two emergency contacts who reside within the same metropolitan area;
    - r. Whether the child is allergic to food or another substance and, if so, the name of each substance and the procedure to follow if exposure occurs;
    - s. Whether the child is susceptible to infections and, if so, the precautions to take to avoid infection;
    - t. Whether the child is subject to convulsions and, if so, the procedure to follow if a convulsion occurs;
    - u. Whether the child has any physical condition of which the provider needs to be aware and, if so, instructions from the parent regarding the physical condition; and
    - v. The dated signature of the parent who supplied the information;
  - 2. A copy of a modified diet prescribed for the child, if applicable;
  - 3. The document regarding immunization required by R9-3-308(A);
  - 4. If the child is a special needs child, the document required by R9-3-406(A); and
  - 5. If there are custody documents pertaining to the child, a copy of the custody documents, as required under subsection (C).
- C. If there are custody documents pertaining to an enrolled child, a provider shall:
  - 1. Obtain a copy of the custody documents before the child attends the child care group home or within 14 days after the custody documents become effective; and
  - 2. Ensure that a note is made on the child's Emergency Information and Immunization Record card stating that the child care group home has a copy of custody documents pertaining to the child.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-308. Enrolled Child Immunization Requirements**

- A. A provider shall not permit an enrolled child to attend a child care group home until the provider receives one of the following:
  - 1. A copy of the child's proof of immunity; or
  - 2. A statement signed by the child's parent that:
    - a. States that the child is being raised in a religion that prohibits immunization, and
    - b. Includes the child's name and date of birth.
- B. A provider shall check a child's proof of immunity against the immunization requirements contained in 9 A.A.C. 6, Article 7 at the time of first attendance and at least every three months thereafter to determine whether the child has received each immunization that the child is required to receive.
- C. If an enrolled child has not received each immunization that the child is required to receive under 9 A.A.C. 6, Article 7, the provider shall notify the child's parent in writing that the child will be excluded from the child care group home 15 days after the date of notification unless the child's parent submits to the provider one of the following for each immunization that the child is required to receive but has not yet received:
  - 1. Proof of immunity showing that the child has received the immunization; or

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2. A dated statement signed by a doctor of allopathic, osteopathic, or homeopathic medicine certifying:
  - a. That the child has a medical condition, which is identified;
  - b. That as a result of the medical condition, the immunization may be detrimental to the child's health; and
  - c. The estimated duration of the medical condition.
- D. A provider shall ensure that each time an enrolled child's parent provides proof of immunity, a statement for medical exemption, or a statement for religious exemption, a staff member attaches a copy of the document to the child's Emergency Information and Immunization Record Card.
- E. A provider shall document on a child's Emergency Information and Immunization Record Card:
  1. Whether the child has a statement for medical exemption as described in subsection (C)(2) and, if so, its duration; and
  2. Whether the certificate holder has sent the child's parent notification of immunizations that the child needs and, if so, the date of each notification.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-309. Insurance Requirements**

- A. A certificate holder shall secure and maintain the following insurance coverage, issued to the certificate holder, for a child care group home:
  1. General liability insurance or a combination of general liability insurance and excess liability insurance with a maximum liability limit of at least \$100,000; and
  2. For each motor vehicle owned by the certificate holder and used by a staff member to transport enrolled children, motor vehicle insurance that has the coverage limits required by A.R.S. Title 28, Chapter 9.
- B. A certificate holder shall obtain a certificate of insurance for the insurance policy required by subsection (A)(1). A certificate holder shall ensure that the certificate of insurance complies with R9-3-205(C)(2).
- C. A certificate holder shall submit to the Department a copy of a new certificate of insurance or new insurance policy immediately after the certificate holder's insurance policy required under subsection (A)(1) or (2) expires, is canceled, or is changed.
- D. If the general liability insurance policy or combination of general liability insurance and excess liability insurance for a child care group home includes a waiver of coverage for physical or sexual abuse of an enrolled child, the provider shall provide written notice of this waiver of coverage at the time of each child's enrollment to the parent or other individual enrolling the child.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-310. Admission and Release of Enrolled Children**

- A. A provider shall ensure that:
  1. An enrolled child is signed into and signed out from the child care group home by:
    - a. The child's parent;
    - b. An individual authorized in writing or by telephone by the child's parent; or
    - c. The child, if the child is a school-age child and the child's parent has submitted written permission for the child to self-admit or self-release; and
  2. The parent or other individual who brings a child to the child care group home, including a child who self-admits, records the time of the child's arrival and signs the attendance record; and
  3. The parent or other individual who picks up a child from the child care group home, including a child who self-releases, records the time of the child's departure and signs the attendance record.
- B. If an enrolled child submits to the provider written permission for the child to self-admit or self-release, the provider shall ensure that a staff member verifies permission with a parent before the child is allowed to self-admit or self-release.
- C. If an individual who is unknown to the staff member present comes to sign out an enrolled child, the staff member shall do the following before releasing the child to the individual:
  1. Review the child's Emergency Information and Immunization Record Card to verify that the child's parent has authorized the individual to sign out the child; and
  2. Review a driver license or other picture identification to verify the individual's identity.
- D. A provider shall not admit an enrolled child to the child care group home if the child's presence will cause the child care group home to violate R9-3-306 or exceed its certified capacity.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-311. Illness and Infestation**

- A. A provider shall exclude an enrolled child from the child care group home when:
  1. The child's illness prevents the child from participating in program activities without experiencing discomfort or aggravation of symptoms;



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2. The child's illness results in a greater need for care than staff members can provide without compromising the health or safety of other enrolled children;
  3. The child's exclusion is required under 9 A.A.C. 6, Article 3; or
  4. The child's exclusion is required by Table 2.
- B. If an enrolled child exhibits signs of illness or infestation that require exclusion from the child care group home under subsection (A), a provider shall ensure that a staff member:
1. Immediately separates the child from other enrolled children;
  2. Notifies the child's parent or, if a parent cannot be reached, an emergency contact by telephone or other expeditious means that the child needs to be picked up from the child care group home; and
  3. Makes a written record of the notification and places it in the child's file.
- C. A provider shall ensure that a staff member or resident who has signs or symptoms of illness or infestation is excluded when required under 9 A.A.C. 6, Article 3 or using the same criteria as required for an enrolled child under Table 2.
- D. If a provider is notified that an enrolled child, staff member, or resident has an infestation or a communicable disease, other than human immunodeficiency virus or a sexually transmitted disease, the provider shall ensure that:
1. Written notice of potential exposure is provided to each staff member and to a parent of each enrolled child within 24 hours after the provider receives notice of the communicable disease or infestation;
  2. Notice is provided to the local health agency if required under 9 A.A.C. 6, Article 2;
  3. If the communicable disease is vaccine preventable, an enrolled child who lacks proof of immunity to the communicable disease is excluded from the child care group home until:
    - a. The child's parent submits proof of immunity to the provider; or
    - b. The time designated by 9 A.A.C. 6, Article 3 or by the local health agency;
  4. If the communicable disease is vaccine preventable, a staff member or resident who lacks proof of immunity to the communicable disease, including a staff member or resident who is exempt from immunization under R9-3-303(8) or R9-3-304(5), is excluded from the child care group home if required by 9 A.A.C. 6, Article 3 or by the local health agency; and
  5. An enrolled child, staff member, or resident with the communicable disease or infestation is excluded from the child care group home until the time designated under 9 A.A.C. 6, Article 3 or by the local health agency.
- E. If subsection (A), (C), or (D) requires exclusion of a resident, the provider shall:
1. Exclude the resident until exclusion is no longer required, or
  2. Close the child care group home until exclusion is no longer required.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**Table 2. Exclusion of an Enrolled Child from the Child Care Group Home**

Child's Condition	Exclusion Requirement
Diarrhea	Exclude until diarrhea has been absent for 24 hours without antidiarrheal medication or until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious
Eye discharge, consisting of thick mucus or pus draining from the eye	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious or until the condition has resolved
Fever	Exclude until fever has been absent for 24 hours without fever-reducing medication or until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious
Impetigo	Exclude until 24 hours after initial treatment for impetigo
Rash with fever or behavioral change	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious or until the condition has resolved
Severe, persistent coughing, such as where the child makes a high-pitched whooping sound after coughing or the coughing is not relieved by a drink of water or, for an asthmatic child, by asthma medication	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious
Stools that contain blood or mucus	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious
Vomiting two or more times in the previous 24 hours	Exclude until vomiting has been absent for 24 hours, unless a physician, physician assistant, or registered nurse practitioner or the local health agency

	has stated that the vomiting is caused by a noncommunicable condition and the child is not in danger of dehydration
Yellowish skin or eyes	Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-312. Suspected Abuse or Neglect of an Enrolled Child**

- A. A provider or staff member shall immediately report suspected abuse or neglect of an enrolled child to Child Protective Services or to a local law enforcement agency, as required by A.R.S. § 13-3620, and to the Department.
- B. A provider or staff member who reports suspected abuse or neglect shall:
  - 1. Provide the Department with a copy of the written report provided to Child Protective Services or a local law enforcement agency,
  - 2. Document each telephonic or in-person report of suspected child abuse or neglect made by the provider or staff member, and
  - 3. Retain a record of each report as required in R9-3-305(A)(12).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-313. Administration of Medication**

- A. A provider shall notify a parent of each enrolled child about whether prescription or nonprescription medication may be administered to an enrolled child by a staff member. This notification may be made by posting a notice in a location that can be viewed by individuals entering or leaving the child care group home.
- B. If prescription or nonprescription medication is administered at a child care group home, a provider shall ensure that:
  - 1. The provider or another staff member designated in writing by the provider is responsible for:
    - a. Administering medication at the child care group home,
    - b. Storing medication at the child care group home,
    - c. Supervising the ingestion of medication, and
    - d. Documenting the administration of medication;
  - 2. At any given time, only one designated staff member at the child care group home is responsible for the duties described in subsection (B)(1);
  - 3. The designated staff member does not administer medication to an enrolled child unless the child's parent has submitted a completed Department-provided authorization form for each medication to be administered to the child, including:
    - a. The child's first and last names;
    - b. The name of the medication;
    - c. The prescription number, if any;
    - d. Instructions for administration specifying:
      - i. The dosage,
      - ii. The route of administration,
      - iii. The first and last dates that the medication is to be administered, and
      - iv. The frequency of administration;
    - e. The reason for the medication;
    - f. The signature of the child's parent or of a physician, physician assistant, or registered nurse practitioner; and
    - g. The date of signature;
  - 4. The designated staff member documents each administration of medication to an enrolled child on the Department-provided authorization form described in subsection (B)(3), including:
    - a. The date and time of administration;
    - b. The name of the medication;
    - c. The prescription number, if any;
    - d. The dose of medication administered; and
    - e. The signature of the designated staff member who administered the medication to the child; and
  - 5. The designated staff member:
    - a. Measures liquid medication for oral administration using a measuring cup, spoon, or dropper specifically made for measuring liquid medication;
    - b. Administers prescription medication to an enrolled child only:
      - i. From a container dispensed by a pharmacy and accompanied by a pharmacy-generated prescription label that includes the child's first and last names and administration instructions;
      - ii. From a container dispensed by a pharmacy and accompanied by administration instructions for the child to receive the medication written and signed by a physician, physician assistant, or registered nurse practitioner; or

- iii. From a container prepackaged and labeled as a manufacturer's sample; labeled with the child's first and last names; and accompanied by administration instructions for the child to receive the medication written and signed by a physician, physician assistant, or registered nurse practitioner;
  - c. Administers nonprescription medication to an enrolled child only from an original manufacturer's container labeled with the child's first and last names; and
  - d. Does not administer a medication that has been transferred from one container to another.
- C. A provider shall allow an enrolled child to receive an injection at the child care group home only after obtaining written authorization from a physician, physician assistant, or Registered nurse practitioner. An injection may be administered at a child care group home by an individual authorized by state law to give injections or, in an emergency, by any individual as permitted under A.R.S. §§ 32-1421(A)(1) and 32-1631(2).
- D. A provider shall return unused prescription or nonprescription medication to a parent when the medication is no longer being administered to the enrolled child or when the medication has expired, whichever comes first. If a child is no longer enrolled at a child care group home, and the provider is unable to locate the child's parent, the provider shall dispose of the medication according to state and federal laws.
- E. A provider shall ensure that:
- 1. Medication belonging to enrolled children is stored in a locked, leakproof storage cabinet or container that is used only for storing medication belonging to enrolled children and that is inaccessible to enrolled children;
  - 2. Medication belonging to staff members and residents is stored in a locked, leakproof storage cabinet or container that is used only for storing medication belonging to staff members and residents and that is inaccessible to enrolled children; and
  - 3. Medication that requires refrigeration is stored in locked, leakproof containers in a refrigerator, with the medication for enrolled children stored separately from the medication for staff members and residents.
- F. A provider shall ensure that a child care group home does not stock a supply of prescription or nonprescription medication for administration to enrolled children.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-314. First-Aid Kit**

A provider shall ensure that a child care group home has a first-aid kit that is located in an area accessible to staff members but inaccessible to enrolled children. The first-aid kit shall contain at least the following items, in a quantity sufficient to meet the needs of the enrolled children at the child care group home:

- 1. Adhesive bandages of assorted sizes,
- 2. Antiseptic solution or sealed antiseptic wipes,
- 3. Sterile gauze pads,
- 4. Disposable medical-grade gloves,
- 5. Disposable resealable plastic bags of at least one-gallon size,
- 6. Scissors, and
- 7. Medical tape.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-315. Accident, Emergency, or Serious Injury Procedure**

If an enrolled child has an accident, emergency, or serious injury while at the child care group home, the provider shall:

- 1. Ensure that treatment is provided to the enrolled child, including CPR or first aid as needed;
- 2. Call 9-1-1 or another emergency response agency if urgent medical treatment is needed;
- 3. Within 30 minutes after the accident, emergency, or serious injury, notify a parent of the child or, if the provider is unable to locate and notify a parent of the child, an emergency contact; and
- 4. Document:
  - a. The date, time, location, and circumstances of the child's accident, emergency, or serious injury;
  - b. The method used to notify the parent or emergency contact; and
  - c. The time that the parent or emergency contact was notified.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**ARTICLE 4. PROGRAM AND EQUIPMENT STANDARDS**

*Article 4, consisting of R9-3-401 through R9-3-413, made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).*

**R9-3-401. General Program and Equipment Standards**

A provider shall ensure that:

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1. The health, safety, or welfare of an enrolled child is not endangered;
2. An enrolled child is not subjected to abuse or neglect at the child care group home;
3. The child care group home's buildings, activity areas, and indoor and outdoor play equipment are maintained in good repair and free from hazards;
4. The child care group home has sufficient play materials and equipment to meet the needs of the enrolled children in attendance at the child care group home;
5. Each enrolled child is cleaned as necessary after a meal or activity;
6. The program at the child care group home is:
  - a. Structured to meet the following:
    - i. The age and developmental level of each enrolled child;
    - ii. The needs of each enrolled child; and
    - iii. The enrolled children's need for familiarity, consistency, and routine; and
  - b. Based upon a weekly schedule that includes:
    - i. Routines, such as meals and snacks and rest periods, that follow a familiar and consistent pattern;
    - ii. If weather and air quality permit, outdoor activities;
    - iii. Stories, music, dancing, singing, and reading;
    - iv. Listening and talking opportunities; and
    - v. Creative activities such as water play, cutting and pasting, painting, coloring, dramatic play, and playing with blocks;
7. An enrolled child is bathed at the child care group home only if the child's parent has provided written consent for bathing and bathing instructions;
8. If swimming is included in the program, the following requirements are met:
  - a. An enrolled child is allowed to swim at the child care group home only if the child's parent has provided written consent for swimming;
  - b. An individual who satisfies the following is stationed at the swimming pool in a location that enables the individual to see clearly all parts of the swimming pool, including the bottom, at all times while enrolled children are using the swimming pool:
    - i. The individual shall be the provider, the assistant provider, or an adult staff member with a high school diploma, high school equivalency diploma, associate degree, or bachelor degree; and
    - ii. The individual shall have current certification in basic water rescue training completed through a nationally recognized health and safety training program such as American Red Cross Basic Water Rescue or American Safety and Health Institute Safety Training and Aquatic Rescue; and
9. Drinking water is available to enrolled infants and 1- or 2-year-old children and is accessible to older enrolled children at all times.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-402. Supplemental Standards for Resting or Sleeping**

A provider shall ensure that:

1. There is a separate bed, cot, mat, or crib for each enrolled child who needs to rest or sleep at the child care group home, and each enrolled child is allowed to sleep only on a bed or crib mattress or on a cot or mat;
2. A waterbed is not used by an enrolled child;
3. A bunk bed is not used by an enrolled child unless the enrolled child rests or sleeps on the bottom bunk;
4. No other individual lies down or otherwise is physically located on the same bed, cot, or mat or in the same crib with an enrolled child;
5. Each bed, cot, mat, or crib used by an enrolled child is stable, constructed so that it does not create a hazard, large enough to accommodate the size and weight of the child, clean, and in good repair;
6. Crib use meets the following requirements:
  - a. Each crib is commercially manufactured;
  - b. Each crib has sides that are made of:
    - i. A solid material, or
    - ii. Bars spaced no more than 2 3/8 inches apart;
  - c. A playpen is not used in place of a crib;
  - d. Stacked cribs are not used;
  - e. Each crib is used with a crib mattress that:
    - i. Leaves no more than a 1/2 inch gap between the mattress and each side of the crib, and
    - ii. Is commercially waterproofed or completely and tightly covered with a waterproof crib mattress cover;
  - f. Each crib and crib mattress is cleaned and sanitized when soiled;
  - g. When in use, the top surface of each crib mattress is completely covered with a clean, fitted sheet designed for the crib mattress size;

- h. Each sheet used in a crib is laundered:
- i. Before being used by an enrolled child,
- ii. When it becomes soiled, and
- iii. At least every 24 hours;
- i. No mechanical restraint of any kind is used in a crib;
- j. No bumper pads, pillows, quilts, comforters, sheepskins, stuffed toys, or other soft products are in a crib while an infant is in the crib;
- k. An infant is placed to sleep on the infant's back, unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing; and
- l. An infant is not placed to sleep using a positioning device that restricts movement, unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing;
7. When in use, the top surface of each bed mattress, cot, or waterproof mat is completely covered with a clean sheet or similar covering; and
8. Each sheet or similar covering used on a bed mattress, cot, or waterproof mat or each machine-washable mat is laundered:
  - a. If used by only one enrolled child each week, at least weekly;
  - b. If used by more than one enrolled child each week, before being used by each child; and
  - c. Whenever it becomes soiled.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-403. Supplemental Standards for Care of an Enrolled Infant or 1- or 2-Year-Old Child**

A provider caring for an enrolled infant or 1- or 2-year-old child shall ensure that:

1. Each infant or 1- or 2-year-old child is spoken to and held by staff members throughout the day;
2. A staff member responds immediately to the distress signals of an infant or 1- or 2-year-old child;
3. An infant or 1- or 2-year-old child does not spend more than 30 consecutive minutes of time while awake in a crib, playpen, high chair, or other confining structure or piece of equipment;
4. Each infant or 1-year-old child is allowed to maintain an individual pattern of sleeping, waking, and eating, unless the infant's or child's parent has instructed otherwise;
5. Each infant is provided a crib that complies with R9-3-402(6) for use while sleeping;
6. An infant's formula, breast milk, or other food is prepared, stored, and fed according to written instructions from the infant's parent;
7. An infant or 1-year-old child is not fed cereal by bottle, unless the infant's or child's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing;
8. A staff member holds and feeds an infant younger than 6 months of age or an older infant who cannot hold a bottle for feeding;
9. A staff member seats an infant who is no longer being held for feeding or a 1- or 2-year-old child in a high chair or at a table with a chair that allows the infant or child to reach food while sitting;
10. Each high chair is equipped with a safety strap that is secured while an infant or child is seated in the high chair;
11. Only water is provided in a naptime or bedtime bottle or sippy cup given to an infant or 1- or 2-year-old child;
12. A used bottle or sippy cup is immediately removed from a crib, bed, cot, or mat and emptied and cleaned;
13. A staff member checks the diaper of each infant or 1- or 2-year-old child throughout the day and changes a diaper as soon as it is wet or soiled;
14. Age-appropriate materials and equipment meeting the interests and needs of an infant or 1- or 2-year-old child, as applicable, are provided and are available at all times to the enrolled children at the child care group home, including:
  - a. Books, including some cloth books;
  - b. Medium-sized rubber or soft plastic balls;
  - c. Manipulative toys;
  - d. Blocks and block accessories;
  - e. Washable soft toys and dolls;
  - f. Large muscle equipment; and
  - g. Musical instruments;
15. Toys provided for an infant or 1- or 2-year-old child are too large to swallow; and
16. A child is not permitted to use a walker.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-404. Supplemental Standards for Care of an Enrolled 3-, 4-, or 5-Year Old Child**

A provider caring for an enrolled 3-, 4-, or 5-year-old child shall ensure that age-appropriate materials and equipment meeting the interests and needs of a 3-, 4-, or 5-year-old child, as applicable, are provided and are available at all times to the 3-, 4-, or 5-year-old

enrolled children at the child care group home, including:

1. Art supplies,
2. Blocks and block accessories,
3. Books,
4. A dramatic play area with toys and dress-up clothes,
5. Large muscle equipment,
6. Manipulatives,
7. Science materials, and
8. Musical instruments.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-405. Supplemental Standards for Care of an Enrolled School-Age Child**

A provider caring for an enrolled school-age child shall ensure that age-appropriate materials and equipment meeting the interests and needs of a school-age child are provided and are available at all times to the school-age enrolled children at the child care group home, including:

1. Art and craft supplies,
2. Games,
3. Sports equipment,
4. Books,
5. Science materials, and
6. Manipulatives.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-406. Supplemental Standards for Care of an Enrolled Special Needs Child**

- A. Before a special needs child first attends a child care group home, the provider shall obtain from the child's parent:
  1. A copy of any existing individualized plan for the child that can be reviewed, adopted, and followed by the provider when caring for the child; or
  2. If there is no existing individualized plan available for a special needs child before first attendance, the child's parent's written instructions for providing care for the child.
- B. If a provider does not receive an individualized plan before a special needs child's first attendance, the provider shall require that a written individualized plan be developed within 30 days after the child's first attendance by a team consisting of the provider, the child's parent, and at least one health care provider.
- C. An individualized plan shall include the following, as applicable for the child:
  1. A medication schedule;
  2. Nutrition and feeding instructions;
  3. A description of the training required for a staff member who feeds the child;
  4. Documentation of which staff members have completed the training required to feed the child;
  5. Instructions for medical equipment or adaptive devices used by the child;
  6. Emergency instructions;
  7. Toileting and personal hygiene instructions;
  8. Identification of specific child care services to be provided at the child care group home;
  9. Information from health care providers, including the frequency and length of any prescribed medical treatment or therapy;
  10. A description of the training required for a staff member who cares for the child;
  11. Documentation of which staff members have received the training required to care for the child; and
  12. Instructions for fire evacuation drills.
- D. A provider shall ensure that:
  1. An enrolled child's individualized plan is implemented;
  2. An individualized plan is updated at least once every 12 months after the date of the initial plan and as changes occur;
  3. A special needs child's parent is provided a copy of the individualized plan;
  4. A staff member does not prepare formula for tube-feeding a special needs child;
  5. All formula for tube-feeding a special needs child is commercially prepackaged in a ready-to-use state or brought by the child's parent in an unbreakable container;
  6. A staff member feeds a special needs child using a feeding apparatus or clears a feeding apparatus only after receiving instruction from the child's parent or an individual designated by the child's parent;
  7. A special needs child is provided with developmentally appropriate toys, materials, and equipment, which are available to the special needs child at all times;

8. A staff member assists a special needs child as necessary to enable the child to participate in activities at the child care group home;
9. A special needs child who uses a wheelchair or is not able to walk is cared for only on the ground floor of the child care group home;
10. When a staff member transports a special needs child in a wheelchair in a motor vehicle, the following requirements are met:
  - a. The child's wheelchair is secured in the motor vehicle using at least four anchorages attached to the motor vehicle floor and at least four securement devices, such as straps or webbing with buckles and fasteners, that attach the wheelchair to the anchorages;
  - b. The child is secured in the wheelchair by means of a wheelchair restraint that is a combination of pelvic and upper body belts intended to secure a passenger in a wheelchair; and
  - c. The child's wheelchair is placed in a position in the motor vehicle that does not prevent access to the child in the wheelchair or passage to the front and rear of the motor vehicle.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-407. Supplemental Standards for Evening and Nighttime Care**

A provider who provides evening or nighttime care shall:

1. Provide each enrolled child receiving evening and nighttime care with a bed, cot, or crib that complies with the standards of R9-3-402;
2. Ensure that each staff member providing evening and nighttime care remains awake until all enrolled children are asleep; and
3. Ensure that each staff member providing evening and nighttime care is allowed to sleep only if the staff member maintains unobstructed access to and unimpaired hearing of sleeping enrolled children.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-408. Toilet Training**

- A. A provider shall consult with an enrolled child's parent to establish a mutual and developmentally appropriate plan for toilet training. The provider shall document the plan, implement the plan, and document the ongoing implementation of the plan.
- B. A provider shall not force toilet training or allow toilet training to be forced on an enrolled child.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-409. Discipline and Guidance**

- A. A provider shall ensure that:
  1. Each staff member establishes reasonable rules and limits for enrolled children's behavior and applies them consistently and teaches, models, and uses positive reinforcement to encourage orderly conduct, self-control, and age-appropriate behavior;
  2. Each staff member does the following when disciplining an enrolled child:
    - a. Explains to the child why the particular behavior is not allowed,
    - b. Suggests an alternate behavior to the child, and
    - c. Assists the child to become engaged in an alternate activity;
  3. If an enrolled child's behavior may result in harm to the child or to another, a staff member holds the child without undue force until the child regains self-control or composure; and
  4. An enrolled child is disciplined only by a staff member.
- B. A provider shall ensure that a staff member does not use or allow:
  1. Discipline that could endanger a child;
  2. Corporal punishment; or
  3. Discipline that involves:
    - a. Eating, napping, sleeping, or toileting;
    - b. Medication;
    - c. Mechanical restraint;
    - d. Humiliation; or
    - e. Fear.
- C. A staff member may separate an enrolled child older than 2 years of age from other children for unacceptable behavior according to the following:
  1. A separation period may not last longer than one minute for each year of the child's age, and
  2. A separation period may not last longer than 10 minutes.
- D. A staff member may not discipline the staff member's own child in a manner inconsistent with subsections (A) through (C) during hours of operation unless the child is not an enrolled child and the discipline is performed off the premises and does not violate child abuse statutes.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-410. General Nutrition and Menu Standards**

- A. This Section does not apply to infants.
- B. A provider shall ensure that meals and snacks are served to enrolled children in compliance with Table 3.
- C. When a provider provides food for enrolled children, the provider shall ensure that:
  - 1. Each meal or snack is prepared and served according to the meal pattern requirements in Table 4;
  - 2. Second servings of food are served to each enrolled child at meal time and snack time, if requested by the child;
  - 3. The same food item, other than milk, is not served more than once in a single day;
  - 4. During each week, meals include a variety of foods from each food category in the meal pattern requirements in Table 4;
  - 5. Milk served to an enrolled child older than 2 years of age is 2% fat, 1% fat, or skim milk;
  - 6. High fat or high sugar food items such as muffins, brownies, donuts, pastries, croissants, cakes, or cookies are served to satisfy a meal or snack category no more than twice each week; and
  - 7. High sugar cereal is served to satisfy a meal or snack category no more than twice each week.
- D. If a parent who provides food for the parent's enrolled child does not provide milk or juice for the child, the provider shall provide milk or juice to the child unless doing so would be inconsistent with a modified diet prescribed for the child by the child's parent, physician, physician assistant, or registered nurse practitioner.
- E. A provider shall maintain a supply of food sufficient to serve the meals and snacks required by this Section to be served to each enrolled child attending the child care group home in a single day.
- F. A provider shall:
  - 1. Prepare a weekly menu specifying the foods to be served at each meal and snack on each day,
  - 2. Date each menu,
  - 3. Post each menu before the first meal or snack of the week on the menu, and
  - 4. Write food substitutions on a posted menu no later than the morning of the day of the meal or snack to which the substitution applies.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).



**Table 3. Meals and Snacks Required to Be Served to Enrolled Children**

Times Enrolled Child Is at Child Care Group Home	Child Required to Be Served
Before 8:00 a.m.	Breakfast, if requested by parent or child
Between 8:00 a.m. and 11:00 a.m.	At least one snack
Between 11:00 a.m. and 1:00 p.m.	Lunch
Between 1:00 p.m. and 5:00 p.m.	At least one snack
Between 5:00 p.m. and 7:00 p.m., if staying beyond 7:00 p.m.	Dinner
Between 7:00 p.m. and 9:00 p.m., if staying beyond 9:00 p.m.	At least one snack

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**Table 4. Meal Pattern for Children**

<b>BREAKFAST</b> (Each breakfast shall include at least one serving from each category.)			
Categories, denoted by	Ages 1 and 2	Ages 3 through 5	Ages 6 through 12
Milk, fluid	1/2 cup	3/4 cup	1 cup
Vegetable, fruit, or 100% full-strength juice	1/4 cup	1/2 cup	1/2 cup
Grains/breads (whole grain or enriched)			
Bread; or	1/2 slice	1/2 slice	1 slice
Cornbread, rolls, muffins, or biscuits; or	1/2 serving	1/2 serving	1 serving
Cold dry cereal (served by volume or weight, whichever is less); or	1/4 cup, or 1/3 oz.	1/3 cup, or 1/2 oz.	3/4 cup, or 1 oz.
Cooked cereal, pasta, noodle products, or cereal grains	1/4 cup	1/4 cup	1/2 cup
<b>LUNCH OR DINNER</b> (Each lunch or dinner shall include at least one serving from each category.)			
Categories, denoted by	Ages 1 and 2	Ages 3 through 5	Ages 6 through 12
Milk, fluid	1/2 cup	3/4 cup	1 cup
Vegetable, fruit, or 100% full-strength juice (two or more)	1/4 cup total	1/2 cup total	3/4 cup total
Grains/breads (whole grain or enriched)			
Bread; or	1/2 slice	1/2 slice	1 slice
Cornbread, rolls, muffins, or biscuits; or	1/2 serving	1/2 serving	1 serving
Cooked cereal, pasta, noodle products, or cereal grains	1/4 cup	1/4 cup	1/2 cup
Meat and meat alternatives <sup>1</sup>			
Lean meat, fish, or poultry (edible portion as served); or	1 oz.	1 1/2 oz.	2 oz.
Cheese; <sup>2</sup> or	1 oz.	1 1/2 oz.	2 oz.
Egg; or	1 egg	1 egg	1 egg
Cooked dry beans or peas; <sup>3</sup> or	1/4 cup	3/8 cup	1/2 cup
Yogurt (low fat or nonfat); or	1/2 cup, or 4 oz.	3/4 cup, or 6 oz.	1 cup, or 8 oz.
Peanut butter, soy nut butter, or other nut or seed butters; or	2 Tbsp.	3 Tbsp.	4 Tbsp.
Peanuts, soy nuts, tree nuts, or seeds; or	1/2 oz.	3/4 oz.	1 oz.
An equivalent quantity of any combination of the above meat and meat alternatives			
<b>SNACKS</b> (Each snack shall include at least one serving from each of two categories.) <sup>4</sup>			

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Categories, denoted by	Ages 1 and 2	Ages 3 through 5	Ages 6 through 12
Milk, fluid	1/2 cup	1/2 cup	1 cup
Vegetable, fruit, or 100% full-strength juice	1/2 cup	1/2 cup	3/4 cup
Grains/breads (whole grain or enriched)			
Bread; or	1/2 slice	1/2 slice	1 slice
Cornbread, rolls, muffins, or biscuits; or	1/2 serving	1/2 serving	1 serving
Cold dry cereal (served by volume or weight, whichever is less); or	1/4 cup, or 1/3 oz.	1/3 cup, or 1/2 oz.	3/4 cup, or 1 oz.
Cooked cereal, pasta, noodle products, or cereal grains	1/4 cup	1/4 cup	1/2 cup
Meat and meat alternatives			
Lean meat, fish, or poultry (edible portion as served); or	1/2 oz.	1/2 oz.	1 oz.
Cheese; <sup>5</sup> or	1/2 oz.	1/2 oz.	1 oz.
Egg; or	1/2 egg	1/2 egg	1 egg
Yogurt (low fat or nonfat); or	1/4 cup	1/4 cup	1/2 cup
Cooked dry beans or peas; <sup>6</sup> or	1/8 cup	1/8 cup	1/4 cup
Peanut butter, soy nut butter, or other nut or seed butters; or	1 Tbsp.	1 Tbsp.	2 Tbsp.
Peanuts, soy nuts, tree nuts, or seeds; or	1/2 oz.	1/2 oz.	1 oz.
An equivalent quantity of any combination of the above meat and meat alternatives			

<sup>1</sup> No more than 50% of the requirement may be met with nuts or seeds. If nuts or seeds are served, they are required to be combined with another meat or meat alternative to meet the requirement. For the purpose of determining combinations, one ounce of nuts or seeds is equal to one ounce of cooked lean meat, fish, or poultry.

<sup>2</sup> Only natural or processed cheese may be served.

<sup>3</sup> Dried beans and dried peas may be used as a meat alternative or as a vegetable in the same meal service, but each can satisfy only one category requirement in each meal.

<sup>4</sup> Juice may not be served when milk is the only other category served.

<sup>5</sup> Only natural or processed cheese may be served.

<sup>6</sup> Dried beans and dried peas may be used as a meat alternative or as a vegetable in the same meal service, but each can satisfy only one category requirement in each meal.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-411. General Food Service and Food Handling Standards**

A. A provider shall ensure that:

1. Except as provided in subsection (B), each staff member washes the staff member's hands with soap and running water before handling food, between food handling tasks, and before serving food;
2. Except as provided in subsection (B), enrolled children, except infants and special needs children who cannot wash their own hands, wash their hands with soap and running water before handling or eating food;
3. A staff member:
  - a. Washes with a washcloth or disposable wipes the hands of an infant or of a special needs child who cannot wash the child's own hands before the infant or special needs child handles or eats food, and
  - b. Uses each washcloth or disposable wipe only once before it is laundered or discarded;
4. A staff member encourages, but never forces, an enrolled child to eat;
5. A staff member assists each enrolled child who needs assistance with eating;
6. A staff member teaches self-feeding skills to each enrolled child as necessary;
7. Food served to an enrolled child younger than 5 years of age is prepared so as not to present a choking hazard;
8. Each enrolled child is supplied with drinking and eating utensils for the child's own use;
9. Each enrolled child's bottle or sippy cup is marked with at least the child's last name and first initial;
10. An enrolled child is not allowed to drink from the bottle, sippy cup, cup, or glass of another child or another individual;
11. An enrolled child is not allowed to eat food directly off the floor, carpet, or ground;
12. An enrolled child's parent is notified when the child consistently refuses to eat or exhibits unusual eating behavior;

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13. Each staff member is informed of a modified diet prescribed for an enrolled child by the child's parent, physician, physician assistant, or registered nurse practitioner;
  14. The food served to an enrolled child is consistent with a modified diet prescribed for the child by the child's parent, physician, physician assistant, or registered nurse practitioner;
  15. After each use, non-single-use utensils and equipment used in preparing, eating, or drinking food are:
    - a. Washed in an automatic dishwasher and air dried or heat dried; or
    - b. Washed in hot soapy water, rinsed in clean water, sanitized, and air dried or heat dried;
  16. Single-use utensils and equipment are disposed of after being used;
  17. Perishable foods, including perishable foods in sack lunches, are covered and stored in a refrigerator at a temperature of 45° F or below;
  18. A refrigerator at the child care group home maintains a temperature of 45° F or below, as shown by a thermometer kept in the refrigerator at all times;
  19. A freezer at the child care group home maintains a temperature of 32° F or below, as shown by a thermometer kept in the freezer at all times;
  20. Only pasteurized milk is served;
  21. Fresh milk is served undiluted directly from the original, commercially filled container, and unused portions of individual servings are not returned to the original container;
  22. Reconstituted dry milk is not served to meet the fluid milk requirement;
  23. Juice served to enrolled children for a meal or snack is pasteurized full-strength 100% vegetable or 100% fruit juice from an original, commercially filled container or reconstituted from a concentrate according to manufacturer directions;
  24. Fruit drinks that are not full-strength 100% fruit juice, such as juice cocktail, lemonade, fruit punch, or a drink made from a powder, syrup, or concentrate other than 100% juice concentrate, are pasteurized and are not served in place of full-strength 100% vegetable or 100% fruit juice;
  25. Foods are prepared as close as possible to serving time and, if prepared in advance, are either:
    - a. Cold held at a temperature of 45° F or below or hot held at a temperature of 130° F or above until served; or
    - b. Cold held at a temperature of 45° F or below and then reheated to a temperature of at least 165° F before being served;
  26. Food leftover from a meal served family style or from the provider's family meal is not served to an enrolled child;
  27. Foods are prepared in a manner that maintains nutrients, flavor, texture, and appearance; and
  28. A food is not served past its expiration date or after it has begun to spoil.
- B. If soap and running water are not available at a location where food is served, such as on a field trip, disposable wipes followed by liquid alcohol-based hand sanitizer may be used as a substitute for washing hands with soap and running water.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-412. Transportation of Enrolled Children**

- A. A provider shall not transport or allow a staff member to transport an enrolled child in a motor vehicle without written authorization from the child's parent.
- B. A provider shall ensure that:
  1. A copy of the Emergency Information and Immunization Record Card for each enrolled child being transported is in the motor vehicle during transportation;
  2. Each motor vehicle used by a staff member to transport an enrolled child is maintained in a mechanically safe condition;
  3. The service and repair records for each motor vehicle used by a staff member to transport an enrolled child are maintained at the child care group home as required by R9-3-305;
  4. Each motor vehicle used by a staff member to transport an enrolled child is:
    - a. Currently registered in Arizona as required under A.R.S. § 28-2153; and
    - b. Insured under a motor vehicle insurance policy that complies with A.R.S. Title 28, Chapter 9;
  5. Except as permitted under R9-3-413(C), an individual who transports an enrolled child in a motor vehicle:
    - a. Is a staff member,
    - b. Is an adult,
    - c. Possesses a current and valid Arizona driver license,
    - d. Carries identification while transporting enrolled children,
    - e. Has current certification in pediatric first aid,
    - f. Has current certification in CPR specific to infants and children, and
    - g. Is not prohibited from driving under A.R.S. § 41-1758.03(D);
  6. An enrolled child is not transported in a trailer attached to a motor vehicle, in a truck bed, or in a camper;
  7. Each enrolled child younger than 5 years of age is secured in a child passenger restraint system while transported in a motor vehicle, as required under A.R.S. § 28-907;
  8. Each enrolled child who is 5 years of age or older is secured with an adjustable lap belt or an integrated lap and shoulder belt while transported in a motor vehicle;

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9. An enrolled child is not transported in the front seat of a motor vehicle equipped with a passenger-side airbag unless the passenger-side airbag has been disarmed;
10. A staff member is not permitted to stand or sit on the floor of a motor vehicle while the motor vehicle is in motion;
11. Each motor vehicle used to transport enrolled children is equipped with:
  - a. An operational heating system;
  - b. An operational air-conditioning system;
  - c. A first-aid kit that meets the requirements of R9-3-314;
  - d. Two clean towels or blankets; and
  - e. Drinking water in an amount sufficient to meet the needs of each enrolled child in the motor vehicle and sufficient cups or other drinking receptacles so that each individual in the motor vehicle can drink from a different cup or receptacle;
12. An enrolled child is not allowed to open or close the door of a motor vehicle used to transport an enrolled child;
13. The driver of a motor vehicle used to transport an enrolled child does not wear headphones or earphones, use a wireless telephone, or smoke tobacco or any other substance while transporting an enrolled child;
14. An enrolled child is loaded and unloaded in a safe area located away from any hazard;
15. Each door of a motor vehicle used to transport an enrolled child is locked while the motor vehicle is in motion;
16. An enrolled child is never left unattended in a motor vehicle;
17. The driver of a motor vehicle used to transport an enrolled child removes the ignition key and sets the emergency brake before exiting the motor vehicle; and
18. The Department is notified by telephone or other equally expeditious means within 24 hours after a motor vehicle accident that involves a motor vehicle transporting an enrolled child.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-413. Field Trips**

- A. A provider shall not take an enrolled child on a field trip unless, before the field trip, the provider has obtained the dated signature of the child's parent on a written permission notice that includes:
  1. The child's name;
  2. The purpose of the field trip;
  3. The name of the field trip destination;
  4. The street address and, if available, the telephone number of the field trip destination;
  5. The date of the field trip;
  6. The projected time of departure from the child care group home; and
  7. The projected time of arrival back at the child care group home.
- B. A provider shall ensure that:
  1. A copy of the Emergency Information and Immunization Record Card for each enrolled child participating in a field trip is taken on the field trip;
  2. A list stating the full name of each enrolled child participating in a field trip is taken on the field trip;
  3. A staff member ensures that each enrolled child on the list required under subsection (B)(2) is accounted for at all times on a field trip and makes a record of each child's presence at the following times by documenting the time and placing a checkmark on the list next to the name of each child accounted for:
    - a. Immediately before leaving for the field trip or when boarding a motor vehicle;
    - b. Upon arrival at the field trip destination;
    - c. During each hour while at the field trip destination;
    - d. When preparing to leave the field trip destination or when boarding a motor vehicle to return to the child care group home; and
    - e. Upon returning to the child care group home and reentering the residential building at the end of the field trip;
  4. Drinking water in an amount sufficient to meet the needs of each individual participating in a field trip and sufficient cups or other drinking receptacles so that each individual on a field trip can drink from a different cup or receptacle are taken on a field trip;
  5. Each enrolled child participating in a field trip wears in plain view written identification stating the name, address, and telephone number of the child care group home; and
  6. Each enrolled child participating in a field trip wears out of view written identification stating the full name of the child.
- C. A parent who is not a staff member may transport enrolled children in the parent's motor vehicle on a field trip if the provider ensures that:
  1. The parent:
    - a. Is an adult,
    - b. Possesses a current and valid Arizona driver license, and
    - c. Carries identification while transporting enrolled children; and
  2. The parent's motor vehicle is:
    - a. Currently registered in Arizona as required under A.R.S. § 28-2153; and
    - b. Insured under an insurance policy that complies with A.R.S. Title 28, Chapter 9.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**ARTICLE 5. PHYSICAL ENVIRONMENT STANDARDS**

*Article 5, consisting of R9-3-501 through R9-3-508, made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).*

**R9-3-501. General Physical Environment Standards**

- A. A child care group home shall have:
  - 1. At least 30 square feet of floor space in indoor certified areas for each enrolled child, not including the following:
    - a. A kitchen,
    - b. A bathroom,
    - c. A laundry room,
    - d. A workshop room,
    - e. A hallway, or
    - f. A garage that has not been converted into living space;
  - 2. If there are up to 10 enrolled children at the child care group home, excluding enrolled children who are in diapers, indoor bathroom facilities with at least one working toilet and one working sink available;
  - 3. If there are more than 10 enrolled children at the child care group home, excluding enrolled children who are in diapers, indoor bathroom facilities with at least two working toilets and two working sinks available;
  - 4. At least two unobstructed, usable exits to the outside that are available for enrolled children to use; and
  - 5. An outdoor activity area that complies with R9-3-502.
- B. A provider shall ensure that each indoor certified area is maintained at a temperature between 68° F and 82° F during hours of operation.
- C. A provider shall ensure that the lighting in each indoor certified area is sufficient to enable a staff member to see each enrolled child in the certified area.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-502. Outdoor Activity Area Standards**

- A. A child care group home shall have an outdoor activity area that:
  - 1. Is at least 375 square feet in size;
  - 2. Directly borders the residential building;
  - 3. Provides easy access to indoor activity areas and to bathroom facilities;
  - 4. Includes shaded areas large enough to accommodate all enrolled children occupying the outdoor activity area at any time;
  - 5. Is accessible by a route that does not expose an enrolled child to a hazard;
  - 6. Has a resilient surface under and around each climbing structure and slide from which a child could fall 48 or more inches to the ground below, consisting of:
    - a. At least six inches of fine loose sand or wood fiber product, or
    - b. A nonhazardous material documented in laboratory resiliency testing by the manufacturer to provide resiliency at least equivalent to the resiliency of six inches of fine loose sand or wood fiber product;
  - 7. If it contains play equipment, has play equipment that:
    - a. Is arranged to eliminate hazards and to minimize conflict between children using the equipment;
    - b. If 48 or more inches tall, is anchored securely with anchors that pose no hazard to children and that are installed below the ground and under resilient surface material or non-dormant, green, growing grass; and
    - c. If less than 48 inches tall or a swing, has non-dormant, green grass growing under and around it or has a resilient surface that complies with subsection (A)(6) under and around it; and
  - 8. Unless subsection (C) applies, is totally enclosed by a fence that:
    - a. Is at least four feet high;
    - b. Is constructed so that it is strong and stable;
    - c. Is secured to the ground;
    - d. Does not have any vertical or horizontal open space that exceeds four inches at any point, including any space on a gate; and
    - e. Has a gate that is kept closed and latched while enrolled children are in the outdoor activity area.
- B. A provider shall ensure that:
  - 1. Only enrolled children, staff members, the provider's children, and child friends of the provider's children are permitted in an outdoor activity area during outdoor activities;
  - 2. If fine loose sand, wood fiber product, or another loose material is used to provide a resilient surface in an outdoor activity area, the loose material is maintained to retain resiliency; and

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3. If foam or rubber mats are used to provide a resilient surface in an outdoor activity area, the foam or rubber mats are not placed directly on top of cement, asphalt, or concrete.
- C. If the property adjoining an outdoor activity area has a swimming pool that is not enclosed by a fence that complies with the requirements of R9-3-503(B), the fence around the outdoor activity area shall comply with the requirements of R9-3-503(B) and be kept locked during hours of operation unless prohibited by the local fire code.
- D. A certificate holder whose child care group home was certified before the effective date of this Section is required to have a resilient surface or non-dormant, green grass growing under and around each climbing structure and slide in an outdoor activity area from which a child could fall 48 or more inches to the ground below, but is not required to comply with subsection (A)(6)(a) or (b) until one year after the effective date of this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-503. Swimming Pool Standards**

- A. A provider shall ensure that a swimming pool used by an enrolled child at a child care group home:
  1. Conforms to manufacturer's specifications for installation and operation and to all applicable local ordinances;
  2. Contains water that meets one of the following chemical disinfection standards:
    - a. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test;
    - b. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test; or
    - c. An oxidation-reduction potential equal to or greater than 650 millivolts; and
  3. Is equipped with the following:
    - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
      - i. A removable strainer,
      - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
      - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools;
    - b. An operational vacuum cleaning system; and
    - c. The following items, which shall be accessible whenever the swimming pool is in use:
      - i. A ring buoy attached to a 1/2 inch diameter rope at least 25 feet in length, and
      - ii. A shepherd's crook.
- B. A provider shall ensure that a swimming pool at the child care group home is totally enclosed by a fence that:
  1. Separates the swimming pool from all other outdoor areas;
  2. Is secured to the ground;
  3. Is constructed so that it is stable and capable of enduring force without breaking;
  4. Is at least five feet high;
  5. Has a self-closing, self-latching, lockable gate; and
  6. Does not have any vertical or horizontal open space that exceeds four inches at any point, including any space on a gate.
- C. A provider shall ensure that:
  1. During periods of use, a swimming pool's water quality is tested at least once each day for compliance with subsection (A)(2), and the results of the water quality tests are documented in a log that includes each testing date and test result;
  2. A swimming pool is not used by an enrolled child if a water quality test shows that the swimming pool water does not comply with subsection (A)(2);
  3. Each gate on a fence around a swimming pool on the premises is locked whenever the swimming pool is not in use;
  4. Swimming pool chemicals are kept in a locked storage area that is inaccessible to enrolled children; and
  5. Swimming pool machinery, including a vacuum cleaning system, is inaccessible to enrolled children.
- D. A provider shall not allow an enrolled child to use or have access to a wading pool.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-504. Fire Safety Standards**

- A. A provider shall ensure that:
  1. The house number of the child care group home's residential building is painted or posted on the premises so that it is clearly visible from the street;
  2. A smoke detector is installed in each indoor activity area used by enrolled children and in each hallway of the child care group home's residential building;
  3. Each smoke detector required under subsection (A)(2):
    - a. Is maintained in an operable condition; and
    - b. Is either battery operated or, if hard-wired into the electrical system of the child care group home's residential building, has a back-up battery;

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4. The child care group home's residential building has at least two portable fire extinguishers that are labeled as rated at least 2A-10-BC by the Underwriters Laboratories, one of which is mounted and maintained in the kitchen;
5. Each rechargeable fire extinguisher in the child care group home's residential building is inspected and maintained each year and has a current inspection tag attached;
6. Each disposable fire extinguisher in the child care group home's residential building is checked monthly and is discarded when its indicator reaches the red zone;
7. Each electrical outlet in a certified area is covered with a safety plug cover or insert when not in use;
8. An appliance, light, or other device with a frayed or spliced electrical cord is not used at the child care group home;
9. An extension cord is not used in place of permanent wiring at the child care group home;
10. An electrical cord is not run under a rug or carpeting, over a nail, or from one room to another at the child care group home;
11. Each electrical, cable, or telephone outlet at the child care group home is covered with a face plate;
12. Each natural gas line at the child care group home is inspected and repaired as needed and at least annually by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
13. Each unused natural gas outlet at the child care group home has its valves removed by and is capped at the wall or floor by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
14. Heating and cooling equipment at the child care group home, such as a wood-burning stove, fireplace, or chiminea, is inaccessible to enrolled children;
15. An unvented space heater, open-flame space heater, or electric portable heater is not used in the child care group home's residential building during hours of operation;
16. Each fireplace in a certified area is screened;
17. A candle or incense is not burned in the child care group home's residential building during hours of operation;
18. Smoking is permitted on the premises during hours of operation only if done outside of certified areas, outside of the residential building, and outside of the presence and sight of enrolled children; and
19. If the child care group home's residential building is a mobile home, a manufactured home, or a factory-built building, it meets the following requirements:
  - a. The manufactured home or factory-built building was built after 1976, as documented by a certificate issued by the U.S. Department of Housing and Urban Development and permanently attached to the manufactured home or factory-built building, or has been inspected and approved by a structural engineer;
  - b. The mobile home is a rehabilitated mobile home, as documented by an Insignia of Approval issued under A.A.C. R4-34-606;
  - c. The skirting around the mobile home, manufactured home, or factory-built building is permanently attached and surrounds the entire perimeter of the residential building;
  - d. Each stairway or ramp to the mobile home, manufactured home, or factory-built building:
    - i. Is constructed so that it is stable and capable of enduring force without breaking,
    - ii. Is usable, and
    - iii. Has railings; and
  - e. A gas water heater located inside the mobile home, manufactured home, or factory-built building is surrounded by sheet rock.
- B. A provider shall test the battery for each smoke detector required under subsection (A)(2) each month and shall make a record of each test performed in a smoke detector battery test log. A provider shall replace a smoke detector battery that is no longer charged.
- C. A provider shall prepare a fire evacuation plan and post the fire evacuation plan in an activity area accessible to staff members. The fire evacuation plan shall include a floor plan of the child care group home's residential building on which lines have been drawn showing the evacuation path.
- D. A provider shall ensure that an unannounced fire evacuation drill is conducted at least once each month as follows:
  1. During a fire evacuation drill, each staff member and enrolled child at the child care group home shall be evacuated from the child care group home according to the fire evacuation plan;
  2. Each fire evacuation drill shall be conducted at a different time of day than the last fire evacuation drill; and
  3. The provider shall make a record of each fire evacuation drill in a fire evacuation drill log, including:
    - a. The date of the fire evacuation drill,
    - b. The time of the fire evacuation drill, and
    - c. The amount of time that it took to evacuate each staff member and enrolled child at the child care group home.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-505. General Safety Standards**

- A. A provider shall ensure that enrolled infants and children younger than 5 years of age are cared for only on the ground floor of the child care group home's residential building.
- B. Except as provided in R9-3-406(D)(9), a provider may care for enrolled children 5 years of age or older on a floor above or below the ground floor of the child care group home's residential building if the floor on which care is provided has an exit that provides access to the ground level outside.
- C. A provider shall ensure that:

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1. A stairway that leads to a floor or room outside of the certified area is separated from the certified area by either a door or gate that is kept closed during hours of operation;
2. A glass window that is located lower than 36 inches above the floor, a sliding glass door, or another type of glass partition that is located lower than 36 inches above the floor either is made of tempered glass or has conspicuous markings located at a child's eye level;
3. Firearms and ammunition kept at the child care group home are stored in separate locked areas, locked cabinets, or locked containers inaccessible to and out of the view of enrolled children;
4. The child care group home has at least one operable telephone readily available in a certified area, as follows:
  - a. If local landline telephone service is not available at the child care group home, as established by documentation, the telephone may be a wireless telephone; and
  - b. If local landline telephone service is available at the child care group home, the child care group home shall have landline service with at least one telephone that does not require electricity to operate;
5. A list of emergency information is posted on or next to the telephone described in subsection (C)(4) and includes:
  - a. The child care group home's address and telephone number,
  - b. 9-1-1, and
  - c. The telephone numbers for the following:
    - i. A poison control center,
    - ii. The local police department, and
    - iii. The local fire department;
6. Each hazardous material at the child care group home, other than a flammable liquid, is stored in its original or another clearly labeled container and is kept in an area, cabinet, or container that is locked;
7. Each flammable liquid at the child care group home is stored:
  - a. In its original container;
  - b. In a locked area inaccessible to enrolled children; and
  - c. Away from any heat-producing appliance or equipment, such as a water heater or furnace;
8. Each cord at the child care group home, including an electrical cord, window blind cord, or curtain cord, is inaccessible to an enrolled child;
9. Each fan in a certified area is inaccessible to enrolled children and is permanently mounted;
10. Each poisonous plant in a certified area at the child care group home is inaccessible to enrolled children;
11. Each irrigation ditch, abandoned mine, or well in the outdoor activity area of the child care group home is inaccessible to enrolled children;
12. An enrolled child does not have access to a hot tub, spa, pond, fountain, or portable wading pool or to any other body of water more than one-inch deep that is on the premises; and
13. An enrolled child is not permitted to use or have access to a trampoline at the child care group home.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-506. General Cleaning and Sanitation Standards**

A provider shall ensure that:

1. All certified areas of the child care group home and the furnishings, equipment, supplies, materials, utensils, and toys in those certified areas are kept clean and free of insects and vermin;
2. All equipment, materials, and toys used by or accessible to enrolled children are cleaned and disinfected as often as necessary to maintain them in a clean and disinfected condition and, for items used by infants or 1- or 2-year olds, at least once every 24 hours;
3. Each enrolled child's personal items are labeled with at least the child's last name and first initial and, except for diapering products, are stored separately from the personal items of other enrolled children and residents;
4. An enrolled child's wet or soiled clothing is:
  - a. If the clothing is soiled with feces, emptied into a flush toilet without rinsing;
  - b. Placed in a plastic bag labeled with at least the child's first initial and last name;
  - c. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
  - d. Sent home with the child;
5. All plumbing fixtures at the child care group home are maintained in operating condition;
6. The plumbing at the child care group home supplies sufficient water pressure to meet the child care group home's toileting and cleaning needs;
7. Each bathroom used by enrolled children at the child care group home has the following within the reach of enrolled children:
  - a. Mounted toilet tissue,
  - b. Dispensed soap, and
  - c. Singly dispensed paper towels;
8. A staff member washes the staff member's hands with soap and running water after toileting;



9. An enrolled child other than a special needs child who cannot wash the child's own hands washes the enrolled child's hands with soap and running water after toileting;
10. After a special needs child who cannot wash the child's own hands uses the toilet, a staff member washes the child's hands with a washcloth or disposable wipes, using each washcloth or disposable wipe on only one child and only one time before it is laundered or discarded;
11. Each toilet bowl, lavatory, bathtub, shower, drinking fountain, bathroom floor, activity area floor, and kitchen floor in a certified area is cleaned and disinfected daily or, if necessary, more often;
12. A bathtub is cleaned and disinfected before being used to bathe an enrolled child and, if used to bathe more than one enrolled child in one day, between each use;
13. Food waste at the child care group home is stored in a waterproof container that is tightly covered and lined with a plastic bag; and
14. Food waste and other refuse is removed from the child care group home daily or, if necessary, more often to maintain a clean environment free from odor.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-507. Diaper-Changing Standards**

- A. A staff member shall change diapers only in a certified area that is not a kitchen or eating area and that offers access to running water and dispensed soap.
- B. A provider shall ensure that:
  1. A diaper-changing surface is waterproof;
  2. A staff member cleans, sanitizes, and dries a diaper-changing surface before and after each diaper change;
  3. A staff member doing diaper changing washes the staff member's hands with soap and running water before and after each diaper change;
  4. A staff member doing diaper changing wears single-use disposable medical-grade gloves during each diaper change;
  5. A staff member doing diaper changing washes an enrolled child's hands with soap and running water or with a washcloth or disposable wipe after the enrolled child's diaper is changed and uses each washcloth on only one child and only one time before it is laundered and each disposable wipe on only one child and only one time before it is discarded;
  6. Soiled cloth diapers or plastic pants are:
    - a. If soiled with feces, emptied into a flush toilet without rinsing;
    - b. Placed in a plastic bag labeled with at least the child's first initial and last name;
    - c. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
    - d. Sent home with the child; and
  7. Soiled disposable diapers and disposable training pants are:
    - a. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
    - b. Removed from the diaper-changing area and discarded in an outside waste receptacle once daily or, if necessary, more often to maintain a clean environment free from odor.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**R9-3-508. Pet and Animal Standards**

- A. A provider shall ensure that:
  1. Each dog, cat, or ferret at the child care group home has a current vaccination against rabies;
  2. All pet and animal habitats at the child care group home are kept clean;
  3. Except as provided in subsection (B), a reptile is not kept at the child care group home;
  4. When kept in a certified area of the child care group home, a bird kept at the child care group home is:
    - a. Kept in a cage during hours of operation, and
    - b. Not kept in the kitchen or an eating area of the child care group home;
  5. Pets and animals are controlled so that the cleanliness of the child care group home is maintained and no enrolled child, staff member, or other individual at the child care group home is endangered;
  6. All pets and other animals, except cats and dogs, are kept in enclosures that are inaccessible to enrolled children, except as an activity, during hours of operation;
  7. Each pet dish is kept in an area inaccessible to enrolled children during hours of operation;
  8. Receptacles for pet feces and urine, such as litter boxes, are inaccessible to enrolled children;
  9. Pet feces in an outdoor activity area is cleaned up before enrolled children are permitted in the outdoor activity area; and
  10. Enrolled children and staff members wash their hands with soap and running water after an activity involving animals.
- B. A provider who is keeping a reptile at a child care group home as of September 1, 2004, may continue to keep the reptile at the child care group home if:
  1. The reptile is kept out of certified areas; and

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2. The reptile is kept either:
  - a. Outside in a completely segregated area to which an enrolled child cannot gain access, or
  - b. In a glass or acrylic tank or container that would not allow an enrolled child to touch the reptile or the inside of the tank or container.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1214, effective September 1, 2004 (Supp. 04-1).

**TITLE 9, CHAPTER 2. DEPARTMENT OF HEALTH SERVICES, TOBACCO-RELATED PROGRAMS**

**ARTICLE 1. SMOKE-FREE ARIZONA**

**R9-2-101. Definitions**

In addition to the definitions in A.R.S. § 36-601.01(A), the following definitions apply in this Article unless otherwise specified:

1. "Adult day care" means "adult day health care facility" as defined in A.R.S. § 36-401.
2. "Ashtray" means any receptacle that is designed for disposing of the debris from smoking materials such as ash, cigarette butts or filters, or cigar stubs.
3. "Calendar quarter" means a period from:
  - a. January 1 through March 31,
  - b. April 1 through June 30,
  - c. July 1 through September 30, or
  - d. October 1 through December 31.
4. "Child care facility" has the meaning in A.R.S. § 36-881.
5. "Child care group home" has the meaning in A.R.S. § 36-897.
6. "Complaint" means a written or oral statement of a possible violation of A.R.S. § 36-601.01.
7. "Contiguous area" means a place that:
  - a. Is physically attached to a public place or non-vehicle place of employment; or
  - b. Is separated from the public place or non-vehicle place of employment only by other places controlled by the proprietor of the public place or non-vehicle place of employment.
8. "Controlled" means under the authority and responsibility of a proprietor.
9. "Department" means the Arizona Department of Health Services.
10. "Department's designee" means a state agency or political subdivision to which the Department delegates any functions, powers, or duties under A.R.S. § 36-601.01.
11. "Drift" means the physical movement of tobacco smoke, regardless of cause, into any area where smoking is prohibited by A.R.S. § 36-601.01.
12. "Emergency exit" means a doorway in a building or facility used for egress to the outdoors only when there is an immediate threat to the health or safety of an individual.
13. "Entering" means an individual going into or leaving a building or facility.
14. "Entrance" means a doorway in a building or facility that:
  - a. Is used by an individual for ingress from the outdoors or egress to the outdoors, and
  - b. Excludes:
    - i. An emergency exit, and
    - ii. A doorway for outdoor patio patrons.
15. "Health care institution" means a building or facility regulated under A.R.S. Title 36, Chapter 4.
16. "Health care professional" means one of the following individuals regulated under A.R.S. Title 32 or A.R.S. Title 36, Chapter 6, Article 7 or Chapter 17, including:
  - a. A podiatrist;
  - b. A doctor of chiropractic or chiropractic assistant;
  - c. A dentist, dental consultant, dental hygienist, or denturist;
  - d. A doctor of medicine;
  - e. A doctor of naturopathic medicine or naturopathic medical assistant;
  - f. A registered nurse practitioner, registered nurse, practical nurse, registered or practical nurse licensed by a state other than Arizona and practicing in Arizona according to the Nurse Licensure Compact, A.R.S. § 32-1668, or nursing assistant;
  - g. A dispensing optician;
  - h. An optometrist;
  - i. A doctor of osteopathic medicine;
  - j. A pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee;
  - k. A physical therapist or physical therapist assistant;
  - l. A psychologist;
  - m. A veterinarian or veterinary technician;
  - n. A physician assistant;
  - o. A radiologic technologist, including a practical radiologic technologist in podiatry, unlimited practical radiologic technologist, nuclear medicine technologist, or practical technologist in bone densitometry;
  - p. A homeopathic physician or a medical assistant employed by a homeopathic physician;
  - q. A behavioral health professional, including a baccalaureate social worker, master social worker, clinical social worker, professional counselor, associate counselor, marriage and family therapist, associate marriage and family therapist, associate substance abuse counselor, independent substance abuse counselor, or substance abuse technician;
  - r. An occupational therapist or occupational therapy assistant;
  - s. A respiratory therapist or respiratory therapy technician;
  - t. An acupuncturist;
  - u. An athletic trainer;
  - v. A massage therapist;
  - w. A midwife;
  - x. A hearing aid dispenser;
  - y. An audiologist; or
  - z. A speech-language pathologist or speech-language pathology assistant.

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17. "Open to the general public" means when the proprietor of a veterans or fraternal club permits an individual who is not a member, an employee, or a bona fide guest as defined in A.R.S. § 4-101 to be present in the veterans or fraternal club.
18. "Outdoor patio" means an area designated by a proprietor according to R9-2-108(A).
19. "Outdoor patio patron" means an individual who is occupying an outdoor patio.
20. "Permeable" means permitting tobacco smoke to pass through.
21. "Private residence" means a structure, other than a health care institution, where an individual lives and sleeps.
22. "Proprietor" means an owner, operator, manager or other person in control of a public place or a place of employment.
23. "Reasonable distance" means the distance that meets the requirements in R9-2-102(A).
24. "Tobacco products and accessories" means:
  - a. Smoking materials such as cigars, cigarettes, or pipe tobacco; and
  - b. Smoking-related materials such as lighters, humidors, pipes, or cigarette cases.
25. "Vehicle" means motor vehicle as defined in A.R.S. § 28-101.
26. "Ventilation system" means the natural or mechanical means of supplying air to, or removing air from a space.

**R9-2-102. Reasonable Distance**

- A. Except as permitted in R9-2-108(D) or R9-2-108(E), a public place or non-vehicle place of employment shall have a distance where outside smoking is prohibited of at least 20 feet in all directions measured from each outer edge of an entrance, an open window, or a ventilation system.
- B. A proprietor of a public place or non-vehicle place of employment shall not permit tobacco smoke to drift into the area where smoking is prohibited as described in subsection (A).

**R9-2-103. Individual Responsibilities**

- A. An individual shall not smoke tobacco in an area of a public place or place of employment where smoking is prohibited by A.R.S. § 36-601.01 or R9-2-102(A).
- B. An individual in an area of a public place or place of employment where smoking is prohibited by A.R.S. § 36-601.01 or R9-2-102(A) shall stop smoking immediately when requested to stop smoking by the proprietor of the public place or a place of employment.

**R9-2-104. Proprietor Responsibilities**

- A. A proprietor shall:
  1. Not permit smoking in a public place, a place of employment, or within the distance required in R9-2-102(A) except according to this Article and the exceptions listed in A.R.S. § 36-601.01(B);
  2. Not permit tobacco smoke to drift into a building or facility through an entrance, a window, a ventilation system, or other means;
  3. Post signs according to A.R.S. § 36-601.01(E)(1) and R9-2-105;
  4. Remove all ashtrays from all areas where smoking is prohibited; and
  5. Communicate that smoking is prohibited in places of employment to:
    - a. All existing employees by the effective date of this Article, and
    - b. An applicant for employment at the time of the application for employment.
- B. If a building or facility that is controlled by a proprietor contains several places of employment or public places that are controlled by other proprietors:
  1. The proprietor of the entire building or facility shall comply with the requirements in subsection (A) for the area controlled by the proprietor of the entire building or facility, and
  2. The proprietor of each place of employment or public place shall comply with the requirements in subsection (A) for the area controlled by the proprietor of the place of employment or public place.
- C. If an individual in an area controlled by a proprietor is smoking in violation of A.R.S. § 36-601.01, the proprietor shall:
  1. Inform the individual that the individual is in violation of A.R.S. § 36-601.01, and
  2. Request that the individual stop smoking immediately.
- D. A proprietor of a veterans or fraternal club shall not permit smoking in an area of the veterans or fraternal club that is open to the general public.
- E. A proprietor of a retail tobacco store where smoking is permitted shall comply with R9-2-107.
- F. A proprietor of an outdoor patio where smoking is permitted shall comply with R9-2-108.
- G. A proprietor may declare that smoking is prohibited in an entire establishment, facility, or outdoor area.
- H. In a vehicle owned and operated by a proprietor during working hours, the proprietor shall:
  1. Not permit smoking in the vehicle when:
    - a. More than one individual occupies the vehicle, and
    - b. The vehicle is used for business purposes; and
  2. Post signs according to A.R.S. § 36-601.01(E)(1), A.R.S. § 36-601.01(E)(2), and R9-2-105(C).

**R9-2-105. Sign Requirements**

- A. To meet the requirements of A.R.S. §§ 36-601.01(E)(1) and 36-601.01(E)(2), a proprietor of a public place or non-vehicle place of employment shall post signs that:
  1. Are no smaller than four inches by six inches; and
  2. Contain:
    - a. The international no smoking symbol or the words "No Smoking";
    - b. The telephone number designated by the Department for making complaints;
    - c. The website address designated by the Department for making complaints; and
    - d. Letters, numbers, and symbols of sufficient size to be clearly legible to an individual of normal vision from a distance of five feet; and
  3. Include a citation to A.R.S. § 36-601.01.
- B. A proprietor of a public place or non-vehicle place of employment shall post a sign that meets the requirements in subsection (A):
  1. At every entrance,
  2. At a height and location easily seen by an individual entering the public place or non-vehicle place of employment, and
  3. So that the sign is not obscured in any way.

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- C. A proprietor of a vehicle described in A.R.S. § 36-601.01(A)(7) shall:
1. Post at least one sign that:
    - a. Is no smaller than two inches by three inches;
    - b. Meets the requirements in subsections (A)(2)(a) through (A)(2)(c); and
    - c. Contains letters, numbers, and symbols of sufficient size to be clearly legible to an individual of normal vision from a distance of three feet;
  2. Include a citation to A.R.S. § 36-601.01 on the sign; and
  3. Firmly affix the sign to:
    - a. A vehicle door window,
    - b. The vehicle dashboard, or
    - c. Another area in the vehicle that is visible to each occupant in the vehicle.

**R9-2-106. Private Residence**

- A. Smoking is prohibited in a private residence licensed or certified by the Department or in areas of a private residence licensed or certified by the Department as:
1. An adult day care,
  2. A child care facility,
  3. A child care group home, or
  4. A health care institution other than an adult day care.
- B. Smoking is prohibited in a health care professional's private residence:
1. In an area where the health care professional provides services to an individual, and
  2. When the health care professional is providing services to an individual.
- C. A.R.S. § 36-601.01 does not apply to the private residence of an individual who is receiving services from a health care professional in the individual's private residence.

**R9-2-107. Retail Tobacco Store**

- A. A proprietor may permit smoking in a retail tobacco store only if the retail tobacco store meets the definition in A.R.S. § 36-601.01(A)(10) and the requirements in A.R.S. § 36-601.01(B)(3) and this Section.
- B. The proprietor of a retail tobacco store where smoking is permitted and that begins operating after January 1 of a calendar year shall complete, by the retail tobacco store's first day of operation, an affidavit that contains:
1. The name of the proprietor of the retail tobacco store,
  2. The name and address of the retail tobacco store,
  3. A statement that the proprietor of the retail tobacco store has personal knowledge of the facts supporting the affidavit,
  4. A statement that the retail tobacco store expects to derive at least 51 percent of its gross income during each calendar year from the sale of tobacco products and accessories as required by A.R.S. § 36-601.01,
  5. A statement describing the documents that contain the facts supporting the statement in subsection (B)(4),
  6. The signature of the proprietor of the retail tobacco store,
  7. An Arizona notary's signature certifying that the proprietor swore to or affirmed the truthfulness of the statements in the affidavit, and
  8. The date of the Arizona notary's signature.
- C. The proprietor of a retail tobacco store where smoking is permitted and that has been in operation for at least an entire calendar year shall complete, by January 31 of each year, an affidavit that contains:
1. The name of the proprietor of the retail tobacco store,
  2. The name and address of the retail tobacco store,
  3. A statement that the proprietor of the retail tobacco store has personal knowledge of the facts supporting the affidavit,
  4. A statement that the retail tobacco store derived at least 51 percent of its gross income during the previous calendar year from the sale of tobacco products and accessories,
  5. A statement describing the documents that contain the facts supporting the statement in subsection (C)(4),
  6. The signature of the proprietor of the retail tobacco store,
  7. An Arizona notary's signature certifying that the proprietor swore to or affirmed the truthfulness of the statements in the affidavit, and
  8. The date of the Arizona notary's signature.
- D. If the Department or the Department's designee receives a complaint under R9-2-109(A) about a retail tobacco store where smoking is permitted, the proprietor of the retail tobacco store shall provide to the Department or the Department's designee:
1. The affidavit under subsection (B) or the most current affidavit under subsection (C), whichever is appropriate; and
  2. Documents that enable the Department or the Department's designee to determine the percent of gross income derived from the sale of tobacco products and accessories:
    - a. For the calendar quarter immediately preceding the date of the complaint; or
    - b. If the retail tobacco store was not in operation for the entire calendar quarter immediately preceding the date of the complaint, for the period beginning on the date the retail tobacco store opened and ending on the date of the complaint.
- E. The proprietor of a retail tobacco store where smoking is permitted shall retain on the premises of the retail tobacco store and make available to the Department or the Department's designee upon request:
1. The affidavit under subsection (B) or the most current affidavit under subsection (C), whichever is appropriate; and
  2. The documents:
    - a. Identified under subsection (B)(5) or subsection (C)(5), whichever is appropriate; and
    - b. Required under subsection (D)(2).

**R9-2-108. Outdoor Patio**

- A. A proprietor may designate an area as an outdoor patio where smoking is permitted only if the area:
1. Is a contiguous area of a place of employment or public place;
  2. Is controlled by the proprietor of the place of employment or public place; and

3. Has:
  - a. At least one side that consists of:
    - i. Open space;
    - ii. Permeable material;
    - iii. A combination of open space and permeable material; or
    - iv. A combination of open space, permeable material, and a non-permeable wall that is not higher than three and one-half feet or the minimum height required by an applicable local ordinance or building code, whichever is greater; or
  - b. No overhead covering or an overhead covering that consists of:
    - i. Permeable material, or
    - ii. A combination of open space and permeable material.
- B. If an outdoor patio where smoking is permitted has a doorway for outdoor patio patrons and does not have a wall that prevents individuals from entering the outdoor patio, the proprietor shall:
  1. Inform individuals that the doorway:
    - a. Is not an entrance, and
    - b. Is a doorway for outdoor patio patrons; and
  2. Direct individuals who are not outdoor patio patrons to an entrance.
- C. If a proprietor designates an area as an outdoor patio where smoking is permitted, the proprietor shall not permit tobacco smoke to drift into areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.
- D. The reasonable distance required in R9-2-102(A) does not apply to a doorway for outdoor patio patrons, a window, or a ventilation system located in an area designated as an outdoor patio where smoking is permitted.
- E. If an outdoor patio is located less than 20 feet from any entrance of a public place or non-vehicle place of employment, a proprietor may permit smoking on the outdoor patio only if the proprietor uses a method that:
  1. Permits an individual to avoid breathing tobacco smoke when using the entrance at the public place or non-vehicle place of employment, and
  2. Does not permit tobacco smoke to drift into the public place or non-vehicle place of employment through entrances, open windows, ventilation systems, or other means.
- F. A proprietor may designate an outdoor patio as an area where smoking is prohibited.

**R9-2-109. Complaint; Observation; Notification; Inspection**

- A. When a person makes a complaint to the Department or the Department's designee under A.R.S. § 36-601.01, the complaint shall include:
  1. The name and address of the public place or place of employment that is the subject of the complaint;
  2. The date and approximate time of the occurrence that gave rise to the complaint;
  3. A description of the occurrence that gave rise to the complaint; and
  4. Any other information relevant to the occurrence that gave rise to the complaint.
- B. An individual shall make a complaint according to subsection (A) if the individual:
  1. Conducted an inspection pursuant to:
    - a. A.R.S. Title 36, Chapter 4 or Chapter 7.1; or
    - b. A.R.S. § 36-136(D) and 9 A.A.C. 8; and
  2. During the inspection, observed a possible violation of A.R.S. § 36-601.01.
- C. Within 15 days after receipt of a complaint made according to subsection (A), the Department or the Department's designee shall:
  1. Notify the proprietor at the public place or place of employment about the complaint; or
  2. Conduct an inspection, for compliance with A.R.S. § 36-601.01, of the public place or place of employment.
- D. If a complaint made according to subsection (A) is not resolved under subsection (C)(1), the Department or the Department's designee shall conduct an inspection, for compliance with A.R.S. § 36-601.01, of the public place or place of employment that is the subject of the complaint.

**R9-2-110. Determination of Violation**

- In determining whether a violation of A.R.S. § 36-601.01 has occurred, the Department or the Department's designee shall consider the following:
1. The presence of an ashtray in an area where smoking is prohibited;
  2. The lack of a sign that is required under A.R.S. § 36-601.01(E) or the presence of a sign that does not meet the requirements of R9-2-105;
  3. The presence of smoking;
  4. The presence of tobacco ashes, cigarette butts or filters, or cigar stubs in an area where smoking is prohibited;
  5. The presence of tobacco smoke that drifts into a place of employment or public place through entrances, windows, ventilation systems, or other means; and
  6. Except as provided in R9-2-108(D) and R9-2-108(E), the presence of tobacco smoke within a reasonable distance from entrances, open windows, or ventilation systems.

**R9-2-111. Notice of Violation; Notice of Assessment**

- A. After the Department or the Department's designee determines that a violation of A.R.S. § 36-601.01 has occurred, and based on the criteria in R9-2-112, the Department or the Department's designee may send to the proprietor at the place of employment or public place a written notice of violation that includes:
  1. The nature of the violation;
  2. The date and time that the violation occurred;
  3. The name, telephone number, and e-mail address of the Department contact person or the contact person of the Department's designee; and
  4. If a civil penalty is being assessed, a notice of assessment.
- B. If the Department or the Department's designee issues a notice of violation or a notice of assessment, a person to whom the notice is issued may appeal the determination that a violation has occurred or assessment of a civil penalty:
  1. According to A.R.S. Title 41, Chapter 6, Article 10, if the Department made the determination or assessment; or
  2. According to procedures of the Department's designee that are consistent with A.R.S. Title 41, Chapter 6, Article 10, if the Department's designee made the determination or assessment.

**R9-2-112. Criteria for Issuing a Notice of Violation or Notice of Assessment**

In determining whether to issue a notice of violation under A.R.S. § 36-601.01(G)(5), whether to issue a notice of assessment under A.R.S. § 36-601.01(G)(6), or the amount of a civil penalty that is being assessed, the Department or the Department's designee shall consider:

1. The seriousness of the violation;
2. Any economic benefit that results from the violation;
3. The duration of the violation;
4. The previous violations of A.R.S. § 36-601.01 at the place of employment or public place, including:
  - a. The type and severity of any previous violation,
  - b. The number of individuals affected by the previous violations,
  - c. The total number of previous violations, and
  - d. The length of time from the first violation to the current violation;
5. Any good faith efforts to comply with the requirements of A.R.S. § 36-601.01, including:
  - a. Reporting violations to the Department or the Department's designee; and
  - b. Meeting the requirements of A.R.S. § 36-601.01(I) by:
    - i. Informing an individual who is smoking that smoking is illegal, and
    - ii. Requesting that the individual immediately stop the illegal smoking; and
6. Other factors affecting the public health and safety the Department or the Department's designee deems relevant.

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**Substantive Policies**

Department of Health Services – Child Care Group Homes

**ARIZONA DEPARTMENT OF HEALTH SERVICES  
DIVISION OF ASSURANCE AND LICENSURE  
OFFICE OF CHILD CARE LICENSURE**

**SUBSTANTIVE POLICY #SP-022-ALS-CCL: INTERPRETATION OF  
“RESIDENTIAL FACILITY” IN DEFINITION OF “CHILD CARE GROUP HOME”**

*This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.*

The purpose of this substantive policy statement is to notify the public how the Department interprets the definition of “child care group home” in A.R.S. § 36-897.

A.R.S. § 36-897 states:

“Child care group home” means a residential facility in which child care is regularly provided for compensation for periods of less than twenty-four hours per day for not less than five children but no more than ten children through the age of twelve years.

The Department interprets the definition of “child care group home” to require that the provider, as defined in A.R.S. § 36-897, reside at the child care group home.

The Department interprets “residential facility” in the definition of “child care group home” to mean that the building used at the child care group home is a primary residence. Because the legislature chose to label this care setting as a “home” and expressly excluded from regulation “the provider’s own children” (A.R.S. § 36-897.03(C)) and “care given to children by or in . . . [t]he homes of their own parents” (A.R.S. § 36-897.04(A)(1)), it is apparent that the legislature intended the provider to reside at the child care group home.

The provider’s living at the child care group home is what sets it apart from a child care facility, as defined in A.R.S. § 36-881. If an individual other than the provider resides at a child care group home, but the provider does not, then the child care group home does not truly provide a “home” care setting—it is just a child care facility located in a residential neighborhood and is required to be licensed as such.

The Department’s interpretation is supported by local zoning requirements. Zoning regulations allow certain types of businesses to be run by an individual in the individual’s own home, but require commercial zoning for an individual other than a resident to operate a business out of a home.

**Substantive Policies**

Department of Health Services – Child Care Group Homes

**ARIZONA DEPARTMENT OF HEALTH SERVICES  
DIVISION OF ASSURANCE AND LICENSURE  
OFFICE OF CHILD CARE LICENSURE**

**SUBSTANTIVE POLICY #SP-023-DLS-CCL: DETERMINING WHETHER AN  
INDIVIDUAL PROVIDING CHILD CARE SERVICES IN A RESIDENTIAL  
SETTING IS REQUIRED TO BE CERTIFIED AS A CHILD CARE GROUP HOME**

*This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.*

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The purpose of this substantive policy statement is to notify the public how the Department determines whether an individual providing child care services in a residential setting is required to be certified as a child care group home under A.R.S. Title 36, Chapter 7.1, Article 4 and the rules for child care group homes.

A.R.S. § 36-897(1) states:

“Child care group home” means a residential facility in which child care is regularly provided for compensation for periods of less than twenty-four hours per day for not less than five children but no more than ten children through the age of twelve years.

Initially, the Department determines whether child care services are being provided in a residential setting that is subject to certification. Under A.R.S. § 36-897.04(A)(1), child care services provided to children in the homes of the children’s own parents are exempt from certification. Thus, an individual providing child care services in a residential setting is only required to be certified if the child care services are provided in a home other than the home of the children receiving the child care services.

Once the Department determines that child care services are being provided to children in a residential setting other than the homes of the children’s parents, the Department determines whether the child care services are being provided:

1. Regularly,
2. For compensation,
3. For periods of less than 24 hours per day, and
4. For at least five and no more than 10 children through the age of 12 years.

Regularly

“Regularly” means on a “regular basis,” which is defined in A.A.C. R9-5-101(100) to mean “at recurring, fixed, or uniform intervals.” An individual who occasionally cares for children upon the request of the children’s parents is not caring for children “regularly” and is not required to be certified. An individual who cares for children every day or every week, according to a schedule established with the children’s parents, is caring for children “regularly.”

For Compensation

“Compensation” is defined in A.A.C. R9-5-101(35), in pertinent part, to mean “money or other consideration, including goods, services, vouchers, time, or another benefit that is received . . . from any individual as payment for child care services.” An individual who receives no money or other tangible benefit in return for providing child care services is not providing child care “for compensation” and is not required to be certified. An individual who receives

## **Substantive Policies**

### Department of Health Services – Child Care Group Homes

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money or another benefit of any kind (goods, services, etc.) in return for providing child care services is providing child care services “for compensation.”

Whether child care services are being provided to a particular child “for compensation” is determined when the child is accepted for care by the provider. A provider cannot change a child from “for compensation” to “not for compensation” in order to avoid the requirement to be certified. For example, it is impermissible for a provider to accept a group of five or more children, receive compensation for four of the children, and then accept additional children “for compensation” or accept compensation for any of the remaining children while the four original children designated as “for compensation” are still present. If compensation is being received on a given day for a specific child, that compensation counts for the entire day—it cannot be broken up to avoid having to be certified. A child for whom compensation is received on a given day counts toward the total number of children in care “for compensation” at any time that the child is present that day. This does not preclude having four children “for compensation” and then accepting another child “for compensation” on the same day after one of the original four leaves. It also does not preclude having four children “for compensation” in the morning and then accepting a different group of four children “for compensation” in the afternoon, after the original four leave.

#### For Periods of Less than 24 Hours Per Day

An individual who cares for another’s children for twenty-four hours per day, such as in a foster care setting, is not required to be certified as a child care group home. An individual who cares for another’s children for less than 24 hours per day, and who returns the children to the children’s parents at the end of each care period, is providing child care services “for periods of less than 24 hours per day.” If an individual who generally provides child care services for periods of less than 24 hours per day occasionally provides child care services to a child for a period of 24 hours per day, that alone does not relieve the individual from having to be certified.

#### For at Least Five and No More than 10 Children through the Age of 12 Years

An individual who always provides child care services for fewer than five children at a time is not providing care “for at least five, and no more than 10, children.” Thus, an individual who provides child care services to four children of others every day of the week is not required to be certified. (An individual who provides child care services to more than 10 children of others is not eligible to be certified under A.R.S. Title 36, Chapter 7.1, Article 4, but would be required to be licensed as a child care facility under A.R.S. Title 36, Chapter 7.1, Article 1.)

In determining whether certification is necessary, a child is counted if the child is:

1. Not a child of the provider;
2. Not a resident at the child care group home;
3. Not older than 12 years of age;
4. Placed by a parent, including a staff member other than the provider, and accepted by the provider to receive child care services; and
5. Receiving child care services “for compensation.”

As noted in the “For Compensation” section of this Statement, if compensation is received for a child at any time during a single day, it counts for the whole day, and the child will be considered “for compensation” at all times when the child is present on that day. As a result, the child will be counted toward both the minimum of four and the maximum of 10 at any time when the child is present that day.

#### Conclusion

If the Department determines that child care services are being provided in a residential setting other than the homes of the children’s parents regularly, for compensation, for periods of less than 24 hours per day, and for at least five and no more than 10 children through the age of 12 years, the Department considers the residential facility to be subject to certification as a child care group home and takes action under A.R.S. § 36-897.09.

**Substantive Policies**

Department of Health Services – Child Care Group Homes

**DEPARTMENT OF HEALTH SERVICES  
DIVISION OF LICENSING SERVICES  
OFFICE OF CHILD CARE LICENSING**

**SUBSTANTIVE POLICY #SP-030-DLS-CCL: CLARIFICATION ON WHETHER A  
CHILD CARE GROUP HOME MAY REQUIRE A RELEASE OF LIABILITY AS A  
CONDITION OF ENROLLMENT OR FOR PARTICIPATION IN AN ACTIVITY,  
INCLUDING A FIELD TRIP**

*This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.*

The purpose of this substantive policy statement is to clarify whether a child care group home may require a parent to sign a release of liability as a condition of initial or continued enrollment, or for participation in an activity such as a field trip.

A.R.S. § 36-897.02(A) requires the Arizona Department of Health Services (ADHS) to establish by rule standards of care for child care group homes that includes financial stability standards. Under this authority, ADHS requires a child care group home to carry certain insurance coverage.

R9-3-309(A) states:

- A. A certificate holder shall secure and maintain the following insurance coverage, issued to the certificate holder, for a child care group home:
1. General liability insurance or a combination of general liability insurance and excess liability insurance with a maximum liability limit of at least \$100,000; and
  2. For each motor vehicle owned by the certificate holder and used by a staff member to transport enrolled children, motor vehicle insurance that has the coverage limits required by A.R.S. Title 28, Chapter 9.

Because requiring a parent to sign a release of liability is an attempt to nullify the protection afforded to enrolled children under the insurance coverage required by R9-3-309(A), ADHS interprets the practice of requiring releases of liability as a means to circumvent those insurance requirements. ADHS interprets the requirements in R9-3-309(A) as prohibiting a child care facility from requiring a parent to sign a release of liability as a condition of enrollment or for participation in an activity, including a field trip.

*Effective July 15, 2005  
Arizona Department of Health Services  
Division of Licensing Services  
Office of Child Care Licensing  
150 North 18th Avenue, Suite 400  
Phoenix, AZ 85007*

**ARIZONA DEPARTMENT OF HEALTH SERVICES  
OFFICE OF CHILD CARE LICENSURE**

**ARIZONA REVISED STATUTES**

**TITLE 36, CHAPTER 7.1, ARTICLE 4. CHILD CARE GROUP HOMES**

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## ARTICLE 4. CHILD CARE GROUP HOMES

### 36-897. Definitions

In this article, unless the context otherwise requires:

1. "Child care group home" means a residential facility in which child care is regularly provided for compensation for periods of less than twenty-four hours per day for not less than five children but no more than ten children through the age of twelve years.
2. "Department" means the department of health services.
3. "Provider" means the certificate holder or a person the certificate holder designates in writing who, pursuant to applicable statutes and rules, is to be responsible for direct daily supervision, operation and maintenance of the child care group home.
4. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of an applicant for certification as a child care group home or a certified child care group home does not pose a direct risk to the life, health or safety of children.

### 36-897.01. Certification; application; fees; rules; fingerprinting; renewal

A. A child care group home shall be certified by the department. An application for a certificate shall be made on a written or electronic form prescribed by the department and shall contain all information required by the department.

B. If a child care group home is within one-fourth mile of agriculture land, the application shall include the names and addresses of the owners and lessees of any agricultural land within one-fourth mile of the facility. Within ten days after receipt of an application for a certificate, the department shall notify the owners and lessees of agricultural land as listed on the application. The department shall deny a certificate that affects agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the department may issue a certificate to the child care group home to be located within the affected buffer zone. The agreement may include any stipulations regarding the child care group home, including conditions for future expansion of the facility and changes in the operational status of the facility that will result in a breach of the agreement. This subsection applies to the renewal of a certificate for a child care group home located in the same location if the child care group home certificate was not previously issued under this subsection.

C. The director, by rule, may establish and collect nonrefundable fees for child care group homes for initial and renewal certificate applications and for late filing fees. Beginning January 1, 2010, ninety per cent of the fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the health services licensing fund established by section 36-414 and ten per cent of the fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

D. The department shall issue an initial certificate if the department determines that the applicant and the applicant's child care group home are in substantial compliance with the requirements of this article and department rules and the facility agrees to carry out a plan acceptable to the director to eliminate any deficiencies.

E. A certificate is valid for three years and may be renewed for successive three-year periods by submitting a renewal application as prescribed by the department and submitting a nonrefundable renewal application fee established pursuant to subsection C of this section. An applicant for renewal who fails to submit the application forty-five days before the expiration of the certificate is subject to a late filing fee established pursuant to subsection C of this section.

F. In order to ensure that the equipment and services of a child care group home and the good character of an applicant are conducive to the welfare of children, the department by rule shall establish the criteria for granting, denying, suspending and revoking a certificate.

G. The director shall adopt rules and prescribe forms as may be necessary for the proper administration and enforcement of this article.

H. The certificate shall be conspicuously posted in the child care group home for viewing by parents and the public.

I. Current department inspection reports shall be kept at the child care group home and shall be made available to parents on request.

J. A certificate is not transferable and is valid only for the location occupied at the time it is issued.

K. An application for an initial certificate shall include:

1. The form that is required pursuant to section 36-897.03, subsection B and that is completed by the applicant.
2. A copy of a valid fingerprint clearance card issued to the applicant pursuant to section 41-1758.07.

L. Except as provided in section 36-897.10, subsection A, on receipt of a renewal application that complies with this chapter and rules adopted pursuant to this chapter, the department shall issue a renewal certificate to the child care group home.

M. The department of health services shall notify the department of public safety if the department of health services receives credible evidence that a person who possesses a valid fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section 41-1758.07, subsection B.
2. Falsified information on any form required by section 36-897.03.

**36-897.02. Standards of care; monitoring**

- A. The department by rule shall establish standards of care for child care group homes. These rules shall include minimum programmatic, personnel, supervision of children, training, physical environment and financial stability standards.
- B. At least two adults shall be present in the child care group home when six to ten children are cared for in the home.
- C. For purposes of certification of the child care group home, the provider's own children shall not be counted.
- D. The total number of children present in a child care group home at any given time for whom compensation is received shall not exceed ten.
- E. The total number of children present in a child care group home at any given time, including children related to the provider, shall not exceed fifteen.
- F. The department shall monitor the operation of a child care group home at least two times each year to ensure that the child care group home is meeting department standards of care.

**36-897.03. Child care group homes; child care personnel; fingerprints; definition**

- A. Child care personnel, including volunteers, shall submit the form prescribed in subsection B of this section to the employer and shall have valid fingerprint clearance cards issued pursuant to section 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment or beginning volunteer work.
- B. Applicants, certificate holders and child care personnel shall attest on forms that are provided by the department that:
  1. They are not awaiting trial on or have never been convicted of or admitted in open court or pursuant to a plea agreement committing any of the offenses listed in section 41-1758.07, subsection B or C in this state or similar offenses in another state or jurisdiction.
  2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201.
  3. They have not been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state or had a license to operate a child care facility or a certificate to operate a child care group home revoked for reasons that relate to the endangerment of the health and safety of children.
- C. The provider shall make documented, good faith efforts to contact previous employers of child care personnel to obtain information or recommendations that may be relevant to an individual's fitness to work in a certified child care group home.
- D. The director may adopt rules prescribing the exclusion from child care group homes of individuals whose presence may be detrimental to the welfare of children.
- E. The forms required by subsection B of this section are confidential.
- F. A person who is awaiting trial on or who has been convicted of or who has admitted in open court or pursuant to a plea agreement to committing a criminal offense listed in section 41-1758.07, subsection B or subsection B, paragraph 2 or 3 of this section is prohibited from being employed in any capacity in a child care group home.
- G. A person who is awaiting trial on or who has been convicted of or who has admitted in open court or pursuant to a plea agreement to committing a criminal offense listed in section 41-1758.07, subsection C shall not work in a child care group home without direct visual supervision unless the person has applied for and received the required fingerprint clearance card pursuant to section 41-1758 and is registered as child care personnel. A person who is subject to this subsection shall not be employed in any capacity in a child care group home if that person is denied the required fingerprint clearance card.
- H. The employer shall notify the department of public safety if the employer receives credible evidence that any child care personnel either:
  1. Is arrested for or charged with an offense listed in section 41-1758.07, subsection B.
  2. Falsified information on the form required by subsection B of this section.
- I. For the purposes of this section, "child care personnel" means all employees of and persons who are eighteen years of age or older and who reside in a child care group home that is certified by the department.

**36-897.04. Exemptions**

- A. This article does not apply to the care given to children by or in:
  1. The homes of their own parents.
  2. A religious institution conducting a nursery in conjunction with its religious services.
  3. A unit of the public school system.
  4. A regularly organized private school engaged in an educational program which may be attended in substitution for public school pursuant to section 15-802.
  5. Any facility that provides training only in specific subjects, including dancing, drama, music, self-defense or religion.
  6. Any facility that provides only recreational or instructional activity to school age children who may come to and go from that facility at their own volition.
- B. If regularly organized private schools exempt under subsection A, paragraph 4 of this section provide child care beyond public school hours or for children who are not regularly enrolled in kindergarten programs or grades one through twelve, that portion of the school providing this care shall be considered a child care group home and is subject to this article.



**36-897.05. Inspection of child care group homes**

A. The department or designated local health departments or its agents may at any time visit, during hours of operation, and inspect a child care group home in order to determine whether it is certified and is being conducted in compliance with applicable law, this article and rules adopted pursuant to this article.

B. The department shall visit each child care group home as often as necessary to assure continued compliance with this article and the rules adopted pursuant to this article. At least one unannounced visit shall be made annually.

**36-897.06. Civil penalty; collection**

A. The director may impose a civil penalty on a person who violates this article or rules adopted pursuant to this article in an amount of not more than one hundred dollars for each violation. Each day that a violation occurs constitutes a separate violation. The director may issue a notice that includes the proposed amount of the civil penalty assessment. A person may appeal the assessment by requesting an administrative hearing. If a person requests a hearing to appeal an assessment, the director shall not take further action to enforce and collect the assessment until the hearing process is complete. The director shall impose a civil penalty only for those days on which the violation has been documented by the department.

B. In determining the civil penalty pursuant to subsection A, the department shall consider the following:

1. Repeated violations of statutes or rules.
2. Patterns of noncompliance.
3. Types of violations.
4. Severity of violations.
5. Potential for and occurrences of actual harm.
6. Threats to health and safety.
7. Number of children affected by the violations.
8. Number of violations.
9. Size of the facility.
10. Length of time during which violations have been occurring.

C. If a civil penalty imposed pursuant to subsection A of this section is not paid, the attorney general or a county attorney shall file an action to collect the civil penalty in a justice court or the superior court in the county in which the violation occurred.

D. Civil penalties collected pursuant to subsection A of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

E. The department shall develop an instrument that documents compliance and noncompliance of child care group homes according to the criteria prescribed in its rules governing child care group home certification. Blank copies of the instrument, which shall be in standardized form, shall be made available to the public.

**36-897.07. Training program**

The director shall establish a training program to provide training for child care group homes and users of child care group home services, technical assistance materials for child care group homes and information to enhance consumer awareness.

**36-897.08. Intermediate sanctions; notification of compliance; hearing**

A. If the director has reasonable cause to believe that a child care group home is in violation of this article or a rule adopted pursuant to this article and that the health or safety of the children is endangered, on written notice to the child care group home the director may impose one or more of the following intermediate sanctions until the child care group home is in substantial compliance:

1. Immediately restrict admissions to the child care group home.
2. Terminate specific services that the child care group home may offer.
3. Reduce the child care group home's capacity.

B. A child care group home sanctioned pursuant to this section shall notify the department in writing when it is in substantial compliance. On receipt of notification the department shall conduct an inspection. If the department determines that the child care group home is in substantial compliance the director shall immediately rescind the sanctions. If the department determines that the child care group home is not in substantial compliance the sanctions remain in effect. The child care group home may then notify the department of substantial compliance not sooner than fourteen days after the date of that inspection. If the department determines on the return inspection that the child care group home is still not in substantial compliance the sanctions remain in effect. Thereafter, a child care group home may notify the department of substantial compliance not sooner than thirty days after the date of the last inspection. A child care group home shall make all notifications of substantial compliance by certified mail. The department shall conduct all inspections required pursuant to this subsection within fourteen days after receipt of notification of substantial compliance. If the department does not conduct an inspection within this time period, the sanctions have no further effect.

C. On written request by a person who has been sanctioned pursuant to this section the director or the director's designee shall conduct a hearing to review the sanctions. A request for a hearing shall be made by certified mail within ten days after receipt of notice of the sanctions. The office of administrative hearings shall conduct an administrative hearing within seven business days after the notice of appeal has been filed with the office of administrative hearings.

D. A hearing conducted pursuant to this section shall comply with the requirements of title 41, chapter 6, article 10.

**36-897.09. Operating without a certificate; notice; hearing; violation; classification**

A. If the department has reasonable cause to believe that a person is operating a child care group home without a certificate, it shall notify that person to cease operation within ten days of receiving the notice. The department shall give notice either by certified mail or by personal service. The notice shall state that the person may make a written request for a hearing before the director or the director's designee pursuant to title 41, chapter 6, article 10.

B. If a person fails to cease operation, the department may request that the county attorney of the county in which the home is located enforce this article. The department may also notify the attorney general who shall immediately seek a restraining order and an injunction against the home.

C. A person who continues to operate a child care group home without certification ten days after receiving notice pursuant to this section is guilty of a class 1 misdemeanor.

**36-897.10. Pending action or sale; effect on licensure**

A. The department shall not act on an application for certification of a currently certified child care group home while any enforcement or court action related to child care group home certification is pending against that group home's current certificate holder.

B. The director may continue to pursue any court, administrative or enforcement action against the certificate holder even if the group home is in the process of being sold or transferred to a new owner.

C. The department shall not approve a change in group home ownership unless it determines that there has been a transfer of legal and equitable interests, control and authority in the group home so that persons other than the transferring certificate holder, that certificate holder's agent or other parties exercising authority or supervision over the group home's daily operations or staff are responsible for and have control over the group home.

**36-897.11. Injunctions; definition**

A. If the department believes that a child care group home is operating under conditions that may cause serious harm to children, the department shall notify the attorney general or the county attorney of the county in which the child care group home is located who shall immediately seek a restraining order and injunction against the home.

B. For the purposes of this section, "serious harm" means a substantial physical injury.

**36-897.12. Inspection of records**

A. Records maintained by the department for child care group homes are available to the public for review and copying.

B. Personally identifiable information that relates to a child, parent or guardian is confidential. The department shall disclose this information only as follows:

1. Pursuant to a court order.
2. Pursuant to a written consent signed by the parent or guardian.
3. To a law enforcement officer who requires it for official purposes.
4. To an official of a governmental agency who requires it for official purposes.

C. The department shall enter into the child care group home's case file, contiguous to the form containing the reported violations, those documents that verify correction of reported violations.