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PREAMBLE AND EXPLANANATORY STATEMENTS FOR NEW MEXICO ADMININISTRATIVE CODE TITLE 8, CHAPTER 9, PARTS 3, 4, AND 5

Introduction

New Mexico will become the **first state in the nation to offer no cost child care starting November 1, 2025,** extending assistance to families regardless of income and saving families an average of \$12,000 per child each year. This historic state investment brings many benefits. This commitment to universal child care supports families, strengthens communities, and builds a future we all share. Universal child care will help ease the strain on family budgets and let families focus on what matters most – raising their children and giving them the best start in life. Families can choose the type of care that best fits their needs, preferences, and values—whether that's a center or home-based provider, a language-immersion, Tribal, a faith-based program, or care that's available during evenings, weekends, or overnight hours. Children can have access to safe, healthy, and nurturing child care environments.

The state offers families a mixed delivery system with choices of for-profit, nonprofit, secular and faith-based child care and school age care, New Mexico PreK, and the federal Early Head Start and Head Start programs to best meet their family needs and their children's needs. Early Head Start and Head Start comprehensive programs for young children and families and New Mexico PreK can be used alone or in combination with child care assistance to create full day, full year programs.

Parents can keep working, return to school, or pursue new careers without fear of setbacks to their financial stability. With no more child care fees, families will no longer have to choose between child care and other essentials or between child care and employment. This will help build a stronger New Mexico workforce, support our business community, and strengthen our state's future.

The Early Childhood Education and Care Department (ECECD) recognizes that while the state currently lacks enough providers to meet all families' needs, this historic initiative takes critical steps to strengthen the child care workforce and build the supply of care. New Mexico's child care professionals do essential, highly skilled work. A strong workforce requires fair pay to deliver the quality care that families need and if New Mexico's child care policies do not appropriately support the workforce, families won't have the child care they need. Thus, New Mexico's initiative includes key policies to ensure early childhood educators can expect to be fairly compensated and valued for their important work. Providers can count on steady, adequate reimbursement, strengthening their business models and improving the quality of care statewide.

New Mexico has made great improvements in both child care affordability and quality. Since 2020, New Mexico has accelerated its efforts to provide child care assistance to more families and understand the real costs to providers for delivering child care and school age care. Initiatives to increase child care supply have improved the availability of child care for families, resulting in a 21 percent increase in licensed capacity and a 12.5 percent increase in the number of child care providers. While attracting and retaining the child care workforce is challenging for many states after the COVID-19 pandemic, New Mexico has supported the stability of its child care workforce which has grown by 64 percent. The child care workforce has historically earned some of the lowest wages in the state. Although investments in child care have increased wages by 65 percent, continued efforts are needed to ensure that all educators and care professionals are paid a living wage. By strengthening the system of care, New Mexico is not only supporting parents and children in the present, but we are investing in the wellbeing of generations to come.

Statement of Purpose

To implement the new universal child care initiative, and provide necessary updates to the licensing and registered homes regulations, the New Mexico Early Childhood Education and Care Department (ECECD) is amending New Mexico Administrative Code Sections 8.9.3, 8.9.4 and 8.9.5.

The final rule updates regulations to codify requirements essential to the implementation of universal child care. These changes include removal of income eligibility requirements for all families; restructure of the co-payment schedule; exclusion of activity requirements for grandparents raising grandchildren; provider rate increases; revision of hours of care; inclusion of presumptive eligibility; inclusion of extended eligibility when additional children are added to households; and revisions to at-risk child care. The final rule also addresses provider participation requirements in the Professional Development Information System; provider compliance with state and federal laws for inclusion of children with disabilities; provider compliance with policy and procedure; and exemptions from participation in Child and Adult Care Food Program for certain non-licensed providers; as well as updated terms and definitions.

Notice of Rulemaking and Public Comment

On September 9, 2025, a Notice of Rulemaking and Public Rule Hearing was published in the New Mexico Register for the proposed amendments to 8.9.3 NMAC, 8.9.4 NMAC and 8.9.5 NMAC. A copy of the Notice as well as a copy of the proposed amendments were posted on the Early Childhood Education and Care Department's website on the same day. Public comments were accepted from the posting of the Notice on September 9, 2025, through the end of the public hearing on October 9, 2025. The hearing was held in Santa Fe, NM, on October 9, 2025, where ECECD provided the public with the opportunity to offer comment on the proposed amendments. In total, ECECD received 127 written comments and 55 oral comments.

To provide the public with information about the direction of the universal child care program, ECECD held informational sessions on September 19 and 20 to explain and respond to questions. ECECD's website also contains materials in English and Spanish describing the proposed program.

Discussion of Rule Changes

The final adopted rules make changes to the following sections: Title 8, Chapter 9, Parts 3, 4, and 5 (8.9.3 NMAC, 8.9.4 NMAC, and 8.9.5 NMAC).

Summary of Changes

CHILD CARE ASSISTANCE, 8.9.3 NMAC

Removes family income limitations

To create universally affordable child care, the final adopted rule eliminates the income restriction for child care assistance.

Raises the reimbursement rates

New Mexico uses a cost model to estimate the cost of meeting program standards and uses primary and secondary data to inform assumptions in the model. This dynamic model is built to enable running different scenarios to understand the cost of care with variations for different program characteristics and model variables, such as program size, age of child served, and various quality variables. Cost modeling includes expenses that not all programs have in order to cover different operating models.

ECECD contracted with Prenatal to Five Fiscal Strategies, national experts in early childhood and school age care, who gathered information from different program types on their costs to integrate into the cost model and gain a clearer and more accurate picture of the cost of delivering child care and school-age care. The experts met with ECECD leadership regularly to ensure the process aligned with the state's goals for the Child Care Development

Fund programming and federal law. Beyond the ECECD leadership team, an Alternative Methodology Task Force was formed as a subcommittee of the Early Childhood Education and Care Advisory Council, to provide input and guidance to the alternative methodology process. Members of the task force included child care providers as well as representatives from policy, business, and education sectors.

The cost model updates in 2024 increased wages, planning time for teaching staff and non-personnel values, in step with cost of living increases. With these new rules ECECD is raising the standard rate 20 percent with higher reimbursement rates for providers who achieve higher quality levels. ECECD has also added an enhanced rate for providers who provide a minimum 10-hour day of care and meet the salary scale minimum of \$16-\$19 entry level floor. ECECD is also maintaining a different set of rates to reflect the costs of care based on the age of the child, for part time or wraparound care, and nontraditional hours of care that is offered early morning, evenings and weekends.

The full-time reimbursement rates are built to purchase up to 55 hours of care per week; the part time rates cover the costs of up to 27.5 hours per week (a provider is paid a part time rate in full for anywhere between 8-29 hours of care per week).

A child care or school-age care provider that receives child care assistance reimbursement is not allowed to charge additional fees to parents. As part of the provider's curriculum, there may be incidental field trips, special lunches, or similar activities that do not occur regularly, but which are beyond reimbursement rate amount. In those limited circumstances, provider will be able to charge those expenses to parents as long as the charge would not exceed an amount or regularity in a way that would prohibit a child or parent from participating in the program.

Includes an Opt-In for an enhanced reimbursement

Providers have the option to receive enhanced rates if they meet two conditions: they provide their services to children 10 hours a day, five days a week (not including holidays, breaks, or special programming such as parent teacher conferences and professional development) and they set the base wage for entry-level care staff between \$16-\$19 per hour, based on the quality level of care. The enhanced rate meets the objectives of growing the supply of care for families who need more hours on a regular basis and to attract and retain staff to stabilize and grow the early childhood workforce.

Reimbursement payment schedule

ECECD recognizes that child care providers need to count on reliable, monthly child care assistance payments, in 2026 the department will transition from reimbursing child care providers in the month following service delivery to paying providers in advance of service delivery, which will better align with private-pay child care practice.

Qualifying activities

A parent must continue to demonstrate that they are engaged in work or school unless they meet the criteria for an activity exemption. This activity requirement is unchanged by the final rule.

The final rule grants exemptions to the activity requirement for eligibility to grandparents who are raising their grandchildren, teen parents, families raising babies born substance-exposed, families experience homelessness, and families involved with the Children, Youth, and Families Department. Families will be able to access child care assistance without having a qualifying activity, easing the burdens on these families.

Presumptive eligibility

Under presumptive eligibility, families will be allowed to enroll for a 90-day period after providing the department with minimal documentation. The family will then have 90 days to work with ECECD and provide all of the eligibility information for a final eligibility determination. If at the 90 days the ECECD determines that the family does not meet the presumptive eligibility requirements, the parent will no longer be presumptively eligible, and the

provider will be notified of the determination. The final rule clarifies that providers will be paid for the provision of care for the 90 days regardless of ECECD's determination. Presumptive eligibility removes barriers for families in need of care who have additional difficulties documenting eligibility for child care assistance and makes the process of obtaining child care at no cost less burdensome and quicker for parents.

Delinking hours of work and school from hours of child care assistance

While the requirement to be engaged in work or school is unchanged, the final rule delinks hours of work and school from their hours of allowable care assistance. This allows families to choose longer hours of care based on their need and receive financial assistance for those hours that extend beyond the hours of work and school. This rule considers that there are hours spent commuting to these activities, homework, and other hours associated with work and school where children need affordable child care and school-age care. Providers will retain their ability to negotiate the hours in which they operate.

Recognizes Montessori national accrediting bodies and Early Head Start and Head Start as eligible for highest reimbursement rates

ECECD conducted a crosswalk to verify Montessori quality standards in alignment with other ECECD approved accrediting bodies. Based on these findings, ECECD is including Association Montessori Internationale (AMI) and American Montessori Society (AMS) nationally accrediting bodies in the approved national accreditation list. In addition, Early Head Start and Head Start grantees will be treated automatically as eligible for the highest reimbursement rate.

LICENSING

Nations, Pueblos, and Tribes (NPTs)

The final rule provides clarification regarding the licensing process for NPTs to receive child care assistance through ECECD allowing Tribal child care programs, family providers, and early educators to benefit from higher reimbursement rates, and pay incentives.

Professional Development Information System

In order for New Mexico to support its early care and education workforce, the state offers numerous trainings and coaching as well as apprenticeships and scholarships toward higher education degrees. Capturing information about the changes in the workforce, including new members of the workforce, turnover within and away from this field, and other matters is important information for ECECD as it promotes opportunities for career enhancement and advancement and fair compensation. As New Mexico continues to move forward with developing a career and wage ladder, the final rule requires providers to participate in New Mexico's Professional Development Information System.

Coordinating with early intervention specialists

The federal Individuals with Disabilities Education Act (IDEA) Part C requires early intervention services to be provided for infants and toddlers who are identified as having developmental delays or disabilities, tailored to the child's Individualized Family Service Plan (IFSP). The IDEA requires services be provided in the infant or toddler's "natural environment," which may include the child care setting. This rule makes clear that the provider must allow access to the early intervention specialists if the child's IFSP (which is signed by the parent) would require services to be in the child care setting as the natural environment. The final rule does provide qualifications to this requirement, including allowing providers to have the service provider to agree to standard center policies and procedures, and allowing for exceptions to this requirement for undue burden or undue hardship as defined by state or federal law.

Family handbook/program policy

The final rule requires providers to maintain and adhere to their family/program policy handbooks but does not include the originally proposed language that the handbook must be approved by ECECD.

Multi-age group size and ratios

The proposed rule would have required the provider to use the group size and ratios based on the youngest child in the group. The final rule maintains the current licensing requirement that the group size and ratios be based on the age of the majority of the children in the group.

Registered homes and Child and Adult Care Food Program

The final rule makes clear that licensed and registered child care home providers are not required to participate in the Child and Adult Care Food Program in order to participate in the child care assistance program.

Conforming Language

Throughout, some definitions of terms were slightly modified for clarity and "will" is changed to "shall" to have clearer language throughout these regulations.

Specific Changes to 8.9.3, 8.9.4, and 8.9.5 NMAC with Explanatory Statements

The tables below outline the specific changes made to each section along with an explanatory statement for each amendment adopted. At the top of each box, you will find the citation referencing the exact rule being addressed. The table is organized into the following sections for ease of comparison:

- Current Language: This column contains the language of the rule existing prior to these proposed amendments.
- **Proposed Language:** Here, you will find the suggested revisions or updates to the rule as initially proposed by the Early Childhood Education and Care Department (ECECD) on September 8, 2025.
- **Final Adopted Rule:** This column contains the version of the rule that ECECD is adopting, considering all public comment received during the rulemaking process.
- At the bottom of each table, an Explanatory Statement is provided. This statement provides an explanation as to why ECECD chose to adopt the rule's final language.

8.9.3 NMAC – Explanatory Statement

8.9.3.6(B)		
Current Language	Proposed Language	Final Adopted Language
States have two options to	States have two options to	States have two options to
establish subsidy payment rates	establish subsidy payment rates	establish subsidy payment rates
that ensure equal access: lead	that ensure equal access: lead	that ensure equal access: lead
agencies must collect and	agencies must collect and	agencies must collect and
analyze data through either a	analyze data through either a	analyze data through either a
statistically valid and reliable	statistically valid and reliable	statistically valid and reliable
market rate survey, or through	market rate survey, or through	market rate survey, or through
an ACF pre-approved alternative	a[n ACF] <mark>administration for</mark>	a[n ACF] <mark>administration for</mark>
methodology, such as a cost	children and families pre-	children and families pre-
estimation model. New	approved alternative	approved alternative
Mexico's rates, as set forth	methodology, such as a cost	methodology, such as a cost
herein, and effective August 1,	estimation model. New Mexico's	estimation model. New Mexico's
2023, were informed by a cost	rates, as set forth herein[, and	rates, as set forth herein[, and
estimation model and with	effective August 1, 2023], were	effective August 1, 2023], were
extensive statewide stakeholder	informed by a cost estimation	informed by a cost estimation
engagement.	model and with extensive	model and with extensive
	statewide stakeholder	statewide stakeholder
	engagement.	engagement.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.3.7(E)(2)		
Current Language	Proposed Language	Final Adopted Language
(2) "Essential worker" means	[(2) "Essential worker" means	[(2) "Essential worker" means
those who conduct a range of	those who conduct a range of	those who conduct a range of
operations and services in	operations and services in	operations and services in
industries that are essential to	industries that are essential to	industries that are essential to
ensure the continuity of critical	ensure the continuity of critical	ensure the continuity of critical
functions in the economy of our	functions in the economy of our	functions in the economy of our
nation and state. During this	nation and state. During this	nation and state. During this
period of economic recovery	period of economic recovery and	period of economic recovery and
and subject to budgetary	subject to budgetary	subject to budgetary
considerations, the presumption	considerations, the presumption	considerations, the presumption
is that all workers are essential	is that all workers are essential	is that all workers are essential
to the well being of the state's	to the well being of the state's	to the well being of the state's
economy.	economy.]	economy.]

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.7(F)(3)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	(3) "FOCUS" is a voluntary tiered quality rating and improvement program that is open to licensed child care programs.	(3) "FOCUS" is a voluntary tiered quality rating and improvement program that is open to licensed child care programs.
	Explanatory Statement	
There were no substantive pub	lic comments received. ECECD is ad	opting the proposed amendment.

8.9.3.7(N)(1)		
Current Language	Proposed Language	Final Adopted Language
"National accreditation	N/A – No Proposed Changes	"National accreditation
status" means the achievement	Published	status" means the achievement
and maintenance of		and maintenance of
accreditation status by an		accreditation status by an
accrediting body that has been		accrediting body that has been
approved by ECECD. ECECD		approved by ECECD. ECECD
determines the program criteria		determines the program criteria
and standards to evaluate and		and standards to evaluate and
approve accrediting bodies.		approve accrediting bodies.
(a) The following are the only		(a) The following are the only
national accrediting bodies that		national accrediting bodies that
are approved by ECECD:		are approved by ECECD:
(i) the association of Christian		(i) the association of Christian
schools international (ACSI);		schools international (ACSI);
(ii) the council on accreditation		(ii) the council on accreditation
(COA) for early childhood		(COA) for early childhood
education and after school		education and after school
programs;		programs;
(iii) the international Christian		(iii) the international Christian

accrediting association (ICAA);

- (iv) the national accreditation commission for early care and education programs (NAC);
- (v) the national association for the education of young children (NAEYC) academy for early childhood program accreditation;
- (vi) the national association of family child care (NAFCC); or
- (vii) the national early childhood program accreditation (NECPA).
- (b) Effective July 15, 2014 accrediting bodies that have been previously approved that are not on the above list will no longer be ECECD approved national accrediting bodies.

accrediting association (ICAA);

- (iv) the national accreditation commission for early care and education programs (NAC);
- (v) the national association for the education of young children (NAEYC) academy for early childhood program accreditation;
- **(vi)** the national association of family child care (NAFCC); [or]
- (vii) the national early childhood program accreditation (NECPA)[-];

(viii) association montessori internationale (AMI); or

(ix) american montessori society (AMS).

(b) Effective July 15, 2014 accrediting bodies that have been previously approved that are not on the above list will no longer be ECECD approved national accrediting bodies.

Explanatory Statement

Public comments requested that ECECD consider adding two national accrediting bodies, Association Montessori Internationale (AMI) and American Montessori Society (AMS), as national accrediting bodies that are approved by ECECD. A cross-walk was conducted by the department to verify their quality standards in alignment with other ECECD approved accrediting bodies. Based on the cross-walk, ECECD will include these two recommended nationally accrediting bodies in the approved national accreditation list.

8.9.3.7(P)(1)		
Current Language	Proposed Language	Final Adopted Language

- "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc. as follows:
- (1) "In-home" care means care provided in the child's own home.
- (2) "Registered home" means child care provided in the home of a provider who is registered with the department to care for up to four children. All registered homes receiving child care assistance subsidies must be enrolled and participate in the child and adult care food program (CACFP), unless they are exempt.
- (3) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children.
- (4) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children.
- (5) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care.
- (6) "Out-of-school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session.
- (7) "Family, friend, or neighbor

- (1) "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc. as follows:
- [(1)] **(a) "In-home"** care means care provided in the child's own home.
- [(2)] (b) "Registered home" means child care provided in the home of a provider who is registered with the department to care for up to four children. All registered homes receiving child care assistance subsidies [must be] may enroll[ed] and participate in the child and adult care food program (CACFP)[; unless they are exempt].
- [(3)] (c) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children.
- [(4)] (d) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children.
- [(5)] (e) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care.
- [(6)] (f) "Out-of-school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session.

- (1) "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc. as follows:
- [(1)] **(a) "In-home"** care means care provided in the child's own home.
- [(2)] (b) "Registered home" means child care provided in the home of a provider who is registered with the department to care for up to four children. All registered homes receiving child care assistance subsidies [must be] may enroll[ed] and participate in the child and adult care food program (CACFP)[; unless they are exempt].
- [(3)] (c) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children.
- [(4)] (d) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children.
- [(5)] (e) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care.
- [(6)] (f) "Out-of-school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session.

(FFN)" means care provided temporarily in a home and only in the case of a public health emergency.	[(7) "Family, friend, or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.]	[(7)] (g) "Family, friend, or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.
Explanatory Statement		

ECECD is reverting to the current language for "Family, friend, or neighbor (FFN)" to retain this provider type in case of a public health emergency; otherwise, ECECD is adopting the proposed amendment.

8.9.3.7(P)(2)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	(2) "PreK" means a statewide,	(2) "PreK" means a statewide,
	<mark>voluntary developmental</mark>	voluntary developmental
	readiness program funded by	readiness program funded by
	ECECD for children who have	ECECD for children who have
	attained their third or fourth	attained their third or fourth
	birthday prior to September 1	birthday prior to September 1
	that delivers to eligible children	that delivers to eligible children
	programs that address their total	programs that address their total
	developmental needs, including	developmental needs, including
	their physical, cognitive, social	their physical, cognitive, social
	and emotional needs, and that	and emotional needs, and that
	supports their development in	supports their development in
	the areas of health care,	the areas of health care,
	nutrition and safety and	nutrition and safety and
	multicultural awareness.	multicultural awareness.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.3.7(P)(3)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	(3) "Presumptive Eligibility" in	(3) "Presumptive Eligibility" in
	the context of the Child Care	the context of the Child Care
	and Development Block Grant	and Development Block Grant
	(CCDBG) refers to a policy that	(CCDBG) refers to a policy that
	allows for the assumption of	allows for the assumption of
	eligibility for certain programs	eligibility for certain programs
	based on preliminary	<mark>based on preliminary</mark>

information rather than
complete documentation. This
means that individuals or
families may be deemed eligible
for assistance before all
necessary verification is
completed, which can expedite
access to services.

information rather than complete documentation. This means that individuals or families may be deemed eligible for assistance before all necessary verification is completed, which can expedite access to services.

Explanatory Statement

ECECD has reviewed all relevant comments related to this section and has adopted the above final language.

8.9.3.8 **Current Language Proposed Language Final Adopted Language** These policies apply to child These policies apply to child These policies apply to child care assistance benefits care assistance benefits care assistance benefits provided to eligible children for provided to eligible children for provided to eligible children for the following types of child care the following types of child care the following types of child care to ensure that parents or legal to ensure that parents or legal to ensure that parents or legal guardians have a variety of child guardians have a variety of child guardians have a variety of child care services from which to care services from which to care services from which to choose: choose: choose: A. licensed child care programs A. licensed child care programs **A.** licensed child care programs administered by public schools administered by public schools administered by public schools and post-secondary institutions and post-secondary institutions and post-secondary institutions that provide on-site care for the that provide on-site care for the that provide on-site care for the children of students; children of students; children of students; **B.** licensed child care programs **B.** licensed child care programs **B.** licensed child care programs administered by tribal entities; administered by tribal entities; administered by tribal entities; C. licensed child care programs C. licensed child care programs **C.** licensed child care programs administered by church or administered by church or administered by church or religious organizations; religious organizations; religious organizations; **D.** in-home care; **D.** in-home care; **D.** in-home care; E. licensed child care centers; E. licensed child care centers; E. licensed child care centers; F. registered family childcare F. registered family childcare F. registered family childcare homes; homes; homes: **G.** licensed family and group **G.** licensed family and group **G.** licensed family and group childcare homes; childcare homes; childcare homes; H. licensed out of school time H. licensed out of school time H. licensed out of school time programs; programs; programs; I. licensed programs operated I. licensed programs operated by I. licensed programs operated by by employers for their employers for their employees; employers for their employees;

and

[and

employees; and

J. FFN.	J. FFN.	J. FFN.
Explanatory Statement		

ECECD is reverting to the current language to retain the FFN provider type in case of a public health emergency.

8.9.3.9 **Final Adopted Language Current Language Proposed Language** PRIORITIES FOR ASSISTANCE: [PRIORITIES] CATEGORIES FOR [PRIORITIES] CATEGORIES FOR **ASSISTANCE: ASSISTANCE:** Any funds received by the department under the child care A. Any funds received by the A. Any funds received by the development fund and other department under the child care department under the child care development fund and other development fund and other sources are expended for child care assistance pursuant to the sources are expended for child sources are expended for child following priorities: care assistance pursuant to the care assistance pursuant to the A. Priority one: Clients receiving following [priorities] categories. following [priorities] categories. temporary assistance to needy The department prioritizes child The department prioritizes child families (TANF) benefits to care services for children with care services for children with include TANF diversionary special needs, disabilities, families special needs, disabilities, experiencing homelessness, and payment, are considered priority homeless families, and for teen for teen parents: one clients. parents: [A. Priority one: Clients receiving (1) Participation exemption: The [A. Priority one: Clients receiving temporary assistance to needy human services department temporary assistance to needy families (TANF) benefits to (HSD) grants participation families (TANF) benefits to include TANF diversionary exemptions to TANF clients who include TANF diversionary payment, are considered priority cannot locate child care. The payment, are considered priority one clients. Early Childhood Education and one clients. (1) Participation exemption: The Care Department is responsible (1) Participation exemption: The human services department for the verification of the TANF human services department (HSD) grants participation participant's inability to locate (HSD) grants participation exemptions to TANF clients who child care. Reasons for a exemptions to TANF clients who cannot locate child care. The participation exemption due to cannot locate child care. The Early Childhood Education and lack of child care are as follows: Early Childhood Education and Care Department is responsible (a) the unavailability of Care Department is responsible for the verification of the TANF appropriate child care within a for the verification of the TANF participant's inability to locate reasonable distance from the participant's inability to locate child care. Reasons for a individual's home or work site; child care. Reasons for a participation exemption due to participation exemption due to (b) the unavailability or lack of child care are as follows: unsuitability of informal child lack of child care are as follows: (a) the unavailability of care by a relative or under other (a) the unavailability of

appropriate child care within a

arrangements; or (c) the

appropriate child care within a

unavailability of appropriate and affordable formal child care by a relative or under other arrangements.

(2) A person who applies for participation exemption for any or all of the above reasons is referred to the Early Childhood **Education and Care Department** child care resource and referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client's inability to locate child care is determined by the child care services bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with HSD. HSD is responsible for providing notice of the approval or denial of a participation exemption.

B. Priority one A: [RESERVED] **C.** Priority one B: Child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. The department prioritizes child care services within priority one B for children with special needs, disabilities, homeless families, and for teen parents.

D. Priority two: Families

reasonable distance from the individual's home or work site; (b) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements. (2) A person who applies for participation exemption for any or all of the above reasons is referred to the Early Childhood **Education and Care Department** child care resource and referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client's inability to locate child care is determined by the child care services bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with HSD. HSD is responsible for providing notice of the approval or denial of a participation exemption. B. Priority one A: [RESERVED] C. Priority one B: Child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. The department prioritizes child care

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transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for priority two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for priority two. Priority two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for priority two child care.

E. Priority three: [RESERVED] F. Priority four: Child care assistance for families whose income is above one hundred percent of the federal poverty level but at or below two hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time and will remain eligible at or below two hundred fifty percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.9.3.11 NMAC. The department prioritizes child care services within priority four for children with special needs, disabilities, homeless families, and for teen parents.

G. Priority four plus: During this period of economic recovery and subject to budgetary

services within priority one B for children with special needs, disabilities, homeless families, and for teen parents.

D. Priority two: Families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for priority two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for priority two. Priority two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for priority two child care.

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services within priority one B for children with special needs, disabilities, homeless families, and for teen parents.

D. Priority two: Families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for priority two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for priority two. Priority two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for priority two child care.

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considerations, child care assistance for essential workers whose income is above two hundred percent of the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time and will remain eligible at or below four hundred and twenty-five percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.9.3.11 NMAC. The department prioritizes child care services within priority four plus for children with special needs, disabilities, homeless families, and for teen parents.

H. Priority five: In addition to these priorities, the department pays for at-risk child care as approved by the department. Child care benefits are provided for a minimum of six months to support the family. Income, work and education requirements and copayments are waived for clients in this priority.

disabilities, homeless families, and for teen parents.

G. Priority four plus: During this period of economic recovery and subject to budgetary considerations, child care assistance for essential workers whose income is above two hundred percent of the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time and will remain eligible at or below four hundred and twenty-five percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.9.3.11 NMAC. The department prioritizes child care services within priority four plus for children with special needs, disabilities, homeless families, and for teen parents. H. Priority five: In addition to these priorities, the department pays for at-risk child care as approved by the department. Child care benefits are provided for a minimum of six months to support the family. Income, work and education requirements and copayments are waived for

B. Category One A: Clients
receiving temporary assistance
to needy families (TANF) benefits
to include TANF diversionary
payments, are considered
category one clients.

clients in this priority.]

(1) Participation exemption: The health care authority (HCA)

disabilities, homeless families, and for teen parents.

G. Priority four plus: During this period of economic recovery and subject to budgetary considerations, child care assistance for essential workers whose income is above two hundred percent of the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time and will remain eligible at or below four hundred and twenty-five percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.9.3.11 NMAC. The department prioritizes child care services within priority four plus for children with special needs, disabilities, homeless families, and for teen parents. H. Priority five: In addition to these priorities, the department pays for at-risk child care as approved by the department. Child care benefits are provided for a minimum of six months to support the family. Income, work

B. Category One A: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payments, are considered category one clients.

and education requirements and

copayments are waived for

clients in this priority.]

(1) Participation exemption: The health care authority (HCA)

grants participation exemptions to TANF clients who cannot locate child care. The Early **Childhood Education and Care** Department is responsible for the verification of the TANF participant's inability to locate child care. Reasons for participation exemption due to lack of child care are as follows: (a) the unavailability of appropriate child care within a reasonable distance from the individual's home or work site; (b) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements. (2) A person who applies for participation exemption for any or all of the above reasons is referred to the Early Childhood **Education and Care Department** child care resource and referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client's inability to locate child care is determined by the child care services bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with HCA. HCA is

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responsible for providing notice of the approval or denial of a participation exemption.

C. Category One B: This category is child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines.

D. Category Two: This category is for families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for category two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for category two. Category two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for category four child care.

E. Category Three: [RESERVED]
F. Category Four A: This
category is child care assistance
for income eligible families
whose income is above one
hundred percent of the federal
poverty level but at or below two
hundred percent of the federal
poverty level, adjusted annually
in accordance with federal
guidelines.

G. Category Four B: This category is child care assistance

responsible for providing notice of the approval or denial of a participation exemption.

C. Category One B: This category is child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines.

D. Category Two: This category is for families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for category two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for category two. Category two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for category four child care.

E. Category Three: [RESERVED]
F. Category Four A: This
category is child care assistance
for income eligible families
whose income is above one
hundred percent of the federal
poverty level but at or below two
hundred percent of the federal
poverty level, adjusted annually
in accordance with federal
guidelines.

G. Category Four B: This category is child care assistance

the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. H. Category Four C: This category is child care assistance for families whose income is above four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. Families qualifying for child care assistance for category four C do not have an income cap for eligibility purposes. I. Category Five: The department pays for at-risk child care as approved by the department to include families involved with, or children in custody of, Child Protective Services (CPS), families experiencing homelessness, participants in the Comprehensive Addiction and Recovery Act Program (CARA), and other circumstances deemed at-risk by the department. Grandparents with legal custody or kinship guardianship of their own grandchild qualify for child care assistance under this category. Income, work, and education requirements and copayments are waived for clients in this category.

for families whose income is above two hundred percent of

for families whose income is above two hundred percent of the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. H. Category Four C: This category is child care assistance for families whose income is above four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. Families qualifying for child care assistance for category four C do not have an income cap for eligibility purposes. I. Category Five: The department pays for at-risk child care as approved by the department to include families involved with, or children in custody of, Child Protective Services (CPS), families experiencing homelessness, participants in the Comprehensive Addiction and Recovery Act Program (CARA), and other circumstances deemed at-risk by the department. Grandparents with legal custody or kinship guardianship of their own grandchild qualify for child care assistance under this category. Income, work, and education requirements and copayments

are waived for clients in this

category.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment with only a small technical amendment.

8.9.3.10(A)		
Current Language	Proposed Language	Final Adopted Language
A. Clients apply for child care	A. Clients apply for child care	A. Clients apply for child care
assistance benefits by	assistance benefits by	assistance benefits by
presenting the following	presenting the following	presenting the following
documents to establish	documents to establish	documents to establish
eligibility:	eligibility:	eligibility:
(1) a completed signed	(1) a completed signed	(1) a completed signed
application form;	application form;	application form;
(2) documentation of current	(2) documentation of current	(2) documentation of current
countable earned and unearned	countable earned and unearned	countable earned and unearned
income as listed below and	income as listed below and	income as listed below and
defined in Paragraph (5) of	defined in Paragraph (5) of	defined in Paragraph (5) of
Subsection C of 8.9.3.11 NMAC;	Subsection C of 8.9.3.11 NMAC;	Subsection C of 8.9.3.11 NMAC;
(3) documentation of the	(3) documentation of the	(3) documentation of the
applicant's TANF eligibility or	applicant's TANF eligibility or	applicant's TANF eligibility or
participation, if applicable, and	participation, if applicable, and	participation, if applicable, and
can include applicant's social	can include applicant's social	can include applicant's social
security number or assigned	security number or assigned	security number or assigned
TANF identification number;	TANF identification number;	TANF identification number;
(4) school schedule or	(4) school schedule or	(4) school schedule or
verification of educational	verification of educational	verification of educational
activity, if applicable;	activity, if applicable;	activity, if applicable;
(5) demonstration of incapacity	(5) demonstration of incapacity	(5) demonstration of incapacity
for parent or legal guardian, if	for parent or legal guardian, if	for parent or legal guardian, if
applicable;	applicable;	applicable;
(6) verification of birth for all	(6) verification of birth for all	(6) verification of birth for all
applicant's household children;	applicant's household children;	applicant's household children;
(7) documentation of qualifying	(7) documentation of qualifying	(7) documentation of qualifying
immigration status, as defined	immigration status, as defined	immigration status, as defined
by the United States department	by the United States department	by the United States department
of health and human services,	of health and human services,	of health and human services,
administration for children and	administration for children and	administration for children and
families, office of child care, for	families, office of child care, for	families, office of child care, for
all children requesting child care	all children requesting child care	all children requesting child care
assistance;	assistance;	assistance;
(8) verification of custody of	(8) verification of [custody]	(8) verification of [custody]
children, if applicable;	<mark>guardianship</mark> of children, if	<mark>guardianship</mark> of children, if
(9) verification of dependency of	applicable;	applicable;
a child or adult household	(9) verification of dependency of	(9) verification of dependency of
member, if applicable;	a child or adult household	a child or adult household
(10) documentation of New	member, if applicable;	member, if applicable;
Mexico residency;	(10) documentation of New	(10) documentation of New

(11) identification for parent/guardian; and (12) department approved provider.	Mexico residency; (11) identification for parent/guardian; and (12) department approved provider.	Mexico residency; (11) identification for parent/guardian; and (12) department approved provider.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.3.10(B) **Current Language Proposed Language Final Adopted Language B.** The following are acceptable **B.** The following are acceptable **B.** The following are acceptable documents to use to verify documents to use to verify documents to use to verify eligibility. Other documents eligibility. Other documents may eligibility. Other documents may may be considered and taken to be considered and taken to the be considered and taken to the the supervisor to be reviewed for supervisor to be reviewed for supervisor to be reviewed for eligibility. The department may eligibility. eligibility. The department may be able to obtain certain data be able to obtain certain data from the New Mexico from the New Mexico **Department of Workforce** Department of Workforce Solutions or the New Mexico Solutions or the New Mexico **HCA** in lieu of the client **HCA** in lieu of the client providing verification of birth, providing verification of birth, New Mexico residency, New Mexico residency, citizenship/immigration citizenship/immigration verification, and proof of verification, and proof of <u>income.</u> <u>income.</u> See Chart in Appendix, Table A1 See Chart in Appendix, Table A2 See Chart in Appendix, Table A3 **Explanatory Statement** There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.10(C)		
Current Language	Proposed Language	Final Adopted Language
C. The department may approve	[C. The department may approve	[C. The department may approve
a client to submit their initial	a client to submit their initial	a client to submit their initial
application by fax, email,	application by fax, email,	application by fax, email,

electronic submission, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Upon approval from the child care regional manager, clients may be given longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.

electronic submission, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Upon approval from the child care regional manager, clients may be given longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.] C. The department may approve a client to submit their initial application by fax, email, electronic submission, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Clients may be given longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.

electronic submission, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Upon approval from the child care regional manager, clients may be given longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.] C. The department may approve a client to submit their initial application by fax, email, electronic submission, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Clients may be given longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.10(D)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	D. A client may be determined	D. A client may be determined
	presumptively eligible for	presumptively eligible for
	services based on self-attested	services based on self-attested
	income and qualifying activity.	income and qualifying activity.
	The department will	The department will
	presumptively determine a client	presumptively determine a client
	to be eligible once the client	to be eligible once the client
	meets New Mexico residency	meets New Mexico residency
	requirements, birth verification,	requirements, birth verification,
	and citizenship/qualified	and citizenship/qualified
	<mark>immigrant requirements as set</mark>	<mark>immigrant requirements as set</mark>
	forth herein. Clients must	forth herein. Clients must

submit all other required forms or documents within sixty (60) calendar days to become eligible for the twelve month eligibility period. The department may grant an additional thirty (30) days to submit required documentation if the client shows that extenuating circumstances exist meriting an extension. (1) In order to receive presumptive eligibility, the client must submit the documentation as listed below and self-attest to the following information per below:

See Chart in Appendix, Table B1

- (2) Clients are not eligible for presumptive eligibility if they:

 (a) Received child care
- (a) Received child care assistance in the previous month;
- (b) Obtained presumptive eligibility in their previous eligibility determination; or
- (c) Were denied for presumptive eligibility in their previous eligibility determination.

submit all other required forms or documents within sixty (60) calendar days to become eligible for the twelve month eligibility period. The department may grant an additional thirty (30) days to submit required documentation if the client shows that extenuating circumstances exist meriting an extension. (1) In order to receive presumptive eligibility, the client must submit the documentation as listed below and self-attest to the following information per below:

See Chart in Appendix, Table B2

- (2) Clients are not eligible for presumptive eligibility if they:
- (a) Received child care assistance in the previous month;
- (b) Obtained presumptive eligibility in their previous eligibility determination; or
- (c) Were denied for presumptive eligibility in their previous eligibility determination.
- (3) Payments will be made according to the ECECD regular payment process during the presumptive eligibility period.
 Payments made during presumptive eligibility period are not subject to recoupment based on eligibility. If a child is deemed to be ineligible during the presumptive eligibility period, the department will provide timely notice to the provider.

Explanatory Statement

Public comments raised questions about whether child care providers would receive payment for services provided during the presumptive eligibility period for families who are later found to be ineligible. To address these comments, ECECD is including the following language in the final rule: Payments will be made according to the ECECD regular payment process during the presumptive eligibility period. Payments made during the presumptive eligibility period are not subject to recoupment based on eligibility. If a child is deemed to be ineligible during the presumptive eligibility period, ECECD will provide timely notice to the provider.

8.9.3.10(E) **Current Language Proposed Language** Final Adopted Language **D.** Assistance is provided [D.] E. Assistance is provided [D.] E. Assistance is provided effective the first day of the effective the first day of the effective the first day of the month of application if all of the month of application if all of the month of application if all of the following apply: following apply: following apply: (1) the client is utilizing child (1) the client is utilizing child (1) the client is utilizing child care services; care services and the child or care services and the child is, or (2) the client is employed, children is attending child care; children are, attending child attending school or a training (2) the client is employed, care; (2) the client is employed, program or seeking attending school or a training employment. In the case of a attending school or a training program or seeking employment public health emergency, the unless exempted from this program or seeking employment department secretary may waive requirement. In the case of a unless exempted from this the requirement for public health emergency, the requirement. In the case of a employment, attending school department secretary may waive public health emergency, the or a training program; and the requirement for department secretary may waive (3) the provider is eligible to be employment, attending school the requirement for employment, attending school paid. or a training program; and (3) the provider is eligible to be or a training program; and paid and has obtained an (3) the provider is eligible to be approved certification from the paid. <mark>department.</mark>

Explanatory Statement

Public comments expressed confusion about the proposed language "and has obtained approved certification from the department." This non-substantive proposed language was intended to provide clarity to the section, but since the change did not have the intended effect ECECD is reverting to the current language. ECECD also made a minor grammatical correction to 8.9.10(E)(1). With the exception of those changes, ECECD is adopting the proposed amendments.

8.9.3.11(B)		
Current Language	Proposed Language	Final Adopted Language
B. Eligibility period: Based upon the client meeting all eligibility requirements, a 12-month certification period will be granted. (1) Eligibility may be granted for less than 12 months at the parent or legal guardian's request. The parent or legal guardian will, however, remain eligible for the approved 12-month eligibility period (2) At-risk child care may be granted for less than 12 months as determined by the department. (3) Eligibility may be granted for up to three months for seeking employment. The eligibility may be closed if the client fails to obtain a qualifying activity within three months. The department has the discretion to extend the job search period. (4) The client will remain eligible if a temporary change of activity occurs. (5) If a client experiences a nontemporary change in activity, the child care placement agreement may close; however, the client will remain eligible for the approved 12-month eligibility period.	B. Eligibility period: Based upon the client meeting all eligibility requirements, a 12-month certification period [wilt] shall be granted. (1) Eligibility may be granted for less than 12 months at the parent or legal guardian's request. The parent or legal guardian [wilt] shall, however, remain eligible for the approved 12-month eligibility period. (2) A client may be determined presumptively eligible for up to 90 days pursuant to 8.9.3.10(D). Once the client has supplied all required documentation, the remainder of the 12-month eligibility will be determined by the department. [(2) At-risk child care may be granted for less than 12 months as determined by the department.] [(3)] Eligibility may be granted for up to three months for seeking employment. The eligibility may be closed if the client fails to obtain a qualifying activity within three months. The department has the discretion to extend the job search period. [(4)] The client [wilt] shall remain eligible if a temporary change of activity occurs. A child may continue to use services during this temporary change period. [(5)] If a client experiences a	B. Eligibility period: Based upon the client meeting all eligibility requirements, a 12-month certification period [witt] shall b granted. (1) Eligibility may be granted for less than 12 months at the parent or legal guardian's request. The parent or legal guardian [witt] shall, however, remain eligible for the approved 12-month eligibility period. (2) A client may be determined presumptively eligible for up to 90 days pursuant to 8.9.3.10(D) Once the client has supplied all required documentation, the remainder of the 12-month eligibility will be determined by the department. [(2) At-risk child care may be granted for less than 12 months as determined by the department.] [(3)] Eligibility may be granted for up to three months for seeking employment. The eligibility may be closed if the client fails to obtain a qualifying activity within three months. The department has the discretion to extend the job search period. [(4)] The client [witt] shall remaineligible if a temporary change of activity occurs. A child may continue to use services during this temporary change period. [(5)] If a client experiences a

placement agreement may

close; however, the client [will]

placement agreement may

close; however, the client [will]

shall remain eligible for the approved 12-month eligibility period.

(6) If an additional eligible child in need of care is added to the household, the household eligibility will extend for an additional 12-months from the month documentation for the new child is provided to the department, in accordance with 8.9.3.10 NMAC.

shall remain eligible for the approved 12-month eligibility period.

(6) If an additional eligible child in need of care is added to the household, the household eligibility will extend for an additional 12-months from the month documentation for the new child is provided to the department, in accordance with 8.9.3.10 NMAC.

Explanatory Statement

Public comments regarding presumptive eligibility are addressed in other sections of this regulation. There were no additional substantive public comments received related to this section. ECECD is adopting the proposed amendment.

8.9.3.11(C)(1) **Current Language Proposed Language** Final Adopted Language (1) The household: The (1) The household: The (1) The household: The household includes biological household includes biological household includes biological parents, stepparents, legal parents, stepparents, legal parents, stepparents, legal guardians of the child(ren) for guardians of the child(ren) for guardians of the child(ren) for whom child care assistance is whom child care assistance is whom child care assistance is sought, and any legal sought, and any legal sought, and any legal dependents of the dependents of the dependents of the aforementioned, living in the aforementioned, living in the aforementioned, living in the household, thereby constituting household, thereby constituting household, thereby constituting an economic unit. an economic unit. Grandparents an economic unit. Grandparents who are not legal guardians who are not legal guardians Grandparents who are not legal guardians living in the living in the household are living in the household are household are counted as counted as members of the counted as members of the household, but their earned and members of the household, but household, but their earned and their earned and unearned unearned income is excluded unearned income is excluded income is excluded from the from the eligibility calculations. from the eligibility calculations. eligibility calculations. Periods Periods of absences: A Periods of absences: A of absences: A household household member may be household member may be member may be absent from the absent from the home and will absent from the home and will home and will be considered as be considered as living in the be considered as living in the living in the home and be home and be counted in the home and be counted in the counted in the household household composition as long household composition as long composition as long as the as the absent household as the absent household absent household member member plans to return to the member plans to return to the plans to return to the home. Any home. Any parent or legal home. Any parent or legal

parent or legal guardian who remains in the home must be working, attending school, or participating in a job training or educational program.

Temporary absence may include, but are not limited to, attending school, working, training, medical or other treatment, or military service.

guardian who remains in the home must be working, 8.9.3 NMAC 11 attending school, or participating in a job training or educational program. Temporary absence may include, but are not limited to, attending school, working, training, medical or other health related treatment, or military service.

guardian who remains in the home must be working, 8.9.3 NMAC 11 attending school, or participating in a job training or educational program. Temporary absence may include, but are not limited to, attending school, working, training, medical or other health related treatment, or military service.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.11(C)(4)			
Current Language	Proposed Language Final Adopted Language		
8.9.3.11 (C)(4): Eligibility	N/A – No Proposed Changes	8.9.3.11 (C)(4): Eligibility	
Requirements	Published	Requirements	
(4) Family assets: A family's assets may not exceed one million dollars.		(4) Family assets: [A f]Eamily['s] assets [may not] exceeding one million dollars must be reported.	
Fundamenta wa Chata wa ant			

Explanatory Statement

Public comments expressed that a one-million-dollar asset limit should not apply if income limits are removed for child care assistance eligibility. Per federal Child Care and Development Fund (CCDF) requirements, family assets exceeding one million dollars must be reported; however, reported assets will not be used to determine eligibility for child care assistance. The reported assets will be used to determine whether these subsidies will be paid using state or federal funds. The final adopted language is adopted to address those public comments and provide clarity.

3.9.3.11(E)		
Current Language	Proposed Language	Final Adopted Language
E. Citizenship and eligible immigration status: Any child receiving child care assistance must be a citizen or legal resident of the United States; or a qualified immigrant as defined by the United States department of health and human services, administration for children and families, office of child care.	N/A - No Proposed Changes	E. Citizenship and eligible immigration status: [Any child receiving child care assistance must be a citizen or legal resident of the United States; or a qualified immigrant as defined by the United States department of health and human services, administration for children and families, office of child care]A family's eligibility for financial assistance shall not be

impacted by the citizenship
status of the participating
child(ren). If a participating child
does not have a federally eligible
citizenship status, the financial
assistance will be paid for with
state funds.

Explanatory Statement

Multiple public comments were received requesting that ECECD allow immigrant families access to state funded child care assistance. To serve all New Mexico families, ECECD has included the clarifying language in the final rule stating that citizenship status will not affect the eligibility of a child and will only be used to identify the appropriate source of funding.

8.9.3.11(G)			
Current Language	Proposed Language	Final Adopted Language	
G. Special supervision: Children between the ages of 13 and 18 who are under the supervision of a court of law, or who are determined by a medical or treatment professional to require supervision.	N/A – No Proposed Changes	G. Special supervision: Children between the ages of 13 and [18] 19 who are under the supervision of a court of law, or who are determined by a medical or treatment professional to require supervision	
Explanatory Statement			
This amendment is a technical edit to maintain consistency with other provisions of these regulations.			

8.9.3.11(H)			
Current Language	Proposed Language	Final Adopted Language	
H. Work/education requirement:	H. Work/education requirement:	H. Work/education requirement:	
Child care benefits are paid only	(1) Child care benefits are paid	(1) Child care benefits are paid	
for families who are working,	only for families who are	only for families who are	
attending school or participating	working, attending school or	working, attending school or	
in a job training or educational	participating in a job training or	participating in a job training or	
program and who demonstrate a	educational program [and who	educational program [and who	
need for care during one or more	demonstrate a need for care	demonstrate a need for care	
of these activities. Clients who	during one or more of these	during one or more of these	
are receiving TANF are required	activities].	activities].	
to submit verification of the	(2)_Clients who are receiving	(2) Clients who are receiving	
TANF approved activity unless	TANF are required to submit	TANF are required to submit	
they are exempt by TANF. The	verification of the TANF	verification of the TANF	
department may, in its	approved activity unless they are	approved activity unless they are	

discretion, exempt a client or applicant from the work/education requirement upon submission of a demonstration of incapacity. exempt by TANF. [The department may, in its discretion, exempt a client or applicant from the work/education requirement upon submission of a demonstration of incapacity.]

(3) Parents or guardians may be exempted from this requirement upon submission of a

exempt by TANF. [The department may, in its discretion, exempt a client or applicant from the work/education requirement upon submission of a demonstration of incapacity.]

(3) Parents or guardians may be exempted from this requirement upon submission of a demonstration of incapacitation.

demonstration of incapacitation. Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendments.

8.9.3.11(I)

Current Language

I. Calculating Need for Care: The department determines the number of hours of care needed in consultation with the parent or legal guardian at the time of certification and approved hours are reflected in the child care placement agreement covering the certification period. The department determines the number of hours of care needed based on the qualifying activity of the parent or legal guardian and physical custody of the child, as applicable. Clients and caseworkers shall negotiate a reasonable amount of study and travel time, which is an individualized determination based on each client's specific needs, during the application process and special attention shall be paid to the child's specific needs. The department determines the number of hours of care needed based on a maximum weekly need and

Proposed Language

[I. Calculating Need for Care: The department determines the number of hours of care needed in consultation with the parent or legal guardian at the time of certification and approved hours are reflected in the child care placement agreement covering the certification period. The department determines the number of hours of care needed based on the qualifying activity of the parent or legal guardian and physical custody of the child, as applicable. Clients and caseworkers shall negotiate a reasonable amount of study and travel time, which is an individualized determination based on each client's specific needs, during the application process and special attention shall be paid to the child's specific needs. The department determines the number of hours of care needed based on a maximum weekly need and

Final Adopted Language

[I. Calculating Need for Care: The department determines the number of hours of care needed in consultation with the parent or legal guardian at the time of certification and approved hours are reflected in the child care placement agreement covering the certification period. The department determines the number of hours of care needed based on the qualifying activity of the parent or legal guardian and physical custody of the child, as applicable. Clients and caseworkers shall negotiate a reasonable amount of study and travel time, which is an individualized determination based on each client's specific needs, during the application process and special attention shall be paid to the child's specific needs. The department determines the number of hours of care needed based on a maximum weekly need and

approved based on the units of service set forth below in Subsection E and F of 8.9.3.17 NMAC.

J. Children enrolled in head start, kindergarten, school or other programs: Child care benefits are not paid during the hours that children are attending head start, kindergarten, New Mexico pre-k, school or other programs, such as online or home-schooling. Child care benefits are paid during the hours that children are attending a dedicated Early Head Start-Child Care Partnerships Program funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care.

approved based on the units of service set forth below in Subsection E and F of 8.9.3.17 NMAC.

J. Children enrolled in head

other programs: Child care

start, kindergarten, school or

benefits are not paid during the

hours that children are attending head start, kindergarten, New Mexico pre-k, school or other programs, such as online or home-schooling. Child care benefits are paid during the hours that children are attending a dedicated Early Head Start-**Child Care Partnerships Program** funded by the U.S. Department of Health and Human Services. Administration for Children and Families. Office of Child Care. I. Determining Child Care Placement Type: (1) The department determines the child care placement type needed in consultation with the parent or legal guardian at the time of certification and needs of the child. The approved placement type will be reflected in the child care placement agreement covering the certification period. (2) Children enrolled in Head Start, kindergarten, school or other programs: Child care benefits are not paid during the hours that children are attending Head Start, kindergarten, New Mexico Pre-K, school or other programs, such as online or home-schooling. Child care benefits are paid during the hours that children are attending a dedicated Early Head Startapproved based on the units of service set forth below in Subsection E and F of 8.9.3.17

NMAC. J. Children enrolled in head start, kindergarten, school or other programs: Child care benefits are not paid during the hours that children are attending head start, kindergarten, New Mexico pre-k, school or other programs, such as online or home-schooling. Child care benefits are paid during the hours that children are attending a dedicated Early Head Start-**Child Care Partnerships Program** funded by the U.S. Department of Health and Human Services. Administration for Children and Families. Office of Child Care. I. Determining Child Care Placement Type: (1) The department determines the child care placement type needed in consultation with the parent or legal guardian at the time of certification and needs of the child. The approved placement type will be reflected in the child care placement agreement covering the certification period. (2) Children enrolled in Head Start, kindergarten, school or other programs: Child care benefits are not paid during the hours that children are attending Head Start, kindergarten, New Mexico Pre-K, school or other programs, such as online or home-schooling. Child care

benefits are paid during the

a dedicated Early Head Start-

hours that children are attending

Child Care Partnerships Program funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care. (3) The department determines the child care placement type needed based on preferences of the family and individual child, availability of the provider to meet the family's preferences, and the units of service set forth below:

See Chart in Appendix, Table C1

(4) The department, in an attempt to limit burden to families and providers as well as to promote continuous payment throughout a family's certification period used the cost estimation model to calculate wrap-around-care to cover more than the necessary amount of time a parent or guardian working full-time would need for their children if they attended all instructional hours required by the New Mexico Public Education Department, PreK and Head Start curriculum. (5) Monthly base reimbursement payment rates will be paid for the child care placement types as noted in 8.9.3.17(G) NMAC.

Child Care Partnerships Program funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care. (3) The department determines the child care placement type needed based on preferences of the family and individual child, availability of the provider to meet the family's preferences, and the units of service set forth below:

See Chart in Appendix, Table C1

(4) The department, in an attempt to limit burden to families and providers as well as to promote continuous payment throughout a family's certification period used the cost estimation model to calculate wrap-around-care to cover more than the necessary amount of time a parent or guardian working full-time would need for their children if they attended all instructional hours required by the New Mexico Public Education Department, PreK and Head Start curriculum. (5) Monthly base reimbursement payment rates will be paid for the child care placement types as noted in 8.9.3.17(G) NMAC. The department will routinely review and periodically make adjustments to these rates.

Explanatory Statement

ECECD has reviewed all relevant comments related to this section and has adopted the above final language.

Current Language

Proposed Language

Final Adopted Language

Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. Clients who recertify will qualify at or below two hundred and fifty percent of the federal poverty level. Clients above two hundred and fifty percent of the federal poverty level must qualify as an essential worker as defined in Paragraph (2) of Subsection E of 8.9.3.7 NMAC. Clients designated as essential workers who recertify must be at or below four hundred and twentyfive percent of the federal poverty level. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At time of recertification, clients must provide documentation of income, or proof of school enrollment. Changes in income, household size, employment, training or educational status are noted in the client's record. Copayment, if applicable, is redetermined at the time of recertification. A 12-month certification period will be granted in accordance with eligibility requirements outlined in Subsection B of 8.9.3.11 NMAC.

Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. [Clients who recertify will qualify at or below two hundred and fifty percent of the federal poverty level. Clients above two hundred and fifty percent of the federal poverty level must qualify as an essential worker as defined in Paragraph (2) of Subsection E of 8.9.3.7 NMAC. Clients designated as essential workers who recertify must be at or below four hundred and twentyfive percent of the federal poverty level.] The department will use the requirements set forth in 8.9.3.9 NMAC to determine eligibility for purposes of recertification. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At time of recertification, clients must provide a completed application and documentation of income, [or] proof of school enrollment and employment. Changes in income, household size, employment, training or educational status are noted in the client's record. Copayment, if applicable, is re-determined at the time of recertification. A 12month certification period will

be granted in accordance with

Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. [Clients who recertify will qualify at or below two hundred and fifty percent of the federal poverty level. Clients above two hundred and fifty percent of the federal poverty level must qualify as an essential worker as defined in Paragraph (2) of Subsection E of 8.9.3.7 NMAC. Clients designated as essential workers who recertify must be at or below four hundred and twentyfive percent of the federal poverty level.] The department will use the requirements set forth in 8.9.3.9 NMAC to determine eligibility for purposes of recertification. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At time of recertification, clients must provide a completed application and documentation of income, [or] proof of school enrollment and employment. Changes in income, household size, employment, training or educational status are noted in the client's record. Copayment, if applicable, is re-determined at the time of recertification. A 12month certification period will be granted in accordance with

eligibility requirements outlined in Subsection B of 8.9.3.11 NMAC.

eligibility requirements outlined in Subsection B of 8.9.3.11 NMAC.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.13(A)

Current Language

A. Copayments: Copayments are paid by all clients receiving child care assistance benefits, except for at-risk child care and qualified grandparents or legal guardians. Copayments are determined by income and household size. The copayment schedule is published yearly at https://www.nmececd.org/child -care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, during which period, the department will pay providers the client's approved rate, including required copayments. If copayments are waived, three months notice will be given to providers and families prior to reinstatement.

Proposed Language

A. Copayments: Copayments are paid by all clients receiving child care assistance benefits, except for at-risk child care and qualified grandparents or legal guardians. Copayments are determined by income and household size. The copayment schedule is published yearly at https://www.nmececd.org/child -care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, and for certain priority categories set forth in 8.9.3.9 NMAC, during which period, the department will pay providers the client's approved rate, including required copayments. If copayments are waived, three months notice will be given to providers and families prior to reinstatement.

Final Adopted Language

A. Copayments: Copayments are paid by all clients receiving child care assistance benefits, except for at-risk child care and qualified grandparents or legal guardians. Copayments are determined by income and household size. The copayment schedule is published yearly at https://www.nmececd.org/child -care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, and for certain priority categories set forth in 8.9.3.9 NMAC, during which period, the department will pay providers the client's approved rate, including required copayments. If copayments are waived, three months notice will be given to providers and families prior to reinstatement.

Explanatory Statement

ECECD has reviewed all relevant comments related to this section and has adopted the above final language.

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6.3.3.13(b)			
Current Language	Proposed Language	Final Adopted Language	
(1) The first child is identified as	(1) The first child is identified as	(1) The first child is identified as	
the child requiring the most	the child requiring the [most]	the child requiring the [most]	
hours of child care.			

(2) The second child is identified as the child with the second most number of hours needed for child care.

highest number of hours of child care.

(2) The second child is identified as the child with the second [most] highest number of hours needed for child care.

highest number of hours of child care.

(2) The second child is identified as the child with the second [most] highest number of hours needed for child care.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.13(C) **Current Language Proposed Language** Final Adopted Language C. Each child's copayment will C. Each child's copayment will **C.** Each child's copayment will be adjusted based on the units be adjusted based on the units be adjusted based on the units of services described in of services described in of services described in Subsection E of 8.9.3.17 NMAC, Subsection E of 8.9.3.17 NMAC, Subsection E of 8.9.3.17 NMAC, as follows: as follows: as follows: (1) full time care will be based (1) full time care will be based on (1) full time care will be based on on one hundred percent of the one hundred percent of the base one hundred percent of the base base copayment; copayment; copayment; (2) part time 1 care will be based (2) [part time 1 care] Wrap-(2) [part time 1 care] Wrap-Around-Care will be based on Around-Care will be based on on seventy-five percent of the base copayment; seventy-five percent of the base seventy-five percent of the base (3) part time 2 care will be based copayment; copayment; on fifty percent of the base (3) part time [2] care will be (3) part time [2] care will be based on fifty percent of the based on fifty percent of the copayment; and (4) part time 3 care will be based base copayment; and base copayment; and on twenty-five percent of the (4) part time 3 care will be (4) part time 3 care will be base copayment. based on twenty-five percent of based on twenty-five percent of the base copayment.] the base copayment.] **Explanatory Statement**

ECECD has reviewed all relevant comments related to this section and has adopted the above final language.

8.9.3.13(D)		
Current Language	Proposed Language	Final Adopted Language
D. Below is the cost sharing	D. Below is the cost sharing	D. Below is the cost sharing
chart with the formula used to	chart with the formula used to	chart with the formula used to
determine child care	determine child care	determine child care
copayments as set forth	copayments as set forth	copayments as set forth
immediately above and as	immediately above and as	immediately above and as
published yearly at	published yearly at	published yearly at
https://www.nmececd.org/child-	https://www.nmececd.org/child-	https://www.nmececd.org/child-
care-assistance/:	care-assistance/:	care-assistance/:

See Chart in Appendix, Table D1	See Chart in Appendix, Table D2	See Chart in Appendix, Table D3
	Explanatory Statement	
ECECD has reviewed all relevant comments related to this section and has adopted the above final		

ECECD has reviewed all relevant comments related to this section and has adopted the above final language.

8.9.3.13(E)				
Current Language	Proposed Language	Final Adopted Language		
E. Clients pay copayments	E. Clients pay copayments	E. Clients pay copayments		
directly to their child care	directly to their child care	directly to their child care		
provider and must remain	provider and must remain	provider and must remain		
current in their payments. A	current in their payments. A	current in their payments. A		
client who does not pay	client who does not pay	client who does not pay		
copayments may be subject to	copayments may be subject to	copayments may be subject to		
sanctions	sanctions. Copayment cost-	sanctions. Copayment cost-		
	sharing will be deducted from	sharing will be deducted from		
	payment rates as determined in	payment rates as determined in		
	8.9.3.17(G) through (M) NMAC.	8.9.3.17(G) through (M) NMAC.		
	Copayments are currently	Copayments are currently		
	waived and ECECD will provide	waived and ECECD will provide		
	three (3) months' notice to	three (3) months' notice to		
	clients and providers if it	clients and providers if it		
	reinstates copayment	reinstates copayment		
	requirements.	requirements.		
Explanatory Statement				

ECECD has reviewed all relevant comments related to this section and has adopted the above final language.

8.9.3.14(C)		
Current Language	Proposed Language	Final Adopted Language
C. A case will be closed if the	C. A case will be closed if the	C. A case will be closed for [if
following conditions apply:	following condition[s] appl[y] <mark>ies</mark> :	the following conditions apply:
(1) income in excess of two	[(1) income in excess of two	(1) income in excess of two
hundred and fifty percent	hundred and fifty percent federal	hundred and fifty percent federal
federal poverty level or a client	poverty level or a client	poverty level or a client
designated as an essential	designated as an essential	designated as an essential
worker, as defined in Paragraph	worker, as defined in Paragraph	worker, as defined in Paragraph
(2) of Subsection E of 8.9.3.9	(2) of Subsection E of 8.9.3.9	(2) of Subsection E of 8.9.3.9
NMAC, with an income in excess	NMAC, with an income in excess	NMAC, with an income in excess
of four hundred and twenty-five	of four hundred and twenty-five	of four hundred and twenty-five
percent of the federal poverty	percent of the federal poverty	percent of the federal poverty
level;	level;]	level;

- (2) failing to recertify at the end of approved eligibility period; or(3) being disqualified from participation in the program.
- [(2)] (1) failing to recertify at the end of approved eligibility period[; or]
- [(3) being disqualified from participation in the program.]
- (2)] failing to recertify at the end of an approved eligibility period.[; or
- (3) being disqualified from participation in the program.]

Explanatory Statement

There were no substantive public comments received. The final adopted language makes minor edits to remove unnecessary numbering. ECECD is adopting the proposed amendment.

8.9.3.15(A) **Current Language Proposed Language** Final Adopted Language A. All child care providers who A. All child care providers who **A.** All child care providers who receive child care assistance receive child care assistance receive child care assistance reimbursements are required to reimbursements are required to reimbursements are required to be licensed or registered by the be licensed or registered by the be licensed or registered by the department and meet and department and meet and department and meet and maintain compliance with the maintain compliance with the maintain compliance with the appropriate licensing and appropriate licensing and appropriate licensing and registration regulations in order registration regulations in order registration regulations in order to receive payment for child care to receive payment for child care to receive payment for child care services. Beginning July 1, 2012, services. [Beginning July 1, 2012, services. [Beginning July 1, 2012, child care programs holding a 1child care programs holding a 1child care programs holding a 1star license are not eligible for star license are not eligible for star license are not eligible for child care assistance subsidies. child care assistance subsidies.] child care assistance subsidies. The department honors properly issued military child care licenses to providers located on military bases and tribal child care licenses properly issued to providers located on tribal lands.

Explanatory Statement

All substantive public comments have been addressed in 8.9.4.11 NMAC. ECECD is adopting the proposed amendment.

8.9.3.16(C)		
Current Language	Proposed Language	Final Adopted Language
C. Child care assistance	C. Child care assistance workers	C. Child care assistance workers
workers will perform all eligibility	will perform all eligibility and	will perform all eligibility and
and recertification	recertification determinations	recertification determinations
determinations within 10	within 10 working days upon	within 10 working days upon
working days upon receipt of all	receipt of all required	receipt of all required

required documentation from	documentation from the client.	documentation from the client.
the client.	The department will seek to	The department will seek to
	obtain such data from the New	obtain such data from the New
	Mexico Department of	Mexico Department of
	Workforce Solutions and the	Workforce Solutions and the
	New Mexico HCA.	New Mexico HCA.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.3.16(E)		
Current Language	Proposed Language	Final Adopted Language
E. Child care assistance workers	E. Child care assistance workers	E. Child care assistance workers
determine eligibility for all child	determine eligibility for all child	determine eligibility for all child
care assistance programs	care assistance programs	care assistance programs
except for TANF. Eligibility for	except for TANF. Eligibility for	except for TANF. Eligibility for
TANF is determined by the New	TANF is determined by the New	TANF is determined by the New
Mexico human services	Mexico [human services	Mexico [human services
department.	department] <mark>HCA</mark> .	department] <mark>HCA</mark> .
Explanatory Statement		

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.17(E)		
Current Language	Proposed Language	Final Adopted Language
E. The department pays for care based upon the following units of service:	E. The department pays for care based upon the following units of service:	E. The department pays for care based upon the following units of service:
See Chart in Appendix, Table E1	See Chart in Appendix, Table E2 Explanatory Statement	See Chart in Appendix, Table E3

Multiple public comments were received addressing concern that the rates were not sufficient to sustain their programs in a universal setting. To address these concerns, ECECD has increased the proposed rates as noted in the chart in the appendix, table E3 and has adopted these higher rates.

8.9.3.17(G)		
Current Language	Proposed Language	Final Adopted Language
G. Monthly reimbursement rates:	G. Monthly reimbursement rates:	G. Monthly reimbursement rates:
See Chart in Appendix, Table F1	See Chart in Appendix, Table F2	See Chart in Appendix, Table F3
Explanatory Statement		

Multiple public comments were received addressing concern that the rates were not sufficient to sustain their programs in a universal setting. To address these concerns, ECECD has increased the proposed rates as noted in the chart in the appendix, table F3 and has adopted these higher rates.

8.9.3.17(H)		
Current Language	Proposed Language	Final Adopted Language
H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. In the case of a public health emergency, the	H. The department pays a different[iat] rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. In the case of a public health emergency, the	H. The department pays a different[iat] rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, head start and early head start status, and star level status of the provider if applicable. In the case of a
department secretary may approve a differential rate be paid to licensed providers.	department secretary may approve a different[ial] rate be paid to licensed providers.	public health emergency, the department secretary may approve a different[ial] rate be paid to licensed providers.
Explanatory Statement		

Public comments emphasized Head Start and Early Head Start's national standards for quality and comprehensive early education services, and for the need to thoughtfully align early childhood systems. In response, ECECD is amending proposed language to include providers with Head Start or Early Head Start status as eligible to receive a differential rate under these regulations.

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
I. Providers holding and	I. Providers holding and	I. Providers holding and
maintaining ECECD approved	maintaining ECECD approved	maintaining ECECD approved
national accreditation status	national accreditation status will	national accreditation status will
will receive the differential rate	receive the differential rate listed	receive the differential rate listed
listed in Subsection I below, per	in Subsection [l] <mark>J</mark> below, per	in Subsection [+] <mark>J</mark> below, per
child per month for full time care	child per month for full time care	child per month for full time care
above the base rate for type of	above the base rate for type of	above the base rate for type of
child care (licensed center, child care (licensed center, child care (licensed center,		
group home or family home) and	group home or family home) and	group home or family home) and
age of child.	age of child.	age of child.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.3.17(J)		
Current Language	Proposed Language	Final Adopted Language

The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

J. The department will pay a
[differential] higher rate per child
per month for full time care
above the base reimbursement
rate to providers achieving
higher Star levels by meeting
FOCUS essential elements of
quality as follows:

J. The department will pay a
[differential] higher rate per child
per month for full time care
above the base reimbursement
rate to providers achieving
higher Star levels by meeting
FOCUS essential elements of
quality, maintaining ECECD
approved national accreditation
status, or status as head start or
early head start, as follows:

See Chart in Appendix, Table G1

See Chart in Appendix, Table G2

See Chart in Appendix, Table G3

Explanatory Statement

Public comments recommended stronger clarification that providers who maintain ECECD-approved national accreditation status will receive a higher reimbursement rate. Public comments also emphasized Head Start and Early Head Start's national standards for quality and comprehensive early education services, and the need to thoughtfully align early childhood systems. In response, ECECD is amending proposed language to clarify that providers who maintain ECECD-approved national accreditation status will receive a higher reimbursement rate. ECECD is also amending proposed language to include providers with Head Start or Early Head Start status as eligible for a higher reimbursement rate. Additionally, multiple public comments were concerned that the reimbursement rates in this section were not sufficient to sustain their programs in a universal setting.

To address these concerns, ECECD has increased the proposed rates as noted in the chart in the appendix, table G3 and has adopted these higher rates.

8.9.3.17(M)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	M. The department pays a higher rate to providers who provide at least ten hours of care during the day, and at least five days a week, and meet the following minimum pay requirements for their staff:	M. The department pays a higher rate to providers who provide at least ten hours of care during the day, and at least five days a week (not including holidays, breaks, or special programming such as parent teacher conferences and professional development), and meet the
	See Chart in Appendix, Table H1	following minimum pay requirements for their floaters, assistant teachers, and assistant educators: See Chart in Appendix, Table H2

Explanatory Statement

Public comments were received expressing confusion on the ten hours of care requirement and whether that would apply to specific circumstances. The final adopted language provides clarification to the ten hours of care requirement by noting that the requirement does not apply to holidays, breaks, or special programming such as parent teacher conferences and professional development.

Public comments were also received expressing concern that licensed programs not participating in FOCUS would not be eligible for the enhanced rate. Public comments also requested clarification on minimum pay requirements for 2-star providers, who do not have a wage requirement specified, though they had an enhanced rate listed. ECECD is amending the minimum pay requirement chart to include 2-star providers.

8.9.3.17(N)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	N. The department pays the	N. The department pays the
	following rates to providers who	following enhanced rates to
	provide at least 10 hours of care	providers who comply with the
	during the day, five days a week,	requirements as outlined in
	and meet the above minimum	8.9.3.17(M) NMAC.
	pay requirement:	
	Coo Chart in Annandiy, Table 11	Coo Chort in Annondiv Toble 10
	See Chart in Appendix, Table I1	See Chart in Appendix, Table I2
Explanatory Statement		

Multiple public comments were received expressing concern that the enhanced rate would not be sufficient to support the longer hours and minimum wage requirements as proposed. To address these concerns, in the final rule, ECECD increased the enhanced rate and reduced the minimum wage requirements as listed in the chart in the appendix, table I2.

8.9.3.20		
Current Language	Proposed Language	Final Adopted Language
The purposeful	The purposeful	The purposeful
misrepresentation of facts	misrepresentation of facts	misrepresentation of facts
relating to eligibility for benefits,	relating to eligibility for benefits,	relating to eligibility for benefits,
or knowingly omitting	or knowingly omitting	or knowingly omitting
information that affects	information that affects	information that affects
eligibility is fraud and	eligibility <mark>,</mark> is fraud and	eligibility <mark>,</mark> is fraud and
appropriate sanctions, including	appropriate sanctions, including	appropriate sanctions, including
recoupment, termination of	recoupment, termination of	recoupment, termination of
benefits, and referral to law	benefits, and referral to law	benefits, and referral to law
enforcement, are initiated by the	enforcement, [are] <mark>shall be</mark>	enforcement, [are] <mark>shall be</mark>
department.	initiated by the department.	initiated by the department.
Explanatory Statement		

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.22(A) **Current Language Proposed Language Final Adopted Language** The department reviews the The department reviews the The department reviews the request for hearing and request for hearing and request for hearing and determines if the matter can be determines if the matter can be determines if the matter can be resolved without proceeding to a resolved without proceeding to a resolved without proceeding to a fair hearing. If the matter cannot fair hearing. If the matter cannot fair hearing. If the matter cannot be resolved without a fair be resolved without a fair be resolved without a fair hearing, the department hearing, the department hearing, the department conducts the fair hearing within conducts the fair hearing within conducts the fair hearing within 60 calendar days of receipt of 60 calendar days of receipt of 60 calendar days of receipt of the letter requesting the hearing the letter requesting the hearing the letter requesting the hearing and notifies the claimant of the and notifies the claimant of the and notifies the claimant of the date of the hearing no less than date of the hearing no less than date of the hearing no less than 14 calendar days prior to the 14 calendar days prior to the 14 calendar days prior to the hearing. The location of the hearing. The location of the hearing. The location of the hearing must be easily hearing must be easily hearing must be easily accessible to the claimant. accessible to the claimant. accessible to the claimant. Conducting the fair hearing by Conducting the fair hearing by Conducting the fair hearing by telephone is permitted. The telephone or virtual format is telephone or virtual format is claimant may request a change permitted. permitted. of date, provided that the 60 calendar day time limit is not exceeded.

8.9.3.22(E)		
Current Language	Proposed Language	Final Adopted Language
Child care assistance workers	Child care assistance workers	Child care assistance workers
determine eligibility for all child	determine eligibility for all child	determine eligibility for all child
care assistance programs	care assistance programs	care assistance programs
except for TANF. Eligibility for	except for TANF. Eligibility for	except for TANF. Eligibility for
TANF is determined by the New	TANF is determined by the New	TANF is determined by the New
Mexico human services	Mexico [human services	Mexico [human services
department. If TANF benefits	department] <mark>HCA</mark> . If TANF	department] <mark>HCA</mark> . If TANF
are modified or terminated by	benefits are modified or	benefits are modified or
HSD, then the client applies for	terminated by [HSD] <mark>HCA</mark> , then	terminated by [HSD] <mark>HCA</mark> , then
a fair hearing to HSD.	the client applies for a fair	the client applies for a fair
	hearing to [HSD] <mark>HCA</mark> .	hearing to [HSD] <mark>HCA</mark> .

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.3.11(A) – 8.9.3.20		
Current Language Proposed Language Final Adopted Language		
will	[will] <mark>shall</mark>	[will] <mark>shall</mark>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

Appendix

Table A1

8.9.3.10(B): Application Process – Original Language

Verification Type	Acceptable documentation or information (examples)
Verification of Birth	-Birth certificate -Hospital or public health records
	-Certificate of Indian blood
	-Birth center records
Countable Earned Income	-Paystubs
Countable Earlied Income	-Employer statement/verification of work form (for new employment)
	-Client statement, if earning wages from various odd jobs/day labor
	-Employer contract/work agreement
	-Payroll/gross wage history
	For self-employed individuals:
	-Income tax return
	-Profit and loss (must be verified by a bookkeeper or accountant)
	-Common reporting standard (CRS) statements from New Mexico taxation and revenue department
Countable Unearned Income	-Benefit award letter (i.e. – social security, veteran administration (VA))
Countaire Cheannea meanne	-Letter or document from agency making payment
	-Court records or other legal documents
	-Statement from tribal agency
	-Bank or other financial statement
	-Divorce or separation decree
	-Trust documents
	-Workers' compensation documents
	-Rental income information
Qualifying Activity	-Proof of TANF participation
	(example: work participation agreement (WPA))
	-School schedule
	-Statement from educational institution
	-Work schedule
	-Paystubs
	-Employer statement
	-Client statement
	-Contract/work agreement
	-Proof of new business registration with state
Documentation of Incapacity	-Statement or letter from medical professional on letterhead/stationary
1 3	-Statement/record/letter from a federal government agency that issues or provides disability benefits
	-Statement/records/letters from a state vocational rehabilitation agency counselor
	-Records/letters from a treatment facility/counselor
	-Certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits
	provides disability benefits

Custody	-Court order, or other legal records -Adoption records -Statement signed under penalty of perjury
	-Attorney records
Dependency	-Court order
	-Notarized statement
	-Divorce papers
	-Durable power attorney
	-Guardianship documentation
	-Federal tax documents verifying person is claimed as a dependent
	-Written statement with supervisor's approval
New Mexico Residency	-Lease/rental agreement
	-Utility bill
	-Mortgage receipt
	-Written statement from person you are residing with
	-Current New Mexico driver's license
	-Statement from landlord
	-Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government issued photo identification/passport
	-School photo identification
	-Government issued immigration document with photo
	-Employer identification with photo
Citizenship/Immigration	-United States birth certificate
Verification	-Military identification
	-Passport
	-Naturalization certificate
	-Permanent resident card
	-ASPEN/HSD verification (client must be listed as "eligible child")
	(example: refugees/other qualified aliens may receive services through HSD but also may have United States department of state form)
	-Numident (from social security office) -Refugee/asylee letter from United States secretary of state or from homeland security
	-Any document from the immigration and naturalization services (INS), department of
	homeland security (DHS), or other authoritative document showing a child's immigration
	status that qualifies the child for assistance
	platus that qualifies the child for assistance

Table A2

8.9.3.10(B): Application Process – Proposed Language

Verification Type	Acceptable documentation or information (examples)
Verification of Birth	-Birth certificate
	-Hospital or public health records
	-Certificate of Indian blood
	-Birth center records

Countable Earned Income	-Paystubs
	-Employer statement/verification of work form (for new employment) -Client statement, if earning wages from various odd jobs/day labor
	-Employer contract/work agreement
	-Payroll/gross wage history
	For self-employed individuals:
	-[I] Federal income tax return
	-Profit and loss (must be verified by a bookkeeper or accountant)
	-Common reporting standard (CRS) statements from New Mexico taxation and revenue department
	department
Countable Unearned Income	-Benefit award letter (i.e. – social security, veteran administration (VA))
	-Letter or document from agency making payment
	-Court records or other legal documents -Statement from tribal agency
	-Bank or other financial statement
	-Divorce or separation decree
	-Trust documents
	-Workers' compensation documents
	-Rental income information
Qualifying Activity	-Proof of TANF participation
	(example: work participation agreement (WPA))
	-School schedule
	-Statement from educational institution -Work schedule
	-work schedule -Paystubs
	-Employer statement
	-Client statement
	-Contract/work agreement
	-Proof of new business registration with state
Documentation of Incapacity	-Statement or letter from medical professional on letterhead/stationary
1 3	-Statement/record/letter from a federal government agency that issues or provides
	disability benefits
	-Statement/records/letters from a state vocational rehabilitation agency counselor
	-Records/letters from a treatment facility/counselor
	-Certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits
[Custody] Custienship	Court ander or other legal records
[Custody] <mark>Guardianship</mark>	-Court order, or other legal records [-Adoption records]
	-Notarized statement
	-Guardianship documentation
	-Durable power of attorney
	-Statement signed under penalty of perjury
	-Attorney records
Dependency	-Court order
	[-Notarized statement
	-Divorce papers -Durable power attorney
	Guardianship documentation]
	-Federal tax documents verifying person is claimed as a dependent
	-Written statement with supervisor's approval

New Mexico Residency	-Lease/rental agreement	
1 tew Mexico residency	-Utility bill	
	-Mortgage receipt	
	-Written statement from person [you are] client is residing with	
	-Current New Mexico driver's license	
	-Statement from landlord	
	-Other records that provide a name and address	
Identification for Parent/Guardian	-Current or expired government issued photo identification/passport	
	-School photo identification	
	-Government issued immigration document with photo	
	-Employer identification with photo	
Citizenship/Immigration	-United States birth certificate	
Verification	-Military identification	
	-Passport	
	-Naturalization certificate	
	-Permanent resident card	
	-[ASPEN/HSD verification (client must be listed as "eligible child")]	
	(example: refugees/other qualified aliens may receive services through HSD but also may	
	have United States department of state form)	
	-Numident (from social security office)	
	-Refugee/asylee letter from United States secretary of state or from homeland security	
	-Any document from the immigration and naturalization services (INS), department of	
	homeland security (DHS), or other authoritative document showing a child's immigration	
	status that qualifies the child for assistance	

Table A3

8.9.3.10(B): Application Process – Adopted Language

Verification Type	Acceptable documentation or information (examples)
Verification of Birth	-Birth certificate -Hospital or public health records -Certificate of Indian blood -Birth center records
Countable Earned Income	-Paystubs -Employer statement/verification of work form (for new employment) -Client statement, if earning wages from various odd jobs/day labor -Employer contract/work agreement -Payroll/gross wage history For self-employed individuals: -[I] Federal income tax return
	-Profit and loss (must be verified by a bookkeeper or accountant) -Common reporting standard (CRS) statements from New Mexico taxation and revenue department

Countable Unearned Income	-Benefit award letter (i.e. – social security, veteran administration (VA)) -Letter or document from agency making payment -Court records or other legal documents -Statement from tribal agency -Bank or other financial statement -Divorce or separation decree -Trust documents -Workers' compensation documents -Rental income information
Qualifying Activity	-Proof of TANF participation (example: work participation agreement (WPA)) -School schedule -Statement from educational institution -Work schedule -Paystubs -Employer statement -Client statement -Contract/work agreement -Proof of new business registration with state
Documentation of Incapacity	-Statement or letter from medical professional on letterhead/stationary -Statement/record/letter from a federal government agency that issues or provides disability benefits -Statement/records/letters from a state vocational rehabilitation agency counselor -Records/letters from a treatment facility/counselor -Certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits
[Custody] <mark>Guardianship</mark>	-Court order, or other legal records [-Adoption records] -Notarized statement -Guardianship documentation -Durable power of attorney -Statement signed under penalty of perjury -Attorney records
Dependency	-Court order [-Notarized statement -Divorce papers -Durable power attorney -Guardianship documentation] -Federal tax documents verifying person is claimed as a dependent -Written statement with supervisor's approval
New Mexico Residency	-Lease/rental agreement -Utility bill -Mortgage receipt -Written statement from person [you are] client is residing with -Current New Mexico driver's license -Statement from landlord -Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government issued photo identification/passport -School photo identification -Government issued immigration document with photo -Employer identification with photo

Citizenship/Immigration	-United States birth certificate
Verification	-Military identification
	-Passport
	-Naturalization certificate
	-Permanent resident card
	-[ASPEN/HSD verification (client must be listed as "eligible child")
	(example: refugees/other qualified aliens may receive services through HSD but also may
	have United States department of state form)
	-Numident (from social security office)
	-Refugee/asylee letter from United States secretary of state or from homeland security
	-Any document from the immigration and naturalization services (INS), department of
	homeland security (DHS), or other authoritative document showing a child's immigration
	status that qualifies the child for assistance

Table B1

8.9.3 10(D)(1): Application Process – Proposed Language

Requirement	Presumptive Self Attested or Required Document
Verification of Birth	Required Documentation
Income Documentation	Self Attested
Qualifying Activity	Self Attested
NM Residency	Required documentation
Guardianship, as applicable	Required documentation
Citizenship/Immigration Verification	Required documentation
<u>Identification</u>	Required documentation
ECECD Approved Provider	Self Attested Self Attested
Assets over a million dollars	Self Attested Se

Table B2

8.9.3.10(D)(1): Application Process – Adopted Language

Requirement	Presumptive Self Attested or Required Document
Verification of Birth	Required Documentation
Income Documentation	Self Attested
Qualifying Activity	Self Attested
NM Residency	Required documentation
Guardianship, as applicable	Required documentation
Citizenship/Immigration Verification	Required documentation
<u>Identification</u>	Required documentation
ECECD Approved Provider	Self Attested _
Assets over a million dollars	Self Attested

Table C1

8.9.3.11(I): Eligibility Requirements – Proposed Language

Full Time Care	Wrap-Around Care	Part-Time Care (only for cases
		where a child may need two
		providers or less than full time
		<u>care)</u>
Hours of service are approved based	Head Start, New Mexico PreK, and	In the event one provider is
on a negotiated arrangement between	school age children needing Wrap-	unable to provide services for
the family and a single provider with	Around Care, including summer and	all child's needs, and care is
a minimum of 29 hours per week	breaks for a single provider	needed for multiple providers
		or other purposes and for care
		needed less than 29 weekly
		<u>hours</u>

Table C2

8.9.3.11(I): Eligibility Requirements – Adopted Language

Full Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care, including summer and breaks for a single provider	In the event one provider is unable to provide services for all child's needs, and care is needed for multiple providers or other purposes and for care needed less than 29 weekly hours

Table D1

8.9.3.13(D): Client Responsibilities – Original Language

FPL Percent Income Increments	Percent of Gross Income (Monthly) to Determine Copay
0.00 to 185.00	0.00%
185.01 to 200	0.29%

200.01 to 210	0.59%
210.01 to 220	0.88%
220.01 to 230	1.18%
230.01 to 240	1.47%
240.01 to 250	1.76%
250.01 to 260	2.06%
260.01 to 270	2.35%
270.01 to 280	2.65%
280.01 to 290	2.94%
290.01 to 300	3.24%
300.01 to 310	3.53%
310.01 to 320	3.82%
320.01 to 330	4.12%
330.01 to 340	4.41%
340.01 to 350	4.71%
350+	5.00%

Table D2

8.9.3.13(D): Client Responsibilities – Proposed Language

FPL Percent Income Increments	Percent of Gross Income (Monthly) to Determine Copay
0.00 to 185.00	0.00%
185.01 to [200] 250	[0.29%]
[200.01 to 210] 250.01 to 325	[0.59%] 0.02%
[210.01 to 220] 325.01 to 400	[0.88%] 0.03%
[220.01 to 230	1.18%
230.01 to 240	1.47%
240.01 to 250	1.76%
250.01 to 260	2.06%
260.01 to 270	2.35%
270.01 to 280	2.65%
280.01 to 290	2.94%
290.01 to 300	3.24%
300.01 to 310	3.53%
310.01 to 320	3.82%
320.01 to 330	4.12%
330.01 to 340	4.41%
340.01 to 350	4.71%
350+	5.00%]

400.01 to 475	<u>0.04%</u>
475.01 to 500	<u>0.05%</u>
500.01 and above	1.50%

Table D3

8.9.3.13(D): Client Responsibilities – Adopted Language

FPL Percent Income Increments	Percent of Gross Income (Monthly) to Determine Copay
0.00 to 185.00	0.00%
185.01 to [200] 250	[0.29%]
[200.01 to 210] 250.01 to 325	[0.59%] <u>0.02%</u>
[210.01 to 220] 325.01 to 400	[0.88%] <u>0.03%</u>
[220.01 to 230	1.18%
230.01 to 240	1.47%
240.01 to 250	1.76%
250.01 to 260	2.06%
260.01 to 270	2.35%
270.01 to 280	2.65%
280.01 to 290	2.94%
290.01 to 300	3.24%
300.01 to 310	3.53%
310.01 to 320	3.82%
320.01 to 330	4.12%
330.01 to 340	4.41%
340.01 to 350	4.71%
350+	5.00%]
400.01 to 475	<u>0.04%</u>
475.01 to 500	0.05%
500.01 and above	1.50%

Table E1

8.9.3.17(E): Payment for Services - Original Language

Full time	Part time 1	Part time 2 (only for	Part time 3
		split custody or in cases	
		where a child may have	

		two providers)	
Care provided for an average of 30 or more hours per week per month	Care provided for an average of 8-29 hours per week per month	Care provided for an average of 8-19 hours per week per month	Care provided for an average of 7 or less hours per week per month
Pay at 100% of full time rate	Pay at 75 % of full time rate	Pay at 50 % of full time rate	Pay at 25% of full time rate

Table E2

8.9.3.17(E): Payment for Services – Proposed Language

Full time	Part time 1	Part time 2 (only for split custody or in cases where a child may have two providers)	Part time 3
Care provided for an average of 30 or more hours per week per month	Care provided for an average of 8-29 hours per week per month	Care provided for an average of 8-19 hours per week per month	Care provided for an average of 7 or less hours per week per month
Pay at 100% of full time rate	Pay at 75 % of full time rate	Pay at 50 % of full time rate	Pay at 25% of full time rate

Full Time Care	Wrap-Around Care	Part-Time Care (only for cases
		where a child may need two
		providers or less than full time
		<u>care)</u>
Hours of service are approved based	Head Start, New Mexico PreK, and	In the event one provider is
on a negotiated arrangement between	school age children needing Wrap-	unable to provide services for
the family and a single provider with	Around Care, including summer and	all child's needs, and care is
a minimum of 29 hours per week	breaks for a single provider	needed for multiple providers
		or other purposes and for care
		needed less than 29 weekly
		<u>hours</u>

Table E3

8.9.3.17(E): Payment for Services – Adopted Language

Full Time Care	Wrap-Around Care	Part-Time Care (cases where a
	-	child may need two providers

		or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	school age children needing Wrap- Around Care, including summer and breaks for a single provider	In the event one provider is unable to provide services for all child's needs, and care is needed for multiple providers or other purposes and for care needed less than 29 weekly hours

Table F1

8.9.3.17(G): Payment for Services – Original Language

e centers			
Toddler	Pre-school	School-age	
\$775.00	\$700.00	\$500.00	
mes (capacity: 7-12)			
Toddler	Pre-school	School-age	
\$1,000.00	\$830.00	\$475.00	
omes (capacity: 6 or less)	I	I	
Toddler	Pre-school	School-age	
\$1,075.00	\$870.00	\$530.00	
in-home child care, and FFN	I	L	
Toddler	Pre-school	School-age	
\$425.00	\$375.00	\$ 350.00	
	Toddler \$775.00 mes (capacity: 7-12) Toddler \$1,000.00 omes (capacity: 6 or less) Toddler \$1,075.00 in-home child care, and FFN Toddler	Toddler	Toddler

Table F2

8.9.3.17(G): Payment for Services – Proposed Language

Licensed child care centers						
Infant	Toddler	Pre school	School age			
\$1,075.00	\$775.00	\$700.00	\$500.00			

Infant	Toddler	Pre school	School age					
\$1,040.00	\$1,000.00	\$830.00	\$475.00					
Licensed family h	omes (capacity: 6 or less)	I						
Infant	Toddler	Pre school	School age					
\$1,100.00	\$1,075.00	\$870.00	\$530.00					
Registered homes, in home child care, and FFN								
Infant	Toddler	Pre school	School age					
\$425.00	\$425.00	\$375.00	\$ 350.00					

LICENS	ED CEN	TERS									
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-								(Wrap-	age
	Time	Around		Time	Around Around		time		Full	Around	<u>Part</u>
		Care			Care				time	Care, full	Time
										vear)	
<u>\$1,129</u>	<u>\$565</u>	<u>\$678</u>	<u>\$814</u>	<u>\$407</u>	<u>\$489</u>	<u>\$735</u>	<u>\$368</u>	<u>\$441</u>	<u>\$689</u>	<u>\$525</u>	<u>\$262.65</u>
LICENS	ED FAN	IILY HO	MES				I .				<u> </u>
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time	Part	Wrap-	Full	Part			l Part		age	(Wrap-	age
	Time	Around	Time	Time	Around	Time	time		Full	Around	Part
		Care			Care			Care	time	Care, full	Time
										vear)	
<u>\$1,156</u>	<u>\$578</u>	<u>\$693</u>	\$1,129	<u>\$565</u>	<u>\$678</u>	<u>\$914</u>	<u>\$457</u>	<u>\$548</u>	<u>\$730</u>	<u>\$557</u>	<u>\$278.41</u>
LICENS	ED GRO	OUP HON	MES				l				<u> </u>
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-								(Wrap-	age
	Time	Around		Time	Around		time		Full	Around	Part
		Care			Care				time	Care, full	Time
										vear)	
<u>\$1,093</u>	<u>\$546</u>	<u>\$656</u>	<u>\$1,051</u>	<u>\$525</u>	<u>\$630</u>	<u>\$872</u>	<u>\$436</u>	<u>\$523</u>	<u>\$654</u>	<u>\$499</u>	<u>\$249.52</u>
REGIST	EERED	HOMES					1				<u> </u>
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-								(Wrap-	age
	Time	Around		Time	Around		time		Full	Around	Part
		Care			Care				time	Care, full	Time
										year)	
<u>\$750</u>	\$375	\$450	\$750	\$37 <u>5</u>	<u>\$450</u>	\$42 <u>5</u>	\$213	<u>\$255</u>	\$459	\$350	\$175.00

Table F3

8.9.3.17(G): Payment for Services – Adopted Language

LICENS	LICENSED CENTERS										
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time	Part	Wrap-								(Wrap-	age
	Time	Around	Time	Time	<mark>Around</mark>	Time	<mark>time</mark>		Full	Around	Part
	,	Care			Care			Care	<u>time</u>	Care, full	Time
										<u>vear) </u>	
<u>\$1,200</u>	<u>\$600</u>	<u>\$720</u>	<u>\$875</u>	<u>\$438</u>	<u>\$525</u>	<u>\$735</u>	<u>\$368</u>	<u>\$552</u>	<u>\$689</u>	<u>\$525</u>	<u>\$263</u>
LICENS	ED FAM	ILY HO	MES						•		•
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time	Part	Wrap-								(Wrap-	age
	Time	<u>Around</u>	Time_	Time_	Around	Time	<mark>time </mark>		<u>Full</u>	<u>Around</u>	<u>Part</u>
		Care			<u>Care</u>			Care	<u>time</u>	Care, full	Time
										<u>year)</u>	
\$1,325	<u>\$663</u>	<u>\$795</u>	<u>\$1,275</u>	<u>\$638</u>	<u>\$765</u>	<u>\$914</u>	<u>\$457</u>	<mark>\$686</mark>	<u>\$730</u>	<u>\$557</u>	<u>\$278</u>
LICENS	ED GRO	UP HO	MES						•		•
Infant F	<u>Infant</u>	Infant	Toddler	Toddler	Toddler	Preschool			School	School age	School
ull Time	<u>Part</u>	Wrap-							age	(Wrap-	age
	Time	<u>Around</u>	Time	Time_	<u>Around</u>	Time_	<u>time</u>		<u>Full</u>	<u>Around</u>	<u>Part</u>
		Care			Care			<u>Care</u>	<u>time</u>	Care, full	Time
										<mark>year)</mark>	
<u>\$1,200</u>	<u>\$600</u>	<u>\$720</u>	<u>\$1,150</u>	<u>\$575</u>	<u>\$690</u>	<u>\$872</u>	<u>\$436</u>	<mark>\$654</mark>	<u>\$654</u>	<u>\$499</u>	<u>\$249.52</u>
REGIST	EDED II	OMES	ND EEN	NT.							
						1			1		
Infant F										School age	<u>School</u>
ull Time		Wrap-								(Wrap-	age
	Time_		Time_	Time_	Around	<u>l'ime</u>	<u>time</u>		Full	Around	Part
		<u>Care</u>			<u>Care</u>			<u>Care</u>	<u>time</u>	Care, full	Time_
Ф 750	Φ275	¢450	0750	Ф27 <u>5</u>	¢450	Φ42 <i>5</i>	Φ 212	Φ <u></u>	¢450	vear)	¢175 00
<u>\$750</u>	<u>\$375</u>	<u>\$450</u>	<u>\$750</u>	<u>\$375</u>	<u>\$450</u>	<u>\$425</u>	<u>\$213</u>	<u>\$255</u>	<u>\$459</u>	<u>\$350</u>	<u>\$175.00</u>

Table G1

8.9.3.17(J): Payment for Services – Original Language

Licensed Child Care Centers									
2+ Star FOCUS									
Infant	Toddler Pre-school School-age								
\$75.00	\$90.00	\$100.00	\$50.00						
3 Star FOCUS									
Infant	Toddler	Pre-school	School-age						
\$75.00	\$90.00	\$100.00	\$50.00						
4 Star FOCUS									
Infant	Toddler	Pre-school	School-age						
\$425.00	\$325.00	\$300.00	\$150.00						
5 Star FOCUS or ECEC	5 Star FOCUS or ECECD approved national accreditation								

Infant	Toddler	Pre-school	School-age
\$850.00	\$725.00	\$425.00	\$ 250.00

Licensed Family and Group Homes									
2+ Star FOCUS									
Infant	Toddler	Pre-school	School-age						
\$75.00	\$50.00	\$80.00	\$70.00						
3 Star FOCUS									
Infant	Toddler	Pre-school	School-age						
\$75.00	\$50.00	\$80.00	\$70.00						
4 Star FOCUS									
Infant	Toddler	Pre-school	School-age						
\$175.00	\$175.00	\$205.00	\$150.00						
5 Star FOCUS or ECECI	5 Star FOCUS or ECECD approved national accreditation								
Infant	Toddler	Pre-school	School-age						
\$275.00	\$250.00	\$290.00	\$195.00						

Table G2

8.9.3.17(J): Payment for Services – Proposed Language

Licensed Child Care Centers									
2+ Star FOCUS									
Infant	Toddler	Pre-school	School-age						
\$75.00	\$90.00	\$100.00	\$50.00						
3 Star FOCUS									
Infant	Toddler	Pre-school	School-age						
\$75.00	\$90.00	\$100.00	\$50.00						
4 Star FOCUS	l	l							
Infant	Toddler	Pre-school	School-age						
\$425.00	\$325.00	\$300.00	\$150.00						
5 Star FOCUS or ECECI	D approved national accred	itation							
Infant	Toddler	Pre-school	School-age						
\$850.00	\$725.00	\$425.00	\$ 250.00						

Licensed Family and Group Homes	
---------------------------------	--

2+ Star FOCUS										
Infant	Toddler	Pre-school	School-age							
\$75.00	\$50.00	\$80.00	\$70.00							
3 Star FOCUS										
Infant	Toddler	Pre-school	School-age							
\$75.00	\$50.00	\$80.00	\$70.00							
4 Star FOCUS										
Infant	Toddler	Pre-school	School-age							
\$175.00	\$175.00	\$205.00	\$150.00							
5 Star FOCUS or ECEC	D approved national accred	litation								
Infant	Toddler	Pre-school	School-age							
\$275.00	\$250.00	\$290.00	\$195.00							

LICI	ENSED CI	ENTER	<u>S</u>									
	<u>Infant</u> Fu	<u>Infant</u>	<u>Infant</u>	<u>Toddler</u>		Toddle	Preschool	Preschoo	Preschoo	School	School	School
	<mark>ll Time</mark>	<u>Part</u>	Wrap-		<mark>r Part</mark>	<u>r</u>	Full		<u>l Wrap-</u>	<mark>age</mark>	<mark>age</mark>	<mark>age Part</mark>
		Time	Aroun	Time	Time	Wrap-	Time	<u>time</u>	Around	<u>Full</u>	(Wrap-	Time
			<u>d</u>			Around			<u>Care</u>	<u>time</u>	Aroun	
			<u>Care</u>			<u>Care</u>					<mark>d Care,</mark> full	
											vear)	
2+	\$1,208	\$604	\$725	\$909	\$454	\$545	\$840	\$420	\$504	\$758	\$578	\$288.92
Star												
_	\$1,208	<u>\$604</u>	<u>\$725</u>	<u>\$909</u>	<u>\$454</u>	<u>\$545</u>	<u>\$840</u>	<u>\$420</u>	<u>\$504</u>	<u>\$758</u>	<u>\$578</u>	<u>\$288.92</u>
Star 1	0.1 5.5 6	φ = 00	00.46	01.156	φ. σ.σ. ο	0.00	0.1 0.51	0.50.5	D. C. D. O.	 ↑ ○ ↑	ф.coa	00.41.45
4 Star	<u>\$1,576</u>	<u>\$788</u>	<u>\$946</u>	<u>\$1,156</u>	<u>\$578</u>	<u>\$693</u>	<u>\$1,051</u>	<u>\$525</u>	<u>\$630</u>	<u>\$895</u>	<u>\$683</u>	<u>\$341.45</u>
-	\$2,022	\$1,011	\$1.213	\$1,576	\$788	\$946	\$1,182	\$591	\$709	\$1,033	\$788	\$393.98
Star	<u>Ψ2,022</u>	ψ1,011	Ψ1,212	Ψ1,570	Φ700	<u>φο το</u>	<u> </u>	ψυν1	<u>Ψ702</u>	ψ1,000	<u>Ψ700</u>	ψ393.90
LICI	ENSED FA	MILY	HOME	<mark>S</mark>	•			•			•	
	<u>Infant</u> Fu	<u>Infant</u>	Infant	Toddler	Toddle	Toddle	Preschool	Preschoo	Preschoo	School	School	School
	<mark>ll Time</mark>	<u>Part</u>	<mark>Wrap-</mark>	Full	<mark>r Part</mark>	<u>r</u>	Full		<u>l Wrap-</u>	<mark>age</mark>	age	<mark>age Part</mark>
		Time	Aroun	Time	Time	Wrap-	Time	<u>time</u>	Around	Full	(Wrap-	Time
			Corre			Around Core			<u>Care</u>	<u>time</u>	Aroun d Care,	
			<u>Care</u>			<u>Care</u>					<u>u Care,</u> full	
											year)	
2+	\$1,234	\$617	\$741	\$1,182	\$591	\$709	\$998	\$499	\$599	\$826	\$630	\$315.18
<u>Star</u>												
	\$1,234	<u>\$617</u>	<u>\$741</u>	<u>\$1,182</u>	<u>\$591</u>	<u>\$709</u>	<u>\$998</u>	<u>\$499</u>	<u>\$599</u>	<u>\$826</u>	<u>\$630</u>	<u>\$315.18</u>
Star 4	Φ1 2 40	Φ.(7.0	Φ004	Φ1 212	ф.c.5.7	Φ 7 00	Φ1 1 0 0	φ.σ.σ.σ.	φ.cπο.	Φ027	ф д 1 4	00.57.01
<u>4</u> Star	<u>\$1,340</u>	<u>\$670</u>	<u>\$804</u>	\$1,313	<u>\$657</u>	<u>\$788</u>	<u>\$1,129</u>	<u>\$565</u>	<u>\$678</u>	<u>\$937</u>	<u>\$714</u>	<u>\$357.21</u>
	\$1,445	\$722	\$867	\$1,392	\$696	\$835	\$1,219	\$609	\$731	\$999	\$762	\$380.85
Star	Ψ1,ΤΤ	Ψ122	Ψ007	$\psi 1, J/L$	ΨΟΟΟ	<u>Ψ033</u>	Ψ1,Δ1/	Ψ007	Ψ <i>1</i> 3 1	<u>Ψ) / / / </u>	Ψ702	ψυσου.συ
	ENSED G	ROUP I	HOMES		1	1	1	1	1	1	1	<u> </u>
	<u>Infant</u> Fu	<u>Infant</u>	Infant	Toddler	Toddle	Toddle	Preschool	Preschoo	Preschoo	School	School	School
	<mark>ll Time</mark>	<u>Part</u>	<mark>Wrap-</mark>	Full <mark>Time</mark>	<mark>r Part</mark>	r	Full		<mark>l Wrap-</mark>	<mark>age</mark>	<mark>age</mark> (Wrap-	<mark>age Part</mark>
			Aroun		Time	Wrap-	Time			Full		

			<u>d</u>			<u>Around</u>			<u>Care</u>	<u>time</u>	<u>Aroun</u>	
			<u>Care</u>			<u>Care</u>					d Care,	
											<u>full</u>	
											<u>vear)</u>	
2+	\$1,171	\$586	\$703	\$1,103	\$552	\$662	<u>\$956</u>	\$478	<u>\$574</u>	\$751	\$573	\$286.29
<u>Star</u>												
<u>3</u>	<u>\$1,171</u>	<u>\$586</u>	\$703	\$1,103	<u>\$552</u>	<u>\$662</u>	<u>\$956</u>	<u>\$478</u>	<u>\$574</u>	<u>\$751</u>	<u>\$573</u>	\$286.29
Star	·			·			·	,		,	·	
<u>4</u>	\$1,276	\$638	\$766	\$1,234	\$617_	\$741	\$1,087	<u>\$544</u>	<u>\$652</u>	\$861	<u>\$657</u>	\$328.32
4 Star		,										
<u>5</u>	\$1,382	<u>\$691</u>	\$829	\$1,313	<u>\$657</u>	<u>\$788</u>	<u>\$1,177</u>	<u>\$588</u>	<u>\$706</u>	<u>\$923</u>	<u>\$704</u>	\$351.95
Star												

Table G3

8.9.3.17(J): Payment for Services – Adopted Language

<u>LICI</u>	ENSED CI	ENTER	<u>S</u>									
	<u>Infant</u> Fu			Toddler		Toddle	Preschool			School	School	School
	<mark>ll Time</mark>	Part	Wrap-	Full Tries	r Part	<u>r</u>	Full		l Wrap-	<mark>age</mark>	age	age Part
		Time	Aroun	Time	Time		Time Time	<u>time</u>	Around	Full	(Wrap-	Time
			<u>a</u> Care			Around Care			<u>Care</u>	<u>time</u>	Aroun d Care.	
			Care			Care					full	
											year)	
2 + S	<u>tar</u>									_		
	<u>\$1,300</u>	<u>\$650</u>	<u>\$780</u>	<u>\$975</u>	<u>\$488</u>	<u>\$585</u>	<u>\$840</u>	<u>\$420</u>	<u>\$630</u>	<u>\$758</u>	<u>\$578</u>	<u>\$263</u>
3 Sta	<u>r</u>	1	1	1	ı	1	1	1	1	1	1	1
	<u>\$1,300</u>	<u>\$650</u>	\$780	<u>\$975</u>	<u>\$488</u>	<u>\$585</u>	<u>\$840</u>	<u>\$420</u>	<u>\$630</u>	<u>\$758</u>	<u>\$578</u>	<u>\$289</u>
4 Sta	<u>r</u>	1	l	ı	L	1	l	1	I			1
	<u>\$1,650</u>	<u>\$825</u>	<u>\$990</u>	<u>\$1,250</u>	<u>\$625</u>	<u>\$750</u>	<u>\$1,051</u>	<u>\$525</u>	<u>\$788</u>	<u>\$895_</u>	<u>\$683</u>	<u>\$289</u>
5 Sta	r FOCUS,	ECECD	approve	ed nationa	l accred	itation, o	r Head Star	rt, or Early	Head Star	<mark>t</mark>	· I	1
	<u>\$2,175</u>	\$1,088	\$1,305	<u>\$1,700</u>	<u>\$850</u>	<u>\$1020</u>	\$1,182	<u>\$591</u>	<u>\$886</u>	\$1,033	<u>\$788</u>	<u>\$341</u>
LIC I	ENSED FA	AMILY	HOME	<u>S</u>								
	<u>Infant</u> Fu			<u>Toddler</u>		<u>Toddle</u>	Preschool				<u>School</u>	School
	<mark>ll Time</mark>	Part	Wrap-	Full	<mark>r Part</mark>	r	Full		l Wrap-	age	age	age Part
		Time	Aroun	Time	Time		Time	<u>time</u>	Around	Full	(Wrap-	Time
			<u>u</u> Care			Around Care			<u>Care</u>	<u>time</u>	Aroun d Care.	
			Curc			Carc					full	
											vear)	
2+ St	ar											
	<u>\$1,450</u>	<u>\$725</u>	<u>\$870</u>	<u>\$1,375</u>	<u>\$688</u>	<u>\$825</u>	<u>\$998</u>	<u>\$499</u>	<u>\$749</u>	<u>\$826</u>	<u>\$630</u>	<u>\$315</u>
3 Sta	<u>r</u>	1					1		1			1
	<u>\$1,450</u>	<u>\$725</u>	<u>\$870</u>	<u>\$1,375</u>	<u>\$688</u>	<u>\$825</u>	<u>\$998</u>	<u>\$499</u>	<u>\$749</u>	<u>\$826</u>	<u>\$630</u>	<u>\$315</u>
4 Sta	<u>r</u>	1	1		•						1	1
	<u>\$1,700</u>	<u>\$850</u>	<u>\$1,020</u>	<u>\$1,575</u>	<u>\$788</u>	<u>\$945</u>	<u>\$1,129</u>	<u>\$565</u>	<u>\$847</u>	<u>\$937</u>	<u>\$714</u>	<u>\$357</u>
5 Star	r FOCUS,	ECECD	approve	d nationa	l accred	itation, o	r Head Star	rt, or Early	Head Star	<u>t</u>	1	1
							· · · · · · · · · · · · · · · · · · ·					

	<u>\$1,900</u>	<u>\$950</u>	<u>\$1,140</u>	<u>\$1,800</u>	<u>\$900</u>	<u>\$1,080</u>	<u>\$1,219</u>	<u>\$609</u>	<u>\$914</u>	<u>\$999</u>	<u>\$762</u>	<u>\$381</u>
LICE	LICENSED GROUP HOMES											
		<u>Part</u>	Infant Wrap- Aroun d Care		<mark>r Part</mark>	Toddle r Wrap- Around Care	Time	<mark>l Part</mark> time	<mark>l Wrap-</mark>	<mark>age</mark> Full time	age	School age Part Time
2+ St	<u>ar</u>											
	\$1,300	<u>\$650</u>	<u>\$780</u>	<u>\$1,250</u>	<u>\$625</u>	<u>\$750</u>	<u>\$956</u>	<u>\$478</u>	<u>\$717</u>	<u>\$751</u>	<u>\$573</u>	\$286.29
3 Star	<u>c</u>											
	<u>\$1,300</u>	<u>\$650</u>	<u>\$780</u>	<u>\$1,250</u>	<u>\$625</u>	<u>\$750</u>	<u>\$956</u>	<u>\$478 </u>	<u>\$717</u>	<u>\$751</u>	<u>\$573</u>	\$286.29
4 Stai	<u>.</u>							•		•		•
	<u>\$1,575</u>	<u>\$788</u>	<u>\$945</u>	<u>\$1,500</u>	<u>\$750</u>	<u>\$900</u>	<u>\$1,087</u>	<u>\$544_</u>	<u>\$816</u>	<u>\$861</u>	<u>\$657</u>	\$328.32
5 Star	5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start											
	<u>\$1,750</u>	<u>\$875</u>	<u>\$1,050</u>	<u>\$1,700</u>	<u>\$850</u>	<u>\$1,020</u>	<u>\$1,177</u>	<u>\$588</u>	<u>\$883</u>	\$923	<u>\$704</u>	\$351.95

Table H1

8.9.3.17(M): Payment for Services – Proposed Language

	2+ Star Focus	3 Star Focus	4 Star Focus	5 Star Focus
Entry-level staff	<u>\$18/hour</u>	<u>\$19/hour</u>	<u>\$20/hour</u>	<u>\$21/hour</u>

Table H2

8.9.3.17(M): Payment for Services – Adopted Language

	<mark>2 Star</mark>	2+ Star Focus	3 Star Focus	4 Star Focus	5 Star Focus
Entry-level staff	<u>16/ hour</u>	<u>\$17/hour</u>	\$17/hour	<u>\$18/hour</u>	<u>\$19/hour</u>

Table I1

8.9.3.17(N): Payment for Services – Proposed Language

LICENSED CENTERS					
	nfant Infant art Wrap- Time Around	Toddler Full Tod Time Par Tim	t Wrap-	Full Time F	 ip-

			<u>Care</u>			<u>Care</u>			<u>Care</u>
2 star	\$1,225.00	\$612.50	\$735.00	<u>\$925</u>	<u>\$463</u>	<u>\$555</u>	\$825_	\$413	\$495.00
2+ Star	\$1,335.00	<u>\$667.50</u>	\$801.00	<u>\$1,050</u>	<u>\$525</u>	<u>\$630</u>	<u>\$890</u>	<u>\$445</u>	\$534.00
3 Star	\$1,335.00	<u>\$667.50</u>	<u>\$801.00</u>	<u>\$1,050</u>	<u>\$525</u>	<u>\$630</u>	<u>\$890</u>	<u>\$445</u>	\$534.00
4 Star	\$1,925.00	\$962.50	\$1,155.00	<u>\$1,500</u>	<u>\$750</u>	<u>\$900</u>	\$1,150	<u>\$575</u>	<u>\$690.00</u>
5 Star	\$2,350.00	\$1,175.00	\$1,410.00	<u>\$1,900</u>	<u>\$950</u>	<u>\$1,140</u>	\$1,375	<u>\$688</u>	\$825.00
LICENSE	D FAMILY	HOMES	•		•	•		•	
		<u>Infant</u>	<u>Infant</u>	Toddler Full				Preschool	
	Time	Part	Wrap-	<u>Time</u>	Part		Full Time	Part	Wrap-
		Time	Around Care		Time	Around Care		Time	Around Care
2 star	\$1,325.00	<u>\$662.50</u>	\$795.00	<u>\$1,250</u>	<u>\$625</u>		<u>\$1,050</u>	<u>\$525</u>	\$630.00
2+ Star	\$1,600.00	\$800.00	<u>\$960.00</u>	\$1,515	<u>\$758</u>	<u>\$909</u>	\$1,175_	<u>\$588</u>	\$705.00
3 Star	\$1,600.00	\$800.00	<u>\$960.00</u>	<u>\$1,515</u>	<u>\$758</u>	<u>\$909</u>	<u>\$1,175</u>	<u>\$588</u>	\$705.00
4 Star	\$1,950.00	\$975.00	\$1,170.00	\$1,825	<u>\$913</u>	\$1,095	<u>\$1,375</u>	<u>\$688</u>	\$825.00
5 Star	\$2,050.00	\$1,025.00	\$1,230.00	<u>\$1,900</u>	<u>\$950</u>	<u>\$1,140</u>	<u>\$1,450</u>	<u>\$725</u>	\$870.00
LICENSE	D GROUP H	IOMES	l		l	I.		l	l
Group	Infant Full	Infant	Infant	Toddler Full	Toddler	Toddler	Preschool	Preschool	Preschool
Homes	Time	Part	<mark>Wrap-</mark>	Time	<u>Part</u>		Full Time	<u>Part</u>	Wrap-
		Time	<u>Around</u>		Time	Around C		Time	Around G
2 ston	\$1,215.00	\$607.50	Care \$729.00	\$1,150	\$575	<u>Care</u> \$690	\$975	\$488	Care \$585
2 star									
2+ Star	\$1,460.00	<u>\$730.00</u>	<u>\$876.00</u>	<u>\$1,390</u>	<u>\$695</u>	<u>\$834</u>	<u>\$1,075</u>	<u>\$538</u>	<u>\$645</u>
3 Star	\$1,460.00	\$730.00	<u>\$876.00</u>	<u>\$1,390</u>	<u>\$695</u>	<u>\$834</u>	<u>\$1,075</u>	<u>\$538</u>	<u>\$645</u>
4 Star	\$1,750.00	<u>\$875.00</u>	<u>\$1,050.00</u>	<u>\$1,675</u>	\$838	<u>\$1,005</u>	\$1,200	<u>\$600</u>	<u>\$720</u>
5 Star	\$1,875.00	\$937.50	\$1,125.00	<u>\$1,800</u>	<u>\$900</u>	\$1,080	\$1,300	<u>\$650</u>	<u>\$780</u>

Table I2

8.9.3.17(N): Payment for Services – Adopted Language

LICENSED	CENTERS -	- ENHANC	CED RATE						
	Infant Full Time	<mark>Part</mark> Time	Infant Wrap- Around Care	<mark>Toddler</mark> Full <mark>Time</mark>	<mark>Part</mark> Time	Wrap-		<mark>Part</mark> Time	Preschool Wrap- Around Care
2 Star									
	<u>\$1,350</u>	<u>\$675</u>	<u>\$810</u>	<u>\$1,015</u>	<u>\$508</u>	<u>\$609</u>	<u>\$825</u>	<u>\$413</u>	<mark>\$619</mark>
2+ Star									
	<u>\$1,400</u>	<u>\$700</u>	<u>\$840</u>	<u>\$1,075</u>	<u>\$538</u>	<u>\$645</u>	<u>\$890</u>	<u>\$445</u>	<u>\$668</u>
3 Star									

5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start \$2,500 \$1,250 \$1,500 \$1,975 \$988 \$1,185 \$1,375 \$688 \$1, LICENSED FAMILY HOMES – ENHANCED RATE Infant Full Toddler Full Toddler Toddler Preschool Preschool Processor Time Part Wrap- Time Around Time Time Around Time	rap- round are
\$ Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start \$ 2,500 \$ 1,250 \$ 1,500 \$ 1,975 \$ 988 \$ 1,185 \$ 1,375 \$ 688 \$ 1, LICENSED FAMILY HOMES – ENHANCED RATE Infant Full Time Part Wrap-Time Around Care Toddler Time Part Wrap-Time Around Care Time Part Time Part Part Part Part Part Part Part Part	reschool /rap- round are
\$2,500 \$1,250 \$1,500 \$1,975 \$988 \$1,185 \$1,375 \$688 \$1,\$\$\$\$\$\$\$\$\$\$LICENSED FAMILY HOMES – ENHANCED RATE Infant Full Time	reschool /rap- round are /88
Infant Full Infant Infant Toddler Full Toddler Toddler Full Preschool Presch	reschool /rap- round are /88
Infant Full Infant Toddler Full Toddler Toddler Full Tod	rap- round are 788
Time Part Time Wrap-Time Time Around Care Part Time Wrap-Time Around Care Full Time Time Time Time Part Time Around Care Via Time Time Time Time Time Care Stare 2 Star \$1,500 \$750 \$900 \$1,425 \$713 \$855 \$1,050 \$525 \$78 2+ Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88 3 Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88	rap- round are 788
Time Part Time Wrap-Around Care Time Part Time Wrap-Around Time Full Time Part Time Wrap-Time Part Time Wrap-Time Part Time Wrap-Time Part Time Around Time Around Time Part Time Around T	rap- round are 788
Care Care Care 2 Star \$1,500 \$750 \$900 \$1,425 \$713 \$855 \$1,050 \$525 \$78 2+ Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88 3 Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88	788 881
2 Star \$1,500 \$750 \$900 \$1,425 \$713 \$855 \$1,050 \$525 \$78 2+ Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88 3 Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88	7 <u>88</u> 3 <u>81</u>
2+ Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88 3 Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88	<u>381</u>
\$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88 3 Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88	
3 Star \$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88	
\$1,625 \$813 \$975 \$1,525 \$763 \$915 \$1,175 \$588 \$88	<u>881</u>
	<u>881</u>
4 Star	
\$1,975 \$988 \$1,185 \$1,850 \$925 \$1,110 \$1,375 \$688 \$10	031
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start	
\$2,175 \$1,088 \$1,305 \$2,025 \$1,013 \$1,215 \$1,450 \$725 \$10	<u> 1088</u>
LICENSED GROUP HOMES – ENHANCED RATE	
Group Infant Full Infant Infant Toddler Full Toddler Toddler Preschool Preschool Preschool	
	<mark>/rap-</mark> round
Care Care Care	are
2 Star	70.1
\$1,375 \$688 \$825 \$1,300 \$650 \$780 \$975 \$488 \$73	<u>31</u>
2+ Star	20.6
\$1,475 \$738 \$885 \$1,400 \$700 \$840 \$1,075 \$538 \$80	<u> 106</u>
3 Star	
	<u>806</u>
4 Star	
	<mark>900</mark>
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start	
<u>\$1,940</u> <u>\$970</u> <u>\$1,164</u> <u>\$1,850</u> <u>\$925</u> <u>\$1,110</u> <u>\$1,300</u> <u>\$650</u> <u>\$97</u>	<u>975</u>

LICENSED CENTERS—ENHANCED RATE – SCHOOL AGE					
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-		
2 Star	\$699	\$268	Around Care \$535		
2+ Star	<u>\$768</u>	\$294	\$588		
3 Star	<u>\$768</u>	<u>\$ 294</u>	<u>\$588</u>		
4 Star	<u>\$905</u>	<u>\$ 347</u>	<u>\$693</u>		

5 Star	\$1,043	<u>\$ 399</u>	<u>\$798</u>
o otal	ψ 1 90 1 3	Ψ 3 7 7	Ψ170

LICENSED FAMILY HOMES—ENHANCED RATE – SCHOOL AGE					
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap- Around Care		
2 Star	<u>\$740</u>	<u>\$284</u>	<u>\$567</u>		
2+ Star	<u>\$836</u>	\$320	<u>\$640</u>		
3 Star	<u>\$836</u>	\$320	<u>\$640</u>		
4 Star	<u>\$947</u>	\$362	\$724		
5 Star	\$1,009	\$386	\$772		

LICENSED GROUP HOMES—ENHANCED RATE – SCHOOL AGE					
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-		
			Around Care		
<mark>2 Star</mark>	<u>\$664</u>	<u>\$255</u>	<u>\$509</u>		
2+ Star	\$761	\$292	\$583		
3 Star	<u>\$761</u>	\$292	\$583		
4 Star	\$871	\$334	<u>\$667</u>		
5 Star	\$933	\$357	\$714		

8.9.4 NMAC – Explanatory Statement

Current Language Proposed Language Final Adopted Language					
8.9.4.7 C(3)					
(3) "Child" means a person who is under the chronological age of 18 years.	N/A - no proposed changes	(3) "Child" means a person who is under the chronological age of [18] 19 years.			
Explanatory Statement					
This amendment is a technical edit to	This amendment is a technical edit to maintain consistency with the remainder of the regulations.				

This amendment is a technical edit to maintain consistency with the remainder of the regulations.				
Current Language	Proposed Language	Final Adopted Language		
8.9.4.7 D(2)				
N/A – New Text	8.9.4.7 D (2): Definitions	8.9.4.7 D (2): Definitions		
	"Department" means the New	"Department" means the New		
	Mexico Early Childhood Education	Mexico Early Childhood Education		
	and Care Department	and Care Department		
	<u>("ECECD").</u>	("ECECD").		
	Explanatory Statement			
There were no substantive public con	nments received. ECECD is adopting th	ne proposed amendment.		
8.9.4.7 D(5)				
8.9.4.7 D (4): Definitions	8.9.4.7 D [4] (<u>5</u>): Definitions	8.9.4.7 D [4] (<mark>5</mark>): Definitions		
"Disinfect" means to destroy or	"Disinfect" means to destroy or	"Disinfect" means to destroy or		
inactivate most germs on any	inactivate most germs, but not	inactivate most germs, but not		
inanimate object, but not bacterial	bacterial spores, on any inanimate	bacterial spores, on any inanimate		
spores. Mix four tablespoons of	object, but not bacterial spores . Mix	object, but not bacterial spores . Mix		
bleach with one gallon of cool water	four tablespoons of bleach with one	four tablespoons of bleach with one		
or use an environmental protection	gallon of cool water or use an	gallon of cool water or use an		
agency (EPA) registered disinfectant.	environmental protection agency	environmental protection agency		
	(EPA) registered disinfectant.	(EPA) registered disinfectant.		
	Explanatory Statement			
There were no substantive public con	nments received. ECECD is adopting th	ne proposed amendment.		
8.9.4.7(F)(3)				
N/A – New text	8.9.4.7 F (3): Definitions	8.9.4.7 F (3): Definitions		
	"Family handbook" is a written	"Family handbook" is a written		
	communication tool that provides	communication tool that provides		
	valuable information to families of	valuable information to families of		
	the children the program serves. It	the children the program serves. It		
	includes all matters of relevance to	includes all matters of relevance to		
	family members regarding the	family members regarding the		
	program and is updated annually, or	program and is updated annually, or		
	as needed.	as needed.		
	Explanatory Statement			

Current Language	Proposed Language	Final Adopted Language			
There were no substantive public comments received. ECECD is adopting the proposed amendment.					
8.9.4.7 F(4)					
8.9.4.7 F(4): Definitions	8.9.4.7 F(4): Definitions	8.9.4.7 F(4): Definitions			
(3) "FOCUS" is a voluntary tiered quality rating and improvement program that is open to all registered and licensed child care programs.	[(3)](4] "FOCUS" is a voluntary tiered quality rating and improvement program that is open to all [registered and] licensed child care programs.	[(3)](4] "FOCUS" is a voluntary tiered quality rating and improvement program that is open to all [registered and] licensed child care programs.			

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.4.7(P)(2)

8.9.4.7 P (2): Definitions

"Parent Handbook" is a written communication tool that provides valuable information to families of the children the program serves. It includes all matters of relevance to family members regarding the program and is updated annually, or as needed.

"Parent Handbook" is a written communication tool that provides valuable information to families of the children the program serves. It includes all matters of relevance to family members regarding the program and is updated annually, or as needed.

"Parent Handbook" is a written communication tool that provides valuable information to families of the children the program serves. It includes all matters of relevance to family members regarding the program and is updated annually, or as needed.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.4.7 (L)(1)

Current Language	Proposed Language	Final Adopted Language
"License" means a document issued	N/A	"License" means a document
by ECECD to a child care facility		issued by ECECD to a child care
licensed and governed by these		facility licensed and governed by
regulations and granting the legal		these regulations and granting the
right to operate for a specified period		legal right to operate <mark>for a specified</mark>
of time, not to exceed one year.		period of time , <mark>not to exceed one</mark>
		year.

Explanatory Statement

Public comments received identified this section of the regulation which needed to be updated to correctly align with the proposed amendments to remove licensing application fees and requirements for annual licensing renewals.

To address this comment, ECECD is adopting the above language to remove reference to annual licensing renewals.

8.9.4.7(P)(9)

Current Language	Proposed Language	Final Adopted Language
N/A – New text	8.9.4.7 P (9): Definitions	8.9.4.7 P (9): Definitions
	"Professional Development	"Professional Development
	Information System (PDIS)" is a	Information System (PDIS)" is a
	secure, centralized digital platform	secure, centralized digital platform
	managed by the department and	managed by the department and
	designed to collect, manage, and	designed to collect, manage, and
	analyze data related to the	analyze data related to the
	education, training, certification,	education, training, certification,
	and ongoing professional	and ongoing professional
	development of individuals. It serves	development of individuals. It serves
	as a regulatory tool to ensure	as the monitoring system to ensure
	compliance with standards, support	compliance with professional
	workforce quality, and inform policy	development and training
	decisions.	requirements and supports
		workforce development.
		1

Explanatory Statement

Based on public comments, this definition was amended by ECECD for clarity.

8.9.4.11 A (1)

0.3.4.11A(1)		
Current Language	Proposed Language	Final Adopted Language
8.9.4.11 A (1): Licensing	8.9.4.11 A (1): Licensing	8.9.4.11 A (1): Licensing
	8.9.4.11 A (1): Licensing [ANNUAL] INITIAL LICENSE: A[nannual] license is issued[for a one-	
		annual inspection survey its desire
		to renew the license for another year.
		A denial of an initial or renewal
		application may only occur pursuant to 8.9.4.12 NMAC.
		10 0.0.7.12 HI I/10.
Explanatory Statement		

ECECD modified the proposed language to address public comments. Public comments expressed concern that the phrase "in compliance with all applicable rules and regulations" granted the licensing authority the ability to revoke a license if a facility was out of compliance with any regulation, regardless of the severity or status of corrective actions. The final adopted language acknowledges that a child care provider's license will remain valid if the provider has been granted a waiver or variance of that rule by ECECD or has entered into a plan of correction during their annual inspection. Additionally, the amended language states that any adverse action for a child care provider who is not in compliance with applicable rules, including non-renewal of a license, will follow the procedures outlined in NMAC 8.9.4.12. This final adopted language is consistent with state law (NMSA § 24-1-5(E)), which states that a license is only renewable "if the department is satisfied that the health facility is in compliance with all rules of the department or, if not in compliance with a rule, has been granted a waiver or variance of that rule by the department pursuant to procedures, conditions and guidelines adopted by rule of the department."

8.9.4.11 A (2)(c)

8.9.4.11 A (2)(c): Licensing

After a second temporary license has been issued, a new application and the required application fee must be submitted within 30 days in order to renew the license for the remainder of that one year period.

8.9.4.11 A (2)(c): Licensing

After a second temporary license has been issued, a new application [and the required application fee] must be submitted within 30 days in order to renew the license for the remainder of that one year period.

8.9.4.11 A (2)(c): Licensing

After a second temporary license has been issued, a new application and the required application fee must be submitted within 30 days in order to renew the license for the remainder of that one year period.

Explanatory Statement

Public comments received identified that this section of the regulation needed to be updated to correctly align with the proposed amendments to remove licensing application fees and requirements for annual licensing renewals.

To address this comment, ECECD has adopted the above final language to modify the language to remove reference to annual licensing renewals.

8.9.4.11 A (3)(a)

8.9.4.11 A (3)(a): Licensing

A child care facility will apply to the licensing authority for an amended license in order to change the director. The child care facility must notify the licensing authority within 24 hours after the child care facility becomes aware of the need to name a new director, submit an application (fee \$20) and, if necessary, appoint a temporary acting director with the minimum requirements of a high school diploma or GED and three years of experience. The temporary acting director's appointment is valid for 90 days.

8.9.4.11 A (3)(a): Licensing

A child care facility will apply to the licensing authority for an amended license in order to change the director. The child care facility must notify the licensing authority within 24 hours after the child care facility becomes aware of the need to name a new director[, submit an application (fee \$20)] and, if necessary, appoint a temporary acting director with the minimum requirements of a high school diploma or GED and three years of experience. The temporary acting director's appointment is valid for 90 days.

8.9.4.11 A (3)(a): Licensing

A child care facility will apply to the licensing authority for an amended license in order to change the director. The child care facility must notify the licensing authority within 24 hours after the child care facility becomes aware of the need to name a new director[, submit an application (fee \$20) and, if necessary, appoint a temporary acting director with the minimum requirements of a high school diploma or GED and three years of experience. The temporary acting director's appointment is valid for 90 days.

Current Language	Proposed Language	Final Adopted Language	
Explanatory Statement			
There were no substantive public comments received. ECECD is adopting the proposed amendment.			

8.9.4.11(A)(6)

8.9.4.11(A)(6): Tribal Government License

- (a) Centers and homes operating on sovereign tribal lands are governed and inspected by the federal Tribal Child Care and Development Fund (CCDF) Lead Agency. Therefore, such centers and homes do not require an inspection by the New Mexico licensing authority.
- **(b)** Providers licensed by the Tribal CCDF Lead Agency program must submit the following to obtain licensure from ECECD:
- (i) Licensing application;
- (ii) Proof of Tribal CCDF Lead Agency approval;
- (iii) Annual submission of a letter or memorandum attesting that the Tribal CCDF's programs' director and all staff are in compliance with state, federal or Tribal background check clearances;
- (iv) Annual submission of a list of the director and all staff employed by the Tribal CCDF program, listing each individual staff member's name, date of birth, and home address; and
- (v) W-9 form and supporting documentation, if applicable.

8.9.4.11(A)(6): Tribal Government License

- (a) Centers and homes operating on sovereign tribal lands are governed and inspected by the federal Tribal Child Care and Development Fund (CCDF) Lead Agency. Therefore, such centers and homes do not require an inspection by the New Mexico licensing authority.
- **(b)** Providers licensed by the Tribal CCDF Lead Agency program must submit the following to obtain licensure from ECECD:
- (i) Licensing application;
- (ii) Proof of Tribal CCDF Lead Agency approval;
- (iii) Annual submission of a letter or memorandum attesting that the Tribal CCDF's programs' director and all staff are in compliance with state, federal or Tribal background check clearances;
- (iv) Annual submission of a list of the director and all staff employed by the Tribal CCDF program, listing each individual staff member's name, date of birth, and home address; and
- (v) W-9 form and supporting documentation, if applicable.

8.9.4.11(A)(6): Tribal Government License

- (a) Centers and child care homes operating on sovereign tribal lands are governed and inspected by the agency federal Tribal Child Care and Development Fund (CCDF) Lead Agency, or may maintain status as Tribal head start or early head start. Therefore, such centers and homes do not require an inspection by the New Mexico licensing authority.
- (b) Centers and child care homes governed and inspected by the federal Tribal Child Care and Development Fund (CCDF) Lead Agency, or who maintains status as Tribal head start or early head start, may choose to apply for a Tribal Government License from ECECD.
- (i) A Tribal Government license may be issued for the purposes of receiving child care assistance subsidies through 8.9.3 NMAC.
- centers and licensed homes operating under a Tribal Government license must comply with their sponsoring Tribal Child Care and Development Lead Agency or Tribal head start and early head start requirements, and are not required to be inspected by the New Mexico licensing authority or comply with any other regulations under this part other than 8.9.4.11(A)(6) NMAC.
- operating under a Tribal Government license must comply with their sponsoring Tribal Child Care and Development Lead Agency or Tribal head start and early head start rules and requirements.
- (iv) A Tribal Government license may be revoked if the New Mexico licensing authority is notified by the center or licensed home's Tribal

Current Language	Proposed Language	Final Adopted Language
		Child Care and Development Lead
		agency of the center or home's non-
		compliance with their rules and
		requirements or is notified of a loss
		of Tribal head or early head start
		status.
		(c) Providers (licensed by the
		Tribal CCDF Lead Agency program]
		wishing to receive a Tribal
		Government license must submit
		the following to obtain licensure
		from ECECD:
		(i) Licensing application;
		(ii) Proof of Tribal CCDF Lead
		Agency approval;
		(iii) Annual submission of a letter
		or memorandum attesting that the
		Tribal CCDF's programs' director and all staff are in compliance with
		state, federal or Tribal background
		check clearances;
		(iv) Annual submission of a list
		of the director and all staff employed
		by the [Tribal CCDF program]
		provider, listing each individual staff
		member's name, date of birth, and
		home address; and
		(v) W-9 form and supporting
		documentation, if applicable.
		(d) As an alternative to a Tribal
		Government license, centers and
		homes operating on sovereign tribal
		lands may choose to apply for a
		state license. To receive a state
		license, the center or home must
		follow the full process outlined in
		8.9.4 NMAC and agree to follow and be subject to all the rules and
		requirements of 8.9.4 NMAC.
		TOGALIOTION OF O.O.4 INFINO.
Explanatory Statement		
Public comments from Tribal partners expressed concerns about the lack of clarity related to the tribal		
government license compared with a state license, and with the lack of clarity regarding the requirements that a child care provider on sovereign tribal land would need to follow. ECECD is adopting the above language to		

address those concerns.

8.9.4.11 B		
8.9.4.11 B: Renewal of License	8.9.4.11 B: Renewal of License	8.9.4.11 B: Renewal of License

Current Language

- (1) A licensee will submit a notarized renewal application, indicating the number of stars requested, on forms provided by the licensing authority, along with the required fee, at least 30 days before expiration of the current license. ECECD-approved nationally accredited centers, homes and out of school time programs will submit copies of their current accreditation certificates along with their renewal application. Applications postmarked less than 30 days prior to the expiration date will be considered late and a \$25 late fee must be submitted with the renewal fee.
- (2) All licensed facilities must maintain an original background check eligibility letter for all current employees and applicable volunteers, including a signed statement annually by each staff person certifying that they would or would not be disqualified as a direct provider of care under the most current version of the background checks and employment history verification provisions pursuant to 8.9.6 NMAC. This will include all adults and teenage children living in a family child care or group child care home operated in a private residence. The teenage child's guardian shall sign the annual statement on behalf of the teenage child.
- (3) Upon receipt of a notarized renewal application, the required fee and the completion of an on-site survey, the licensing authority will issue a new license effective the day following the date of expiration of the current license, if the child care facility is in compliance with these regulations.
- (4) If a licensee fails to submit a notarized renewal application with the required fee before the current license expires, the licensing authority may require the agency to

Proposed Language

- f(1) A licensee will submit a notarized renewal application, indicating the number of stars requested, on forms provided by the licensing authority, along with the required fee, at least 30 days before expiration of the current license. **ECECD-approved nationally** accredited centers, homes and out of school time programs will submit copies of their current accreditation certificates along with their renewal application. Applications postmarked less than 30 days prior to the expiration date will be considered late and a \$25 late fee must be submitted with the renewal
- (2) All licensed facilities must maintain an original background check eligibility letter for all current employees and applicable volunteers, including a signed statement annually by each staff person certifying that they would or would not be disqualified as a direct provider of care under the most current version of the background checks and employment history verification provisions pursuant to 8.9.6 NMAC. This will include all adults and teenage children living in a family child care or group child care home operated in a private residence. The teenage child's guardian shall sign the annual statement on behalf of the teenage child.
- (3) Upon receipt of a notarized renewal application, the required fee and the completion of an on-site survey, the licensing authority will issue a new license effective the day following the date of expiration of the current license, if the child care facility is in compliance with these regulations.
- (4) If a licensee fails to submit a notarized renewal application with the required fee before the current license expires, the licensing

Final Adopted Language

- [(1) A licensee will submit a notarized renewal application, indicating the number of stars requested, on forms provided by the licensing authority, along with the required fee, at least 30 days before expiration of the current license. **ECECD-approved nationally** accredited centers, homes and out of school time programs will submit copies of their current accreditation certificates along with their renewal application. Applications postmarked less than 30 days prior to the expiration date will be considered late and a \$25 late fee must be submitted with the renewal
- (2) All licensed facilities must maintain an original background check eligibility letter for all current employees and applicable volunteers, including a signed statement annually by each staff person certifying that they would or would not be disqualified as a direct provider of care under the most current version of the background checks and employment history verification provisions pursuant to 8.9.6 NMAC. This will include all adults and teenage children living in a family child care or group child care home operated in a private residence. The teenage child's guardian shall sign the annual statement on behalf of the teenage child.
- (3) Upon receipt of a notarized renewal application, the required fee and the completion of an on-site survey, the licensing authority will issue a new license effective the day following the date of expiration of the current license, if the child care facility is in compliance with these regulations.
- (4) If a licensee fails to submit a notarized renewal application with the required fee before the current license expires, the licensing

Current Language	Proposed Language	Final Adopted Language
cease operations until all licensing requirements are completed.	authority may require the agency to cease operations until all licensing requirements are completed.]	authority may require the agency to cease operations until all licensing requirements are completed.]
	Explanatory Statement	
There were no substantive public con	nments received. ECECD is adopting th	ne proposed amendment.
8.9.4.11 E		
8.9.4.11 E: Automatic Expiration of License	8.9.4.11 E: Automatic Expiration of License	8.9.4.11 [E] (D): Automatic Expiration of License
A license will expire automatically at midnight on the expiration date noted on the license unless earlier suspended or revoked, or:	A license will expire automatically at midnight on [the expiration date noted on the license unless earlier suspended or revoked, or] the date the following occurs:	A license will expire automatically at midnight on [the expiration date noted on the license unless earlier suspended or revoked, or] the date the following occurs:
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.12 A		
8.9.4.12 A: Licensing Actions and Administrative Appeals	8.9.4.12 A: Licensing Actions and Administrative Appeals	8.9.4.12 A: Licensing Actions and Administrative Appeals
The licensing authority may revoke, suspend, or restrict a license, reduce star status, deny an initial or renewal license application, impose monetary sanctions pursuant to 7.1.8 NMAC put in place conditions of operation, issue a cease and desist letter, impose other sanctions or requirements against a licensee, or reduce to a base level of child care assistance reimbursement a	The licensing authority may revoke, suspend, or restrict a license, reduce star status, deny an initial or renewal license application, impose monetary sanctions pursuant to [7.1.8] 8.370.4 NMAC, put in place conditions of operation, issue a cease and desist letter, impose other sanctions or requirements against a licensee, or reduce to a base level of child care assistance	The licensing authority may revoke, suspend, or restrict a license, reduce star status, deny an initial [or renewal] license application, impose monetary sanctions pursuant to [7.1.8 NMAC] 8.370.4 NMAC, put in place conditions of operation, issue a cease and desist letter, impose other sanctions or requirements against a licensee, or reduce to a base level of child care
licensee who is in receipt of a higher	reimbursement a licensee who is in	assistance reimbursement a

(11) discovery of prior revocations or suspensions that may be considered (11) discovery of prior revocations or when reviewing a facility's application for licensure or license renewal;

assistance reimbursement, for any

of the following reasons:

receipt of a higher than base level of child care assistance reimbursement, for any of the following reasons:

suspensions that may be considered when reviewing a facility's application for licensure or license renewal;

licensee who is in receipt of a higher than base level of child care assistance reimbursement, for any of the following reasons:

(11) discovery of prior revocations or suspensions that may be considered when reviewing a facility's application for licensure.[; or license renewal;]

Explanatory Statement

Public comments received identified this section of the regulation needed to be updated to correctly align with the proposed amendments to remove licensing application fees and requirements for annual licensing renewals. ECECD accepts this comment and will modify the language to remove reference to annual licensing renewals.

Current Language	Proposed Language	Final Adopted Language	
8.9.4.12 A (9)			
8.9.4.12 A (9): Licensing Actions and	8.9.4.12 A (9): Licensing Actions and	8.9.4.12 A (9): Licensing Actions and	
Administrative Appeals	Administrative Appeals	Administrative Appeals	
failure to comply with provisions of	failure to comply with provisions of	failure to comply with provisions of	
the other related regulations listed in	the other related regulations listed [the other related regulations listed [
these regulations;	in these regulations] <mark>herein</mark> ;	in these regulations] herein;	
Evalenatory Statement			

Explanatory Statement

There were no substantive comments received. ECECD is adopting the proposed amendment.

8.9.4.12 C

Current Language	Proposed Language	Final Adopted Language
8.9.4.12 C: Licensing Actions and	8.9.4.12 C: Licensing Actions and	8.9.4.12 C: Licensing Actions and
Administrative Appeals	Administrative Appeals	Administrative Appeals
A suspension, revocation, or	A suspension, revocation, or	A suspension, revocation, or
•	1	•
conditions of operations imposed	conditions of operations imposed	conditions of operations imposed
pursuant to Subsection A of this	pursuant to Subsection A of this	pursuant to Subsection A of this
Section may take effect immediately	Section may take effect immediately	Section may take effect immediately
if in the discretion of the department	if in the discretion of the	if in the discretion of the
that the health, safety or welfare of a	department[that], the health, safety	department[that] <mark>,</mark> the health, safety
child is at risk, or has reason to	or welfare of a child is at risk, or the	or welfare of a child is at risk[, or has
believe that the caregiver cannot	department has reason to believe	reason to believe that the caregiver
reasonably safeguard the health and	that the caregiver cannot reasonably	cannot reasonably safeguard the
safety of children.	safeguard the health and safety of	health and safety of children].
	children.	
F Charles and		

Explanatory Statement

Due to public comments expressing concern regarding the existing "reason to believe" language, this language has been removed from the final adopted rule. The remaining language is current existing language, and is consistent with NMSA 1978, Section 24-1-5.

8.9.4.17 E

Current Language	Proposed Language	Final Adopted Language
8.9.4.17 E: Surveys for Child Care Facilities By applying for either a new license or a license renewal, the licensee grants the licensing authority representative the right to enter the premises and survey the child care facility, including inspection and	8.9.4.17 E: Surveys for Child Care Facilities By applying for either a new license or a license renewal, the licensee grants the licensing authority representative the right to enter the premises and survey the child care facility, including inspection and copying of child care facility records, both while the application is being processed and, if licensed, at any time during the licensure period.	8.9.4.17 E: Surveys for Child Care Facilities By applying for either a new license, or a license renewal, the licensee grants the licensing authority representative the right to enter the premises and survey the child care facility, including inspection and
copying of child care facility records, both while the application is being processed and, if licensed, at any time during the licensure period.		copying of child care facility records, both while the application is being processed and, if licensed, at any time during the licensure period.
Explanatory Statement		

Current Language

Proposed Language

Final Adopted Language

Public comments received identified this section of the regulation needed to be updated to correctly align with the proposed amendments to remove licensing application fees and requirements for annual licensing renewals. ECECD accepts these comments and will modify the language to remove reference to annual licensing renewals.

8.9.4.19 A

8.9.4.19 A: Background Checks

the staff member was found eligible as a direct provider of care in a child care center,

licensed child care, home licensed group home, or registered home within the past five years and has not been separated from employment for more than 180 days; and

8.9.4.19 A: Background Checks

the staff member was found eligible as a direct provider of care in a child care center, licensed child care[,-] home, licensed group home, or registered home within the past five years and has not been separated from employment for more than 180 days; and

8.9.4.19 A: Background Checks

the staff member was found eligible as a direct provider of care in a child care center, licensed child care[,] home, licensed group home, or registered home within the past five years and has not been separated from employment for more than 180 days; and

Explanatory Statement

There were no substantive comments received. ECECD is adopting the proposed amendment.

8.9.4.21 A (1)

8.9.4.21 A (1): Licensure Requirements for Centers

APPLICATION FORM: An applicant will complete an application form provided by the licensing authority and include payment for the nonrefundable application fee. Applications will be rejected unless all supporting documents are received within six months of the date indicated on the application. A 45 day extension will be granted if the licensee provides documentation to the licensing authority that documents were submitted to the appropriate agencies in a timely manner but, through no fault of their own, they have not received responses from these agencies.

8.9.4.21 A (1): Licensure Requirements for Centers

APPLICATION FORM: An applicant [will] shall complete an application form provided by the licensing authority and include payment for the non-refundable application fee]. Applications will be rejected unless all supporting documents are received within six months of the date indicated on the application. A 45[-]-day extension will be granted if the licensee provides documentation to the licensing authority that documents were submitted to the appropriate agencies in a timely manner but, through no fault of their own, they have not received responses from these agencies.

8.9.4.21 A (1): Licensure Requirements for Centers

APPLICATION FORM: An applicant [will] shall complete an application form provided by the licensing authority and include payment for the non-refundable application fee]. Applications will be rejected unless all supporting documents are received within six months of the date indicated on the application. A 45[-]-day extension will be granted if the licensee provides documentation to the licensing authority that documents were submitted to the appropriate agencies in a timely manner but, through no fault of their own, they have not received responses from these agencies.

Explanatory Statement

There were no substantive comments received. ECECD is adopting the proposed amendment.

8.9.4.21 A (3)

8.9.4.21 A (3): Licensure Requirements for Centers

ZONING, BUILDING, AND OTHER APPROVALS: An applicant will have: current written finalized zoning

8.9.4.21 A (3): Licensure Requirements for Centers

ZONING, BUILDING, AND OTHER APPROVAL: An applicant [will] shall have the following:

8.9.4.21 A (3): Licensure Requirements for Centers

ZONING, BUILDING, AND OTHER APPROVAL: An applicant [will] shall have the following:

Current Language Proposed Language Final Adopted Language approval from the appropriate city, county or state authority; current (a) current written finalized zoning (a) current written finalized zoning written building approval, such as a approval from the appropriate city, approval from the appropriate city, certificate of occupancy, from the county or state authority; county or state authority; appropriate city, county or state (b) current written building approval, (b) current written building approval, authority; current written approval of such as a certificate of occupancy, such as a certificate of occupancy, the state fire marshal office or other from the appropriate city, county or from the appropriate city, county or appropriate city, county or state firestate authority; state authority; prevention authority; current written (c) current written approval of the (c) current written approval of the approval from the New Mexico state fire marshal office or other state fire marshal office or other environment department or other appropriate city, county or state fireappropriate city, county or state fireenvironmental health authority for: prevention authority; prevention authority; (a) a kitchen, if meals are prepared (d) current written approval from the (d) current written approval from the on site and served in the center; New Mexico environment New Mexico environment department or other environmental (b) private water supply, if department or other environmental health authority for: health authority for: applicable; (c) private waste or sewage disposal, f(a) (i) a kitchen, if meals are f(a) (i) a kitchen, if meals are if applicable; and prepared on site and served in the prepared on site and served in the (d) a swimming pool, if applicable. center: center: [(b)] (ii) private water supply, if [(b)] (ii) private water supply, if applicable; applicable; (c) (iii) private waste or sewage f(c) (iii) private waste or sewage disposal, if applicable; and disposal, if applicable; and {(d)} (iv) a swimming pool, if {(d)} (iv) a swimming pool, if applicable. applicable.

Explanatory Statement

Some public comments expressed concern about zoning and other requirements that allow home-based providers to operate in neighborhoods. Amendments proposed here are non-substantive. ECECD will adopt the language as proposed.

8.9.4.21 B (4)(a)

8.9.4.21 B (4)(a): Capacity of Centers | 8.9.4.21 B (4)(a): Capacity of Centers | 8.9.4.21 B (4)(a): Capacity of Centers

35 square feet of indoor activity space measured wall to wall on the inside for each child in a center, excluding single-use areas, such as restrooms, kitchens, halls and storage areas, and excluding offsets and built-in fixtures.

35 square feet of indoor activity space measured wall to wall on the inside for each child in a center. excluding single-use areas, such as restrooms, kitchens, halls and storage areas, and excluding offsets and built-in fixtures. The number of children allowed in a center is also limited by the group size regulations, regardless of available square <mark>footage.</mark>

35 square feet of indoor activity space measured wall to wall on the inside for each child in a center, excluding single-use areas, such as restrooms, kitchens, halls and storage areas, and excluding offsets and built-in fixtures.

Explanatory Statement

ECECD received comments expressing concerns about the potential loss of capacity, limited enrollment, and staffing and scheduling burdens to maintain compliance during opening and closing hours when mixed-age groups are often necessary. To address these concerns ECECD is not adopting the proposed amendment.

8.9.4.22 C

8.9.4.22 C: Policy and Procedures 8.9.4.22 C: Policy and Procedures 8.9.4.22 C: Policy and Procedures

Current Language	Proposed Language	Final Adopted Language
Current Language	Fioposed Language	Tillat Adopted Language
All facilities using these regulations must have written policies and procedures covering the following areas:	[All facilities using these regulations must have written policies and procedures covering the following areas:] All facilities operating under these regulations are required to establish, implement, and adhere to written policies and procedures. These documents must be clearly dated to indicate when they were created and must be updated to reflect any revisions. Whenever policies or procedures are amended, the facility shall update the revision, date it, provide the revised documents for review and approval from the licensing authority and thereafter parental review and signature. The finalized and approved updates of the written policy and procedures must be submitted to the licensing authority for recordkeeping and compliance purposes. The licensing authority shall have the right to review and enforce the facility's written policies and procedures through all means set forth in these regulations. The	[All facilities using these regulations must have written policies and procedures covering the following areas:] All facilities operating under these regulations are required to establish, implement, and adhere to written policies and procedures. These documents must be clearly dated to indicate when they were created and must be updated to reflect any revisions. Whenever policies or procedures are amended, the facility shall update the revision and date it. The written policies and procedures must cover the following areas:
	written policies and procedures	
	must cover the following areas:	
	Explanatory Statement	
policies and procedures in centers is been amended to create clarity by foc	guage to address concerns raised in punecessary to maintain health and safe tusing on the core purpose of changes here to, and document any changes to equitable access to services.	ty. The final adopted language has to this section – requiring child care
8.9.4.22 C (6)		
. ,	8.9.4.22 C (6): Policy and Procedures	8.9.4.22 C (6): Policy and Procedures
policies and procedures for actions to be taken in case a child is found missing from the center;	policies and procedures for actions to be taken in case[a] child <mark>ren</mark> [is] <mark>are</mark> [found] <u>discovered unattended or</u> missing from the center;	policies and procedures for actions to be taken in case[a] child <mark>ren</mark> [is] <mark>are</mark> [found] discovered unattended or from the center;
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.22 D		
8.9.4.22 D: Family Handbook	8.9.4.22 D: Family Handbook	8.9.4.22 D: Family Handbook

	_			
Current Language	Proposed Language	Final Adopted Language		
All facilities using these regulations	All facilities [using] operating under	All facilities [using] operating under		
must have a parent handbook. Upon		these regulations must have a		
updating the family handbook,	[parent] <mark>family handbook</mark> . Upon	[parent] <mark>family handbook</mark> . Upon		
changes must be approved and	updating the family handbook,	updating the family handbook,		
submitted to the licensing authority.	changes must be approved and	changes must be approved and		
After any changes, notice must be	submitted to the licensing authority.	submitted to the licensing authority.		
sent out to families, parents, or	After any changes, notice must be	After any changes, notice must be		
guardians and posted in a common	sent out to families, parents, or	sent out to families, parents, or		
area. The handbook will include the	guardians and posted in a common	guardians and posted in a common		
following:	area. The handbook [will] <mark>shall</mark>	area. The handbook [will] <mark>shall</mark>		
	include the following:	include the following:		
	Explanatory Statement			
	aised concerns with proposed change			
	n other sections of the regulation. This	section provides a minor update to		
language and terms. ECECD is adopti	ng the proposed amendments.			
8.9.4.22 D(1)(d)				
8.9.4.22 D(1)(d): Family Handbook;	8.9.4.22 D(1)(d): Family Handbook;	8.9.4.22 D(1)(d): Family Handbook;		
General Information	General Information	` ',` '		
General mormation	General information	General Information		
name of director and how he/she	name of director and [how he/she	name of director and [how he/she		
may be reached;	may be reached] their contact	may be reached] their contact		
	information;	information;		
	Explanatory Statement			
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.		
8.9.4.22 E		8.9.4.22 E		
8.9.4.22 E: Children's Records	8.9.4.22 E: Children's Records	8.9.4.22 E: Children's Records		
A center will maintain a complete	A center [will] <mark>shall</mark> maintain a	A center [will] <mark>shall</mark> maintain a		
A center will maintain a complete record for each child, including	A center [will] shall maintain a complete record for each child,	A center [will] <mark>shall</mark> maintain a complete record for each child,		
A center will maintain a complete record for each child, including drop-ins, completed before the child	A center [will] shall maintain a complete record for each child, including drop-ins, completed	A center [wilt] shall maintain a complete record for each child, including drop-ins, completed		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted.	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted.		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance.	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance.	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance.		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance.	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least:	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least:	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least:		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least:	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least:		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments 8.9.4.22 E(1)(h)	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement received. ECECD is adopting the prop	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: osed amendment.		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least:		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments 8.9.4.22 E(1)(h)	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement received. ECECD is adopting the prop	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: osed amendment. 8.9.4.22 E(1)(h): Children's Records		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments 8.9.4.22 E(1)(h) 8.9.4.22 E (1)(h): Children's Records written authorization from the	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement received. ECECD is adopting the prop 8.9.4.22 E(1)(h): Children's Records written authorization from the	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: osed amendment. 8.9.4.22 E(1)(h): Children's Records written authorization from the child's		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments 8.9.4.22 E(1)(h) 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement received. ECECD is adopting the prop 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: osed amendment. 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove a child		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments 8.9.4.22 E(1)(h) 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove a child from the premises to	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement received. ECECD is adopting the prop 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove a child from the premises to	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: osed amendment. 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove a child from the premises to participate in		
A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for 12 months after the child's last day of attendance. Records will contain at least: There were no substantive comments 8.9.4.22 E(1)(h) 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: Explanatory Statement received. ECECD is adopting the prop 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove	A center [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [will] shall be kept at the center for 12 months after the child's last day of attendance. Records [will] shall contain at least: osed amendment. 8.9.4.22 E(1)(h): Children's Records written authorization from the child's parent or guardian to remove a child		

destination, date and time of

activity destination, date and time of destination, date and time of

Current Language	Proposed Language	Final Adopted Language	
fieldtrip and expected return time	[fieldtrip] activity and expected	[fieldtrip] activity and expected	
from fieldtrip;	return time from [fieldtrip] <u>activity</u> ;	return time from [fieldtrip] <u>activity</u> ;	
Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4.22 E(1)(l)			
8.9.4.22 E (1)(l): Children's Records	8.9.4.22 E(l): Children's Records	8.9.4.22 E(l): Children's Records	
a signed acknowledgment that the	a signed acknowledgment that the	a signed acknowledgment that the	
parent or guardian has read and	parent or guardian has read and	parent or guardian has read and	
understands the parent handbook.	understands the [parent] family	understands the [parent] family	
and ordering the parent handbook.	handbook.	handbook.	
	Explanatory Statement		
There were no substantive comments		posed amendment.	
8.9.4.22 F(1)			
8.9.4.22 F(1): Personnel Records	8.9.4.22 F (1): Personnel Records	8.9.4.22 F (1): Personnel Records	
6.9.4.22 F (1). Fersonnet necolds	6.9.4.22 F (1). Personnet necords	6.9.4.22 F (1). Fersonnet Necolds	
A licensee will keep a complete file	A licensee [will] <mark>shall</mark> keep <mark>and</mark>	A licensee [will] <mark>shall</mark> keep <mark>and</mark>	
for each staff member, including	maintain a complete up-to-	maintain a complete up-to-	
substitutes and volunteers working	date file in ECECD's	date file in ECECD's	
more than six hours of any week and	professional development	professional development	
having direct contact with the	information system (PDIS), for	information system (PDIS), for	
children. A center will keep the file	each staff member, including	each staff member, including	
for one year after the staff member's	substitutes and volunteers	substitutes and volunteers	
last day of employment. Records	working more than six hours of	working more than six hours of	
will contain at least the following:	any week and having direct	any week and having direct	
(a) name, address and telephone	contact with the children. [A	contact with the children. [A	
number;	center will keep the file for one	center will keep the file for one	
(b) position;	year after the staff member's	year after the staff member's	
(c) current and past duties and	last day of employment.] If the	last day of employment.] If the	
responsibilities;	center chooses to retain	center chooses to retain	
(d) dates of hire and termination;	duplicate physical copies of	duplicate physical copies of	
(e) documentation of a background	these records, these records	these records, these records	
check and employment history	shall be stored in a secure	shall be stored in a secure	
verification; if background check is	location for the privacy of the	location for the privacy of the	
in process then documentation of	staff members. New	staff members. New	
the notice of provisional	information shall be updated	information shall be updated	
-	in a timely manner in PDIS.	in a timely manner in PDIS.	
employment showing that it is in	Providers will have six months	Providers will have six months	
process, must be placed in file. A	I variable to the second of th		
background check must be	to comply from the date these	to comply from the date these	
conducted at least once every five	regulations are promulgated.	regulations are promulgated.	
years on all required individuals;	Records [will] shall contain at	Records [will] shall contain at	
(f) an annual signed statement that	[least] a minimum the	[least] <u>a minimum</u> the	
the staff member would or would	following:	following:	
not be disqualified as a direct	(a) name, address and telephone	(a) name, address and telephone	
provider of care under the most	number;	number;	
current version of the background	(b) position;	(b) position;	
checks and employment history	(c) current and past duties and	(c) current and past duties and	
	responsibilities;	responsibilities;	

Current Language	Proposed Language	Final Adopted Language
verification provisions pursuant to	(d) dates of hire and termination;	(d) dates of hire and termination;
8.9.6 NMAC;	(e) documentation of a background	(e) documentation of a background
(g) documentation of current first-	check and employment history	check and employment history
aid and cardiopulmonary	verification; if background check is	verification; if background check is
resuscitation training;	in process then documentation of	in process then documentation of
(h) documentation of all appropriate	the notice of provisional	the notice of provisional
training by date, time, hours and	employment showing that it is in	employment showing that it is in
area of competency;	process, must be placed in file. A	process, must be placed in file. A
(i) emergency contact number;	background check must be	background check must be
(j) universal precaution	conducted at least once [every five	conducted at least once [every five
acknowledgment form;	years] per five year interval on all	years] per five year interval on all
(k) confidentiality form;	required individuals;	required individuals;
(l) results of performance	(f) an annual signed statement that the staff member would or would	(f) an annual signed statement that the staff member would or would
evaluations;		
(m) administrative actions or	not be disqualified as a direct	not be disqualified as a direct
reprimands;	provider of care under the most	provider of care under the most
n) written plan for ongoing	current version of the background	current version of the background
professional development for each	checks and employment history	checks and employment history
educator, including the director, that		verification provisions pursuant to
s based on the seven areas of	8.9.6 NMAC;	8.9.6 NMAC;
competency, consistent with the	(g) documentation of current first-	(g) documentation of current first-
career lattice, and based on the	aid and cardiopulmonary	aid and cardiopulmonary
ndividual's goals; and	resuscitation training;	resuscitation training;
(o) signed acknowledgment that the	(h) documentation of all appropriate	(h) documentation of all appropriate
staff have read and understand the	training by date, time, hours and	training by date, time, hours and
personnel handbook;	area of competency;	area of competency;
(p) signed acknowledgement that all	(i) emergency contact number;	(i) emergency contact number;
staff have reviewed and are aware of	(j) universal precaution	(j) universal precaution
the center's disaster preparedness	acknowledgment form;	acknowledgment form;
olan and evacuation plan; and	(k) confidentiality form;	(k) confidentiality form;
q) form I-9, employment eligibility	(l) results of performance	(l) results of performance
verification.	evaluations;	evaluations <mark>(shall be maintained</mark>
	(m) administrative actions or	outside of PDIS);
	reprimands;	(m) administrative actions or
	(n) written plan for ongoing	reprimands (shall be maintained
	professional development for each	outside of PDIS);
	educator, including the director, that	(n) written plan for ongoing
	is based on the seven areas of	professional development for each
	competency, consistent with the	educator, including the director, tha
	department's career lattice, and	is based on the seven areas of
	based on the individual's goals; and	competency, consistent with the
	(o) signed acknowledgment that the	[department's] career lattice, and
	staff have read and understand the	based on the individual's goals; and
	personnel handbook;	(o) signed acknowledgment that the
	(p) signed acknowledgement that all	staff have read and understand the
	staff have reviewed and are aware of	personnel handbook;
	the center's disaster preparedness	(p) signed acknowledgement that al
	plan and evacuation plan; and	staff have reviewed and are aware o
	(q) [form I-9, employment eligibility	the center's disaster preparedness
	verification.] hourly rate of pay.	plan and evacuation plan[; and
	1.5outioning the or pay.	p.a and oracadion plant, and

Current Language	Proposed Language	Final Adopted Language
		(q) form I-9, employment eligibility verification]
	Explanatory Statement	
Professional Development Informati language so that reporting hourly rate Other public comments expressed of maintaining I-9 forms for employees	iscomfort with the proposed requireme on System, primarily due to privacy conce of pay will not be required for the purp pposition to the deletion of the I-9 form is a federal requirement. Providers are rot all laws providers must comply with a should not be uploaded into that system	cerns. ECECD has modified the oses of licensing. as a required personnel record, as esponsible for complying with all re listed in these regulations. An I-9 is
		runder this section. Therefore,
ECECD will maintain the deletion of Some public comments expressed of "consistent with the department's caunavailable at this time. To address to original language.		fessional development plan tice from the department was
ECECD will maintain the deletion of Some public comments expressed of "consistent with the department's caunavailable at this time. To address to original language. 8.9.4.23 A(9)	the I-9 form. onfusion with the requirement for a property of the property of the property of the proposed that proposed the proposed the proposed of the proposed the proposed of the propos	fessional development plan tice from the department was
ECECD will maintain the deletion of Some public comments expressed of "consistent with the department's ca	the I-9 form. onfusion with the requirement for a property of the property of the property of the proposed that proposed the proposed the proposed of the proposed the proposed of the propos	fessional development plan tice from the department was d language and will revert to the

will be onsite, available and outside the facility. Staff will be responsive to children during all onsite, available and responsive to hours of operation. All educators children during all hours of shall perform head counts at regular operation. All educators shall intervals throughout the day. perform head counts at regular intervals throughout the day.

will be onsite, available and responsive to children during all hours of operation. All educators shall perform head counts at regular intervals throughout the day.

Explanatory Statement

Concerns regarding this proposed amendment were expressed by the public. Concerns include reduced flexibility in grouping children and with financing. To address these concerns, ECECD is not adopting the

proposed amendment. 8.9.4.23 B(2)(a)(xi)		
parent handbook;	[parent] <mark>family</mark> handbook;	[parent] <mark>family</mark> handbook;
	Explanatory Statement	
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.23 B(2)(b)(xii)		
8.9.4.23 B (2)(b)(xii): Training	8.9.4.23 B (2)(b)(xii): Training	8.9.4.23 B (2)(b)(xii): Training
a child development course that addresses all major domains of	a child development course that addresses all major domains of child	a child development course that addresses all major domains of child

Current Language	Proposed Language	Final Adopted Language
child development, including	development, including cognitive,	development, including cognitive,
cognitive, social emotional, physical	social emotional, physical	social emotional, physical
development and approach to	development and approach to	development and approach to
learning as defined by the federal	learning as defined by the federal	learning as defined by the federal
Child Care and Development Fund	Child Care and Development Fund	Child Care and Development Fund
(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title-
45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-
98.98.44.b.ii), or approved three-	98.98.44.b.ii)] in 45 CFR § 98.44	98.98.44.b.ii)] in 45 CFR § 98.44
credit early care and education	Training and Professional	Training and Professional
course or an equivalent approved by	development, or approved three-	development, or approved three-
the department.	credit early care and education	credit early care and education
	course or an equivalent approved by	course or an equivalent approved by
	the department.	the department.
This change provides a non substanti	Explanatory Statement	aing raquiraments in the Child Care
	ve update to the citation of federal train register. ECECD will adopt the propose	
and Bovotopinoner and in the reactat	rogistor. EGEOD will ddopt the proposi	a dinonament.
Some public comments recommende	ed the requirement or incentivization o	f additional training in evidence-
based social-emotional learning and	inclusive practices. ECECD will not rec	uire additional training at this time.
8.9.4.24 C(13)		
8.9.4.24 C (13): Services and Care of	8.9.4.24 C (13): Services and Care of	8.9.4.24 C (13): Services and Care of
Children in Centers – Additional	Children in Centers – Additional	Children in Centers – Additional
Requirements for Infants and	Requirements for Infants and	Requirements for Infants and
Toddlers	Toddlers	Toddlers
Infants shall either be held or fed	Infants shall either be held or fed	Infants shall either be held or fed
sitting up for bottle-feeding. Infants unable to sit shall always be held for	sitting up for bottle-feeding. Infants unable to sit shall always be held for	sitting up for bottle-feeding. Infants unable to sit shall always be held for
bottle-feeding. Infants and toddlers	bottle-feeding. Infants and toddlers	bottle-feeding. Infants and toddlers
shall not be placed in a laying	shall not be placed in a	shall not be placed in a
position while drinking bottles or	[laying]supine position while	[laying] <mark>supine</mark> position while
sippy cups. The carrying of bottles	drinking via bottles or sippy cups.	drinking via bottles or sippy cups.
and sippy cups by young children	The carrying of bottles and sippy	The carrying of bottles and sippy
throughout the day or night shall not	cups by young children throughout	cups by young children throughout
be permitted.	the day or night shall not be	the day or night shall not be
	permitted.	permitted.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.24 E(3)		
N/A – New text	8.9.4.24 E (<u>3)</u> : Additional	8.9.4.24 E <mark>(3)</mark> : Additional
	Requirements for Children with	Requirements for Children with
	Special Needs	Special Needs
	Providers must comply with all	Providers must comply with all state
	state and federal laws to	and federal laws to include children
	include children with disabilities. Providers must	with disabilities. Providers must allow children with disabilities who
	allow children with disabilities	receive early intervention services to
	who receive early intervention	be served in accordance with the
	who receive early intervention	De served in accordance with the

Current Language	Proposed Language	Final Adopted Language
	services to be served in	child's individualized family service
	accordance with the child's	plan (IFSP) and allow ECECD Family,
	individualized family service	Infant Toddler (FIT) providers access
	plan (IFSP). Providers must	to the center to provide services
	allow ECECD Family, Infant,	pursuant to the child's individualized
	Toddler (FIT) providers access to	family service plan (IFSP) unless the
	the center to provide services	provider documents with the
	pursuant to the child's IFSP.	department that the inclusion of
		each individual disabled child's
		services is not required pursuant to
		the applicable state or federal law.
		Providers may require FIT providers
		to sign and agree to standard center
		policies and procedures. Providers
		may temporarily exclude a FIT
		provider from their facility in cases in
		which their presence has caused a
		temporary undue burden or undue
		hardship as defined by the
		applicable state or federal law.
		Providers who temporarily exclude a
		FIT provider must provide detailed
		written notification of reason for the
		exclusion to the department within
		48 hours.
	Evalonatory Statement	

ECECD modified the proposed language to highlight the alignment between the regulation changes and federal and state laws. To address some concerns raised by public comment, ECECD modified the proposed language to clarify that child care providers may require early intervention providers to sign and agree to standard policies and procedures for the child care program, and that child care providers may temporarily exclude early intervention service providers from their facility if the presence of the early intervention provider has caused a temporary undue burden or undue hardship, as defined by the applicable federal or state law. If a child care provider temporarily excludes an early intervention service provider from their facility, then the child care provider must provide a written notification within 48 hours to ECECD with a detailed reason for the exclusion.

provide a written notification within 48 hours to ECECD with a detailed reason for the exclusion.		
8.9.4.24 G(1)		
8.9.4.24 G (1): Physical Environment	8.9.4.24 G (1): Physical Environment	8.9.4.24 G (1): Physical Environment
Environment shall be organized into age appropriate functional identifiable learning areas.	Environment shall be organized into age[-]-appropriate functional, and identifiable learning areas.	Environment shall be organized into age[-]-appropriate functional, and identifiable learning areas.
	Explanatory Statement	
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.24 I(11)		
8.9.4.24 I (11): Equipment and Program	8.9.4.24 I (11): Equipment and Program	8.9.4.24 I (11): Equipment and Program
Full-time children shall have a minimum of 60 minutes of physical activity daily, weather permitting,	[Full-time c]Children in full time care shall have a minimum of 60 minutes of physical activity daily, weather	[Full-time c]Children in full time care shall have a minimum of 60 minutes of physical activity daily, weather

Current Language	Proposed Language	Final Adopted Language
preferably outside. Part-time	permitting, preferably outside.	permitting, preferably outside.
children shall have a minimum of 30	[Part-time c] <mark>C</mark> hildren <u>in part time</u>	[Part-time c] <mark>C</mark> hildren <u>in part time</u>
minutes of physical activity daily,	care shall have a minimum of 30	care shall have a minimum of 30
preferably outside. The center will	minutes of physical activity daily,	minutes of physical activity daily,
ensure drinking water is available	preferably outside. The center [will]	preferably outside. The center [will]
and maintained at a cool	shall ensure drinking water is	shall ensure drinking water is
temperature while playing outside.	available and maintained at a cool	available and maintained at a cool
	temperature while playing outside.	temperature while playing outside.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.24 J(3)		
8.9.4.24 J (3): Outdoor Play Areas	8.9.4.24 J (3): Outdoor Play Areas	8.9.4.24 J (3): Outdoor Play Areas
TABLE, ROW 2, COLUMN 2	TABLE, ROW 2, COLUMN 2	TABLE, ROW 2, COLUMN 2
s inches	[s] 6	[s] 6
	inches	inches
	Explanatory Statement	
	received. ECECD is adopting the prop	osed amendment.
8.9.4.24 J(7)		
8.9.4.24 J (7): Outdoor Play Areas	8.9.4.24 J (7): Outdoor Play Areas	8.9.4.24 J (7): Outdoor Play Areas
, ,		
Children shall be protected from the	Children shall be protected from the	Children shall be protected from the
sun during outdoor play by providing	sun during outdoor play by providing	sun during outdoor play by providin
shade (as necessary), sunscreen,	shade (as necessary), sunscreen (as	shade (as necessary), sunscreen <mark>(a</mark>
proper attire and limiting the time of	permitted by parent, family or	permitted by parent, family or
exposure to the elements. The	guardian), proper attire and limiting	guardian), proper attire and limiting
center must also consider	the time of exposure to the	the time of exposure to the
instructions by the child's parent or	elements. The center must also	elements. The center must also
guardian.	consider additional instructions by	consider additional instructions by
	the child's parent or guardian.	the child's parent or guardian.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.24 K(2)		
N/A – New text	8.9.4.24 K (2): Swimming, Wading	8.9.4.24 K (2): Swimming, Wading
	and Water	and Water
	Children shall be constantly	Children shall be constantly
	supervised while swimming, wading,	supervised while swimming, wading
	or in or near, and the number of	or in or near, and the number of
	adults present must be proportional	adults present must be proportiona
	to the ages and abilities of the	to the ages and abilities of the
	children and type of water hazard in	children and type of water hazard in
	use.	use.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.

Current Language	Proposed Language	Final Adopted Language	
8.9.4.24 K(3)(c)	8.9.4.24 K(4)	8.9.4.24 K(4)	
(c)when in use, children will be	[(c) when in use, children will be	[(c) when in use, children will be	
constantly supervised and the	constantly supervised and the	constantly supervised and the	
number of adults present will be	number of adults present will be	number of adults present will be	
proportional to the ages and abilities	proportional to the ages and abilities	proportional to the ages and abilities	
of the children and type of water	of the children and type of water	of the children and type of water	
hazard in use.	hazard in use.]	hazard in use.]	
	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.25 A			
8.9.4.25 A: Food Service	8.9.4.25 A: Food Service	8.9.4.25 A: Food Service	
Requirements for Centers	Requirements for Centers	Requirements for Centers	
MEAL PATTERN REQUIREMENTS: All	MEAL PATTERN REQUIREMENTS: All	MEAL PATTERN REQUIREMENTS: All	
foods prepared by the center will	foods prepared by the center [will]	foods prepared by the center [will]	
conform to the guidelines from	shall conform to the guidelines from	shall conform to the guidelines from	
United States department of	United States [d]Department of	United States [d]Department of	
agriculture's (USDA's) child and	[a] <mark>A</mark> griculture's (USDA's) [c] <mark>C</mark> hild	[a] <mark>A</mark> griculture's (USDA's) [c] <mark>C</mark> hild	
adult care food program (CACFP) for	and [a] <mark>A</mark> dult [c] <mark>C</mark> are [f]Food	and [a] <mark>A</mark> dult [c] <mark>C</mark> are [f]Food	
foods, meal patterns and serving	[p]Program (CACFP) for foods, meal	[p]Program (CACFP) for foods, meal	
sizes.	patterns and serving sizes.	patterns and serving sizes.	
	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.25 B(4)			
8.9.4.25 B (4): Meals and Snacks	8.9.4.25 B (4): Meals and Snacks	8.9.4.25 B (4): Meals and Snacks	
Parents of children who have special	Parents or guardians of	Parents <u>or guardians</u> of	
dietary needs may provide written	children who have special	children who have special	
	-	dietary needs may provide	
permission to the child care program	dietary needs may provide	J .	
to exempt their child from the following requirements if necessary	written permission to the child care program to exempt their	written permission to the child	
		care program to exempt their	
due to such special dietary needs.	child from the following	child from the following	
	requirements if necessary[-due	requirements if necessary[-due	
	to such special dietary needs].	to such special dietary needs].	
	Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4.25 B(4)(a)			
8.9.4.25 B (4)(a): Meals and Snacks	8.9.4.25 B (4)(a): Meals and Snacks	8.9.4.25 B (4)(a): Meals and Snacks	
One hundred percent or vegetable	One hundred percent <mark>fruit</mark> or	One hundred percent <mark>fruit</mark> or	
juice may be diluted with water.	vegetable juice may be diluted with	vegetable juice may be diluted with	
	water.	water.	
Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.			

Current Language	Proposed Language	Final Adopted Language
8.9.4.28 A		
8.9.4.28 A: Transportation	8.9.4.28 A: Transportation	8.9.4.28 A: Transportation
Requirements	Requirements	Requirements
When a center provides	When a center provides	When a center provides
transportation to children, it is	transportation to children, it is	transportation to children, it is
responsible for the care of children	responsible for the care of children	responsible for the care of children
from the time of pick up to delivery	from the time of pick up to the time	from the time of pick up to the time
to a responsible adult.	of delivery to a responsible adult	of delivery to a responsible adult
·	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.29 B(1-2)		
8.9.4.29 B (1-2): Pest Control	8.9.4.29B (1-2): Pest Control	8.9.4.30B (1-2): Pest Control
(1) All licensed child care centers	(1) All licensed child care	(1) All licensed child care
must use a New Mexico licensed	centers must use a New Mexico	centers must use a New Mexico
applicator whenever applying	licensed [applicator] pest	licensed [applicator] pest
pesticides on the center's buildings	control professional whenever	control professional whenever
or grounds.	applying pesticides on the	applying pesticides on the
(2) The licensed applicator may not	center's buildings or grounds.	center's buildings or grounds.
apply pesticides when children are	(2) The licensed	(2) The licensed
on the premises.	[applicator] pest control	[applicator] pest control
	professional may not	professional may not
	apply pesticides when	apply pesticides when
	children are on the	children are on the
	premises.	premises.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.29 C(3)		
8.9.4.29 C (3): Mechanical Systems	8.9.4.29 C (3): Mechanical Systems	8.9.4.29 C (3): Mechanical Systems
A center will not use un-vented	A center [will] <mark>shall</mark> not use[-un-	A center [will] shall not use[- un-
heaters, open flame heaters or	vented] heaters without vents, open	vented] heaters without vents, open
portable heaters. A center will	flame heaters or portable heaters. A	flame heaters or portable heaters. A
install barriers or take other steps to	center [will] shall install barriers or	center [will] <mark>shall</mark> install barriers or
ensure heating units are	take other steps to ensure heating	take other steps to ensure heating
inaccessible to children.	units are inaccessible to children.	units are inaccessible to children.
Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.29 G(4)(b-c)		
8.9.4.29 G (4)(b-c): Toilet and Bathing Facilities	8.9.4.29 G (4)(b-c): Toilet and Bathing Facilities	8.9.4.29 G (4)(b-c): Toilet and Bathing Facilities
(b) two toilets and two lavatories for 13 through 25 children;	(b) two toilets and two lavatories for 13 [through]to 25 children;	(b) two toilets and two lavatories for 13 [through]to 25 children;

Current Language	Proposed Language	Final Adopted Language	
(c) one toilet and one lavatory for	(c) one toilet and one lavatory for	(c) one toilet and one lavatory for	
each additional 15 children or	[each] <mark>up to an additional</mark> 15	[each] <mark>up to an additional</mark> 15	
fraction thereof; or	[children or fraction thereof]; or	children [or fraction thereof]; or	
	Explanatory Statement	-	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.29 H(3)(g)			
8.9.4.29 H(3)(g): Safety Compliance	8.9.4.29 H(3)(g): Safety Compliance	8.9.4.29 H(3)(g): Safety Compliance	
3.3.4.25 H(3)(5). Salety Somptions	0.0.4.20 11(0)(g). Galoty Comptanto		
a center will keep a telephone in an	a center [will] <mark>shall</mark> keep a telephone	 a center [will]	
easily accessible place for calling for	in an easily accessible place for	in an easily accessible place for	
help in an emergency and will post	calling for help in an emergency and	calling for help in an emergency and	
emergency phone numbers for fire,	[will] shall post emergency phone	[will] shall post emergency phone	
police, ambulance and the poison	numbers for fire, police, ambulance	numbers for fire, police, ambulance	
control center next to the phone; a	and the poison control center next to	and the poison control center next to	
center will not use a pay phone to	the phone; [-a center will not use a	the phone; [-a center will not use a	
fulfill this requirement;	pay phone to fulfill this	pay phone to fulfill this	
Tuttit tills requirement,			
	requirement;]	requirement;]	
<u></u>	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.29 H(3)(l)			
8.9.4.29 H (3)(l): Safety Compliance	8.9.4.29 H (3)(l): Safety Compliance	8.9.4.29 H (3)(l): Safety Compliance	
fire extinguishers, alarm systems,	fire extinguishers, alarm systems,	fire extinguishers, alarm systems,	
automatic detection equipment, and	automatic detection equipment, and	automatic detection equipment, and	
other firefighting must be properly	other firefighting devices must be	other firefighting devices must be	
maintained and inspected on a least	properly maintained and inspected	properly maintained and inspected	
yearly basis;	on a least yearly basis;	on a least yearly basis;	
yourty buolo;		on a todot yourty basis,	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment	
	Teceived. LCLCD is adopting the prop	osea amenament.	
8.9.4.29			
8.9.4.29 I: Smoking, Firearms, Etc.	8.9.4.29 I: Smoking, Firearms, Etc.	8.9.4.29 I: Smoking, Firearms, Etc.	
A center will prohibit smoking, e-	A center [will] <mark>shall</mark> prohibit	 A center [will] <mark>shall</mark> prohibit	
cigarettes, and vaporizers in all	smoking, e-cigarettes,[and] nicotine	smoking, e-cigarettes,[and] <u>nicotine</u>	
areas, including vehicles, and will	and cannabis vaporizers, and any	and cannabis vaporizers, and any	
not allow any alcoholic beverages,	other vaporizing device not	other vaporizing device not	
firearms, lethal or non-lethal	prescribed by a licensed medical	prescribed by a licensed medical	
weapons or non-prescription	professional in all areas, including	professional in all areas, including	
controlled substances (drugs) on the	vehicles[, and]. <u>A center</u> [will] shall	vehicles[, and]. <u>A center</u> [will] shall	
premises or in vehicles.	not allow any alcoholic beverages,	not allow any alcoholic beverages,	
premises of m venicles.	cannabis, firearms, lethal or non-	cannabis, firearms, lethal or non-	
	lethal weapons or non-prescription	lethal weapons or non-prescription	
	controlled substances (drugs) on the	controlled substances (drugs) on the	
	premises or in vehicles.	premises or in vehicles.	
Explanatory Statement			

There were no substantive comments received. ECECD is adopting the proposed amendment.

Current LanguageProposed LanguageFinal Adopted8.9.4.31 A(1)8.9.4.31 A (1): Licensing Requirements for Homes - Application Form8.9.4.31 A (1): Licensing Requirements for Homes - Application Form8.9.4.31 A (1): Licensing Requirements for Homes - Application FormAn applicant will complete an application form provided by theAn applicant will complete an application form provided by theAn application form provided by the	sing omes - nplete an vided by the		
8.9.4.31 A (1): Licensing Requirements for Homes - Application Form An applicant will complete an application form provided by the 8.9.4.31 A (1): Licensing Requirements for Homes - Application Form 8.9.4.31 A (1): Licensing Requirements for Homes - Application Form An applicant will complete an application form provided by the	omes - nplete an vided by the		
Requirements for Homes - Application Form Application Form Application Form Application Form Application Form An applicant will complete an application form provided by the Application Form Application	omes - nplete an vided by the		
Application Form Application Form Application Form An applicant will complete an application form provided by the Application Form An applicant will complete an application form provided by the	nplete an vided by the		
application form provided by the application form provided by the application form provided by the	vided by the		
application form provided by the application form provided by the application form provided by the	vided by the		
1			
licensing authority and include licensing authority[-and include l			
payment for the non-refundable payment for the non-refundable payment for the non-refundable payment for the non-refundable	refundable		
application fee. application fee]. application fee].			
Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4.32 A(5)			
8.9.4.32 A (5): Administrative 8.9.4.32 A (5): Administrative 8.9.4.32 A (5): Admin	istrative		
Records for Homes Records for Homes Records for Homes			
an up to date emergency evacuation an up[]-to[]-date emergency an up[]-to[]-date em	nergency		
and disaster preparedness plan, evacuation and disaster evacuation and disaster			
preparedness plan, preparedness plan,	,		
Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4.32 C			
8.9.4.32 C: Parent Handbook 8.9.4.32 C: [PARENT] FAMILY 8.9.4.32 C: [PARENT]	FAMILY		
HANDBOOK HANDBOOK			
PARENT HANDBOOK: All facilities			
using these regulations must have a [PARENT] FAMILY HANDBOOK: All All facilities using the			
parent handbook. Upon updating facilities using these regulations must have a [parent]			
the parent handbook, changes must must have a [parent] family handbook. Upon upo	•		
be approved and submitted to handbook. Upon updating the [parent] family handbook.			
licensing and submitted to the [parent] family handbook, changes must be approved an			
licensing authority. After any must be approved and submitted to licensing and submit			
changes, notices must be sent out licensing and submitted to the licensing authority. A	=		
to families, parents, or guardians licensing authority. After any changes, notices mu			
and posted in a common area. The changes, notices must be sent out to families, parents, or a handbook will include the following: families, parents, or guardians and posted in a common	-		
handbook will include the following: families, parents, or guardians and posted in a common (d) name of licensee and how he/she posted in a common area. The handbook [witl] shall			
may be reached; handbook [witt] shall include the following:	include the		
(g) a statement supportive of family following: (d) name of licensee	and how		
involvement that includes an open (d) name of licensee and how [he/she]they may be			
door policy to the family or group [he/she]they may be reached; [-(g) a statement sup			
child care home; (g) a statement supportive of family involvement the	-		
involvement that includes an open[]- open[]-door			
door			

Although public comments raised concerns with proposed changes to policy and procedures, these have been amended and addressed in other sections of the regulation. This section provides a minor update to handbook language and terms. ECECD will adopt proposed amendments.

Current Language	Proposed Language	Final Adopted Language	
8.9.4.32 C(2)			
N/A – New text	8.9.4.32 C (<mark>2</mark>): Policies and	8.9.4.32 C (<mark>2</mark>): Policies and	
	Procedures	Procedures	
	All licensed homes operating under	All facilities operating under these	
	these regulations are required to	regulations are required to establish,	
	establish, implement, and adhere to	implement, and adhere to written	
	written policies and procedures.	policies and procedures. These	
	These documents must be clearly	documents must be clearly dated to	
	dated to indicate when they were	indicate when they were created and	
	created and must be updated to	must be updated to reflect any	
	reflect any revisions. Whenever	revisions. Whenever policies or	
	policies or procedures are	procedures are amended, the facility	
	amended, the facility shall update	shall update the revision and date it.	
	the revision, date it, provide the	The written policies and procedures	
	revised documents for review and	must cover the following areas:	
	approval from the licensing authority		
	and thereafter parental review and		
	signature. The finalized and		
	approved updates of the written		
	policy and procedures must be		
	submitted to the licensing authority		
	for recordkeeping and compliance		
	purposes. The licensing authority		
	shall have the right to review and		
	enforce the facility's written policies		
	and procedures through all means		
	set forth in these regulations and		
	otherwise legally available. The		
	written policies and procedures		
	must cover the following areas:		
Explanatory Statement			

ECECD is modifying the proposed language to address concerns raised in public comments. Having sufficient policies and procedures in centers is necessary to maintain health and safety. The proposed language has been amended to create clarity by focusing on the core purpose of changes to this section – requiring child care programs to establish, implement, adhere to, and document any changes to written policies and procedures on key health and safety requirements and equitable access to services.

8.9.4.32 D

at least:

8.9.4.32 D: Children's Records

A home will maintain a complete	A home [will] <mark>s</mark>
record for each child, including	complete reco
drop-ins, completed before the child	child, includin
is admitted and kept at the home for	completed bef
12 months after the child's last day	admitted and I
of attendance. Records will contain	for 12 months

8.9.4.32 D: Children's Records

<mark>shall</mark> maintain a ord for each ng drop-ins, fore the child is kept at the home after the child's last day of attendance. Records [will] shall contain at [least] <u>minimum</u>:

8.9.4.32 D: Children's Records

A home [will] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted and kept at the home for 12 months after the child's last day of attendance. Records [will] shall contain at [least] <u>minimum</u>:

Current Language	Proposed Language	Final Adopted Language
	Explanatory Statement	
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.32 D(1)(b)		
8.9.4.32 D (1)(b): Personal Information	8.9.4.32 D (1)(b): Personal Information	8.9.4.32 D (1)(b): Personal Information
names of the parents or guardians, the parents or guardians current places of employment, addresses, pager, cellular and work telephone numbers;	names of the parents or guardians, the parents or guardians current places of employment, addresses, [pager,] cellular and work telephone numbers;	names of the parents or guardians, the parents or guardians current places of employment, addresses, [pager,] cellular and work telephone numbers;
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.32 D(1)(g)		
8.9.4.32 D (1)(g): Personal Information	8.9.4.32 D (1)(g): Personal Information	8.9.4.32 D (1)(g): Personal Information
written authorization from the child's parent or guardian to remove a child from the premises to participate in off-site activities; authorization must contain fieldtrip destination, date and time of fieldtrip and expected return time from fieldtrip;	written authorization from the child's parent or guardian to remove a child from the premises to participate in offsite activities; authorization must contain [fieldtrip] activity destination, date and time of [fieldtrip] activity and expected return time from [fieldtrip] activity;	written authorization from the child's parent or guardian to remove a child from the premises to participate in offsite activities; authorization must contain [fieldtrip] activity destination, date and time of [fieldtrip] activity and expected return time from [fieldtrip] activity;
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.32 D(1)(k)		
8.9.4.32 D (1)(k): Personal Information	8.9.4.32 D (1)(k): Personal Information	8.9.4.32 D (1)(k): Personal Information
a signed acknowledgement that the parent or guardian has read and understands the parent handbook.	a signed acknowledgement that the parent or guardian has read and understands the [parent] family handbook. Explanatory Statement	a signed acknowledgement that the parent or guardian has read and understands the [parent] family handbook.
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.32 E(5)		
N/A - New text	8.9.4.32 E (5): Personnel Records	8.9.4.32 E <mark>(5)</mark> : Personnel Records
	(5) Licensed child care homes shall maintain the complete, up-to-date personnel records in	(5) Licensed child care homes shall maintain the complete, up-to-date personnel records in

Current Language	Proposed Language	Final Adopted Language
	ECECD's professional	ECECD's professional
	development information	development information
	system, (PDIS), for each staff	system, (PDIS), for each staff
	member, including substitutes	member, including substitutes
	and volunteers working more	and volunteers working more
	than six hours of any week and	than six hours of any week and
	having direct contact with the	having direct contact with the
	children. If the home chooses	children. If the home chooses
	to retain duplicate physical	to retain duplicate physical
	copies of these records, these	copies of these records, these
	records shall be stored in a	records shall be stored in a
	secure location for the privacy	secure location for the privacy
	of the staff members. New	of the staff members. New
	information shall be updated in	information shall be updated in
	a timely manner in PDIS.	a timely manner in PDIS.
	Records shall contain at a	Records shall contain at a
	minimum the following:	minimum the following:
	(a) name, address and telephone	(a) name, address and telephone
	<mark>number;</mark>	<mark>number;</mark>
	(b) position;	(b) position;
	(c) current and past duties and	(c) current and past duties and
	<mark>responsibilities;</mark>	<mark>responsibilities;</mark>
	(d) dates of hire and termination;	(d) dates of hire and termination;
	(e) documentation of a	(e) documentation of a
	<mark>background check and</mark>	<mark>background check and</mark>
	<mark>employment history</mark>	<mark>employment history</mark>
	verification; if background	verification; if background
	check is in process then	check is in process then
	documentation of the	<mark>documentation of the</mark>
	<mark>notice of provisional</mark>	<mark>notice of provisional</mark>
	employment showing that	<mark>employment showing that</mark>
	<mark>it is in</mark> <mark>process, must be</mark>	<mark>it is in</mark> <mark>process, must be</mark>
	<mark>placed in file. A</mark>	<mark>placed in file. A</mark>
	<mark>background check must be</mark>	<mark>background check must be</mark>
	conducted at least once	conducted at least once
	per five year interval on all	<mark>per five year interval on all</mark>
	required individuals;	required individuals;
	<mark>(f) an annual signed</mark>	<mark>(f) an annual signed</mark>
	statement that the staff	statement that the staff
	member would or would	member would or would
	not be disqualified as a	not be disqualified as a
	<mark>direct provider of care</mark>	<mark>direct provider of care</mark>
	under the most current	under the most current
	version of the background	version of the background
	checks and employment	checks and employment
	<mark>history verification</mark>	<mark>history verification</mark>
	<mark>provisions pursuant to</mark>	<mark>provisions pursuant to</mark>
	8.9.6 NMAC;	8.9.6 NMAC;
	(g) documentation of current	(g) documentation of current
	first-aid and cardiopulmonary resuscitation training;	first-aid and cardiopulmonary resuscitation training;
	<u>rosuscitation training,</u>	<u>resuscitation training,</u>

Current Language	Proposed Language	Final Adopted Language
	(h) documentation of	(h) documentation of
	all appropriate training	all appropriate training
	<mark>by date, time, hours</mark>	<mark>by date, time, hours</mark>
	<mark>and area of</mark>	<mark>and area of</mark>
	competency;	<mark>competency;</mark>
	(i) emergency contact number;	(i) emergency contact number;
	(j) universal precaution	<mark>(j) universal precaution</mark>
	acknowledgment form;	acknowledgment form;
	(k) confidentiality form;	(k) confidentiality form;
	(I) results of performance	(I) results of performance
	evaluations;	evaluations (shall be maintained outside of PDIS);
	(m) administrative actions or	(m) administrative actions or
	reprimands;	reprimands (shall be maintained
	(n) written plan for ongoing professional development	outside of PDIS);
	for each educator,	(n) written plan for ongoing
	-	professional development
	including the director, that is based on the seven areas	for each educator.
		including the director, that
	of competency, consistent with the department's	is based on the seven areas
	career lattice, and based	of competency, consistent
	on the individual's goals;	with the [department's]
	and	career lattice, and based
	(o) signed	on the individual's goals;
	acknowledgment that the	and
	staff have read and	(o) signed
	understand the personnel	acknowledgment that the
	handbook;	staff have read and
	(p) signed	understand the personnel
	acknowledgement that	handbook;
	all staff have reviewed	(p) signed
	and are aware of the	acknowledgement that
	center's disaster	all staff have reviewed
	preparedness plan and	and are aware of the
	evacuation plan; and	center's disaster
	(q) hourly rate of pay.	preparedness plan and
	the state of pay.	evacuation plan;
	Evolunatory Statement	

Some public comments expressed discomfort with the proposed requirement to include hourly rate of pay in the Professional Development Information System, primarily due to privacy concerns. ECECD has modified the language so that reporting hourly rate of pay will not be required for the purposes of licensing.

Some public comments expressed confusion with the requirement for a professional development plan "consistent with the department's career lattice," remarking that a career lattice from the department was unavailable at this time. To address this, ECECD will revert this proposed change to original language.

8.9	.4.33	B	(1)	(l))

8.9.4.33 B (1) (l): Staff qualifications	8.9.4.33 B (1) (l): Staff qualifications	8.9.4.33 B (1) (l): Staff qualifications
and training	and training	and training

Current Language	Proposed Language	Final Adopted Language	
a child development course that	a child development course that	a child development course that	
addresses all major domains of	addresses all major domains of child	addresses all major domains of chil	
child development, including	development, including cognitive,	development, including cognitive,	
cognitive, social emotional, physical	social emotional, physical	social emotional, physical	
development and approach to	development and approach to	development and approach to	
learning as defined by the federal	learning as defined by the federal	learning as defined by the federal	
Child Care and Development Fund	Child Care and Development Fund	Child Care and Development Fund	
(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title	
45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-	
98.98.44.b.ii), or approved three-	98.98.44.b.ii)] in 45 CFR § 98.44	98.98.44.b.ii)] in 45 CFR § 98.44	
credit early care and education	Training and Professional	Training and Professional	
course or an equivalent approved by	development, or approved three-	development, or approved three-	
the department.	credit early care and education	credit early care and education	
	course or an equivalent approved by	course or an equivalent approved by	
	the department.	the department.	
	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.33 B(5)			
8.9.4.33 B (5): Staff qualifications	8.9.4.33 B (5): Staff qualifications	8.9.4.33 B (5): Staff qualifications	
and training	and training	and training	
An educator cannot count more than	An educator cannot count	An educator cannot count	
three hours in first aid or CPR	more than three hours in first	more than three hours in first	
training toward the	aid or CPR training toward the	aid or CPR training toward the	
total hours required. Online first aid	total hours required. Online	total hours required. Online	
and CPR training will not be	first aid and CPR training [will]	first aid and CPR training [will]	
approved unless there is a hands-on	shall not be approved unless	shall not be approved unless	
component included. In-person	there is a hands-on	there is a hands-on	
requirements may be waived in case	component included. In-	component included. In-	
of an emergency. For this purpose, a	person requirements may be	person requirements may be	
year begins and ends at the	waived in case of an	waived in case of an	
anniversary date of employment.	emergency. [For this purpose,	emergency. [For this purpose,	
Training must be provided by	a] <mark>A</mark> year begins and ends at the	a] <mark>A</mark> year begins and ends at the	
individuals who are registered on the	anniversary date of	anniversary date of	
New Mexico trainer registry. Identical	employment. Training must be	employment. Training must be	
trainings shall not be repeated for	provided by individuals who	provided by individuals who	
the purpose of obtaining credit.	are registered on the New	are registered on the New	
	Mexico trainer registry.	Mexico trainer registry.	
	Identical trainings shall not be	Identical trainings shall not be	
	repeated for the purpose of	repeated for the purpose of	
	obtaining credit.	obtaining credit.	
	Explanatory Statement		
	Evnianatory Statement		

8.9.4.34 (B)(3): Services and Care of

Children in Homes – Naps or Rest

Period

8.9.4.34 (B)(3): Services and Care of

Children in Homes – Naps or Rest

Period

8.9.4.34 B(3)

Period

8.9.4.34 (B)(3): Services and Care of

Children in Homes – Naps or Rest

Current Language	Proposed Language	Final Adopted Language		
Each child will have an individual	Each child [will] <mark>shall</mark> have an	 Each child [will] <mark>shall</mark> have an		
bed, cot, or mat that is sanitized	individual bed, cot, or mat that is	individual bed, cot, or mat that is		
after each use, regardless of the	sanitized after each use, regardless	sanitized after each use, regardless		
same child using the mat or cot.	of whether the same child is using	of whether the same child is using		
Linens can be used multiple times	the same mat or cot. Linens can be	the same mat or cot. Linens can be		
over the course of a week but must	used multiple times over the course	used multiple times over the course		
be laundered before being used by	of a week but must be laundered	of a week but must be laundered		
another child.	before being used by another child.	before being used by another child.		
another entar	Explanatory Statement	perere semiglaced sy anethor email		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.		
8.9.4.34 C(10)				
8.9.4.34 (C)(10): Services and Care	8.9.4.34 (C)(10): Services and Care	8.9.4.34 (C)(10): Services and Care		
of Children in Homes – Additional	of Children in Homes – Additional	of Children in Homes – Additional		
Requirements for Infants and	Requirements for Infants and	Requirements for Infants and		
Toddlers	Toddlers	Toddlers		
Infants shall either be held or be fed	Infants shall either be held or	Infants shall either be held or		
sitting up for bottle-feeding. Infants	be fed sitting up for bottle-	be fed sitting up for bottle-		
unable to sit shall always be held for	feeding. Infants unable to sit	feeding. Infants unable to sit		
bottle-feeding. Infants and toddlers	shall always be held for bottle-	shall always be held for bottle-		
shall not be placed in a laying	feeding. Infants and toddlers	feeding. Infants and toddlers		
position while drinking bottles or	shall not be placed in a [laying]	shall not be placed in a [laying]		
sippy cups. The carrying of bottles	supine position while drinking	supine position while drinking		
and sippy cups by young children	via bottles or sippy cups. The	via bottles or sippy cups. The		
throughout the day or night shall not	carrying of bottles and sippy	carrying of bottles and sippy		
be permitted.	cups by young children	cups by young children		
	throughout the day or night	throughout the day or night		
	shall not be permitted.	shall not be permitted.		
Explanatory Statement				
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.		
8.9.4.34 D(1)				
8.9.4.34 (D)(1): Services and Care of	8.9.4.34 (D)(1): Services and Care of	8.9.4.34 (D)(1): Services and Care of		
Children in Homes – Diapering and	Children in Homes – Diapering and	Children in Homes – Diapering and		
Toileting	Toileting	Toileting		
An educator will plan toilet training	An educator [will] <mark>shall</mark> plan	An educator [will] <mark>shall</mark> plan		
with a parent so the toilet routine is	toilet training with a parent[toilet training with a parent[
consistent. A home will not attempt	so the toilet routine is	so the toilet routine is		
to toilet train a child who is not	consistent] to facilitate a	consistent] to facilitate a		
developmentally ready.	consistent toileting routine. A	consistent toileting routine. A		
action many roady.	home [will] shall not attempt	home [will] shall not attempt		
	to toilet train a child who is	to toilet train a child who is		
	not developmentally ready.	not developmentally ready.		
Explanatory Statement				
There were no substantive comments	There were no substantive comments received. ECECD is adopting the proposed amendment.			

8.9.4.34 E(1)

Current Language	Proposed Language	Final Adopted Language	
8.9.4.34 (E) (1): Additional	8.9.4.34 (E) (1): Additional	8.9.4.34 (E) (1): Additional	
Requirements for Children with	Requirements for Children with	Requirements for Children with	
Special Needs	Special Needs	Special Needs	
Child care facilities are responsible	Child care facilities are	Child care facilities are	
for staff awareness of community	responsible for staff awareness	responsible for staff awareness	
resources for families of children	of community resources for	of community resources for	
with disabilities, including children	families of children with	families of children with	
under the age of five years as well as	disabilities, including children	disabilities, including children	
those of school age. If family or	under the age of five years as	under the age of five years as	
group home educators believe that a	well as those of school age. If	well as those of school age. If	
child may have a delay or disability,	family or group home educators	family or group home educators	
possible resources for referral and	believe that a child may have a	believe that a child may have a	
assistance are provided to parents	delay or disability, possible	delay or disability, possible	
when appropriate. No referral for	resources for referral and	resources for referral and	
special needs services to an outside	assistance are provided to	assistance are provided to	
agency will be made without a	parents <mark>or guardians</mark> when	parents <mark> or guardians</mark> when	
parent's consent. Family Education	appropriate. No referral for	appropriate. No referral for	
Right and Privacy Act (FERPA) will be	special needs services to an	special needs services to an	
respected at all times.	outside agency will be made	outside agency will be made	
	without a parent['s] <u>or</u>	without a parent['s] <u>or</u>	
	guardian's consent. Family	guardian's consent. Family	
	Education Right and Privacy Act	Education Right and Privacy Act	
	(FERPA) will be respected at all	(FERPA) will be respected at all	
	times.	times.	
Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.			

Current Language	Proposed Language	Final Adopted Language
8.9.4.34 E(3)		
N/A - New text	8.9.4.34 (E) (3): Additional Requirements for Children with Special Needs	8.9.4.34 E (3): Additional Requirements for Children with Special Needs
	Providers must comply with all state and federal laws to include children with disabilities. Providers must allow children with disabilities to be served in accordance with the child's individualized family service plan (IFSP). Providers must allow ECECD Family, Infant, Toddler (FIT) providers access to the center to provide services.	Providers must comply with all state and federal laws to include children with disabilities. Providers must allow children with disabilities who receive early intervention services to be served in accordance with the child's individualized family service plan (IFSP) and allow ECECD Family, Infant Toddler (FIT) providers access to the center to provide services pursuant to the child's individualized family service plan (IFSP) unless the provider documents with the department that the inclusion of

Current Language	Proposed Language	Final Adopted Language
		each individual disabled child's
		services is not required pursuant to
		the applicable state or federal law.
		Providers may require FIT providers
		to sign and agree to standard center
		policies and procedures. Providers
		may temporarily exclude a FIT
		provider from their facility in cases in
		which their presence has caused a
		temporary undue burden or undue
		hardship as defined by the
		applicable state or federal law.
		Providers who temporarily exclude a
		FIT provider must provide detailed
		written notification of reason for the
		exclusion to the department within 48 hours.
	Flanatam. Ctatamant	40 HOUIS.
	Explanatory Statement	reen the regulation changes and federal
service providers from their facility if t undue burden or undue hardship as c temporarily excludes an early interver	the presence of the early interventi lefined by the applicable federal or ntion service provider from their fac	r state law. If a child care provider cility, then the child care provider must
provide a written notification within 4	8 hours to ECECD with a detailed re	eason for the exclusion.
8.9.4.34 G(5)		
8.9.4.34 (G)(5): Physical	8.9.4.34 (G)(5): Physical	8.9.4.34 (G)(5): Physical Environment
Environment	Environment	
		Materials are [well] properly
Materials are well cared for and	Materials are [well]	cared for and organized by
organized by type. Where	properly cared for and	type. Where appropriate,
appropriate, materials are labeled	organized by type. Where	materials are labeled with
with words or pictures. Adaptations	appropriate, materials are	words or pictures.
to materials are made when needed	labeled with words or	Adaptations to materials
	labeled with words or pictures. Adaptations to	Adaptations to materials are made when needed to
to accommodate various abilities of		
to accommodate various abilities of all children. Unused materials are	pictures. Adaptations to	are made when needed to
to accommodate various abilities of all children. Unused materials are	pictures. Adaptations to materials are made when needed to accommodate various abilities of all	are made when needed to accommodate various abilities of all children. Unused materials are
to accommodate various abilities of all children. Unused materials are	pictures. Adaptations to materials are made when needed to accommodate various abilities of all children. Unused	are made when needed to accommodate various abilities of all children.
to materials are made when needed to accommodate various abilities of all children. Unused materials are stored in inaccessible storage.	pictures. Adaptations to materials are made when needed to accommodate various abilities of all	are made when needed to accommodate various abilities of all children. Unused materials are

There were no substantive comments received. ECECD is adopting the proposed amendment.

inaccessible storage.

8.9.4.34 I(1)

8.9.4.34 (I)(1): Equipment and	8.9.4.34 (I)(1): Equipment and	8.9.4.34 (I)(1): Equipment and
Program	Program	Program
	Toys and equipment must be	Toys and equipment must be

Current Language	Proposed Language	Final Adopted Language
Toys and equipment must be safe,	safe, durable, and easy to	safe, durable, and easy to
durable, and easy to clean, non-	clean, non-toxic and	clean, non-toxic and
toxic and sanitized daily. Toys shall	sanitized daily. Toys shall be	sanitized daily. Toys shall be
be disinfected, at a minimum of,	disinfected, at a minimum	disinfected, at a minimum
once per week. Frequency of	of, once per week.	of, once per week.
disinfection of toys must be	Frequency of disinfection of	Frequency of disinfection of
increased in the event of a	toys must be increased in	toys must be increased in
communicable disease, following	the event of a	the event of a communicable
appropriate guidance	communicable disease, by	disease, <mark>by</mark> following
	following appropriate	appropriate guidance.
	guidance.	
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 I(9)		
8.9.4.34 (I)(9): Equipment and	8.9.4.34 (I)(9): Equipment and	8.9.4.34 (I)(9): Equipment and
Program	Program	Program
Full-time children shall have a	Full-time children shall have a	Full-time children shall have a
minimum of 60 minutes of physical	minimum of 60 minutes of	minimum of 60 minutes of
activity daily, preferably outside.	physical activity daily,	physical activity daily, preferably
Part time children shall have a	preferably outside. Part[]-time	outside. Part[]-time enrolled
minimum of 30 minutes of physical	enrolled children shall have a	children shall have a minimum
activity daily, preferably outside.	minimum of 30 minutes of	of 30 minutes of physical activity
The provider will ensure drinking	physical activity daily,	daily, preferably outside. The
water is available and maintained at	preferably outside. The provider	provider [will] <mark>shall</mark> ensure
a cool temperature while playing	[will] shall ensure drinking water	drinking water is available and
outside.	is available and maintained at a	maintained at a cool
	cool temperature while playing	temperature while playing
	outside.	outside.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 J(2)		
8.9.4.34(J)(2): Outdoor Play	8.9.4.34(J)(2): Outdoor Play	8.9.4.34(J)(2): Outdoor Play
A home will enclose the outdoor	A home [will] <u>shall</u> enclose the	A home [will] shall enclose the
play area with a fence at least four	outdoor play area with a fence	outdoor play area with a fence
feet high and with at least one	at least four feet high and with	at least four feet high and with
latched gate available for an	_	_
	at least one latched gate	at least one latched gate
emergency exit.	available [for] <mark>as</mark> an emergency exit.	available [for] <mark>as</mark> an emergency exit.
	Explanatory Statement	OAIC
There were no comments received. E	CECD is adopting the proposed amend	Iment.
8.9.4.34 J(4)		
8.9.4.34(J)(4): Outdoor Play	8.9.4.34(J)(4): Outdoor Play	8.9.4.34(J)(4): Outdoor Play
The use of a trampoline is prohibited		The use of a trampoline is
at any time during the hours of	prohibited at [any] <mark>all</mark> time	prohibited at [any] <mark>all</mark> time

Current Language	Proposed Language	Final Adopted Language
operation or by any children	during the hours of operation or	during the hours of operation or
receiving care at the facility.	by any children receiving care	by any children receiving care at
	at the facility.	the facility.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 J(5)		
8.9.4.34(J)(5): Outdoor Play	8.9.4.34(J)(5): Outdoor Play	8.9.4.34(J)(5): Outdoor Play
Children shall be protected from the	Children shall be protected	Children shall be protected
sun during outdoor play by providing	from the sun during outdoor	from the sun during outdoor
shade (as necessary), sunscreen,	play by providing shade (as	play by providing shade (as
proper attire and limiting the time of	necessary), sunscreen (as	necessary), sunscreen (as
exposure to the elements. The	permitted by parent/guardian),	permitted by parent/guardian),
provider must also consider	proper attire and limiting the	proper attire and limiting the
instructions by the child's parent or	time of exposure to the	time of exposure to the
guardian. Drinking water should be	elements. The provider must	elements. The provider must
available as needed and outlined in	also consider instructions by	also consider instructions by
Paragraph (9) of Subsection I of	the child's parent or guardian.	the child's parent or guardian.
8.9.4.34 NMAC.	Drinking water should be	Drinking water should be
	available as needed and	available as needed and
	outlined in Paragraph (9) of	outlined in Paragraph (9) of
	Subsection I of 8.9.4.34 NMAC.	Subsection I of 8.9.4.34 NMAC.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 K(2)		
N/A; New text	8.9.4.34(K) <mark>(2):</mark> Swimming, Wading	8.9.4.34(K) <mark>(2):</mark> Swimming, Wading
	and Water	and Water
	Children shall be constantly	Children shall be constantly
	supervised while swimming, wading,	supervised while swimming, wading
	or in or near, and the number of	or in or near, and the number of
	adults present must be proportional	adults present must be proportiona
	to the ages and abilities of the	to the ages and abilities of the
	children and type of water hazard in	children and type of water hazard in
	use.	use.
	Explanatory Statement	<u> </u>
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 K(4)	received. ECECD is adopting the prop	osed amendment. 8.9.4.34 K(4)
8.9.4.34 K(4) 8.9.4.34 K(3)(c)		
8.9.4.34 K(4) 8.9.4.34 K(3)(c) (c)when in use, children will be	8.9.4.34 K(4) [(c) when in use, children will be	8.9.4.34 K(4) [(c) when in use, children will be
8.9.4.34 K(4) 8.9.4.34 K(3)(c) (c)when in use, children will be constantly supervised and the	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the
8.9.4.34 K(4) 8.9.4.34 K(3)(c) (c)when in use, children will be constantly supervised and the number of adults present will be	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the number of adults present will be	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the number of adults present will be
8.9.4.34 K(4) 8.9.4.34 K(3)(c) (c)when in use, children will be constantly supervised and the number of adults present will be proportional to the ages and abilities	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the number of adults present will be proportional to the ages and abilities	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the number of adults present will be proportional to the ages and abilitie
There were no substantive comments 8.9.4.34 K(4) 8.9.4.34 K(3)(c) (c)when in use, children will be constantly supervised and the number of adults present will be proportional to the ages and abilities of the children and type of water hazard in use.	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the number of adults present will be	8.9.4.34 K(4) [(c) when in use, children will be constantly supervised and the

Current Language	Proposed Language	Final Adopted Language
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.35 B(2)		
8.9.4.35 (B)(2): Meals and Snacks	8.9.4.35 (B)(2): Meals and Snacks	8.9.4.35 (B)(2): Meals and Snacks
A home will serve if necessary a	A home [will] shall serve [if	A home [will] shall serve [if
child a therapeutic or special diet	necessary] <mark>to</mark> a child a	necessary]to a child a
with a written prescription/diet order	therapeutic or special diet	therapeutic or special diet with
from a physician or a registered or	with a written prescription/diet	a written prescription/diet
licensed dietician. Diet orders must	order from a physician or a	order from a physician or a
be complete and descriptive, and	registered or licensed	registered or licensed
not subject to interpretation by the	dietician. Diet orders must be	dietician. Diet orders must be
educators.	complete and descriptive, and	complete and descriptive, and
	not subject to interpretation	not subject to interpretation by the educators.
	by the educators.	the educators.
The second secon	Explanatory Statement	and an and an and
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.35 D(5)		
8.9.4.35 (D)(5): Kitchens	8.9.4.35 (D)(5): Kitchens	8.9.4.35 (D)(5): Kitchens
If food is brought from the child's	If food is brought from the	If food is brought from the
home, a home will label it with the	child's [home] <mark>residence</mark> , a	child's [home] <mark>residence</mark> , a
child's name and refrigerate if	home [will] <mark>shall</mark> label it with	home [will] <mark>shall</mark> label it with the
necessary. A home will label and	the child's name and	child's name and refrigerate if
refrigerate bottles of infant formula	refrigerate if necessary. A	necessary. A home [will] shall
or breast milk. Labeling is not	home [will] shall label and	label and refrigerate bottles of
necessary if only one child is using	refrigerate bottles of infant	infant formula or breast milk.
bottles.	formula or breast milk.	Labeling is not necessary if only
	Labeling is not necessary if	one child is using bottles.
	only one child is using bottles.	
The second secon	Explanatory Statement	and an androne
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.38 C(2)		
8.9.4.38 (C)(2): Mechanical Systems	8.9.4.38 (C)(2): Mechanical Systems	8.9.4.38 (C)(2): Mechanical Systems
A home will not use unvented	A home [will] <mark>shall</mark> not use	A home [will] <mark>shall</mark> not use
heaters, open flame heaters or	[unvented] heaters <u>without</u>	[unvented] heaters without
portable heaters. A home will install	vents, open flame heaters or	vents, open flame heaters or
barriers or take other steps to	portable heaters. A home [will]	portable heaters. A home [will]
ensure heating units, are	shall install barriers or take	shall install barriers or take other
inaccessible to children.	other steps to ensure heating	steps to ensure heating units,
	units, are inaccessible to	are inaccessible to children.
	children.	
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.38 E		
8.9.4.38 (E): Exits	8.9.4.38 (E): Exits	8.9.4.38 (E): Exits
• •		, ,
		1

Current Language	Proposed Language	Final Adopted Language
All activity spaces for children under	All activity spaces for children	All activity spaces for children
the age of two and a half years shall	under the age of two[] <mark>-</mark> and[] <mark>-</mark> a	under the age of two[]- and[]-a
be on the "level of exit discharge" or	half[]-years shall be on the	half[]-years shall be on the
ground floor.	"level of exit discharge" or	"level of exit discharge" or
	ground floor.	ground floor
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.38 H		
8.9.4.38 (H): Smoking, Firearms,	8.9.4.38 (H): Smoking, Firearms,	8.9.4.38 (H): Smoking, Firearms,
Alcoholic Beverages, Illegal Drugs	Alcoholic Beverages, Illegal Drugs	Alcoholic Beverages, Illegal Drugs
and Controlled Substances	and Controlled Substances	and Controlled Substances
A home will prohibit smoking, e-	A home, including any vehicles,	A home, including any vehicles,
cigarettes, vaporizers, and the	will prohibit smoking, e-	will prohibit smoking, e-
drinking of alcoholic beverages in all	cigarettes, <u>nicotine and</u>	cigarettes, <u>nicotine and</u>
areas, including vehicles, when	cannabis vaporizers, and any	cannabis vaporizers, and any
children are present. A home will	other vaporizing device not	other vaporizing device not
unload all guns, such as pellet or BB	prescribed by a licensed	prescribed by a licensed medical
guns, rifles and handguns, lethal	medical professional in all	professional in all areas, when
and non-lethal weapons and keep	areas, when children are	children are present. A home,
them in a locked area inaccessible	present. A home, including any	including any vehicles, will
to children.	vehicles, will prohibit the	prohibit the drinking of alcoholic
	drinking of alcoholic beverages	beverages in all areas[, including
	in all areas[, including vehicles],	vehicles], when children are
	when children are present. A	present. A home [will] shall
	home [will] <mark>shall</mark> unload all guns,	unload all guns, such as pellet or
	such as pellet or BB guns, rifles	BB guns, rifles and handguns,
	and handguns, lethal and non-	lethal and non-lethal weapons
	lethal weapons and keep them	and keep them in a locked area
	in a locked area inaccessible to	inaccessible to children.
	children.	
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.38 I		
8.9.4.38 (I): Pets	8.9.3.38 (I): <u>Animals or</u> Pets	8.9.3.38 (I): <u>Animals or</u> Pets
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.40 A(1)		
8.9.4.40 (A)(1): Licensing	8.9.4.40 (A)(1): Licensing	8.9.4.40 (A)(1): Licensing
Requirements: Application Form	Requirements: Application Form	Requirements: Application Form
An applicant will complete an	An applicant [will] <mark>shall</mark> complete an	An applicant [will] shall complete an
application form provided by the	application form provided by the	application form provided by the
licensing authority and include	licensing authority[and include	licensing authority[and include
payment for the non-refundable	payment for the non-refundable	payment for the non-refundable
application fee. Applications will be	application fee]. Applications will be	application fee]. Applications will be

Current Language	Proposed Language	Final Adopted Language
rejected unless all supporting	rejected unless all supporting	rejected unless all supporting
documents are received within six	documents are received within six	documents are received within six
months of the date indicated on the	months of the date indicated on the	months of the date indicated on the
application. A 45 day extension will	application. A 45 day extension will	application. A 45 day extension will
be granted if the licensee provides	be granted if the licensee provides	be granted if the licensee provides
documentation to the licensing	documentation to the licensing	documentation to the licensing
authority that documents were	authority that documents were	authority that documents were
submitted to the appropriate	submitted to the appropriate	submitted to the appropriate
agencies in a timely manner but,	agencies in a timely manner but,	agencies in a timely manner but,
through no fault of their own, they	through no fault of their own, they	through no fault of their own, they
have not received responses from	have not received responses from	have not received responses from
these agencies.	these agencies.	these agencies.
The second secon	Explanatory Statement	
	received. ECECD is adopting the prop	osea amenament.
8.9.4.40 B(3)(a)		
8.9.4.40 (B)(3)(a): Capacity of a	8.9.4.40 (B)(3)(a): Capacity of a	8.9.4.40 (B)(3)(a): Capacity of a
Program	Program	Program
35 square feet of indoor activity	35 square feet of indoor activity	35 square feet of indoor activity
space measured wall to wall on the	space measured wall to wall on the	space measured wall to wall on the
inside for each child in a program,	inside for each child in a program,	inside for each child in a program,
excluding single-use areas, such as	excluding single-use areas, such as	excluding single-use areas, such as
restrooms, kitchens, and storage	restrooms, kitchens, and storage	restrooms, kitchens, and storage
areas, and excluding offsets and	areas, and excluding offsets and	areas, and excluding offsets and
built-in fixtures.	built-in fixtures. The number of	built-in fixtures.
	children allowed in a program is also	
	limited by the group size regulations,	
	regardless of available square	
	footage.	
	Explanatory Statement	
	ment include the potential loss of capa	-
_		closing hours when mixed-age groups
·	concerns, ECECD is not adopting the	proposed amendment.
8.9.4.41 A		
8.9.4.41 (A): Administrative Records	8.9.4.41 (A): Administrative Records	8.9.4.41 (A): Administrative Records
ADMINISTRATION RECORDS: A	ADMINISTRATION	ADMINISTRATION RECORDS:
licensee shall display in a prominent	RECORDS: A licensee shall	A licensee shall display in a
place that is readily visible to	display in a prominent place	prominent place that is
parents, staff and visitors:	that is readily visible to	readily visible to parents,
	parents <mark>, guardians</mark> , staff and	guardians, staff and visitors
	visitors:	
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.41 C(1)(d)		
8.9.4.41 (C)(1)(d): Family Handbook	8.9.4.41 (C)(1)(d): Family Handbook	8.9.4.41 (C)(1)(d): Family Handbook
– General Information	– General Information	– General Information

Current Language	Proposed Language	Final Adopted Language
name of director and how he/she	name of director and how [he/she]	name of director and how [he/she]
may be reached;	they may be reached;	they may be reached;
	Explanatory Statement	
There were no substantive commer	ts received. ECECD is adopting the prop	oosed amendment.
8.9.4.41 C(2)		
N/A; New text	8.9.4.41 (C) <mark>(2):</mark> Family Handbook –	8.9.4.41 (C)(2): Family Handbook –
	Policies and Procedures	Policies and Procedures
	All facilities operating under these	All facilities operating under these
	regulations are required to	regulations are required to establish
	establish, implement, and adhere to	implement, and adhere to written
	written policies and procedures.	policies and procedures. These
	These documents must be clearly	documents must be clearly dated to
	dated to indicate when they were	indicate when they were created and
	created and must be updated to	must be updated to reflect any
	reflect any revisions. Whenever	revisions. Whenever policies or
	policies or procedures are	procedures are amended, the facilit
	amended, the facility shall update	shall update the revision and date it
	the revision, date it, provide the	The written policies and procedures
	revised documents for review and	must cover the following areas:
	approval from the licensing authority	
	and thereafter parental review and	
	signature. The finalized and	
	approved updates of the written	
	policy and procedures must be	
	submitted to the licensing authority	
	for recordkeeping and compliance	
	purposes. The licensing authority	
	shall have the right to review and	
	enforce the facility's written policies	
	and procedures through all means	
	set forth in these regulations and	
	otherwise legally available. The	
	written policies and procedures	
	must cover the following areas:	
	Explanatory Statement	

ECECD is modifying the proposed language to address concerns raised in public comments. Having sufficient policies and procedures in centers is necessary to maintain health and safety. The proposed language has been amended to create clarity by focusing on the core purpose of changes to this section – requiring child care programs to establish, implement, adhere to, and document any changes to written policies and procedures on key health and safety requirements and equitable access to services.

8.9.4.41 D(1)(b)

8.9.4.41 (D)(1)(b) Children's Records	8.9.4.41 (D)(1)(b) Children's Records	8.9.4.41 (D)(1)(b) Children's Records
– Personal Information	– Personal Information	– Personal Information
names of the parents or guardians,	names of the parents or guardians,	names of the parents or guardians,
the parents or guardian's current	the parents or guardian's current	the parents or guardian's current
places of employment, addresses,	places of employment, addresses,	places of employment, addresses,

nd pager, cellular and work elephone numbers;	[and pager,] cellular and work	
elephone numbers;	[and pager,] contain and work	[and pager,] cellular and work
	telephone numbers;	telephone numbers;
	Explanatory Statement	
here were no substantive commen	ts received. ECECD is adopting the prop	osed amendment.
.9.4.41 D(1)(f)		
.9.4.41 (D)(1)(f) Children's Records	8.9.4.41 (D)(1)(f) Children's Records	8.9.4.41 (D)(1)(f) Children's Records
Personal Information	– Personal Information	– Personal Information
ritten authorization from the	written authorization from the	written authorization from the
hild's parent or guardian to remove	child's parent or guardian to	child's parent or guardian to
child from the premises to	remove a child from the	remove a child from the
articipate in off-site activities;	premises to participate in off-	premises to participate in off-
uthorization must contain fieldtrip	site activities; authorization	site activities; authorization
estination, date and time of	must contain [fieldtrip] <mark>activity</mark>	must contain [fieldtrip] <mark>activity</mark>
eldtrip and expected return time	destination, date and time of	destination, date and time of
om fieldtrip;	[fieldtrip] <mark>activity</mark> and expected	[fieldtrip] <u>activity</u> and expected
	return time from	return time from
	[fieldtrip] <mark>activity</mark> ;	[fieldtrip] <mark>activity</mark> ;
	Explanatory Statement	
here were no substantive commen	ts received. ECECD is adopting the prop	oosed amendment.
.9.4.41 E(1)		
.9.4.41 (E) (1) Personnel Records	8.9.4.41 (E) (1) Personnel Records	8.9.4.41 (E) (1) Personnel Records
licensee will keep a complete file	A licensee [will] <mark>shall</mark> keep a	A licensee [will] <mark>shall</mark> keep a
or each staff member, including	complete up-to-date file for each	complete up-to-date file for each
ubstitutes and volunteers having	staff member, including substitutes	staff member, including substitutes
irect contact with the children. A	and volunteers having direct contact	and volunteers having direct contact
rogram will keep the file for one	with the children. A program [will]	with the children. A program [will]
ear after the staff member's last	shall keep the file for one year after	shall keep the file for one year after
ay of employment. Unless	the staff member's last day of	the staff member's last day of
therwise indicated, a licensee may		employment. Unless otherwise
eep the items listed below in a	indicated, a licensee [may] <mark>shall</mark>	indicated, a licensee [may]shall kee
entral location except the following		the items listed below in a central
ems which shall be kept on site:	central location except the following	location except the following items
ackground clearances, abuse and	items which shall be kept on site:	which shall be kept on site:
eglect statements, staff emergenc	background clearances, abuse and	background clearances, abuse and
umbers and first aid/CPR	neglect statements, staff emergency	neglect statements, staff emergency
ertificates. Records will contain at	numbers and first aid/CPR	numbers and first aid/CPR
east the following:	certificates. Records [will] <mark>shall</mark>	certificates. Records [will] <mark>shall</mark>
	contain at least the following:	contain at least the following:

There were no substantive comments received. ECECD is adopting the proposed amendment.

8.9.4.41 E(1)(k)

8.9.4.41 (E)(1)(k) Personnel Records 8.9.4.41 (E)(1)(k) Personnel Records 8.9.4.41 (E)(1)(k) Personnel Records

Current Language	Proposed Language	Final Adopted Language
a written plan for ongoing	a written plan for ongoing	a written plan for ongoing
professional development for each	professional development for each	professional development for each
staff member, including the director,	staff member, including the director,	staff member, including the director
that is based on the seven areas of	that is based on the seven areas of	that is based on the seven areas of
competency, consistent with the	competency, consistent with the	competency, consistent with the
career lattice, and based on the	department's career lattice, and	career lattice, and based on the
individual's goals.	based on the individual's goals.	individual's goals.
	Explanatory Statement	
the department is currently unavailab	on with the change to "department's" c le. The development of a career lattice y the department. To address this, ECI	is a requirement from the New
original language.		
8.9.4.41 E(3)		
N/A; New text	8.9.4.41 (E) <mark>(3)</mark> Personnel Records	8.9.4.41 (E) <mark>(3)</mark> Personnel Records
	Licensed child care centers	Licensed child care centers
	shall maintain the complete,	shall maintain the complete,
	up-to-date personnel records	up-to-date personnel records in
	in ECECD's professional	ECECD's professional
	development information	development information
	system, (PDIS), for each staff	system, (PDIS), for each staff
	member, including substitutes	member, including substitutes
	and volunteers working more	and volunteers working more
	than six hours of any week and	than six hours of any week and
	having direct contact with the	having direct contact with the
	children If the program	children If the program
	chooses to retain duplicate	chooses to retain duplicate
	physical copies of these	physical copies of these
	records, these records shall be	records, these records shall be
	stored in a secure location for	stored in a secure location for
	the privacy of the staff	the privacy of the staff
	members. New information	members. New information

(a) name, address and telephone number;

(b) position;

following:

shall be updated in a timely

contain at a minimum the

manner in PDIS. Records shall

(c) current and past duties and responsibilities;

(d) dates of hire and termination;

(e) documentation of a background check and employment history verification; if background check is in process then documentation of the notice of provisional

manner in PDIS. Records shall

contain at a minimum the

(a) name, address and telephone <u>number;</u>

(b) position;

following:

(c) current and past duties and responsibilities;

(d) dates of hire and termination;

(e) documentation of a background check and employment history verification; if background check is in process then documentation of the notice of provisional

Current Language	Proposed Language	Final Adopted Language
	employment showing that	employment showing that
	it is in process, must be	<mark>it is in</mark> process, must be
	placed in file. A	<mark>placed in file. A</mark>
	background check must be	background check must be
	conducted at least once	conducted at least once
	per five year interval on all	per five year interval on all
	required individuals;	required individuals;
	(f) an annual signed	(f) an annual signed
	statement that the staff	statement that the staff
	member would or would	member would or would
	not be disqualified as a	not be disqualified as a
	direct provider of care	direct provider of care
	under the most current	under the most current
	version of the background	version of the background
	checks and employment	checks and employment
	history verification	history verification
	provisions pursuant to	provisions pursuant to
	8.9.6 NMAC;	8.9.6 NMAC:
	(g) documentation of current	(g) documentation of current
	first-aid and cardiopulmonary	first-aid and cardiopulmonary
	resuscitation training;	resuscitation training;
	(h) documentation of	(h) documentation of
	<mark>all appropriate</mark>	<mark>all appropriate trainin</mark> g
	training by date, time,	<mark>by date, time, hours</mark>
	hours and area of	<mark>and area of</mark>
	competency;	<mark>competency;</mark>
	(i) emergency contact number;	(i) emergency contact number;
	(j) universal precaution	(j) universal precaution
	acknowledgment form;	<mark>acknowledgment form;</mark>
	(k) confidentiality form;	(k) confidentiality form;
	(I) results of performance	(I) results of performance
	evaluations; (m) administrative actions or	evaluations (shall be maintained outside of PDIS);
	reprimands;	(m) administrative actions or
	(n) written plan for ongoing	reprimands (shall be maintained
	professional development	outside of PDIS);
	for each educator,	(n) written plan for ongoing
	including the director, that	<mark>professional development</mark>
	is based on the seven areas	for each educator, including
	of competency, consistent	<mark>the director, that is based</mark>
	with the department's	<mark>on the seven areas of</mark>
	career lattice, and based	<mark>competency, consistent</mark>
	on the individual's goals;	with the [department's]
	and	<mark>career lattice, and</mark> based on
	(o) signed	<mark>the individual's goals; and</mark>
	acknowledgment that the	<mark>(o)</mark> signed
	staff have read and	<mark>acknowledgment that the</mark>
	understand the personnel	<mark>staff have read and</mark>
	handbook;	<mark>understand the personnel</mark>
	(p) signed	<mark>handbook;</mark>
	acknowledgement that	<mark>(p) signed</mark>
	all staff have reviewed	acknowledgement that
<u> </u>		<u> </u>

Current Language	Proposed Language	Final Adopted Language
	and are aware of the	all staff have reviewed
	<mark>center's disaster</mark>	<mark>and are aware of the</mark>
	preparedness plan and	<mark>center's disaster</mark>
	evacuation plan; and	preparedness plan and
	(q) hourly rate of pay.	evacuation plan;

Some public comments expressed discomfort with the proposed requirement to include hourly rate of pay in the Professional Development Information System, primarily due to privacy concerns. ECECD has modified the language so that reporting hourly rate of pay will not be required for the purposes of licensing.

Some public comments expressed confusion with the requirement for a professional development plan "consistent with the department's career lattice," remarking that a career lattice from the department was unavailable at this time. To address this, ECECD is not adopting that proposed language.

8.9.4.41 F(20)

• •		
8.9.4.41 (F)(20): Personnel	8.9.4.41 (F)(20): Personnel	8.9.4.41 (F)(20): Personnel
Handbook	Handbook	Handbook
policies and procedures for	policies and procedures for	policies and procedures for
expulsion of children. Policies and	expulsion of children. Policies and procedures shall include how the program will maintain a positive environment and will focus on preventing the expulsion of children under age five.	expulsion of children. Policies and procedures shall include how the program will maintain a positive environment and will focus on preventing the expulsion of children age five and older.

Explanatory Statement

ECECD received limited public comment asking for clarification on expulsion restrictions for children with disabilities. The proposed language in this section does not make changes to existing regulations governing expulsion and ECECD declines to make any changes to expulsion regulations at this time.

However, the proposed change wrongly refers to children "under age five." This section of the regulation is relevant to school-aged children only; therefore, ECECD modified language to correct this error and refer to policies for preventing the expulsion of children "age five and older" for this section

0	a	1	.42	Λ.	(C)

8.9.4.42 (A)(6): Personnel and	8.9.4.42 (A)(6): Personnel and	8.9.4.42 (A)(6): Personnel and		
Staffing Requirements	Staffing Requirements	Staffing Requirements		
The site director or a designated co-	The site director or a	The site director or a designated co-		
director who meets the same	designated co-director who	director who meets the same		
qualifications as the site director will	meets the same	qualifications as the site director will		
be on site 50 percent of the	qualifications as the site	be on site <mark>for</mark> 50 percent of the		
program's core hours of operation.	director will be on site <mark>for</mark> 50	program's core hours of operation.		
	percent of the program's core			
	hours of operation.			
Explanatory Statement				

Explanatory Statement

There were no substantive comments received. ECECD is adopting the proposed amendment.

8.9.4.42 A(8)

Current Language Current Language Current Language 8.9.4.42 (A)(8): Personnel and Staffing Requirements 8.9.4.42 (A)(8): Personnel and Staffing Requirements If the program has less than seven children, the second staff member may be engaged in other duties If the program has less than seven children, the second staff member may be engaged in other duties Fixplanatory Statement If the program has [tess] fewer than seven children, the second staff member may be engaged in other duties. Explanatory Statement If the program has [tess] fewer than seven children, the second staff member may be engaged in other duties. Explanatory Statement If the program has [tess] fewer than seven children, the second staff member may be engaged in other duties. Explanatory Statement If the program has [tess] fewer than seven children, the second staff member may be engaged in other duties. Explanatory Statement Unless exempted under Paragraph (3) below, an out of school time program will have an administrator/director who is at least 21 years old and has proof of a current copy of: Explanatory Statement Unless exempted under Paragraph (3) below, an out []-off []-school[]-time program [witt] shall have an administrator/director who is at least 21 years old and has proof of a current copy of: Explanatory Statement Explanatory Statement Exert site of an out []-off []-school[]-time program [witt] Shall have an site of an out []-off []-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-school[]-scho	9.4.42 (certain properties) Extra ceived. 9.4.42 (ceived.) 9.4.42 (ceived.) aragrap school[all haved.)	Current Language 4.42 (A)(8): Personnel and ffing Requirements e program has less than seven dren, the second staff member y be engaged in other duties re were no substantive commer 4.42 B(1) 4.42 (B)(1): Staff Qualifications ess exempted under Paragraph pelow, an out of school time		
8.9.4.42 (A)(8): Personnel and Staffing Requirements 8.9.4.42 (A)(a): Personnel and Staffing Requirements 8.9.4.42 (B)(1): Staff Qualifications 8.9.4.42 (B)(1)	9.4.42 (the projected characteristics) Exceived. 9.4.42 (the projected characteristics) projected characteristics projected c	4.42 (A)(8): Personnel and ffing Requirements e program has less than seven dren, the second staff member be engaged in other duties re were no substantive commer 4.42 B(1) 4.42 (B)(1): Staff Qualifications ess exempted under Paragraph pelow, an out of school time		
Staffing Requirements If the program has less than seven children, the second staff member may be engaged in other duties Figure Fig	the properent of the pr	e program has less than seven dren, the second staff member be engaged in other duties re were no substantive commer 4.42 B(1) 4.42 (B)(1): Staff Qualifications ess exempted under Paragraph pelow, an out of school time		
children, the second staff member may be engaged in other duties Seven children, the second staff member may be engaged in other duties.	even chember uties. Exceived. 9.4.42 nless exaragrap school[nall havdminist	dren, the second staff member y be engaged in other duties re were no substantive commer 4.42 B(1) 4.42 (B)(1): Staff Qualifications ess exempted under Paragraph pelow, an out of school time		
duties. Explanatory Statement	exties. Exceived. 9.4.42 nless exaragrap school[nall hav	re were no substantive commer 4.42 B(1) 4.42 (B)(1): Staff Qualifications ess exempted under Paragraph pelow, an out of school time		
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current copy of: least 21 years old and has proof of a current copy of: Explanatory Statement		st 21 years old and has proof of a		
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Every site of an out of school time program will have a site director who school []-time program [will] Every site of an out []-of []-time program [will] time program [will] shall have a site	8.9.4.42 B(2)			
program will have a site director who school[]-time program [will] time program [will] shall have a site	9.4.42	4.42 (B)(2): Staff Qualifications		
	ery site	ry site of an out of school time		
has at least a high school diploma or shall have a site director who director who has at least a high	:hool[]	gram will have a site director wh		
in a series of the series of t	ı <mark>all</mark> hav	at least a high school diploma		
GED and proof of at least three years has at least a high school school diploma or GED and proof	as at lea	o and proof of at least three year		
of experience working with children. diploma or GED and proof of at least three years of experience	ploma	xperience working with children		
at least three years of working with children.	least t			
experience working with	perien			
children.	nildren.			
Explanatory Statement	Ex			
There were no substantive comments received. ECECD is adopting the proposed amendment.	ceived.	re were no substantive commer		
8.9.4.42 B(3)		4.42 B(3)		
Current Language Proposed Language Final Adopted Language	F	Current Language		
8.9.4.42 (B)(3): Staff Qualifications 8.9.4.42 (B)(3): Staff Qualifications 8.9.4.42 (B)(3): Staff Qualifications	9.4.42	4.42 (B)(3): Staff Qualifications		
Program administrators and site		gram administrators and site		
directors employed in a licensed directors employed in a licensed directors employed in a licensed	ogram			
program on the date these program on the date these program on the date these	_			
regulations become effective but regulations become effective, but regulations become effective,	rectors	_		
who are not qualified will continue who are not qualified, will [continue who are not qualified]	rectors ogram			
to qualify in their positions as long to qualify in] be qualified to continue to qualify in	rectors ogram gulatio	are not qualified will continue		
as they continuously work as in their positions as long as they	rectors ogram gulatio ho are r			

Current Language	Proposed Language	Final Adopted Language		
program administrators or site	continuously work as program	continuously work as program		
directors.	administrators or site directors.	administrators or site directors.		
	Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.				
8.9.4.42 C(2)(k)				
Current Language	Proposed Language	Final Adopted Language		
8.9.4.42 (C)(2)(k): Training	8.9.4.42 (C)(2)(k): Training	8.9.4.42 (C)(2)(k): Training		
a child development course that	a child development course that	a child development course that		
addresses all major domains of	addresses all major domains of child	addresses all major domains of child		
child development, including	development, including cognitive,	development, including cognitive,		
cognitive, social emotional, physical	social emotional, physical	social emotional, physical		
development and approach to	development and approach to	development and approach to		
learning as defined by the federal	learning as defined by the federal	learning as defined by the federal		
Child Care and Development Fund	Child Care and Development Fund	Child Care and Development Fund		
(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title-		
45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-		
98.98.44.b.ii), or approved three-	98.98.44.b.ii) in 45 CFR § 98.44	98.98.44.b.ii) in 45 CFR § 98.44		
credit early care and education	Training and Professional	Training and Professional		
course or an equivalent approved by	development, or approved three-	development, or approved three-		
the department.	credit early care and education	credit early care and education		
and department.	course or an equivalent approved by	course or an equivalent approved by		
	the department.	the department.		
	· ·	The department.		
	Explanatory Statement			
	ve update to the citation of federal trai			
and Development Fund in the federal	register. ECECD will adopt the propose	ed amendment.		
•	ed the requirement or incentivization o	G		
based social-emotional learning and	inclusive practices. ECECD will not rec	quire additional training at this time.		
8.9.4.42 C(6)				
8.9.4.42 (C)(6): Training	8.9.4.42 (C)(6): Training	8.9.4.42 (C)(6): Training		
Training must be provided by	Training must be provided by	Training must be provided by		
individuals who have education or	individuals who have education or	individuals who have education or		
experience in the competency area	experience in the competency area	experience in the competency area		
(or areas) in which they train.	(or areas) in which they <mark>provide</mark>	(or areas) in which they <mark>provide</mark>		
	train <mark>ing</mark> .	train <mark>ing</mark> .		
	Explanatory Statement			
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.		
8.9.4.43 B(6)				
8.9.4.43 (B)(6): Physical	8.9.4.43 (B)(6): Physical	8.9.4.43 (B)(6): Physical Environment		
Environment	Environment			
		Materials are [well] properly cared		
Materials are well cared for and	Materials are [well] <mark>properly</mark> cared	for and organized by type.		
organized by type.	for and organized by type.			
	Explanatory Statement			
	Explanatory Statement			
There were no substanting a sure	received. ECECD is adopting the prop	a a a d a ma a m d ma a := t		

Current Language	Proposed Language	Final Adopted Language
8.9.4.43 E(3)		
N/A	8.9.4.43 (E) (3): Additional Requirements for Children with Special Needs	N/A
	Providers must comply with all state and federal laws to include children with disabilities. Providers must allow children with disabilities to be served in accordance with the child's individualized family service plan (IFSP). Providers must allow ECECD Family, Infant, Toddler (FIT) providers access to the	
	center to provide services.	
	Explanatory Statement	
This section does not apply to school	-age children and will not be adopted.	
8.9.4.43 F(4)		
8.9.4.43 (F)(4): Outdoor Play Areas	8.9.4.43 (F)(4): Outdoor Play Areas	8.9.4.43 (F)(4): Outdoor Play Areas
Licensees shall protect children from the sun during outdoor play by providing shade (as necessary), sunscreen, proper attire and limiting the time of exposure to the elements.	Licensees shall protect children from the sun during outdoor play by providing shade (as necessary), sunscreen (as permitted by parent/guardian), proper attire and by limiting the time of exposure to the elements.	Licensees shall protect children from the sun during outdoor play by providing shade (as necessary), sunscreen (as permitted by parent/guardian), proper attire and by limiting the time of exposure to the elements.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.43 G(2)		
N/A – New text	8.9.4.43 (G)(2): Swimming, Wading and Water	8.9.4.43 (G)(2): Swimming, Wading and Water
	Children shall be constantly supervised while swimming, wading, or in or near, and the number of adults present must be proportional to the ages and abilities of the children and type of water hazard in use.	Children shall be constantly supervised while swimming, wading, or in or near, and the number of adults present must be proportional to the ages and abilities of the children and type of water hazard in use.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.43 G(4)		
8.9.4.43 (G)(3)(c): Swimming, wading and water	8.9.4.43 (G) [(3)(c)] <mark>(4)</mark> : Swimming, wading and water	8.9.4.43 (G) [(3)(c)] <mark>(4)</mark> : Swimming, wading and water

Current Language	Proposed Language	Final Adopted Language		
when in use, children will be	[(c) when in use, children will	[(c) when in use, children will be		
constantly supervised and the	be constantly supervised	constantly supervised and the		
number of adults present will be	and the number of adults	number of adults present will be		
proportional to the ages and abilities	present will be proportional	proportional to the ages and abilities		
of the children and type of water	to the ages and abilities of	of the children and type of water		
hazard in use	the children and type of	hazard in use.]		
	water hazard in use.]			
Explanatory Statement				
There were no substantive comments	received. ECECD is adopting the prop	oosed amendment.		
8.9.4.45 D(2)				
8.9.4.45 D (2): Illness	8.9.4.45 D (2): Illness	8.9.4.45 D (2): Illness		
A program will separate and	A program [will] <mark>shall</mark> separate	A program [will] <mark>shall</mark> separate and		
constantly observe a child who	and constantly observe a child	constantly observe a child who		
becomes sick at the program and	who becomes sick[at the	becomes sick[at the program] on the		
promptly notify a parent or guardian	program] on the premises and	premises and promptly notify a		
of the child's illness.	promptly notify a parent or	parent or guardian of the child's		
	guardian of the child's illness.	illness.		
	Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.				
8.9.4.45 D(4)				
8.9.4.45 D (4): Illness	8.9.4.45 D (4): Illness	8.9.4.45 D (4): Illness		
The program will have a cot or mat	 The program [will] <mark>shall</mark> have a	The program [will] <mark>shall</mark> have a cot or		
available for sick children and it will	cot or mat available for sick	mat available for sick children [and		
be cleaned and disinfected	children [and it] which will be	it] which will be cleaned and		
thoroughly after use.	cleaned and disinfected	disinfected thoroughly after use.		
and agenty arter deer	thoroughly after use.	aren account and a configuration account		
	Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.				
8.9.4.47 A(2)				
8.9.4.47 (A)(2): Housekeeping	8.9.4.47 (A)(2): Housekeeping	8.9.4.47 (A)(2): Housekeeping		
Materials dangerous to children		Materials dangerous to children		
must be secured in a manner	Materials dangerous to children	must be secured in a manner making		
making them inaccessible to	must be secured in a manner	them inaccessible to children and		
children and away from food storage	making them inaccessible to	away from fo <mark>od [storage or]</mark>		
or preparation areas.	children and away from food]preparation <u>or storage</u> areas.		
	[storage or]preparation <u>or</u> <u>storage</u> areas.			
	Explanatory Statement			
There were no substantive comments	received. ECECD is adopting the prop	oosed amendment.		
8.9.4.47 B(1)				
8.9.4.47 (B) (1): Pest Control	8.9.4.47 (B) (1): Pest Control	8.9.4.47 (B) (1): Pest Control		

Current Language	Proposed Language	Final Adopted Language			
(1) All licensed programs must use a	(1) All licensed programs must use a	(1) All licensed programs must use a			
New Mexico licensed applicator	New Mexico licensed	New Mexico licensed			
whenever applying pesticides in or	[applicator]pest control	[applicator]pest control professional			
on the program's buildings and	professional whenever applying	whenever applying pesticides in or			
grounds.	pesticides in or on the program's	on the program's buildings and			
	buildings and grounds.	grounds.			
(2) The applicator may not apply	a antamige and greathast	8.04.14.07			
pesticides when children are on the	(2) [The applicator may not apply	(2) [The applicator may not apply			
premises.	p]Pesticides may not be applied	p]Pesticides may not be applied			
	when children are on the premises.	when children are on the premises			
	Explanatory Statement				
There were no substantive comments received. ECECD is adopting the proposed amendment.					
8.9.4.47 C(3)					
8.9.4.47 (C)(3): Mechanical Systems	8.9.4.47 (C)(3): Mechanical Systems	8.9.4.47 (C)(3): Mechanical Systems			
A program will not use unvented	A program [will] <mark>shall</mark> not use	A program [will] <mark>shall</mark> not use			
heaters, open flame heaters or	[unvented] heaters <mark>without vents</mark> ,	[unvented] heaters without vents,			
portable heaters.	open flame heaters or	open flame heaters or			
	portable heaters.	portable heaters.			
Explanatory Statement					
There were no substantive comments received. ECECD is adopting the proposed amendment.					
8.9.4.47 E(2)					
8.9.4.47 E (2): Exits and Windows	8.9.4.47 E (2): Exits and Windows	8.9.4.47 E (2): Exits and Windows			
Esthering the least for a form	Frit Francis I was a second by Land Co.	Fritting 1			
Exit ways must be kept free from obstructions at all times.	Exit [ways] access must be kept free	Exit [ways] <u>access</u> must be kept free from obstructions at all times.			
obstructions at all times.	from obstructions at all times.	from obstructions at all times.			
Explanatory Statement					
There were no substantive comments received. ECECD is adopting the proposed amendment.					
8.9.4.47 F(2)					
8.9.4.47 F (2): Toilet and Bathing	8.9.4.47 F (2): Toilet and Bathing	8.9.4.47 F (2): Toilet and Bathing			
Facilities	Facilities	Facilities			
The staff member shall maintain a	The staff member shall maintain a	The staff member shall maintain a			
direct line of sight of the child until	direct line of sight of the child until	direct line of sight of the child until			
the child enters the bathroom and	the child enters the bathroom and	the child enters the bathroom and			
from the time the child leaves the	from the time the child leaves the	from the time the child leaves the			
bathroom until the child returns. A	bathroom [until the child returns]	bathroom [until the child returns]			
staff member will accompany	and returns to the supervised area.	and returns to the supervised area.			
children to the bathroom door when	A staff member [will] shall	A staff member [witt] shall			
maintaining a line of sight is	accompany children to the bathroom door [when]if maintaining	accompany children to the bathroom door [when]if maintaining a line of			
impossible due to bathrooms being not located within a direct line of	a line of sight is impossible due to				
	bathrooms being not located within	sight is impossible due to bathrooms being not located within a direct line			
sight.	a direct line of sight.	of sight.			
	Explanatory Statement	O O O O O O O O O O O O O O O O O O O			
There were no substantive comments	-	osed amendment.			
There were no substantive comments received. ECECD is adopting the proposed amendment.					

Current Language	Proposed Language	I Language Final Adopted Language	
8.9.4.47 G(1)			
8.9.4.47 (G) (1): Safety Compliance	8.9.4.47 (G) (1): Safety Compliance	8.9.4.47 (G) (1): Safety Compliance	
A program will conduct emergency preparedness practice drills at least quarterly beginning of each school calendar year.	A program [will] shall conduct quarterly emergency preparedness practice drills [at least quarterly beginning] starting at the commencement of each school calendar year.	A program [will] shall conduct quarterly emergency preparedness practice drills [at least quarterly beginning] starting at the commencement of each school calendar year.	

ECECD received one public comment requesting clarification as to whether this section applies to janitorial and kitchen staff. Quarterly emergency preparedness practice drills are required for all program staff. ECECD is adopting the proposed amendment.

8.9.4.47 G(3)

8.9.4.47 (G) (3): Safety Compliance

A program shall request an annual fire inspection from the fire authority having jurisdiction. If the policy of the fire authority having jurisdiction does not provide for an annual inspection of the program, the program must document the date the request was made and to whom. A copy of the latest inspection must be posted in the program.

8.9.4.47 (G) (3): Safety Compliance

A program shall request an annual fire inspection from the fire authority having jurisdiction in the area of the program. If the policy of the fire authority having jurisdiction does not provide for an annual inspection[of the program], the program must document the date the request was made and to whom. A copy of the latest inspection must be posted in [the program]an easily accessible place.

8.9.4.47 (G) (3): Safety Compliance

A program shall request an annual fire inspection from the fire authority having jurisdiction in the area of the program. If the policy of the fire authority having jurisdiction does not provide for an annual inspection[of the program], the program must document the date the request was made and to whom. A copy of the latest inspection must be posted in [the program]an easily accessible place.

Explanatory Statement

There were no substantive comments received. ECECD is adopting the proposed amendment.

8.9.4.47 G(5)

8.9.4.47 (G) (5): Safety Compliance

A program will keep a working telephone in an easily accessible place for calling for help in an emergency and will post emergency phone numbers for fire, police, ambulance and the poison control center next to the phone. A pay phone will not fulfill this requirement. If cordless phones are used, emergency numbers shall be posted on the phone itself. Facilities shall post the program's telephone number and address in a conspicuous location next to the emergency phone numbers.

8.9.4.47 (G) (5): Safety Compliance

A program [will] shall keep a working telephone in an easily accessible place for calling for help in an emergency and [will] shall post emergency phone numbers for fire, police, ambulance and the poison control center next to the phone.[-A pay phone will not fulfill this requirement.] If cordless phones are used, emergency numbers shall be posted on the phone itself. Facilities shall post the program's telephone number and address in a conspicuous location next to the emergency phone numbers.

8.9.4.47 (G) (5): Safety Compliance

A program [witt] shall keep a working telephone in an easily accessible place for calling for help in an emergency and [witt] shall post emergency phone numbers for fire, police, ambulance and the poison control center next to the phone. [-A pay phone will not fulfill this requirement.] If cordless phones are used, emergency numbers shall be posted on the phone itself. Facilities shall post the program's telephone number and address in a conspicuous location next to the emergency phone numbers.

Current Language	Proposed Language	Final Adopted Language	
3,10	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.47 H			
8.9.4.47 (H): Smoking, Firearms, Alcoholic Beverages, Illegal Drugs, and Controlled Substances A program will prohibit smoking, use of e-cigarettes and vaporizers in all areas, including vehicles, and will not allow any alcoholic beverages, firearms, lethal or non-lethal weapons or non-prescription controlled substances (drugs) on the premises or in vehicles.	8.9.4.47 (H): Smoking, Firearms, Alcoholic Beverages, Illegal Drugs, and Controlled Substances A program [will] shall prohibit smoking, use of e-cigarettes[-and], nicotine and cannabis vaporizers, and any other vaporizing device not prescribed by a licensed medical professional in all areas, including vehicles, and [will] shall not allow any alcoholic beverages, cannabis, firearms, lethal or non-lethal weapons or non-prescription controlled substances (drugs) on the premises or in vehicles.	8.9.4.47 (H): Smoking, Firearms, Alcoholic Beverages, Illegal Drugs, and Controlled Substances A program [witt] shall prohibit smoking, use of e-cigarettes[-and], nicotine and cannabis vaporizers, and any other vaporizing device not prescribed by a licensed medical professional in all areas, including vehicles, and [witt] shall not allow any alcoholic beverages, cannabis, firearms, lethal or non-lethal weapons or non-prescription controlled substances (drugs) on the premises or in vehicles.	
	Explanatory Statement	promote of involucion	
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4 - Throughout			
Current Language	Proposed Language	Final Adopted Language	
will	[will] shall		

8.9.5 NMAC – Explanatory Statement

8.9.5.3		
Current Language	Proposed Language	Final Adopted Language
8.9.5.3: Statutory Authority	8.9.5.3: Statutory Authority	8.9.5.3: Statutory Authority
Child care homes registered pursuant to these regulations for participation in the child and adult care food program (CACFP) and child care assistance programs (CCAP) with Early Child Education and Care Department, are health facilities within the scope of Sections 24-1-2, 24-1-5 NMSA 1978, and Section 32A-15-3 NMSA 1978. See also Paragraph (3) of Subsection (A) of Section 9-29-3 NMSA 1978.	[Child care homes registered pursuant to these regulations for participation in the child and adult care food program (CACFP) and child care assistance programs (CCAP) with Early Child Education and Care Department, Pursuant to these regulations for participation in the child care assistance programs (CCAP) with the Early Childhood Education and Care Department, registered homes are health facilities within the scope of Sections 24-1-2, 24-1-5 NMSA 1978, and Section 32A-15-3 NMSA 1978. See also Paragraph (3) of Subsection (A) of Section 9-29-3 NMSA 1978.	[Child care homes registered pursuant to these regulations for participation in the child and adult care food program (CACFP) and child care assistance programs (CCAP) with Early Child Education and Care Department,] Pursuant to these regulations for participation in the child care assistance programs (CCAP) with the Early Childhood Education and Care Department, registered homes are health facilities within the scope of Sections 24-1-2, 24-1-5 NMSA 1978, and Section 32A-15-3 NMSA 1978. See also Paragraph (3) of Subsection (A) of Section 9-29-3 NMSA 1978.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 A (3)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 A (3): Definitions	8.9.5.7 A (3): Definitions	8.9.5.7 A (3): Definitions
"Attended" means the physical presence of a staff member of educator supervising children under care. Merely being within eyesight of hearing of the children does not mean actively engaged or meet the intent of this definition.	"Attended" means " means the physical presence of a staff member of educator supervising children under care. Merely being within eyesight [of] or hearing of the children does not mean actively engaged or meet the intent of this definition.	"Attended" means " means the physical presence of a staff member of educator supervising children under care. Merely being within eyesight [of] or hearing of the children does not mean actively engaged or meet the intent of this definition.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 C (2)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 C (2): Definitions	8.9.5.7 C (2): Definitions	8.9.5.7 C (2): Definitions

A cease and desist letter is usually issued when a registered care giver violates applicable regulations, but there is not an immediate threat to the health and safety of children in care, and seeks to compel compliance before more serious action is taken.

A cease and desist letter is usually issued when a registered care [-]giver violates applicable regulations, but there is not an immediate threat to the health and safety of children in care, and seeks to compel compliance before more serious action is taken.

A cease and desist letter is usually issued when a registered care[-]giver violates applicable regulations, but there is not an immediate threat to the health and safety of children in care, and seeks to compel compliance before more serious action is taken.

Explanatory Statement

8.9.5.7 D (1)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 D (1): Definitions	8.9.5.7 D (1): Definitions	8.9.5.7 D (1): Definitions
"Disinfect" means to destroy or	"Disinfect means to destroy or	"Disinfect means to destroy or
inactivate most germs on any	inactivate most germs, but not	inactivate most germs, but not
inanimate object, but not bacterial	bacterial spores, on any inanimate	bacterial spores, on any inanimate
spores. Mix four tablespoons of	object, [but not bacterial spores] .	object, [but not bacterial spores] .
bleach with one gallon of cool	Mix four tablespoons of bleach with	Mix four tablespoons of bleach with
water or use an environmental	one gallon of cool water or use an	one gallon of cool water or use an
protection agency (EPA) registered	environmental protection agency	environmental protection agency
disinfectant.	(EPA) registered disinfectant.	(EPA) registered disinfectant.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 E (2)		
Current Language	Proposed Language	Final Adopted Language
N/A – New text	8.9.5.7 E (2): Definitions "Environment" means that the space meets all required local, state, and federal regulations. Environment includes space (both	8.9.5.7 E (2): Definitions "Environment" means a space meeting all required local, state, and federal regulations. Environment includes space (both
	indoors and outdoors) with appropriate equipment and materials that encourage children to engage in hands-on learning. Providers must allow children with disabilities to be served in a natural environment for the family and child as part of a child's plan of care.	indoors and outdoors) with appropriate equipment and materials that encourage children to engage in hands-on learning.
Explanatory Statement		
As a result of the addition of 8.9.5.16(C) NMAC, this proposed language was amended for clarity.		

8.9.5.7 E (3)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 E (2): Definitions	8.9.5.7 E (3): Definitions	8.9.5.7 E (3): Definitions
"Exempt caregiver" means a child care home primary caregiver who is exempt from participating in the CACFP because he or she is caring only for resident children or does not provide child care during the hours when a meal (breakfast, lunch or dinner) is served.	"Exempt caregiver" means a child care home primary caregiver who is exempt from participating in the CACFP because [he or she is] they are caring only for resident children or does not provide child care during the hours when a meal (breakfast, lunch or dinner) is served.	"Exempt caregiver" means a child care home primary caregiver who is exempt from participating in the CACFP because [he or she is] they are caring only for resident children or does not provide child care during the hours when a meal (breakfast, lunch or dinner) is served.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 F		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 F: Definitions	8.9.5.7 F: Definitions	8.9.5.7 F: Definitions
Terms beginning with the letter "F": "Family, friend or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.	Terms beginning with the letter "F": ["Family, friend or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.] [RESERVED]	Terms beginning with the letter "F": "Family, friend or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.
Explanatory Statement		
ECECD is reverting to the current language to ensure this definition is retained in case of a public health emergency.		

8.9.5.7 H (1)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 H (1): Definitions	8.9.5.7 H (1): Definitions	8.9.5.7 H (1): Definitions
(1) "Home" means a private residence and its premises registered under these regulations where children receive care, services, and supervision. The	(1) "Home" means a private residence and its premises registered under these regulations where children receive care, services, and	(1) "Home" means a private residence and its premises registered under these regulations where children receive care, services, and
caregiver will reside in the home and be the primary caregiver. A	supervision. The caregiver [will] shall reside in the home	supervision. The caregiver [will] shall reside in the home

home will be considered a building or fixed dwelling that can be occupied for living purposes if it provides complete independent living facilities, including permanent provisions for plumbing and electricity. Special considerations will be made for homes on tribal lands.

and be the primary caregiver. A home will be considered a building or fixed dwelling that can be occupied for living purposes if it provides complete independent living facilities, including permanent provisions for plumbing and electricity. Special considerations will be made for homes on tribal lands.

and be the primary caregiver. A home will be considered a building or fixed dwelling that can be occupied for living purposes if it provides complete independent living facilities, including permanent provisions for plumbing and electricity. Special considerations will be made for homes on tribal lands.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.7 N (3)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 N (3): Definitions	8.9.5.7 N (3): Definitions	8.9.5.7 N (3): Definitions
(3) "Notice of Provisional Employment" means a written notice issued to a child care center or home applicant indicating the background check unit reviewed the applicant's fingerprint based federal or New Mexico criminal record and made a determination that the applicant may begin employment under direct physical supervision until receiving background eligibility. A notice may also indicate the applicant must receive a complete background eligibility prior to beginning	[(3) "Notice of Provisional Employment" means a written notice issued to a child care center or home applicant indicating the background check unit reviewed the applicant's fingerprint based federal or New Mexico criminal record and made a determination that the applicant may begin employment under direct physical supervision until receiving background eligibility. A notice may also indicate the applicant must receive a complete background eligibility prior to beginning	[(3) "Notice of Provisional Employment" means a written notice issued to a child care center or home applicant indicating the background check unit reviewed the applicant's fingerprint based federal or New Mexico criminal record and made a determination that the applicant may begin employment under direct physical supervision until receiving background eligibility. A notice may also indicate the applicant must receive a complete background eligibility prior to beginning
employment.	employment.]	employment.]
Explanatory Statement		

8.9.5.7 P(3) **Current Language Proposed Language Final Adopted Language** 8.9.5.7 P(3): Definitions 8.9.5.7 P(3): Definitions 8.9.5.7 P(3): Definitions (3) "Primary caregiver" means a (3) "Primary caregiver" means a (3) "Primary caregiver" means a registered child care home registered child care home registered child care home caregiver 18 years of age or older caregiver 18 years of age or older caregiver 18 years of age or older who is personally providing care to who is personally providing care to who is personally providing care to children, less than 24 hours a day, children, less than 24 hours a day, children, less than 24 hours a day, in his/her own residence and has in his/her own residence and has in his/her own residence and has

completed the registration process, paid the required fee and has no other employment during hours of care. The primary caregiver must reside in the home. completed the registration process, [paid the required fee] and has no other employment during hours of care. The primary caregiver must reside in the home.

completed the registration process, [paid the required fee] and has no other employment during hours of care. The primary caregiver must reside in the home.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.7 R (2)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 R (2): Definitions	8.9.5.7 R (2): Definitions	8.9.5.7 R (2): Definitions
"Registered family child care home" means the residence of an independent primary caregiver who registers the home under these regulations to participate in the child and adult care food program or in the state and federal child care assistance programs.	"Registered family child care home" means the residence of an independent primary caregiver who registers the home under these regulations to participate in the child and adult care food program (CACFP) or in the state and federal child care assistance programs.	"Registered family child care home" means the residence of an independent primary caregiver who registers the home under these regulations to participate in the child and adult care food program (CACFP) or in the state and federal child care assistance programs.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 R (3)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 R (3): Definitions	8.9.5.7 R (3): Definitions	8.9.5.7 R (3): Definitions
"Registered family child care food- only home" means the residence of an independent primary caregiver who registers the home under these regulation to participate in the child and adult care food program only and does not participate in the state and federal child care assistance program.	"Registered family child care food-only home" means the residence of an independent primary caregiver who registers the home under these regulation to participate in the child and adult care food program (CACFP) only and does not participate in the state and federal child care assistance program.	"Registered family child care food-only home" means the residence of an independent primary caregiver who registers the home under these regulation to participate in the child and adult care food program (CACFP) only and does not participate in the state and federal child care assistance program.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 S(6)

Current Language	Proposed Language	Final Adopted Language
8.9.5.7 S (6): Definitions	8.9.5.7 S (6): Definitions	8.9.5.7 S (6): Definitions
(6) "Survey" means a representative of ECECD's authority to enter a home, observes activity, examine the records and premises, interviews parents and records deficiencies	(6) "Survey" means a representative of ECECD's authority to enter a home, observe[s] activity, examine [the] records and premises, interviews parents and record[s] deficiencies.	(6) "Survey" means a representative of ECECD's authority to enter a home, observe[s] activity, examine [the] records and premises, interviews parents and record[s] deficiencies.
Explanatory Statement		

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.8 A		
Current Language	Proposed Language	Final Adopted Language
8.9.5.8 A: Application	8.9.5.8 A: Application	8.9.5.8 A: Application
An independent caregiver who	An independent caregiver who	An independent caregiver who
wants to participate in the federal	wants to participate in the federal	wants to participate in the federal
child and adult care food program	child and adult care food program	child and adult care food program
and state and federal child care	and state and federal child care	and state and federal child care
assistance programs must apply as	assistance programs must apply as	assistance programs must apply as
a registered family child care home	a registered family child care home	a registered family child care_home
by submitting an application,	by submitting an application,	by submitting an application,
receiving an on-site health and	receiving an on-site health and	receiving an on-site health and
safety inspection by ECECD,	safety inspection by ECECD,	safety inspection by ECECD, <mark>and</mark>
completing the registration process	completing the registration process	completing the registration process
and paying the processing charge.	and paying the processing charge.	[and paying the processing charge].
One primary caregiver per	One primary caregiver per	One primary caregiver per
household can be registered or	household can be registered or	household can be registered or
licensed with CCSB. All registered	licensed with CCSB . [All registered	licensed with CCSB. [All registered
homes receiving child care	homes receiving child care	homes receiving child care
assistance subsidies must be	assistance subsidies must be	assistance subsidies must be
enrolled and participate in the	enrolled and participate in the	enrolled and participate in the
CACFP, unless they are exempt.	CACFP, unless they are exempt.]	CACFP, unless they are exempt.]
Primary caregivers must provide	Primary caregivers must provide	Primary caregivers must provide
photo identification to prove	photo identification to prove	photo identification to prove
identity and documentation of	identity and documentation of	identity and documentation of
proof of address.	proof of address.	proof of address.
	Evalonatory Statement	

Explanatory Statement

ECECD modified the proposed language to address public comment. The public comment recommended removing the requirement to pay a processing charge to be consistent with proposed amendments in other sections that remove the requirements for annual registration renewal and payment of registration application fees. The final adopted language makes this recommended change.

8.9.5.8 B		
Current Language	Proposed Language	Final Adopted Language
8.9.5.8 B: Application	8.9.5.8 B: Application	8.9.5.8 B: Application

An applicant will complete an application form provided by the registered authority and include payment for the non-refundable application fee. Applications will be rejected unless all supporting documents are received within six months of the date indicated on the application. A 45 day extension will be granted if the applicant provides documentation to the licensing authority that documents were submitted to the appropriate agencies in a timely manner but, through no fault of their own, they have not received responses from these agencies. In home care registrations are exempt from the application fee.

An applicant [will] shall complete an application form provided by the registered authority[and include payment for the non-refundable application fee]. Applications will be rejected unless all supporting documents are received within six months of the date indicated on the application. A 45 day extension will be granted if the applicant provides documentation to the licensing authority that documents were submitted to the appropriate agencies in a timely manner but, through no fault of their own, [they have] the applicant has not received responses from these agencies. In home care registrations are exempt from the application fee.

An applicant [will] shall complete an application form provided by the registered authority[and include payment for the non-refundable application fee]. Applications will be rejected unless all supporting documents are received within six months of the date indicated on the application. A 45 day extension will be granted if the applicant provides documentation to the licensing authority that documents were submitted to the appropriate agencies in a timely manner but, through no fault of their own, [they have] the applicant has not received responses from these agencies. In home care registrations are exempt from the application fee.

Explanatory Statement

8.9.5.8 C		
Current Language	Proposed Language	Final Adopted Language
8.9.5.8 C: Application	8.9.5.8 C: Application	8.9.5.8 C: Application
C. A home will submit a new application to the registered authority before changing anything required to be stated on the registration such as: change of name, dates, status or address.	C. A home [will] shall submit a new application to the registered authority before changing anything required to be stated on the registration such as: change of name, dates, status or address.	C. A home [will] shall submit a new application to the registered authority before changing anything required to be stated on the registration such as: change of name, dates, status or address.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.8 D		
Current Language	Proposed Language	Final Adopted Language
8.9.5.8 D: Application	8.9.5.8 D: Application	8.9.5.8 D: Application
N/A – New Language	N/A – No Proposed Changes	(D) Child care homes operating on sovereign tribal lands are governed and inspected by the federal Tribal Child Care and

Development Fund (CCDF) Lead
Agency. Therefore, such registered
homes do not require an inspection
by the New Mexico registered
authority.

- (1) Homes governed and inspected by the federal Tribal Child Care and Development Fund (CCDF) Lead Agency, may choose to apply for a Tribal Government registration from ECECD.
- (a) A Tribal Government registration may be issued for the purposes of receiving child care assistance subsidies through 8.9.3 NMAC.
- under a Tribal Government registration must comply with their sponsoring Tribal Child Care and Development Lead Agency and are not required to be inspected by the New Mexico registered home authority or comply with any other regulations under this part other than 8.9.5.8(D) NMAC.
- (c) Registered homes operating under a Tribal Government registration must comply with their sponsoring Tribal Child Care and Development Lead Agency rules and requirements.
- (d) A Tribal Government registration may be revoked if the New Mexico registered authority is notified by the registered home's Tribal Child Care and Development Lead agency of the registered home's non-compliance with their rules and requirements.
- (2) Caregivers registered by the Tribal CCDF Lead Agency program must submit the following to obtain

a tribal government child care registration from ECECD: (a) Application; (b) Proof of Tribal CCDF Lead Agency approval; (c) Annual submission of a letter or memorandum attesting compliance with state, federal or Tribal background check clearances; Annual submission of all <u>(d)</u> caregivers employed by the registered home, listing each individual staff member's name, date of birth, and home address; (e) W-9 form and supporting documentation, if applicable. (3) As an alternative to a Tribal Government registration, registered homes operating on sovereign tribal lands may choose to apply for a state registration. To receive a state registration, the registered home must follow the full process outlined in 8.9.5 NMAC and agree to follow and be subject to all the rules and requirements of 8.9.5 NMAC.

Explanatory Statement

Public comments from Tribal partners expressed concerns about the lack of clarity related to the tribal government license compared to a state license, and lack of clarity regarding the requirements that a child care provider on sovereign tribal land would need to follow. ECECD is adopting the above language to address those concerns.

8.9.5.10 A		
Current Language	Proposed Language	Final Adopted Language
8.9.5.10 A: Caregiver Requirements	8.9.5.10 A: Caregiver Requirements	8.9.5.10 A: Caregiver Requirements
All child care primary caregivers who receive child care assistance reimbursements are required to be	All child care primary caregivers who receive child care assistance reimbursements are required to be	All child care primary caregivers who receive child care assistance reimbursements are required to be

licensed or registered by the department and meet and maintain compliance with the appropriate licensing and registration regulations in order to receive payment for child care services. All registered homes receiving child care assistance subsidies must be enrolled and participate in a CACFP, unless they are exempt.

licensed or registered by the department and meet and maintain compliance with the appropriate licensing and registration regulations in order to receive payment for child care services. [All registered homes receiving child care assistance subsidies must be enrolled and participate in a CACFP, unless they are exempt.]

licensed or registered by the department and meet and maintain compliance with the appropriate licensing and registration regulations in order to receive payment for child care services. [All registered homes receiving child care assistance subsidies must be enrolled and participate in a CACFP, unless they are exempt.]

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.10 H **Current Language Proposed Language Final Adopted Language** 8.9.5.10 H: Caregiver Requirements 8.9.5.10 H: Caregiver Requirements 8.9.5.10 H: Caregiver Requirements Н. All new primary and All new primary and All new primary and substitute caregivers of registered substitute caregivers of substitute caregivers of family child care homes, with the registered family child care registered family child care exception of registered family child homes, with the exception of homes, with the exception of care food-only homes, must registered family child care registered family child care complete the following training food-only homes, must food-only homes, must within three months of their original complete the following complete the following date of initial registration. Training training within three months training within three months must be approved to fulfill the of their original date of initial of their original date of initial following requirements. Approved registration. Training must be registration. Training must be trainings and substitutions will be approved to fulfill the approved to fulfill the listed on the ECECD's website. All following requirements. following requirements. Approved trainings and current primary and substitute Approved trainings and caregivers in a registered family substitutions [will] shall be substitutions [will] shall be child care home will have three listed on the ECECD's listed on the ECECD's months to comply with the website. All current primary website. All current primary following training from the date and substitute caregivers in a and substitute caregivers in a these regulations are promulgated: registered family child care registered family child care home [will] shall have three home [will] shall have three months to comply with the months to comply with the following training from the following training from the date these regulations are date these regulations are promulgated: promulgated: **Explanatory Statement**

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.10 H (12)

Current Language	Proposed Language	Final Adopted Language
8.9.5.10 H (12): Caregiver	8.9.5.10 H (12): Caregiver	8.9.5.10 H (12): Caregiver
Requirements	Requirements	Requirements
a child development course that	a child development course that	a child development course that
addresses all major domains of	addresses all major domains of	addresses all major domains of
child development, including	child development, including	child development, including
cognitive, social emotional,	cognitive, social emotional,	cognitive, social emotional,
physical development and	physical development and	physical development and
approach to learning as defined by	approach to learning as defined by	approach to learning as defined by
the federal Child Care and	the federal Child Care and	the federal Child Care and
Development Fund	Development Fund	Development Fund
(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title-	[(https://www.ecfr.gov/current/title-
45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-	45/subtitle-A/subchapter-A/part-
98.98.44.b.ii), or approved three-	98.98.44.b.ii),] <mark>in</mark> <mark>45 CFR § 98.44</mark>	98.98.44.b.ii),] <mark>in</mark> <mark>45 CFR § 98.44</mark>
credit early care and education	training and professional	training and professional
course or an equivalent approved	development, or approved three-	development, or approved three-
by the department.	credit early care and education	credit early care and education
	course or an equivalent approved	course or an equivalent approved
	by the department.	by the department.
Explanatory Statement		

This change provides a non-substantive update to the citation of federal training requirements in the Child Care and Development Fund in the federal register. ECECD will adopt the proposed amendment.

Some public comments recommended the requirement or incentivization of additional training in evidence-based social-emotional learning and inclusive practices. ECECD will not require additional training at this time.

8.9.5.11 (B)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.11 B: Background Checks	8.9.5.11 B: Background Checks	8.9.5.11 B: Background Checks
B. The primary caregiver will be responsible for obtaining background checks on all adults residing in the home using the requirements outlined in the department's most current version of the background checks and employment history verification provisions (8.9.6 NMAC). A household member reaching the age of 18, must submit their background check in accordance with the most current provisions of 8.9.6 NMAC within 30 days after their eighteenth birthday. However, in the case of a registered family child care foodonly home, all household members are only required to undergo a	B. The primary caregiver [will] shall be responsible for obtaining background checks on all adults residing in the home using the requirements outlined in the department's most current version of the background checks and employment history verification provisions (8.9.6 NMAC). A household member reaching the age of 18, must submit their background check in accordance with the most current provisions of 8.9.6 NMAC within 30 days after their eighteenth birthday. However, in the case	B. The primary caregiver [will] shall be responsible for obtaining background checks on all adults residing in the home using the requirements outlined in the department's most current version of the background checks and employment history verification provisions (8.9.6 NMAC). A household member reaching the age of 18, must submit their background check in accordance with the most current provisions of 8.9.6 NMAC within 30 days after their eighteenth birthday.

criminal history and child abuse and neglect screening.	care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.	registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.
Explanatory Statement		

8.9.5.11 C: Background Checks Any adult who is present in the registered primary caregiver's home for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods, may be required by the department to obtain either a background check or criminal history and child abuse and neglect screen. Family members or guests visiting for temporary periods (less than five days) are not considered as spending significant periods of time. However, such visiting family or guests must not have unsupervised access to the children in care at any time. Any adult who is present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the registered home. In the registered home, who is not the regis	8.9.5.11 (C)		
Any adult who is present in the registered primary caregiver's home for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods, may be required by the department to obtain either a background check or criminal history and child abuse and neglect screen. Family members or guests visiting for temporary periods (less than five days) are not considered as spending significant periods of time. However, such visiting family or guests must not have unsupervised access to the children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered primary caregiver['s home] for significant periods of time registered primary caregiver['s home for significant periods, may be required by the department to obtain either a background check or criminal history and chil	Current Language	Proposed Language	Final Adopted Language
registered primary caregiver's home for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods, may be required by the department to obtain either a background check or criminal history and child abuse and neglect screen. Family members or guests visiting for temporary periods (less than five days) are not considered as spending significant periods of time. However, such visiting family or guests must not have unsupervised access to the	8.9.5.11 C: Background Checks	8.9.5.11 C: Background Checks	8.9.5.11 C: Background Checks
	Any adult who is present in the registered primary caregiver's home for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods, may be required by the department to obtain either a background check or criminal history and child abuse and neglect screen. Family members or guests visiting for temporary periods (less than five days) are not considered as spending significant periods of time. However, such visiting family or guests must not have unsupervised access to the	Any adult who is present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods, may be required by the department to obtain either a background check or criminal history and child abuse and neglect screening. Family members or guests visiting for temporary periods ([tess] fewer than five days) are not considered as spending significant periods of time. However, such visiting family or guests must not have unsupervised access to the	Any adult who is present in the registered home, who is not the primary caregiver['s home] for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods, may be required by the department to obtain either a background check or criminal history and child abuse and neglect screening. Family members or guests visiting for temporary periods ([tess] fewer than five days) are not considered as spending significant periods of time. However, such visiting family or guests must not have unsupervised access to the
Explanatory Statement	Explanatory Statement		

8.9.5.11 (F)			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.11(F): Background Checks	8.9.5.11(F): Background Checks	8.9.5.11(F): Background Checks	
The primary caregiver shall certify upon renewal that they, or any other adult living in the home have not been convicted of a disqualifying	N/A – No changes proposed	The primary caregiver shall certify yearly [upon renewal] that they, or any other adult living in the home have not been convicted of a	

offense during the last twelve	disqualifying offense during the last
months.	twelve months.

ECECD modified the original regulatory language to address a public comment. The public comment recommended replacing the language "upon renewal" with "yearly" to align with proposed amendments in other sections to remove the requirement for annual registration renewals. The final adopted language makes this recommended change.

8.9.5.12		
Current Language	Proposed Language	Final Adopted Language
3.9.5.12 Annual Registration:	8.9.5.12 [ANNUAL] <mark>Initial</mark>	8.9.5.12 [ANNUAL] <mark>Initial</mark>
	Registration:	Registration:
An annual registration is issued for	A[n annual] registration is	A[n annual] registration is
a one-year period to a child care	issued [for a one-year period]	issued [for a one-year period]
nome that has met all requirements	to a child care home that has	to a child care home that has
of these regulations.	met all requirements of these	met all requirements of these
 Primary caregivers must 	regulations <mark>and shall remain</mark>	regulations <mark>and shall remain</mark>
enew registration annually, and	valid as long as the registrant	valid as long as the registered
only after receiving an onsite	maintains good standing in	home maintains good
nspection by ECECD, by	compliance with all	standing in compliance with
submitting a registration	applicable rules and	all applicable rules of the
application and paying the	regulations.	department, or if not in
processing charge with cashier's	[A. Primary caregivers must	compliance with a rule, has
check or a money order. In-home	renew registration annually,	<mark>been granted a waiver or</mark>
care registrations are exempt from	and only after receiving an	variance of that rule by the
he application fee.	onsite inspection by ECECD,	department or has entered
3. Primary caregiver's who fail	by submitting a registration	into a plan of correction
to renew registration by the	application and paying the	during their annual
expiration date will not be eligible to	processing charge with	inspection, and the registered
eceive program benefits from	cashier's check or a money	home certifies on its annual
either the child and adult care food	order. In-home care	inspection survey its desire to
orogram or the child care	registrations are exempt from	renew the registration for
assistance program.	the application fee.	another year. A denial of an
C. Primary caregivers shall	B. Primary caregiver's who	initial or renewal application
ensure that all adults residing in the	fail to renew registration by	may only occur pursuant to
nome, as well as secondary	the expiration date will not	8.9.5.17 NMAC.
caregivers and adults spending a	be eligible to receive	[A. Primary caregivers must
significant amount of time in the	program benefits from either	renew registration annually,
nome, are listed on all	the child and adult care	and only after receiving an
documentation required by ECECD	food program or the child	onsite inspection by ECECD,
and sponsoring agencies.	care assistance program.]	by submitting a registration
	[C.] (A.)Primary caregivers shall	application and paying the
	ensure that all adults residing in the	processing charge with
	home, as well as secondary	cashier's check or a money
	caregivers and adults spending a	order. In-home care
	significant amount of time in the	registrations are exempt from
	home, are listed on all	the application fee.
	documentation required by ECECD	B. Primary caregiver's who
	and sponsoring agencies.	fail to renew registration by
		the expiration date will not

be eligible to receive
program benefits from either
the child and adult care
food program or the child
care assistance program.]
[C.] (A.)Primary caregivers shall
ensure that all adults residing in the
home, as well as secondary
caregivers and adults spending a
significant amount of time in the
home, are listed on all
documentation required by ECECD
and sponsoring agencies.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

Public comments expressed concern that the phrase "in compliance with all applicable rules and regulations" granted the licensing authority the ability to revoke registration if a facility was out of compliance with any regulation, regardless of the severity or status of corrective actions. The final adopted language acknowledges that a child care provider's registration will remain valid if the provider has been granted a waiver or variance of that rule by ECECD or has entered into a plan of correction during their annual inspection. Additionally, the amended language states that any adverse action for a child care provider who is not in compliance with applicable rules, including non-renewal of a registration, will follow the procedures outlined in NMAC 8.9.5.17.

This final adopted language is consistent with state law (NMSA § 24-1-5(E)), which states that a license is only renewable "if the department is satisfied that the health facility is in compliance with all rules of the department or, if not in compliance with a rule, has been granted a waiver or variance of that rule by the department pursuant to procedures, conditions and guidelines adopted by rule of the department."

8.9.5.13		
Current Language	Proposed Language	Final Adopted Language
8.9.5.13: Visits by the Sponsoring Agency and Registered Authority: Caregivers will grant the registered authority representative the right to enter the premises and, conduct visits, including unannounced and complaint investigations when child care children are present and during the caregiver's stated normal hours of operation.	8.9.5.13: Visits by the Sponsoring Agency and Registered Authority: Caregivers [will]shall grant the registered authority representative the right to enter the premises and, conduct visits, including unannounced and complaint investigations when child care children are present and during the caregiver's stated normal hours of operation.	8.9.5.13: Visits by the Sponsoring Agency and Registered Authority: Caregivers [wilt]shall grant the registered authority representative the right to enter the premises and, conduct visits, including unannounced and complaint investigations when child care children are present and during the caregiver's stated normal hours of operation.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.13 A		
Current Language	Proposed Language	Final Adopted Language
8.9.5.13 A: Visits by the Sponsoring Agency and Registered Authority A. The registered authority will conduct a survey at least once a year at each registered residence using these regulations as the criteria. The registered authority will conduct additional surveys or visit the registered residence additional times to provide technical assistance, to check progress on correction of deficiencies found on previous surveys, or to investigate any complaints.	8.9.5.13 A: Visits by the Sponsoring Agency and Registered Authority A. The registered authority will conduct a survey at least once a year at each registered residence using these regulations as the criteria. The registered authority [will] shall conduct additional surveys or visit the registered residence additional times to provide technical assistance, to check progress on correction of deficiencies found on previous surveys, or to investigate any complaints.	8.9.5.13 A: Visits by the Sponsoring Agency and Registered Authority A. The registered authority will conduct a survey at least once a year at each registered residence using these regulations as the criteria. The registered authority [witl] shall conduct additional surveys or visit the registered residence additional times to provide technical assistance, to check progress on correction of deficiencies found on previous surveys, or to investigate any complaints.
	Explanatory Statement	

8.9.5.13 C		
Current Language	Proposed Language	Final Adopted Language
8.9.5.13 C: Visits by the Sponsoring	8.9.5.13 C: Visits by the Sponsoring	8.9.5.13 C: Visits by the Sponsoring
Agency and Registered Authority	Agency and Registered Authority	Agency and Registered Authority
By applying for either a new	By applying for [either] a [new]	By applying for [either] a [new]
registration or a registration	registration [or a registration	registration [or a registration
renewal, the caregiver grants the	renewal] , the caregiver grants the	renewal] , the caregiver grants the
registering authority representative	registering authority representative	registering authority representative
the right to enter the premises and	the right to enter the premises and	the right to enter the premises and
survey the registered residence,	survey the registered residence,	survey the registered residence,
including inspecting and copying of	including inspecting and copying of	including inspecting and copying of
child care records, both while the	child care records, both while the	child care records, both while the
application is being processed and,	application is being processed and,	application is being processed and,
if registered, at any time during the	if registered, at any time during the	if registered, at any time during the
registration period.	registration period.	registration period.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.14 B		
Current Language	Proposed Language	Final Adopted Language
8.9.5.14 (B): Non-transferability of Registration	8.9.5.14 (B): Non-transferability of Registration	8.9.5.14 (B): Non-transferability of Registration

A registration will expire [A] The registration will [A] The registration will automatically at midnight of the expire [automatically at expire [automatically at expiration date unless earlier midnight of the expiration midnight of the expiration suspended or revoked, or: date unless earlier date unless earlier (1) if the primary caregiver suspended or revoked, or:] suspended or revoked, or:] if the primary caregiver if the primary caregiver moves; or changes their name. moves, changes their moves, changes their (2) name, or is suspended or name, or is suspended or revoked. revoked. [(1) if the primary caregiver moves; [(1) if the primary caregiver moves; (2) changes their name.] (2) changes their name.]

Explanatory Statement

8.9.5.14 C		
Current Language	Proposed Language	Final Adopted Language
8.9.5.14 C: Non-transferability of registration	8.9.5.14 C: Non-transferability of registration	8.9.5.14 C: Non-transferability of registration
(C)If the primary caregiver moves to a new location or has a change of name, the primary caregiver must register again by submitting a new application and pay the processing charge. The caregiver must report a new location or change of name prior to the occurrence and receive a new on-site health and safety inspection by ECECD.	(C)If the primary caregiver moves to a new location or has a change of name, the primary caregiver must register again by submitting a new application [and pay the processing charge]. The caregiver must report a new location or change of name prior to the occurrence and receive a new on-site health and safety inspection by ECECD.	(C)If the primary caregiver moves to a new location or has a change of name, the primary caregiver must register again by submitting a new application and pay the processing charge. The caregiver must report a new location or change of name prior to the occurrence and receive a new on-site health and safety inspection by ECECD.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.14 D			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.14 D: Non-transferability of registration	8.9.5.14 D: Non-transferability of registration	8.9.5.14 D: Non-transferability of registration	
(D)A caregiver with only a change in name will not need to pay an amended fee or processing charge.	D. [A caregiver with only a change in name will not need to pay an amended fee or processing charge.]	D. [A caregiver with only a change in name will not need to pay an amended fee or processing charge.]	
Explanatory Statement			
There were no substantive public comments received. ECECD is adopting the proposed amendment.			

8.9.5.15		
Current Language	Proposed Language	Final Adopted Language

8.9.5.15: Incident Reports:

Registered caregiver shall notify the appropriate authorities immediately by phone of any incident which results in significant harm to a child or which places the child in immediate danger. After making a report to the appropriate authorities, the caregiver shall notify ECECD of the incident giving rise to its report as soon as possible but no later than 24 hours after the incident occurred. A report shall first be made by telephone and followed with written notification. The caregiver shall report to the appropriate authorities the following incidents, including but not limited to:

8.9.5.15: Incident Reports:

The [R]registered caregiver shall notify the appropriate authorities immediately by phone of any incident which results in significant harm to a child or which places the child in immediate danger. After making a report to the appropriate authorities, the caregiver shall notify ECECD of the incident [giving rise to its report]as soon as possible but no later than 24 hours after the incident occurred. A report shall first be made by telephone and followed with written notification. The caregiver shall report to the appropriate authorities the following incidents, including but not limited to:

8.9.5.15: Incident Reports:

The [R]registered caregiver shall notify the appropriate authorities immediately by phone of any incident which results in significant harm to a child or which places the child in immediate danger. After making a report to the appropriate authorities, the caregiver shall notify ECECD of the incident [giving rise to its report]as soon as possible but no later than 24 hours after the incident occurred. A report shall first be made by telephone and followed with written notification. The caregiver shall report to the appropriate authorities the following incidents, including but not limited to:

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.15 B

Current Language

8.9.5.15 B: Incident Reports:

B. A home will notify parents or guardians in writing of any incident, including notifiable illnesses that have threatened the health or safety of children in the home. The provider shall ensure that it obtains parent or guardian signatures on all incident reports within 24 hours of the incident. The provider shall immediately notify the parent or guardian in the event of any head injury. Incidents include, but are not limited to, those listed in Subsection A of 8.9.5.15 NMAC.

Proposed Language

8.9.5.15 B: Incident Reports:

B. A home [will] shall notify parents or guardians in writing of any incident, including notifiable illnesses that have threatened the health or safety of children in the home. The provider shall ensure that it obtains parent or guardian signatures on all incident reports within 24 hours of the incident. The provider shall immediately notify the parent or guardian in the event of any head injury. Incidents include, but are not limited to, those listed in Subsection A of 8.9.5.15 NMAC.

Final Adopted Language

8.9.5.15 B: Incident Reports:

B. A home [will] shall notify parents or guardians in writing of any incident, including notifiable illnesses that have threatened the health or safety of children in the home. The provider shall ensure that it obtains parent or guardian signatures on all incident reports within 24 hours of the incident. The provider shall immediately notify the parent or guardian in the event of any head injury. Incidents include, but are not limited to, those listed in Subsection A of 8.9.5.15 NMAC.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.16

Current Language	Proposed Language	Final Adopted Language
8.9.5.16: Compliance	8.9.5.16: Compliance	8.9.5.16: Compliance
COMPLIANCE: By completing the ECECD registration process and annual renewals, the primary caregiver is agreeing to comply with these regulations to include the following:	COMPLIANCE: By completing the ECECD registration process { and annual renewals} }, the primary caregiver is agreeing to comply with these regulations to include the following:	COMPLIANCE: By completing the ECECD registration process [and annual renewals] , the primary caregiver is agreeing to comply with these regulations to include the following:
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.16 C		
Current Language	Proposed Language	Final Adopted Language
	Proposed Language 8.9.5.16 C: Compliance C. The caregiver must comply with all state and federal laws to include children with disabilities. The caregiver must allow children with disabilities who receive early intervention services to be served in accordance with the child's Individualized Family Service Plan (IFSP). If the registered home is designated as a natural environment for the child in the child's IFSP, the caregiver must allow ECECD Family, Infant, Toddler (FIT) providers access to the registered home to provide services.	Final Adopted Language 8.9.5.16 C: Compliance C. The caregiver must comply with all state and federal laws to include children with disabilities. The caregiver must allow children with disabilities who receive early intervention services to be served in accordance with the child's individualized family service plan (IFSP) and allow ECECD Family, Infant Toddler (FIT) providers access to the registered home to provide service pursuant to the child's individualized family service plan (IFSP) unless the caregiver documents with the department that the inclusion of each individual disabled child's services is not required pursuant to the applicable state or federal law. The caregiver may require FIT providers to sign and agree to standard registered home policies and procedures. The caregiver may temporarily exclude a FIT provider from their registered home in cases in which their presence has caused a temporary
		undue burden or undue hardship as defined by the applicable state or federal law. A caregiver who temporarily excludes a FIT provider must provide detailed written notification of reason for the exclusion to the department within 48 hours.

ECECD modified the proposed language to highlight the alignment between the regulation changes and federal and state laws. To address some concerns raised by public comment, ECECD modified the proposed language to clarify that child care providers may require early intervention providers to sign and agree to standard policies and procedures for the child care program, and that child care providers may temporarily exclude early

intervention service providers from their facility if the presence of the early intervention provider has caused a temporary undue burden or undue hardship, as defined by applicable federal or state law. If a child care provider temporarily excludes an early intervention service provider from their facility, then the child care provider must provide a written notification within 48 hours to ECECD with a detailed reason for the exclusion.

8.9.5.17 A-B		
Current Language	Proposed Language	Final Adopted Language
8.9.5.17 A-B Non-Compliance	8.9.5.17 A-B Non-Compliance	8.9.5.17 A-B Non-Compliance
A. ECECD may deny, suspend,	A. ECECD may deny, suspend,	A. ECECD may deny, suspend,
revoke or decline to renew	revoke or decline [to renew] a	revoke or decline to renew
registration at any time it is	registration at any time it is	registration at any time it is
reasonably determined that the	reasonably determined that the	reasonably determined that the
caregiver is not in compliance with	caregiver is not in compliance with	caregiver is not in compliance with
these regulations, or is unable to	these regulations, or is unable to	these regulations, or is unable to
maintain compliance with	maintain compliance with	maintain compliance with
registration standards.	registration standards.	registration standards.
B. Violation of any provisions	B. Violation of any	B. Violation of any
of these regulations, especially	provisions of these	provisions of these
when the registered authority has	regulations, especially when	regulations, especially when
reason to believe that the health,	the registered authority has	the registered authority has
safety or welfare of a child is at risk,	reason to believe that the	reason to believe that the
or has reason to believe that the	health, safety or welfare of a	health, safety or welfare of a
caregiver cannot reasonably	child is at risk, or has reason	child is at risk, or has reason
safeguard the health and safety of	to believe that the caregiver	to believe that the caregiver
children may be grounds to	cannot reasonably safeguard	cannot reasonably safeguard
suspend, revoke, issue a cease and	the health and safety of	the health and safety of
desist letter or decline to renew	children may be grounds to	children may be grounds to
registration include but are not	suspend, revoke, issue a	suspend, revoke, issue a
limited to:	cease and desist letter or	cease and desist letter or
	decline[to renew] <mark>a</mark>	decline to renew registration
	registration include but are not	include but are not limited to:
	limited to:	
Explanatory Statement		

8.9.5.17 B (14) **Current Language Proposed Language Final Adopted Language** 8.9.5.17 B (14): Non-Compliance 8.9.5.17 B (14): Non-Compliance 8.9.5.17 B (14): Non-Compliance any serious violation or (14)(14)any serious violation or (14)any serious violation or other circumstance which other circumstance which[other circumstance which[reasonably leads the department to reasonably] leads the department reasonably] leads the department determine that the caregiver cannot to reasonably determine that the to <u>reasonably</u> determine that the reliably safeguard the health and caregiver cannot reliably safeguard caregiver cannot reliably safeguard safety of children. the health and safety of children. the health and safety of children.

In response to public comments, ECECD is not adopting the proposed language and will keep the original

language.

The adopted amendment is a non-substantive change to current language. No public comments addressed issues within the scope of this proposed change.

8.9.5.17 H		
Current Language	Proposed Language	Final Adopted Language
8.9.5.17 H: Non-Compliance	8.9.5.17 H: Non-Compliance	8.9.5.17 H: Non-Compliance
H. The Early Childhood Education and Care Department may require the registered caregiver to implement specific actions, or to agree to specific conditions, in order to maintain registered status. Such specific actions or conditions may be required if the department has reasonable grounds to determine they are needed to assure the continued safe	H. The Early Childhood Education and Care Department may require the registered caregiver to implement specific actions, or to agree to specific conditions, in order to maintain registered status. Such specific actions or conditions may be required if the department has	H. The Early Childhood Education and Care Department may require the registered caregiver to implement specific actions, or to agree to specific conditions, in order to maintain registered status. Such specific actions or conditions may be required if the department has
operation of the primary caregiver's home. Examples: (1) The department may require caregiver(s) to complete additional training if it appears that the caregiver has used inappropriate discipline, and revocation is not necessary under the circumstances. (2) The department may require that certain person(s) not be permitted to enter the premises	reasonable grounds to determine they are needed to assure the continued safe operation of the primary caregiver's home. Examples: (1) The department may require the caregiver(s) to complete additional training if it appears that the caregiver has used inappropriate discipline, and revocation is not necessary under the	reasonable grounds to determine they are needed to assure the continued safe operation of the primary caregiver's home. Examples: (1) The department may require the caregiver(s) to complete additional training if it appears that the caregiver has used inappropriate discipline, and revocation is not necessary under the
while care is being provided, if it reasonably appears that that person(s) may pose a threat to health or safety, or otherwise create a risk of harm to children.	circumstances. (2) The department may require that certain person(s) not be permitted to enter the premises while care is being provided, if it reasonably appears that that person(s) may pose a threat to the health or safety, or otherwise create a risk of harm to children.	circumstances. (2) The department may require that certain person(s) not be permitted to enter the premises while care is being provided, if it reasonably appears that that person(s) may pose a threat to the health or safety, or otherwise create a risk of harm to children.
Explanatory Statement		

8.9.5.17 J			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.17 J: Non-Compliance	8.9.5.17 J: Non-Compliance	8.9.5.17 J: Non-Compliance	

- J. There shall be no right to an appeal or administrative review when the registered authority issues a cease and desist letter; provided, however, that the registered care giver shall have the right to an appeal or administrative review of any subsequent action taken by the registered authority as set forth herein.
- J. There shall be no right to an appeal or administrative review when the registered authority issues a cease and desist letter[;], provided[, however,] that the registered care[]giver shall have the right to an appeal or administrative review of any subsequent action taken by the registered authority as set forth herein.
- J. There shall be no right to an appeal or administrative review when the registered authority issues a cease and desist letter[;], provided[; however,] that the registered care[] giver shall have the right to an appeal or administrative review of any subsequent action taken by the registered authority as set forth herein.

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.19 D			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.19 D: Administrative Appeal Rights	8.9.5.19 D: Administrative Appeal Rights	8.9.5.19 D: Administrative Appeal Rights	
immediate suspension the department takes additional actions including additional suspension, revocation, or conditions of operations, the immediate action will stay in effect until the following action goes into effect or an appeal of the following action is concluded and the action is either upheld or overturned.	D. If after the imposition of an immediate suspension the department takes additional actions including additional suspension, revocation, or conditions of operations, the immediate action will stay in effect until the following action goes into effect, or when an appeal of the following action is concluded and the action is either upheld or overturned.	D. If after the imposition of an immediate suspension the department takes additional actions including additional suspension, revocation, or conditions of operations, the immediate action will stay in effect until the following action goes into effect, or when an appeal of the following action is concluded and the action is either upheld or overturned.	
Explanatory Statement			

8.9.5.19 E **Current Language Proposed Language Final Adopted Language** 8.9.5.19 E: Administrative Appeal 8.9.5.19 E: Administrative Appeal 8.9.5.19 E: Administrative Appeal Rights Rights Rights E. If the contemplated action If the contemplated If the contemplated does not take immediate effect, action does not take action does not take and the primary caregiver is given immediate effect, and the immediate effect, and the advance notice of the primary caregiver is given primary caregiver is given contemplated action, the primary advance notice of the advance notice of the caregiver is allowed 10 working contemplated action, the contemplated action, the primary caregiver [is] will be primary caregiver [is] will be

days from date of notice to request an administrative appeal in writing.	allowed 10 working days from date of notice to request an administrative appeal in writing.	allowed 10 working days from date of notice to request an administrative appeal in writing.
Explanatory Statement		

8.9.5.20 A (3)			
Current Language	Final Adopted Language		
8.9.5.20 A (3): Probable Cause of Imminent Danger	8.9.5.20 A (3): Probable Cause of Imminent Danger	8.9.5.20 A (3): Probable Cause of Imminent Danger	
(3) Within seven working days from the day of notice, the secretary shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child care facility, the secretary may suspend operation of the child care facility for a period not in excess of fifteen days.	(3) Within seven working days from the day of notice, the secretary of ECECD shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child care facility, the secretary may suspend operation of the child care facility for a period [not in excess] of no more than fifteen days.	(3) Within seven working days from the day of notice, the secretary of ECECD shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child care facility, the secretary may suspend operation of the child care facility for a period [not in excess] of no more than fifteen days.	
Explanatory Statement			
There were no substantive public comments received. ECECD is adopting the proposed amendment.			

8.9.5.21			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.21: Group Composition	8.9.5.21: Group Composition	8.9.5.21: Group Composition	
Requirements	Requirements	Requirements	
A. A caregiver will care for no more than four non-resident children at any one time. B. A caregiver will care for no more than two children under two years old at any one time, including the caregiver's own children. C. A caregiver will care for no more than six children under six years old at any one time, including the caregiver's own children. D. Drop-in children will be counted in the group composition requirements listed above. E. Shifts are allowed provided there are never more than four non-	 A. A caregiver [will] shall care for no more than four non-resident children at any one time. B. A caregiver [will] shall care for no more than two children under two years [old] of age at any one time, including the caregiver's own children. C. A caregiver [will] shall care for no more than six children under six years [old] of age at any one time, including the caregiver's own children. 	A. A caregiver [will] shall care for no more than four nonresident children at any one time. B. A caregiver [will] shall care for no more than two children under two years [old] of age at any one time, including the caregiver's own children. C. A caregiver [will] shall care for no more than six children under six years [old] of age at any one time, including the caregiver's own children.	

resident children present at any one time, including change of shifts.

- F. All caregivers will be physically present and actively involved in the care of all children during the designated hours of child care as noted in the child enrollment forms, except for short absences when another approved caregiver is present, or emergencies. Outside employment is not considered a short absence.
- D. Drop-in children [will] shall be counted in the group composition requirements listed above.
- E. Shifts are allowed provided there are never more than four non-resident children present at any one time, including during change of shifts.
- F. All caregivers [will] shall be physically present and actively involved in the care of all children during the designated hours of child care as noted in the child enrollment forms, except for short absences when another approved caregiver is present, or during emergencies. Outside employment is not considered a short absence.

- D. Drop-in children [will] shall be counted in the group composition requirements listed above.
- E. Shifts are allowed provided there are never more than four non-resident children present at any one time, including during change of shifts.
- F. All caregivers [will] shall be physically present and actively involved in the care of all children during the designated hours of child care as noted in the child enrollment forms, except for short absences when another approved caregiver is present, or during emergencies. Outside employment is not considered a short absence.

Explanatory Statement

8.9.5.22			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.22: Health and Safety	8.9.5.22: Health and Safety	8.9.5.22: Health and Safety	
Requirements	Requirements	Requirements	
A. A caregiver will maintain			
the home, grounds and	A. A caregiver [will] <mark>shall</mark>	A. A caregiver [will] <mark>shall</mark>	
equipment in safe condition. The	maintain the home, grounds	maintain the home, grounds	
nome and grounds must be clean	and equipment in safe	and equipment in safe	
and free of debris or other	condition. The home and	condition. The home and	
potentially dangerous hazards. All	grounds must be clean and	grounds must be clean and	
equipment must be in good repair.	free of debris or other	free of debris or other	
3. All electrical outlets within	potential[ly dangerous]	potential[ly dangerous]	
each of children will have safety	hazards. All equipment must	hazards. All equipment must	
outlets or have protective covers.	be in good repair.	be in good repair.	
C. A caregiver will not use	B. All electrical outlets within	B. All electrical outlets within	
nultiple plugs or gang plugs	reach of children [will] <mark>shall</mark> have	reach of children [will] <mark>shall</mark> have	
unless surge protection devices	safety outlets or have protective	safety outlets or have protective	
are used.	covers.	covers.	
D. A caregiver will keep the	C. A caregiver [will] <mark>shall</mark> not use	C. A caregiver [will] <mark>shall</mark> not us	
emperature of inside areas used	multiple plugs or gang plugs unless	multiple plugs or gang plugs unles	
by children at no less than 68	surge protection devices are used.	surge protection devices are used	

- degrees Fahrenheit and no more than 82 degrees Fahrenheit. A home may use portable fans if the fans are secured and inaccessible to children and do not present any tripping, safety or fire hazard.
- E. The home must be adequately ventilated at all times.
- F. A home will not use unvented heaters or open flame heaters. Portable heaters will be used in accordance with manufacture instructions. A home will install barriers or take other steps to ensure heating units are inaccessible to children. Heating units include hot water pipes, infrared heaters, ceramic heaters, hot water baseboard heaters hotter than 110 degrees Fahrenheit, fireplaces, fireplace inserts and wood stoves.
- G. All homes will have hot and cold running water. Water coming from a faucet will be below 110 degrees Fahrenheit in all areas accessible to children. A home may install a water tempering control valve ahead of all domestic water-heater piping.
- H. A caregiver must provide safe playing areas inside and outside the home. A caregiver's inside and outside play areas must be safe, clean and free of any debris.
- A caregiver's outside play area must be on the premises and approved by the registered authority. The caregiver will fence the outside play area when determined to be necessary for safety by the registered authority. The fence must be at least four feet high and will have one latched gate for emergency exits. For apartment buildings or residences with no outdoor play areas, a common park/playground can be used for outdoor play but will not be inspected or approved by the registered authority. The provider

- D. A caregiver [will] shall keep the temperature of [inside] indoor areas used by children at no less than 68 degrees Fahrenheit and no more than 82 degrees Fahrenheit. A home may use portable fans if the fans are secured and inaccessible to children and do not present any tripping, safety or fire hazard.
- E. The home must be adequately ventilated at all times.
- F. A home [will] shall not use[un-vented] heaters without vents or open flame heaters. Portable heaters [will] shall be used in accordance with manufacture instructions. A home [will] shall install barriers or take other steps to ensure heating units are inaccessible to children. Heating units include hot water pipes, infrared heaters, ceramic heaters, hot water baseboard heaters hotter than 110 degrees Fahrenheit, fireplaces, fireplace inserts and wood stoves.
- G. All homes [will] shall have hot and cold running water. Water coming from a faucet [will] shall be below 110 degrees Fahrenheit in all areas accessible to children. A home may install a water tempering control valve ahead of all domestic water-heater piping.
- H. A caregiver must provide safe playing areas inside and outside the home. A caregiver's [inside] indoor and [outside] outdoor play areas must be safe, clean and free of any debris.
- I A caregiver's [outside]
 outdoor play area must be on the premises and approved by the registered authority. The caregiver [will]shall fence the [outside] outdoor play area when determined to be necessary for safety by the registered authority. The fence must be at least four feet high and [will] shall have one latched gate for emergency exits.

- D. A caregiver [witt] shall keep the temperature of [inside] indoor areas used by children at no less than 68 degrees Fahrenheit and no more than 82 degrees Fahrenheit. A home may use portable fans if the fans are secured and inaccessible to children and do not present any tripping, safety or fire hazard.
- E. The home must be adequately ventilated at all times.
- F. A home [will] shall not use[un-vented] heaters without vents or open flame heaters. Portable heaters [will] shall be used in accordance with manufacture instructions. A home [will] shall install barriers or take other steps to ensure heating units are inaccessible to children. Heating units include hot water pipes, infrared heaters, ceramic heaters, hot water baseboard heaters hotter than 110 degrees Fahrenheit, fireplaces, fireplace inserts and wood stoves.
- G. All homes [witt] shall have hot and cold running water. Water coming from a faucet [witt] shall be below 110 degrees Fahrenheit in all areas accessible to children. A home may install a water tempering control valve ahead of all domestic water-heater piping.
- H. A caregiver must provide safe playing areas inside and outside the home. A caregiver's [inside] indoor and [outside] outdoor play areas must be safe, clean and free of any debris.
- I A caregiver's [outside]
 outdoor play area must be on
 the premises and approved by
 the registered authority. The
 caregiver [will]shall fence the
 [outside] outdoor play area
 when determined to be
 necessary for safety by the

- will ensure the play area is safe from hazards prior to allowing children to play.
- J. The use of a trampoline is prohibited at any time during the hours of operation or by any children receiving care at the registered home.
- K. A caregiver will keep all poisons, toxic materials, cleaning substances, alcohol, alcoholic beverages, prescriptions and over the counter medications, intoxicating substances, sharp and pointed objects or any other dangerous materials in a storage area inaccessible to children.
- L. The primary caregiver must have a working telephone in the home and a valid working phone number on file with ECECD at all times. Emergency numbers will be posted on any cordless or cellular telephone is acceptable as the only phone in the home. The cellular telephone will remain in the same room, charged and accessible to the provider a caregiver at all times.
- M. A caregiver will post emergency numbers for the police, fire department, ambulance, and poison control center in a visible location.
- N. A caregiver will install at least one working smoke detector and a carbon monoxide detector in an appropriate area in the home.
- O. A caregiver will unload all guns, such as pellet or BB guns, rifles and handguns, lethal and non-lethal weapons and keep them in a locked area inaccessible to children. For purposes of this regulation, a weapon is (including but not limited to): firearms, tasers and stun guns, pepper spray, knives, swords and other items designed or used for inflicting bodily harm or physical damage.

- For apartment buildings or residences with no outdoor play areas, a common park/playground can be used for outdoor play but [wilt] shall not be inspected or approved by the registered authority. The provider [wilt] shall ensure the play area is safe from hazards prior to allowing children [to play] into the area.
- J. The use of a trampoline is prohibited at any time during the hours of operation or by any children receiving care at the registered home.
- K A caregiver [will] shall keep all poisons, toxic materials, cleaning substances, alcohol, alcoholic beverages, prescriptions and over the counter medications, intoxicating substances, sharp and pointed objects or any other dangerous materials in a storage area inaccessible to children.
- The primary caregiver must have a working telephone in the home and a valid working phone number on file with ECECD at all times. Emergency numbers [will] shall be posted on any cordless or cellular telephones. A cellular telephone is acceptable as the only phone in the home. The cellular telephone [will] shall remain in the same room, charged and accessible to the provider a caregiver at all times.
- M A caregiver [will] shall post emergency numbers for the police, fire department, ambulance, and poison control center in a visible location.
- N. A caregiver [will] shall install at least one working smoke detector and a carbon monoxide detector in an appropriate area in the home.

- registered authority. The fence must be at least four feet high and [will] shall have one latched gate for emergency exits. For apartment buildings or residences with no outdoor play areas, a common park/playground can be used for outdoor play but [will] shall not be inspected or approved by the registered authority. The provider [will] shall ensure the play area is safe from hazards prior to allowing children [to play] into the area.
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- The primary caregiver must have a working telephone in the home and a valid working phone number on file with ECECD at all times. Emergency numbers [will] shall be posted on any cordless or cellular telephones. A cellular telephone is acceptable as the only phone in the home. The cellular telephone [will] shall remain in the same room, charged and accessible to the provider a caregiver at all times.
- M A caregiver [will] shall post emergency numbers for the police, fire department, ambulance, and poison

- P. A caregiver, will prohibit smoking, the use of e-cigarettes/vaporizers and the drinking of alcoholic beverages in all areas, including vehicles, when children are present. Possessing or knowingly permitting illegal drugs, paraphernalia, or non-prescription controlled substances to be possessed or sold on the premises at any time regardless of whether children are present is prohibited.
- Q. A home will have a fully charged 2A-10B:C fire extinguisher in an easily accessible place. A fire extinguisher must be certified once a year and will have official tags noting the date of inspection.
- R. A caregiver will store combustible and flammable materials in a safe area away from water heater rooms, furnace rooms, heaters, fireplaces or laundry rooms.
- In case of a fire, the caregiver's first responsibility is to evacuate the children to safety. An up to date emergency evacuation and disaster preparedness plan must be available by the caregiver, which shall include steps for evacuation, relocation, shelter-in-place, lockdown, communication, reunification with parents, individual plans for children with special needs and children with chronic medical conditions, accommodations of infants and toddlers, and continuity of operations. The plans shall be approved annually by the registered authority and the department will provide guidance on developing these plans.
- T. Caregiver's will conduct at least one fire drill each month and an emergency preparedness practice drill at least quarterly beginning January of each calendar year. A caregiver will

- O. A caregiver [witt] shall unload all guns, such as pellet or BB guns, rifles and handguns, lethal and non-lethal weapons and keep them in a locked area inaccessible to children. For purposes of this regulation, a weapon is (including but not limited to): firearms, tasers and stun guns, pepper spray, knives, swords and other items designed or used for inflicting bodily harm or physical damage.
- [A] When children are present a caregiver, [will] shall prohibit smoking, the use of ecigarettes[/], nicotine and cannabis vaporizers, and any other vaporizing device not prescribed by a licensed medical professional in all areas, including vehicles. [and] A caregiver shall prohibit the drinking of alcoholic beverages or use of cannabis in all areas, including vehicles, when children are present. Possessing or knowingly permitting illegal drugs, paraphernalia, or nonprescription controlled substances to be possessed or sold on the premises at any time regardless of whether children are present is prohibited.
- Q. A home [will] shall have a fully charged [2A-10B:C]
 210ABC fire extinguisher in an easily accessible place. A fire extinguisher must be certified once a year and [will] shall have official tags noting the date of inspection.
- R. A caregiver [witt] shall store combustible and flammable materials in a safe area away from water heater rooms, furnace rooms, heaters, fireplaces or laundry rooms.
- S. In case of a fire, the caregiver's first responsibility is to evacuate the children to safety. An up to date emergency evacuation and disaster preparedness plan must be available

- control center in a visible location.
- N. A caregiver [will] shall install at least one working smoke detector and a carbon monoxide detector in an appropriate area in the home.
- O. A caregiver [will] shall unload all guns, such as pellet or BB guns, rifles and handguns, lethal and non-lethal weapons and keep them in a locked area inaccessible to children. For purposes of this regulation, a weapon is (including but not limited to): firearms, tasers and stun guns, pepper spray, knives, swords and other items designed or used for inflicting bodily harm or physical damage.
- P. [A] When children are present a caregiver, [will] shall prohibit smoking, the use of ecigarettes[/]<mark>, nicotine and</mark> <mark>cannabis</mark> vaporizers, <mark>and any</mark> other vaporizing device not prescribed by a licensed medical professional in all areas, including vehicles. [and] A caregiver shall prohibit the drinking of alcoholic beverages <mark>or use of cannabis</mark> in all areas, including vehicles, when children are present. Possessing or knowingly permitting illegal drugs, paraphernalia, or nonprescription controlled substances to be possessed or sold on the premises at any time regardless of whether children are present is prohibited.
- Q. A home [will] shall have a fully charged [2A-10B:C]

 210ABC fire extinguisher in an easily accessible place. A fire extinguisher must be certified once a year and [will] shall

hold the drills at different times of the day and will keep a record of the drills with the date, time, number of adults and children participating, and any problems.

- U. A home will have two major exits readily accessible to children with no obstructions in the pathways of these exits.
- V. Toys and objects (including high chairs, playpens and cribs) are safe, durable, easy to clean and nontoxic. Toys will be disinfected, at a minimum of, once per week. Frequency of disinfection of toys must be increased in the event of a communicable disease, following appropriate guidance.
- W. Cribs will meet federal standards (CPSC 16 CFR1219,1220), be kept in good repair, and not be used for storage. A home will not use plastic bags or lightweight plastic sheeting to cover a mattress and will not use pillows in cribs. Animals and pets will not be allowed in cribs or on sleeping materials.
- X. Children will not use a common towel or wash cloth. All toilet rooms used by children will have toilet paper, soap and disposable towels.
- Y. The home will have a first aid kit stored in a convenient place inaccessible to children, but easily accessible by caregiver. The kit will contain at least bandaids, gauze pads, adhesive tape, scissors, soap, non-porous latex gloves, and a thermometer.
- Z. A caregiver with pets will comply with the following requirements:
- (1) A home will inform parents or guardians in writing before pets are allowed at the residence.
- (2) A home will inoculate any pets as prescribed by a veterinarian and keep a record of

- by the caregiver, which shall include steps for evacuation, relocation, shelter-in-place, lock-down, communication, reunification with parents, individual plans for children with special needs and children with chronic medical conditions, accommodations of infants and toddlers, and continuity of operations. The plans shall be approved annually by the registered authority and the department will provide guidance on developing these plans.
- T. Caregiver's [wilt] shall conduct at least one fire drill each month and an emergency preparedness practice drill at least quarterly beginning January of each calendar year. A caregiver [wilt] shall hold the drills at different times of the day and [wilt] shall keep a record of the drills with the date, time, number of adults and children participating, and any problems.
- U. A home [witt] shall have two major exits readily accessible to children with no obstructions in the pathways of these exits.
- V. Toys and objects (including high chairs, playpens and cribs) are safe, durable, easy to clean and nontoxic. Toys [will] shall be disinfected, at a minimum of, once per week. Frequency of disinfection of toys must be increased in the event of a communicable disease, following appropriate guidance.
- W. Cribs [will] shall meet federal standards (CPSC 16 CFR1219,1220), be kept in good repair, and not be used for storage. A home [will]shall not use plastic bags or lightweight plastic sheeting to cover a mattress and [will] shall not use pillows in cribs. Animals and pets [will] shall

- have official tags noting the date of inspection.
- R. A caregiver [will] shall store combustible and flammable materials in a safe area away from water heater rooms, furnace rooms, heaters, fireplaces or laundry rooms.
- S. In case of a fire, the caregiver's first responsibility is to evacuate the children to safety. An up to date emergency evacuation and disaster preparedness plan must be available by the caregiver, which shall include steps for evacuation, relocation, shelter-in-place, lockdown, communication, reunification with parents, individual plans for children with special needs and children with chronic medical conditions, accommodations of infants and toddlers, and continuity of operations. The plans shall be approved annually by the registered authority and the department will provide guidance on developing these plans.
- T. Caregiver's [will] shall conduct at least one fire drill each month and an emergency preparedness practice drill at least quarterly beginning January of each calendar year. A caregiver [will] shall hold the drills at different times of the day and [will] shall keep a record of the drills with the date, time, number of adults and children participating, and any problems.
- U. A home [will] shall have two major exits readily accessible to children with no obstructions in the pathways of these exits.
- V. Toys and objects (including high chairs, playpens and cribs) are safe, durable, easy to clean and nontoxic. Toys [will] shall be

proof of inoculation prior to the pet's presence at the residence.

- (3) A home will not allow on the premises pets or other animals that are undomesticated, dangerous, contagious, or vicious in nature.
- (4) Areas of confinement, such as cages and pens, and outdoor areas are cleaned of excrement daily.
- (5) A caregiver must be physically present during the handling of all pets or other animals
- AA. A caregiver will change wet and soiled diapers and clothing promptly. A caregiver will not change a diaper in a food preparation area. Caregivers will wash their hands and the child's hands after every diaper change. A caregiver will change a child's diaper on a clean, safe, waterproof surface and discard any disposable covers and disinfect the surface after each diaper change.
- BB. Children may be transported only in vehicles that have current registration and insurance coverage. All drivers must have current driver's license and comply with motor vehicle and traffic laws. A child shall only be transported if the child is properly secured in an age appropriate restraining device. Persons who have been convicted in the last seven years of a misdemeanor or felony driving while intoxicated/driving under the influence cannot transport children under the auspices of a registered home certification.
- CC. Children less than one year of age shall be properly secured in a rear-facing child passenger restraint device that meets federal standards in the rear seat of a vehicle that is equipped with a rear seat. If the vehicle is not equipped with a rear

- not be allowed in cribs or on sleeping materials.
- X. Children [will] shall not use a common towel or wash cloth. All toilet rooms used by children [will] shall have toilet paper, soap and disposable towels.
- Y. The home [witt] shall have a first aid kit stored in a convenient place inaccessible to children, but easily accessible [by] to the caregiver. The kit [witt]shall contain at [teast] minimum band-aids, gauze pads, adhesive tape, scissors, soap, non-porous latex gloves, and a thermometer.
- Z. A caregiver with pets [will] shall comply with the following requirements:
- (1) A home [will] shall inform parents or guardians in writing before pets are allowed [at] in the residence.
- (2) A home [witt] shall inoculate any pets as prescribed by a veterinarian and keep a record of proof of inoculation prior to the pet's presence at the residence.
- (3) A home [witt]
 shall no allow on the
 premises pets or
 other animals that
 are undomesticated,
 dangerous,
 contagious, or
 vicious in nature.
- (4) Areas of confinement, such as cages and pens, and outdoor areas are cleaned of

excrement daily.

- (5) A caregiver must be physically present during the handling of all pets or other animals
- AA. A caregiver [witt] shall change wet and soiled diapers and clothing promptly. A caregiver [witt] shall not change a diaper in a food preparation area. Caregivers [witt] shall wash their hands and the child's hands after every diaper

- disinfected, at a minimum of, once per week. Frequency of disinfection of toys must be increased in the event of a communicable disease, following appropriate guidance.
- W. Cribs [witt] shall meet federal standards (CPSC 16 CFR1219,1220), be kept in good repair, and not be used for storage. A home [witt] shall not use plastic bags or lightweight plastic sheeting to cover a mattress and [witt] shall not use pillows in cribs. Animals and pets [witt] shall not be allowed in cribs or on sleeping materials.
- X. Children [will] shall not use a common towel or wash cloth. All toilet rooms used by children [will] shall have toilet paper, soap and disposable towels.
- Y. The home [witt] shall have a first aid kit stored in a convenient place inaccessible to children, but easily accessible [by] to the caregiver. The kit [witt]shall contain at [least] minimum band-aids, gauze pads, adhesive tape, scissors, soap, non-porous latex gloves, and a thermometer.
- Z. A caregiver with pets [will] shall comply with the following requirements:
- (1) A home [witt] shall inform parents or guardians in writing before pets are allowed [at] in the residence.
- (2) A home [will] shall inoculate any pets as prescribed by a veterinarian and keep a record of proof of inoculation prior to the pet's presence at the residence.
- (3) A home [will] shall no allow on the premises pets or other animals

seat, the child may ride in the front seat of the vehicle if the passenger-side air bag is deactivated if the vehicle is equipped with a deactivation switch for the passenger-side air bag.

DD. Children one year of age through four years of age, regardless of weight, or children who weigh 40 pounds, regardless of age, shall be properly secured in a child passenger restraint device that meets federal standards.

EE. Children five years of age through six years of age, regardless of weight, or children who weigh less than 60 pounds, regardless of age, shall be properly secured in either a child booster seat or an appropriate child passenger restraint device that meets federal standards.

FF. Children seven years of age through 12 years of age shall be secured in a child passenger restraint device or by a seat belt.

GG. Vehicles used for transporting children will be enclosed and properly maintained. Vehicles shall be cleaned and inspected inside and out.

HH. Vehicles operated by the home to transport children shall be air-conditioned whenever the outside air temperature exceeds 82 degrees Fahrenheit. If the outside air temperature falls below 50 degrees Fahrenheit the center will ensure the vehicle is heated

II. A home will load and unload children at the curbside of the vehicle or in a protected parking area or driveway. The home will ensure children do not cross a street unsupervised after leaving the vehicle.

JJ. No one will smoke, use ecigarettes or vaporizers - in a

change. A caregiver [will] shall change a child's diaper on a clean, safe, waterproof surface and discard any disposable covers and disinfect the surface after each diaper change.

BB. Children may be transported only in vehicles that have current registration and insurance coverage. All drivers must have current driver's license and comply with motor vehicle and traffic laws. A child shall only be transported if the child is properly secured in an age appropriate restraining device. Persons who have been convicted in the last seven years of a misdemeanor or felony driving while intoxicated/driving under the influence cannot transport children under the auspices of a registered home certification.

CC. Children less than one year of age shall be properly secured in a rear-facing child passenger restraint device that meets federal standards in the rear seat of a vehicle that is equipped with a rear seat. If the vehicle is not equipped with a rear seat, the child may ride in the front seat of the vehicle [if] on condition that the passenger-side air bag is deactivated if the vehicle is equipped with a deactivation switch for the passenger-side air bag.

DD. Children one year of age through four years of age, regardless of weight, or children who weigh 40 pounds, regardless of age, shall be properly secured in a child passenger restraint device that meets federal standards.

EE. Children five years of age through six years of age, regardless of weight, or children who weigh less than 60 pounds, regardless of age, shall be

that are undomesticated, dangerous, contagious, or vicious in nature.

(4) Areas of confinement, such as cages and pens, and outdoor areas are cleaned of

excrement daily.

(5) A caregiver must be physically present during the handling of all pets or other animals

A caregiver [will] shall AA. change wet and soiled diapers and clothing promptly. A caregiver [will] shall not change a diaper in a food preparation area. Caregivers [will] shall wash their hands and the child's hands after every diaper change. A caregiver [will] shall change a child's diaper on a clean, safe, waterproof surface discard any disposable covers and disinfect the surface after each diaper change.

BB. Children may be transported only in vehicles that have current registration and insurance coverage. All drivers must have current driver's license and comply with motor vehicle and traffic laws. A child shall only be transported if the child is properly secured in an age appropriate restraining device. Persons who have been convicted in the last seven years of a misdemeanor or felony driving while intoxicated/driving under the influence cannot transport children under the auspices of a registered home certification.

CC. Children less than one year of age shall be properly secured in a rear-facing child passenger restraint device that meets federal standards in the rear seat of a vehicle

vehicle used for transporting children.

KK. Persons transporting children will also take the safe transportation practices training. [8.9.5.22 NMAC - N, 11/01/2022]

properly secured in either a child booster seat or an appropriate child passenger restraint device that meets federal standards.

FF. Children seven years of age through 12 years of age shall be secured in a child passenger restraint device or by a seat belt.

GG. Vehicles used for transporting children [will] shall be enclosed and properly maintained. Vehicles shall be cleaned and inspected inside and out.

HH. Vehicles operated by the home to transport children shall be air-conditioned whenever the outside air temperature exceeds 82 degrees Fahrenheit. If the outside air temperature falls below 50 degrees Fahrenheit the center [will] shall ensure the vehicle is heated

- II. A home [witt]shall load and unload children at the curbside of the vehicle or in a protected parking area or driveway. The home [witt]shall ensure children do not cross a street unsupervised after leaving the vehicle.
- JJ. No one [will]shall smoke, use e-cigarettes, nicotine and cannabis[or] vaporizers, or any other vaporizing device not prescribed by a licensed medical professional in a vehicle used for transporting children.

KK. Persons transporting children [will] shall also take the safe transportation practices training.

that is equipped with a rear seat. If the vehicle is not equipped with a rear seat, the child may ride in the front seat of the vehicle [if] on condition that the passenger-side air bag is deactivated if the vehicle is equipped with a deactivation switch for the passenger-side air bag. DD. Children one year of age through four years of age, regardless of weight, or children who weigh 40 pounds, regardless of age, shall be properly secured in a child passenger restraint device that meets federal standards.

EE. Children five years of age through six years of age, regardless of weight, or children who weigh less than 60 pounds, regardless of age, shall be properly secured in either a child booster seat or an appropriate child passenger restraint device that meets federal standards.

- FF. Children seven years of age through 12 years of age shall be secured in a child passenger restraint device or by a seat belt.
- GG. Vehicles used for transporting children [will] shall be enclosed and properly maintained. Vehicles shall be cleaned and inspected inside and out.
- HH. Vehicles operated by the home to transport children shall be air-conditioned whenever the outside air temperature exceeds 82 degrees Fahrenheit. If the outside air temperature falls below 50 degrees Fahrenheit, the center [witl] shall ensure the vehicle is heated
- II. A home [will]shall load and unload children at the curbside of the vehicle or in a protected parking area or driveway. The

home [will]shall ensure children do not cross a street unsupervised after leaving the vehicle.

JJ. No one [will]shall smoke, use e-cigarettes, nicotine and cannabis[or] vaporizers, or any other vaporizing device not prescribed by a licensed medical professional in a vehicle used for transporting children. KK. Persons transporting children [will] shall also take the safe transportation practices training.

Explanatory Statement

8.9.5.23			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.23: Meal Requirements:	8.9.5.23: Meal Requirements:	8.9.5.23: Meal Requirements:	
A. Children will not use shared eating or drinking utensils. B. Children will not use common eating or drinking utensils. C. A caregiver will provide readily accessible drinking water in sanitary cups or glasses. D. Meals must meet ageappropriate USDA requirements. E. A caregiver must keep a daily menu. F. Caregivers will serve meals family style and allow children to assist in the preparation and	 8.9.5.23: Meal Requirements: A. Children [witt] shall not use shared eating or drinking utensils. B. Children [witt] shall not use common eating or drinking utensils. C. A caregiver [witt] shall provide readily accessible drinking water in sanitary cups or glasses. D. Meals must meet ageappropriate USDA requirements. E. A caregiver must keep a daily menu. F. Caregivers [witt] shall serve meals family style and 	A. Children [will] shall not use shared eating or drinking utensils. B Children [will] shall not use common eating or drinking utensils. C. A caregiver [will] shall provide readily accessible drinking water in sanitary cups or glasses. D. Meals must meet ageappropriate USDA requirements. E. A caregiver must keep a daily menu. F. Caregivers [will] shall serve meals family style and allow children to assist in the	
serving of food and snacks.	allow children to assist in the	preparation and serving of	
G. Caregivers will feed children a meal or snack every three hours. H. Caregivers and children will	preparation and serving of food and snacks. G. Caregivers [will] shall feed	food and snacks. G. Caregivers [will] shall feed children a meal or snack every	
wash their hands regularly and	children a meal or snack every	three hours.	
before each meal time.	three hours.	H. Caregivers and children [will]	
I. Caregivers will keep food	H. Caregivers and children	shall wash their hands regularly	
requiring refrigeration, including	[will] <mark>shall</mark> wash their hands	and before each meal time.	
formula, at 41 degrees Fahrenheit	regularly and before each meal	I. Caregivers [will] <mark>shall</mark>	
or below.	time.	keep food requiring	

	I. Caregivers [will] shall keep food requiring refrigeration, including formula, at 41 degrees Fahrenheit or below.	refrigeration, including formula, at 41 degrees Fahrenheit or below.
Explanatory Statement		

There were no substantive public comments received. ECECD is adopting the proposed amendment.

8.9.5.24 H				
Current Language	Proposed Language Final Adopted Language			
Requirements H. an immunization record showing current, age-appropriate immunizations for each child or a written waiver for immunizations granted by the department of health. A grace period of a maximum of 30 days will be granted for children in foster care or homeless children and youth, or atrisk children and youth as determined by the department;	8.9.5.24 H: Record Keeping Requirements H. an immunization record showing current, age-appropriate immunizations for each child or a written waiver for immunizations granted by the department of health. A grace period of a maximum of 30 days [will] shall be granted for children in foster care or homeless children	Final Adopted Language 8.9.5.24 H: Record Keeping Requirements H. an immunization record showing current, age-appropriate immunizations for each child or a written waiver for immunizations granted by the department of health. A grace period of a maximum of 30 days [wilt] shall be granted for children in foster care or homeless children		
	and youth, or at-risk children and youth as determined by the department;	and youth, or at-risk children and youth as determined by the department;		
Explanatory Statement				

8.9.5.24 J			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.24 J: Record Keeping Requirements J. A record of the time the child arrived and left the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child. The attendance log must be kept on file for 12 months.	8.9.5.24 J: Record Keeping Requirements J. A record of the time the child arrived and [left] departs from the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child. The attendance log must be kept on file for 12 months.	8.9.5.24 J: Record Keeping Requirements J. A record of the time the child arrived and [left] departs from the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child. The attendance log must be kept on file for 12 months.	
guardian, or person authorized to pick up the child. The attendance log must be kept on file for 12	from the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child. The attendance log must be	from the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child. The attendance log must be	

Proposed Language

There were no substantive public comments received. ECECD is adopting the proposed amendment.

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8.9.5.25 Caregiver's Responsibilities

A. A caregiver will directly supervise and actively care for children at all times during hours of operation including outdoor playtime and naptime. Caregivers will interact with children and provide a safe and positive learning environment.

Current Language

- **B.** Children will never be left unattended. A caregiver will be with the children at all times whether activities are inside or outside of the home. Caregivers will be onsite, available and responsive to children during all hours of operation.
- **C.** A caregiver will use guidance that is positive, consistent and age-appropriate. The caregiver will not use:
- (1) physical punishment of any type, including shaking, biting, hitting, pinching or putting anything on or in a child's mouth;
- (2) withdrawal of food, rest, bathroom access, or outdoor activities:
- (3) abusive or profane language, including yelling;
- (4) any form of public or private humiliation, including threats of physical punishment; or
- (5) unsupervised separation; or
- (6) children will not be lifted by the arms, hands, wrist, legs, feet, ankles, or clothing.
- **D.** Each home must develop policies and procedures for expulsion of children. Policies and procedures shall include how the home will maintain a positive environment and will focus on preventing the expulsion of children

8.9.5.25 Caregiver's Responsibilities

- A. A caregiver [witt] shall directly supervise and actively care for children at all times during hours of operation including naptime and outdoor playtime[and naptime]. Caregivers [witt] shall interact with children and provide a safe and positive learning environment.
- B. Children [will] shall never be left unattended. A caregiver [will] shall be with the children at all times whether activities are inside or outside of the home. Caregivers [will] shall be onsite, available and responsive to children during all hours of operation.
- C. A caregiver [will] shall use guidance that is positive, consistent and age-appropriate.
 The caregiver [will] shall not use:
- (1) physical punishment of any type, including shaking, biting, hitting, pinching or putting anything on or in a child's mouth;
- (2) withdrawal of food, rest, bathroom access, or outdoor activities;
- (3) abusive or profane language, including yelling;
- (4) any form of public or private humiliation, including threats of physical punishment; or
- (5) unsupervised separation; or
- (6) children [will] shall not be lifted by the arms, hands, wrist, legs, feet, ankles, or clothing.

8.9.5.25 Caregiver's Responsibilities

Final Adopted Language

- A. A caregiver [will] shall directly supervise and actively care for children at all times during hours of operation including naptime and outdoor playtime[-and naptime]. Caregivers [will] shall interact with children and provide a safe and positive learning environment.
- B. Children [will] shall never be left unattended. A caregiver [will] shall be with the children at all times whether activities are inside or outside of the home. Caregivers [will] shall be onsite, available and responsive to children during all hours of operation.
- C. A caregiver [will] shall use guidance that is positive, consistent and age-appropriate.
 The caregiver [will] shall not use:
- (1) physical punishment of any type, including shaking, biting, hitting, pinching or putting anything on or in a child's mouth;
- (2) withdrawal of food, rest, bathroom access, or outdoor activities;
- (3) abusive or profane language, including yelling;
- (4) any form of public or private humiliation, including threats of physical punishment; or
- (5) unsupervised separation; or
- (6) children [will] shall not be lifted by the arms, hands, wrist, legs, feet, ankles, or clothing.

- age birth to five. The home must develop policies that include clear, appropriate, consistent expectations, and consequences to address disruptive student behaviors; and ensure fairness, equity, and continuous improvement.
- **E.** Each home must develop an anti-discrimination policy that promotes the equal access of services for all children and families and prohibits discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 and older).
- Each home must offer children activities and experiences that are developmentally appropriate, allow children choices, and promote positive social, emotional, physical and intellectual growth and well-being. Caregivers will schedule activities in these areas. A caregiver will schedule routine activities such as meals, snacks, rest periods, and outdoor play to provide structure to the children's daily routine. Other activities should be flexible based on changes in the children's interests. A caregiver will also provide a variety of indoor and outdoor equipment to meet the children's developmental interests and needs. Equipment will encourage large and fine muscle activity, solitary and group play and active and quiet play. Television, videotapes and video games should be limited to two hours a day and should be age-appropriate.
- G. Caregivers of infants will allow them to crawl or toddle. Infants shall not be confined to one area for prolonged periods of time unless the infant is content and responsive. Children that are awake should be moved every 30 minutes to offer new stimulation.

- Each home must develop policies and procedures for expulsion of children. Policies and procedures shall include how the home [will] shall maintain a positive environment and [will] shall focus on preventing the expulsion of children age birth to five. The home must develop policies that include clear, appropriate, consistent expectations, and consequences to address disruptive student behaviors; and shall ensure fairness, equity, and continuous improvement.
- E. Each home must develop an anti-discrimination policy that promotes the equal access of services for all children and families and prohibits discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 and older).
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- Н. Infants shall either be held or be fed sitting up for bottlefeeding. Infants unable to sit shall always be held for bottle-feeding. Infants and toddlers shall not be placed in a laying position while drinking bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted. Caregivers will allow infants to eat and sleep on their own schedules. Children will not be allowed to walk/run with pacifiers. Pacifiers will not be used outside of cribs in rooms with mobile infants or toddlers. Pacifiers will be labeled and not shared. Pacifiers will not be tied to the child. Dropped pacifiers shall be cleaned using warm water and soap.
- **I.** Caregivers will ensure age appropriate naps or rest periods as follows:
- (1) A home shall allow children who do not sleep to get up and participate in quiet activities that do not disturb the other children.
- (2) Caregivers shall ensure that nothing covers the face or head of a child age 12 months or younger when the child is laid down to sleep and while the child is sleeping.
- (3) Caregivers shall not place anything over the head or face of a child over 12 months of age when the child is laid down to sleep and while the child is sleeping.
- (4) No child(ren) shall be allowed to sleep behind closed doors.
- **J.** Swimming, wading and water:
- (1) A caregiver must obtain written permission from a parent or guardian before a child enters a pool;
- (2) If a home has a portable wading pool:
- (a) a home will drain and fill the wading pool with fresh water daily and disinfect the pool regularly;

- children's developmental interests and needs.
 Equipment [will] shall encourage large and fine muscle activity, solitary and group play and active and quiet play. Television, video[tapes] viewing and video games should be limited to two hours a day and should be ageappropriate.
- G. Caregivers of infants [will] shall allow them to crawl or toddle. Infants shall not be confined to one area for prolonged periods of time unless the infant is content and responsive. Children that are awake should be moved every 30 minutes to offer new stimulation.
- Н. Infants shall either be held or be fed sitting up for bottle-feeding. Infants unable to sit shall always be held for bottle-feeding. Infants and toddlers shall not be placed in a laying position while drinking bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted. Caregivers [will] shall allow infants to eat and sleep on their own schedules. Children [will] shall not be allowed to walk/run with pacifiers. Pacifiers [will] shall not be used outside of cribs in rooms with mobile infants or toddlers. Pacifiers [will] shall be labeled and not shared. Pacifiers [will] shall not be tied to the child. Dropped pacifiers shall be cleaned using warm water and soap.
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 Equipment [will] shall encourage large and fine muscle activity, solitary and group play and active and quiet play. Television, video[tapes] viewing and video games should be limited to two hours a day and should be ageappropriate.
- G. Caregivers of infants [wilt] shall allow them to crawl or toddle. Infants shall not be confined to one area for prolonged periods of time unless the infant is content and responsive. Children that are awake should be moved every 30 minutes to offer new stimulation.
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- I. Caregivers [will] shall ensure age appropriate naps or rest periods as follows:
- (1) A home shall allow children who do not sleep to

- **(b)** a home will empty a wading pool when it is not in use and remove it from areas accessible to children; and
- **(c)** a home will not use a portable wading pool placed on concrete or asphalt.
- (3) If a home has a built in or above ground swimming pool, ditch, fish pond or other water hazard:
- (a) the fixture will be constructed, maintained and used in accordance with applicable state and local regulations;
- (b) the fixture will be constructed and protected so that, when not in use, it is inaccessible to children; and
- (c) when in use, children will be constantly supervised and ensure adequate safety for the ages, abilities and type of water hazard in use.

- get up and participate in quiet activities that do not disturb the other children.
- (2) Caregivers shall ensure that nothing covers the face or head of a child age 12 months or younger when the child is laid down to sleep and while the child is sleeping.
- (3) Caregivers shall not place anything over the head or face of a child over 12 months of age when the child is laid down to sleep [and]or while the child is sleeping.
- (4) No child(ren) shall be allowed to sleep behind closed doors.
- J. Swimming, wading and water:
 (1) A caregiver must obtain written permission from a parent or guardian before a child enters a pool;
- (2) If a home has a portable wading pool:
- (a) a home [will] shall drain and fill the wading pool with fresh water daily and disinfect the pool regularly;
- (b) a home [witl] shall empty a wading pool when it is not in use and remove it from areas accessible to children; and
- (c) a home [will] shall not use a portable wading pool placed on concrete or asphalt.
- (3) If a home has a built in or above ground swimming pool, ditch, fish pond or other water hazard:
- (a) the fixture [will] shall be constructed, maintained and used in accordance with applicable state and local regulations;
- (b) the fixture [will] shall be constructed and protected so that, when not in use, it is inaccessible to children; and
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 shall be constantly
 supervised and ensure
 adequate safety for the ages,

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- (a) the fixture [witl] shall be constructed, maintained and used in accordance with applicable state and local regulations;
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	abilities and type of water hazard in use.	abilities and type of water hazard in use.	
Explanatory Statement			
There were no substantive public comments received. ECECD is adopting the proposed amendment.			