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PREAMBLE AND EXPLANATORY STATEMENTS FOR NEW MEXICO ADMINISTRATIVE 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 establish subsidy payment rates that ensure equal access: lead agencies must collect and analyze data through either a statistically valid and reliable market rate survey, or through an ACF pre-approved alternative methodology, such as a cost estimation model. New Mexico's rates, as set forth herein, and effective August 1, 2023, were informed by a cost estimation model and with extensive statewide stakeholder engagement.	States have two options to establish subsidy payment rates that ensure equal access: lead agencies must collect and analyze data through either a statistically valid and reliable market rate survey, or through a[n-ACF] administration for children and families pre-approved alternative methodology, such as a cost estimation model. New Mexico's rates, as set forth herein [-and effective August 1, 2023] , were informed by a cost estimation model and with extensive statewide stakeholder engagement.	States have two options to establish subsidy payment rates that ensure equal access: lead agencies must collect and analyze data through either a statistically valid and reliable market rate survey, or through a[n-ACF] administration for children and families pre-approved alternative methodology, such as a cost estimation model. New Mexico's rates, as set forth herein [-and effective August 1, 2023] , were informed by a cost estimation model and with extensive statewide stakeholder 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 those who conduct a range of operations and services in industries that are essential to ensure the continuity of critical functions in the economy of our nation and state. During this period of economic recovery and subject to budgetary considerations, the presumption is that all workers are essential to the well being of the state's economy.	[(2) “Essential worker” means those who conduct a range of operations and services in industries that are essential to ensure the continuity of critical functions in the economy of our nation and state. During this period of economic recovery and subject to budgetary considerations, the presumption is that all workers are essential to the well being of the state's economy.]	[(2) “Essential worker” means those who conduct a range of operations and services in industries that are essential to ensure the continuity of critical functions in the economy of our nation and state. During this period of economic recovery and subject to budgetary considerations, the presumption is that all workers are essential to the well being of the state's 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 public comments received. ECECD is adopting the proposed amendment.		

8.9.3.7(N)(1)		
Current Language	Proposed Language	Final Adopted Language
“National accreditation status” means the achievement and maintenance of accreditation status by an accrediting body that has been approved by ECECD. ECECD determines the program criteria and standards to evaluate and approve accrediting bodies. (a) The following are the only national accrediting bodies that are approved by ECECD: (i) the association of Christian schools international (ACSI); (ii) the council on accreditation (COA) for early childhood education and after school programs; (iii) the international Christian	N/A – No Proposed Changes Published	“National accreditation status” means the achievement and maintenance of accreditation status by an accrediting body that has been approved by ECECD. ECECD determines the program criteria and standards to evaluate and approve accrediting bodies. (a) The following are the only national accrediting bodies that are approved by ECECD: (i) the association of Christian schools international (ACSI); (ii) the council on accreditation (COA) for early childhood education and after school programs; (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.
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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
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“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.
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(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, voluntary developmental readiness program funded by ECECD for children who have attained their third or fourth birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and multicultural awareness.	(2) “PreK” means a statewide, voluntary developmental readiness program funded by ECECD for children who have attained their third or fourth birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and 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 the context of the Child Care and Development Block Grant (CCDBG) refers to a policy that allows for the assumption of eligibility for certain programs based on preliminary	(3) “Presumptive Eligibility” in the context of the Child Care and Development Block Grant (CCDBG) refers to a policy that allows for the assumption of eligibility for certain programs based on preliminary

	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 care assistance benefits provided to eligible children for the following types of child care to ensure that parents or legal guardians have a variety of child care services from which to choose: A. licensed child care programs administered by public schools and post-secondary institutions that provide on-site care for the children of students; B. licensed child care programs administered by tribal entities; C. licensed child care programs administered by church or religious organizations; D. in-home care; E. licensed child care centers; F. registered family childcare homes; G. licensed family and group childcare homes; H. licensed out of school time programs; I. licensed programs operated by employers for their employees; and	These policies apply to child care assistance benefits provided to eligible children for the following types of child care to ensure that parents or legal guardians have a variety of child care services from which to choose: A. licensed child care programs administered by public schools and post-secondary institutions that provide on-site care for the children of students; B. licensed child care programs administered by tribal entities; C. licensed child care programs administered by church or religious organizations; D. in-home care; E. licensed child care centers; F. registered family childcare homes; G. licensed family and group childcare homes; H. licensed out of school time programs; I. licensed programs operated by employers for their employees; [and	These policies apply to child care assistance benefits provided to eligible children for the following types of child care to ensure that parents or legal guardians have a variety of child care services from which to choose: A. licensed child care programs administered by public schools and post-secondary institutions that provide on-site care for the children of students; B. licensed child care programs administered by tribal entities; C. licensed child care programs administered by church or religious organizations; D. in-home care; E. licensed child care centers; F. registered family childcare homes; G. licensed family and group childcare homes; H. licensed out of school time programs; I. licensed programs operated by employers for their 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		
Current Language	Proposed Language	Final Adopted Language
PRIORITIES FOR ASSISTANCE: Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following priorities: A. Priority one: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payment, are considered priority one clients. (1) Participation exemption: The human services department (HSD) 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 a 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	[PRIORITIES] CATEGORIES FOR ASSISTANCE: A. Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following [priorities] categories. The department prioritizes child care services for children with special needs, disabilities, homeless families, and for teen parents: [A. Priority one: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payment, are considered priority one clients. (1) Participation exemption: The human services department (HSD) 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 a participation exemption due to lack of child care are as follows: (a) the unavailability of appropriate child care within a	[PRIORITIES] CATEGORIES FOR ASSISTANCE: A. Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following [priorities] categories. The department prioritizes child care services for children with special needs, disabilities, families experiencing homelessness, and for teen parents: [A. Priority one: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payment, are considered priority one clients. (1) Participation exemption: The human services department (HSD) 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 a participation exemption due to lack of child care are as follows: (a) the unavailability of 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	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. 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,	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. 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,
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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 clients in this priority.] B. Category One A: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payments, are considered category one clients. (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 and education requirements and copayments are waived for clients in this priority.] B. Category One A: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payments, are considered category one clients. (1) Participation exemption: The health care authority (HCA)
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	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	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
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	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.	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 assistance benefits by presenting the following documents to establish eligibility: (1) a completed signed application form; (2) documentation of current countable earned and unearned income as listed below and defined in Paragraph (5) of Subsection C of 8.9.3.11 NMAC; (3) documentation of the applicant's TANF eligibility or participation, if applicable, and can include applicant's social security number or assigned TANF identification number; (4) school schedule or verification of educational activity, if applicable; (5) demonstration of incapacity for parent or legal guardian, if applicable; (6) verification of birth for all applicant's household children; (7) documentation of qualifying immigration status, as defined by the United States department of health and human services, administration for children and families, office of child care, for all children requesting child care assistance; (8) verification of custody of children, if applicable; (9) verification of dependency of a child or adult household member, if applicable; (10) documentation of New Mexico residency;	A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility: (1) a completed signed application form; (2) documentation of current countable earned and unearned income as listed below and defined in Paragraph (5) of Subsection C of 8.9.3.11 NMAC; (3) documentation of the applicant's TANF eligibility or participation, if applicable, and can include applicant's social security number or assigned TANF identification number; (4) school schedule or verification of educational activity, if applicable; (5) demonstration of incapacity for parent or legal guardian, if applicable; (6) verification of birth for all applicant's household children; (7) documentation of qualifying immigration status, as defined by the United States department of health and human services, administration for children and families, office of child care, for all children requesting child care assistance; (8) verification of [custody] guardianship of children, if applicable; (9) verification of dependency of a child or adult household member, if applicable; (10) documentation of New	A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility: (1) a completed signed application form; (2) documentation of current countable earned and unearned income as listed below and defined in Paragraph (5) of Subsection C of 8.9.3.11 NMAC; (3) documentation of the applicant's TANF eligibility or participation, if applicable, and can include applicant's social security number or assigned TANF identification number; (4) school schedule or verification of educational activity, if applicable; (5) demonstration of incapacity for parent or legal guardian, if applicable; (6) verification of birth for all applicant's household children; (7) documentation of qualifying immigration status, as defined by the United States department of health and human services, administration for children and families, office of child care, for all children requesting child care assistance; (8) verification of [custody] guardianship of children, if applicable; (9) verification of dependency of a child or adult household member, if applicable; (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 documents to use to verify eligibility. Other documents may be considered and taken to the supervisor to be reviewed for eligibility.	B. The following are acceptable documents to use to verify eligibility. Other documents may be considered and taken to the supervisor to be reviewed for eligibility. <u>The department may be able to obtain certain data from the New Mexico Department of Workforce Solutions or the New Mexico HCA in lieu of the client providing verification of birth, New Mexico residency, citizenship/immigration verification, and proof of income.</u>	B. The following are acceptable documents to use to verify eligibility. Other documents may be considered and taken to the supervisor to be reviewed for eligibility. <u>The department may be able to obtain certain data from the New Mexico Department of Workforce Solutions or the New Mexico HCA in lieu of the client providing verification of birth, New Mexico residency, citizenship/immigration verification, and proof of 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 a client to submit their initial application by fax, email,	[C. The department may approve a client to submit their initial application by fax, email,	[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. 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 presumptively eligible for services based on self-attested income and qualifying activity. The department will presumptively determine a client to be eligible once the client meets New Mexico residency requirements, birth verification, and citizenship/qualified immigrant requirements as set forth herein. Clients must	D. A client may be determined presumptively eligible for services based on self-attested income and qualifying activity. The department will presumptively determine a client to be eligible once the client meets New Mexico residency requirements, birth verification, and citizenship/qualified immigrant requirements as set 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 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.
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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 effective the first day of the month of application if all of the following apply: (1) the client is utilizing child care services; (2) the client is employed, attending school or a training program or seeking employment. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and (3) the provider is eligible to be paid.	[D.] E. Assistance is provided effective the first day of the month of application if all of the following apply: (1) the client is utilizing child care services and the child or children is attending child care; (2) the client is employed, attending school or a training program or seeking employment unless exempted from this requirement. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and (3) the provider is eligible to be paid and has obtained an approved certification from the department.	[D.] E. Assistance is provided effective the first day of the month of application if all of the following apply: (1) the client is utilizing child care services and the child is, or children are, attending child care; (2) the client is employed, attending school or a training program or seeking employment unless exempted from this requirement. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and (3) the provider is eligible to be paid.
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 non-temporary 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 [witt] 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 [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 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 non-temporary change in activity, the child care placement agreement may close; however, the client [witt]	B. Eligibility period: Based upon the client meeting all eligibility requirements, a 12-month certification period [witt] 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 [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 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 non-temporary change in activity, the child care placement agreement may close; however, the client [witt]

	<u>shall</u> 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.	<u>shall</u> 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 household includes biological parents, stepparents, legal guardians of the child(ren) for whom child care assistance is sought, and any legal dependents of the aforementioned, living in the household, thereby constituting an economic unit. Grandparents who are not legal guardians living in the household are counted as members of the household, but their earned and unearned income is excluded from the eligibility calculations. Periods of absences: A household member may be absent from the home and will be considered as living in the home and be counted in the household composition as long as the absent household member plans to return to the home. Any	(1) The household: The household includes biological parents, stepparents, legal guardians of the child(ren) for whom child care assistance is sought, and any legal dependents of the aforementioned, living in the household, thereby constituting an economic unit. Grandparents who are not legal guardians living in the household are counted as members of the household, but their earned and unearned income is excluded from the eligibility calculations. Periods of absences: A household member may be absent from the home and will be considered as living in the home and be counted in the household composition as long as the absent household member plans to return to the home. Any parent or legal	(1) The household: The household includes biological parents, stepparents, legal guardians of the child(ren) for whom child care assistance is sought, and any legal dependents of the aforementioned, living in the household, thereby constituting an economic unit. Grandparents who are not legal guardians living in the household are counted as members of the household, but their earned and unearned income is excluded from the eligibility calculations. Periods of absences: A household member may be absent from the home and will be considered as living in the home and be counted in the household composition as long as the absent household member plans to return to the 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 Requirements (4) Family assets: A family's assets may not exceed one million dollars.	N/A – No Proposed Changes Published	8.9.3.11 (C)(4): Eligibility Requirements (4) Family assets: [A-f] Family['s] assets [may not] exceeding one million dollars must be reported.
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.		

8.9.3.11(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: Child care benefits are paid only for families who are working, attending school or participating in a job training or educational program and who demonstrate a need for care during one or more of these activities. Clients who are receiving TANF are required to submit verification of the TANF approved activity unless they are exempt by TANF. The department may, in its	H. Work/education requirement: (1) Child care benefits are paid only for families who are working, attending school or participating in a job training or educational program [and who demonstrate a need for care during one or more of these activities]. (2) Clients who are receiving TANF are required to submit verification of the TANF approved activity unless they are	H. Work/education requirement: (1) Child care benefits are paid only for families who are working, attending school or participating in a job training or educational program [and who demonstrate a need for care during one or more of these activities]. (2) Clients who are receiving TANF are required to submit verification of the TANF 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 demonstration of incapacitation.	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.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendments.		

8.9.3.11(l)		
Current Language	Proposed Language	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	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	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 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 hours that children are attending a dedicated Early Head Start-	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.] 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 Start-
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	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 twenty-five 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 re-determined 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 twenty-five 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 12-month 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 twenty-five 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 12-month 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	Proposed Language	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, 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.	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.	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.		

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

(2) The second child is identified as the child with the second most number of hours needed for child care.	<u>highest number of</u> hours of child care. (2) The second child is identified as the child with the second [most] <u>highest</u> number of hours needed for child care.	<u>highest number of</u> hours of child care. (2) The second child is identified as the child with the second [most] <u>highest</u> 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 be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows: (1) full time care will be based on one hundred percent of the base copayment; (2) part time 1 care will be based on seventy-five percent of the base copayment; (3) part time 2 care will be based on fifty percent of the base copayment; and (4) part time 3 care will be based on twenty-five percent of the base copayment.	C. Each child's copayment will be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows: (1) full time care will be based on one hundred percent of the base copayment; (2) [part time 1 care] <u>Wrap-Around-Care</u> will be based on seventy-five percent of the base copayment; (3) part time [2] care will be based on fifty percent of the base copayment; and [(4) part time 3 care will be based on twenty-five percent of the base copayment.]	C. Each child's copayment will be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows: (1) full time care will be based on one hundred percent of the base copayment; (2) [part time 1 care] <u>Wrap-Around-Care</u> will be based on seventy-five percent of the base copayment; (3) part time [2] care will be based on fifty percent of the base copayment; and [(4) part time 3 care will be based on twenty-five percent of 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 chart with the formula used to determine child care copayments as set forth immediately above and as published yearly at https://www.nmececd.org/child-care-assistance/:	D. Below is the cost sharing chart with the formula used to determine child care copayments as set forth immediately above and as published yearly at https://www.nmececd.org/child-care-assistance/:	D. Below is the cost sharing chart with the formula used to determine child care copayments as set forth immediately above and as published yearly at https://www.nmececd.org/child-care-assistance/:

See Chart in Appendix, Table D1	See Chart in Appendix, Table D2	See Chart in Appendix, Table D3
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Explanatory Statement

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

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 following conditions apply: (1) income in excess of two hundred and fifty percent federal poverty level or a client designated as an essential worker, as defined in Paragraph (2) of Subsection E of 8.9.3.9 NMAC, with an income in excess of four hundred and twenty-five percent of the federal poverty level;	C. A case will be closed if the following condition[s] appl[y]es: [(1) income in excess of two hundred and fifty percent federal poverty level or a client designated as an essential worker, as defined in Paragraph (2) of Subsection E of 8.9.3.9 NMAC, with an income in excess of four hundred and twenty-five percent of the federal poverty level;]	C. A case will be closed <u>for</u> [if the following conditions apply: (1) income in excess of two hundred and fifty percent federal poverty level or a client designated as an essential worker, as defined in Paragraph (2) of Subsection E of 8.9.3.9 NMAC, with an income in excess of four hundred and twenty-five percent of the federal poverty 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 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. Beginning July 1, 2012, child care programs holding a 1-star license are not eligible for 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.	A. All child care providers 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. [Beginning July 1, 2012, child care programs holding a 1-star license are not eligible for child care assistance subsidies.]	A. All child care providers 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. [Beginning July 1, 2012, child care programs holding a 1-star license are not eligible for child care assistance subsidies.]
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 workers will perform all eligibility and recertification determinations within 10 working days upon receipt of all	C. Child care assistance workers will perform all eligibility and recertification determinations within 10 working days upon receipt of all required	C. Child care assistance workers will perform all eligibility and recertification determinations within 10 working days upon receipt of all required

required documentation from the client.	documentation from the client. The department will seek to obtain such data from the New Mexico Department of Workforce Solutions and the New Mexico HCA.	documentation from the client. The department will seek to obtain such data from the New Mexico Department of Workforce Solutions and the 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 determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico human services department.	E. Child care assistance workers determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico [human services department] HCA.	E. Child care assistance workers determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico [human services department] HCA.
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: See Chart in Appendix, Table E1	E. The department pays for care based upon the following units of service: See Chart in Appendix, Table E2	E. The department pays for care based upon the following units of service: See Chart in Appendix, Table E3
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 E3 and has adopted these higher rates.		

8.9.3.17(G)		
Current Language	Proposed Language	Final Adopted Language
G. Monthly reimbursement rates: See Chart in Appendix, Table F1	G. Monthly reimbursement rates: See Chart in Appendix, Table F2	G. Monthly reimbursement rates: 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 department secretary may approve a differential rate be paid to licensed providers.	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 department secretary may approve a different[ial] rate be paid to licensed providers.	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 public health emergency, the department secretary may approve a different[iat] 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 maintaining ECECD approved national accreditation status will receive the differential rate listed in Subsection I below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child.	I. Providers holding and maintaining ECECD approved national accreditation status will receive the differential rate listed in Subsection [f] I below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child.	I. Providers holding and maintaining ECECD approved national accreditation status will receive the differential rate listed in Subsection [f] I below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and 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
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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: See Chart in Appendix, Table H1	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 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 following rates to providers who provide at least 10 hours of care during the day, five days a week, and meet the above minimum pay requirement: See Chart in Appendix, Table I1	N. The department pays the following enhanced rates to providers who comply with the requirements as outlined in 8.9.3.17(M) NMAC. 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 misrepresentation of facts relating to eligibility for benefits, or knowingly omitting information that affects eligibility is fraud and appropriate sanctions, including recoupment, termination of benefits, and referral to law enforcement, are initiated by the department.	The purposeful misrepresentation of facts relating to eligibility for benefits, or knowingly omitting information that affects eligibility, is fraud and appropriate sanctions, including recoupment, termination of benefits, and referral to law enforcement, [are] shall be initiated by the department.	The purposeful misrepresentation of facts relating to eligibility for benefits, or knowingly omitting information that affects eligibility, is fraud and appropriate sanctions, including recoupment, termination of benefits, and referral to law enforcement, [are] shall be 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 request for hearing and determines if the matter can be resolved without proceeding to a fair hearing. If the matter cannot be resolved without a fair hearing, the department conducts the fair hearing within 60 calendar days of receipt of the letter requesting the hearing and notifies the claimant of the date of the hearing no less than 14 calendar days prior to the hearing. The location of the hearing must be easily accessible to the claimant. Conducting the fair hearing by telephone is permitted. The claimant may request a change of date, provided that the 60 calendar day time limit is not exceeded.	The department reviews the request for hearing and determines if the matter can be resolved without proceeding to a fair hearing. If the matter cannot be resolved without a fair hearing, the department conducts the fair hearing within 60 calendar days of receipt of the letter requesting the hearing and notifies the claimant of the date of the hearing no less than 14 calendar days prior to the hearing. The location of the hearing must be easily accessible to the claimant. Conducting the fair hearing by telephone or virtual format is permitted.	The department reviews the request for hearing and determines if the matter can be resolved without proceeding to a fair hearing. If the matter cannot be resolved without a fair hearing, the department conducts the fair hearing within 60 calendar days of receipt of the letter requesting the hearing and notifies the claimant of the date of the hearing no less than 14 calendar days prior to the hearing. The location of the hearing must be easily accessible to the claimant. Conducting the fair hearing by telephone or virtual format is permitted.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.3.22(E)

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

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	[witt] shall	[witt] shall
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 -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)) -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	-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 Verification	-United States birth certificate -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 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: -[F] <u>Federal i</u>ncome 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] <u>Guardianship</u>	-Court order, or other legal records [-Adoption records] -Notarized statement <u>-Guardianship documentation</u> <u>-Durable power of attorney</u> -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 Verification	-United States birth certificate -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] Guardianship	-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 Verification	-United States birth certificate -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
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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
Identification	Required documentation
ECECD Approved Provider	Self Attested
Assets over a million dollars	Self Attested

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
Identification	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 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 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] <u>250</u>	[0.29%] <u>0.01%</u>
[200.01 to 210] <u>250.01 to 325</u>	[0.59%] <u>0.02%</u>
[210.01 to 220] <u>325.01 to 400</u>	[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	0.04%
475.01 to 500	0.05%
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%] 0.01%
[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	0.04%
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 split custody or in cases where a child may have	Part time 3
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		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 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 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
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		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 F1

8.9.3.17(G): Payment for Services – Original Language

Licensed child care centers			
Infant	Toddler	Pre-school	School-age
\$1,075.00	\$775.00	\$700.00	\$500.00
Licensed group homes (capacity: 7-12)			
Infant	Toddler	Pre-school	School-age
\$1,040.00	\$1,000.00	\$830.00	\$475.00
Licensed family homes (capacity: 6 or less)			
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

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

Licensed group homes (capacity: 7-12)			
Infant	Toddler	Pre-school	School age
\$1,040.00	\$1,000.00	\$830.00	\$475.00
Licensed family homes (capacity: 6 or less)			
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

LICENSED CENTERS											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,129	\$565	\$678	\$814	\$407	\$489	\$735	\$368	\$441	\$689	\$525	\$262.65
LICENSED FAMILY HOMES											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,156	\$578	\$693	\$1,129	\$565	\$678	\$914	\$457	\$548	\$730	\$557	\$278.41
LICENSED GROUP HOMES											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,093	\$546	\$656	\$1,051	\$525	\$630	\$872	\$436	\$523	\$654	\$499	\$249.52
REGISTERED HOMES											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$750	\$375	\$450	\$750	\$375	\$450	\$425	\$213	\$255	\$459	\$350	\$175.00

Table F3

8.9.3.17(G): Payment for Services – Adopted Language

LICENSED CENTERS											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool 1 Part time	Preschool 1 Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,200	\$600	\$720	\$875	\$438	\$525	\$735	\$368	\$552	\$689	\$525	\$263
LICENSED FAMILY HOMES											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool 1 Part time	Preschool 1 Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,325	\$663	\$795	\$1,275	\$638	\$765	\$914	\$457	\$686	\$730	\$557	\$278
LICENSED GROUP HOMES											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool 1 Part time	Preschool 1 Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,200	\$600	\$720	\$1,150	\$575	\$690	\$872	\$436	\$654	\$654	\$499	\$249.52
REGISTERED HOMES AND FFN											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool 1 Part time	Preschool 1 Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$750	\$375	\$450	\$750	\$375	\$450	\$425	\$213	\$255	\$459	\$350	\$175.00

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 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 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			
Infant	Toddler	Pre-school	School-age
\$425.00	\$325.00	\$300.00	\$150.00
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 ECECD approved national accreditation			
Infant	Toddler	Pre-school	School-age
\$275.00	\$250.00	\$290.00	\$195.00

LICENSED CENTERS

	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star	\$1,208	\$604	\$725	\$909	\$454	\$545	\$840	\$420	\$504	\$758	\$578	\$288.92
3 Star	\$1,208	\$604	\$725	\$909	\$454	\$545	\$840	\$420	\$504	\$758	\$578	\$288.92
4 Star	\$1,576	\$788	\$946	\$1,156	\$578	\$693	\$1,051	\$525	\$630	\$895	\$683	\$341.45
5 Star	\$2,022	\$1,011	\$1,213	\$1,576	\$788	\$946	\$1,182	\$591	\$709	\$1,033	\$788	\$393.98

LICENSED FAMILY HOMES

	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star	\$1,234	\$617	\$741	\$1,182	\$591	\$709	\$998	\$499	\$599	\$826	\$630	\$315.18
3 Star	\$1,234	\$617	\$741	\$1,182	\$591	\$709	\$998	\$499	\$599	\$826	\$630	\$315.18
4 Star	\$1,340	\$670	\$804	\$1,313	\$657	\$788	\$1,129	\$565	\$678	\$937	\$714	\$357.21
5 Star	\$1,445	\$722	\$867	\$1,392	\$696	\$835	\$1,219	\$609	\$731	\$999	\$762	\$380.85

LICENSED GROUP HOMES

	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
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LICENSED CENTERS												
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2 + Star												
	\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$263
3 Star												
	\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$289
4 Star												
	\$1,650	\$825	\$990	\$1,250	\$625	\$750	\$1,051	\$525	\$788	\$895	\$683	\$289
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start												
	\$2,175	\$1,088	\$1,305	\$1,700	\$850	\$1020	\$1,182	\$591	\$886	\$1,033	\$788	\$341
LICENSED FAMILY HOMES												
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star												
	\$1,450	\$725	\$870	\$1,375	\$688	\$825	\$998	\$499	\$749	\$826	\$630	\$315
3 Star												
	\$1,450	\$725	\$870	\$1,375	\$688	\$825	\$998	\$499	\$749	\$826	\$630	\$315
4 Star												
	\$1,700	\$850	\$1,020	\$1,575	\$788	\$945	\$1,129	\$565	\$847	\$937	\$714	\$357
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start												

	\$1,900	\$950	\$1,140	\$1,800	\$900	\$1,080	\$1,219	\$609	\$914	\$999	\$762	\$381
LICENSED GROUP HOMES												
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	School age Full Time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star												
	\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
3 Star												
	\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
4 Star												
	\$1,575	\$788	\$945	\$1,500	\$750	\$900	\$1,087	\$544	\$816	\$861	\$657	\$328.32
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start												
	\$1,750	\$875	\$1,050	\$1,700	\$850	\$1,020	\$1,177	\$588	\$883	\$923	\$704	\$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	\$18/hour	\$19/hour	\$20/hour	\$21/hour

Table H2

8.9.3.17(M): Payment for Services – Adopted Language

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

Table I1

8.9.3.17(N): Payment for Services – Proposed Language

LICENSED CENTERS									
	Infant Full Time	Infant Part Time	Infant Wrap-Around	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around

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

Table I2

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

	\$1,400	\$700	\$840	\$1,075	\$538	\$645	\$890	\$445	\$668
4 Star									
	\$1,950	\$975	\$1,170	\$1,525	\$763	\$915	\$1,150	\$575	\$863
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	\$1,031
LICENSED FAMILY HOMES – ENHANCED RATE									
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
2 Star									
	\$1,500	\$750	\$900	\$1,425	\$713	\$855	\$1,050	\$525	\$788
2+ Star									
	\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
3 Star									
	\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
4 Star									
	\$1,975	\$988	\$1,185	\$1,850	\$925	\$1,110	\$1,375	\$688	\$1031
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	\$1088
LICENSED GROUP HOMES – ENHANCED RATE									
Group Homes	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
2 Star									
	\$1,375	\$688	\$825	\$1,300	\$650	\$780	\$975	\$488	\$731
2+ Star									
	\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
3 Star									
	\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
4 Star									
	\$1,775	\$888	\$1,065	\$1,700	\$850	\$1,020	\$1,200	\$600	\$900
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start									
	\$1,940	\$970	\$1,164	\$1,850	\$925	\$1,110	\$1,300	\$650	\$975

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

5 Star	\$1,043	\$ 399	\$798
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LICENSED FAMILY HOMES—ENHANCED RATE – SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$740	\$284	\$567
2+ Star	\$836	\$320	\$640
3 Star	\$836	\$320	\$640
4 Star	\$947	\$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
2 Star	\$664	\$255	\$509
2+ Star	\$761	\$292	\$583
3 Star	\$761	\$292	\$583
4 Star	\$871	\$334	\$667
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 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 “ Department ” means the New Mexico Early Childhood Education and Care Department (“ECECD”).	8.9.4.7 D (2): Definitions “ Department ” means the New Mexico Early Childhood Education and Care Department (“ECECD”).
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		
8.9.4.7 D(5)		
8.9.4.7 D (4): Definitions “ Disinfect ” means to destroy or inactivate most germs on any inanimate object, but not bacterial spores. Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.	8.9.4.7 D [4](5): Definitions “ Disinfect ” means to destroy or inactivate most germs, but not bacterial spores , on any inanimate object, but not bacterial spores . Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.	8.9.4.7 D [4](5): Definitions “ Disinfect ” means to destroy or inactivate most germs, but not bacterial spores , on any inanimate object, but not bacterial spores . Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		
8.9.4.7(F)(3)		
N/A – New text	8.9.4.7 F (3): Definitions “ Family 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.	8.9.4.7 F (3): Definitions “ Family 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		

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 (3) “FOCUS” is a voluntary tiered quality rating and improvement program that is open to all registered and licensed child care programs.	8.9.4.7 F(4): Definitions [(3)] (4) “FOCUS” is a voluntary tiered quality rating and improvement program that is open to all [registered and] licensed child care programs.	8.9.4.7 F(4): Definitions [(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 by ECECD to a child care facility licensed and governed by these regulations and granting the legal right to operate for a specified period of time, not to exceed one year.	N/A	“License” means a document issued by ECECD to a child care facility licensed and governed by these regulations and granting the legal right to operate for a specified period of time, not to exceed one 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 “Professional Development Information System (PDIS)” is a secure, centralized digital platform managed by the department and designed to collect, manage, and analyze data related to the education, training, certification, and ongoing professional development of individuals. It serves as a regulatory tool to ensure compliance with standards, support workforce quality, and inform policy decisions.	8.9.4.7 P (9): Definitions “Professional Development Information System (PDIS)” is a secure, centralized digital platform managed by the department and designed to collect, manage, and analyze data related to the education, training, certification, and ongoing professional development of individuals. It serves as the monitoring system to ensure compliance with professional development and training requirements and supports workforce development.
Explanatory Statement		
Based on public comments, this definition was amended by ECECD for clarity.		
8.9.4.11 A (1)		
Current Language	Proposed Language	Final Adopted Language
8.9.4.11 A (1): Licensing ANNUAL LICENSE: An annual license is issued for a one-year period to a child care facility that has met all requirements of these regulations.	8.9.4.11 A (1): Licensing [ANNUAL] INITIAL LICENSE: A[n annual] license is issued[for a one-year period] to a child care facility that has met all requirements of these regulations and shall remain valid as long as the licensee maintains good standing in compliance with all applicable rules and regulations.	8.9.4.11 A (1): Licensing [ANNUAL] INITIAL LICENSE A[n annual] license is issued [for a one-year period] to a child care facility that has met all requirements of these regulations and shall remain valid as long as the licensee maintains good standing in compliance with all applicable 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 or has entered into a plan of correction during their annual inspection, and the child care facility certifies on its 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.
Explanatory Statement		

Current Language	Proposed Language	Final Adopted Language
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. (ii) 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. (iii) 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 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.
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	Proposed Language	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 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	[(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	[(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

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 comments received. ECECD is adopting the proposed amendment.		
8.9.4.11 E		
8.9.4.11 E: 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:	8.9.4.11 E: 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 the date the following occurs:	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 the date the following occurs:
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.12 A		
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 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;	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 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 reimbursement a 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;	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 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 reimbursement a 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 Administrative Appeals failure to comply with provisions of the other related regulations listed in these regulations;	8.9.4.12 A (9): Licensing Actions and Administrative Appeals failure to comply with provisions of the other related regulations listed in these regulations] herein ;	8.9.4.12 A (9): Licensing Actions and Administrative Appeals failure to comply with provisions of the other related regulations listed in these regulations] herein ;
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 Administrative Appeals A suspension, revocation, or conditions of operations imposed pursuant to Subsection A of this Section may take effect immediately if in the discretion of the department that the health, safety or welfare of a child is at risk, or has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children.	8.9.4.12 C: Licensing Actions and Administrative Appeals A suspension, revocation, or conditions of operations imposed pursuant to Subsection A of this Section may take effect immediately if in the discretion of the department[that], the health, safety or welfare of a child is at risk, or the department has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children.	8.9.4.12 C: Licensing Actions and Administrative Appeals A suspension, revocation, or conditions of operations imposed pursuant to Subsection A of this Section may take effect immediately if in the discretion of the department[that], the health, safety or welfare of a child is at risk[or has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children].
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 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.	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.
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 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 [with] 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 [with] 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 [with] shall have the following:	8.9.4.21 A (3): Licensure Requirements for Centers ZONING, BUILDING, AND OTHER APPROVAL: An applicant [with] shall have the following:

Current Language	Proposed Language	Final Adopted Language
approval from the appropriate city, county or state authority; current written building approval, such as a certificate of occupancy, from the appropriate city, county or state authority; current written approval of the state fire marshal office or other appropriate city, county or state fire-prevention authority; current written approval from the New Mexico environment department or other environmental health authority for: (a) a kitchen, if meals are prepared on site and served in the center; (b) private water supply, if applicable; (c) private waste or sewage disposal, if applicable; and (d) a swimming pool, if applicable.	(a) current written finalized zoning approval from the appropriate city, county or state authority; (b) current written building approval, such as a certificate of occupancy, from the appropriate city, county or state authority; (c) current written approval of the state fire marshal office or other appropriate city, county or state fire-prevention authority; (d) current written approval from the New Mexico environment department or other environmental health authority for: {{a}} (i) a kitchen, if meals are prepared on site and served in the center; {{b}} (ii) private water supply, if applicable; {{c}} (iii) private waste or sewage disposal, if applicable; and {{d}} (iv) a swimming pool, if applicable.	(a) current written finalized zoning approval from the appropriate city, county or state authority; (b) current written building approval, such as a certificate of occupancy, from the appropriate city, county or state authority; (c) current written approval of the state fire marshal office or other appropriate city, county or state fire-prevention authority; (d) current written approval from the New Mexico environment department or other environmental health authority for: {{a}} (i) a kitchen, if meals are prepared on site and served in the center; {{b}} (ii) private water supply, if applicable; {{c}} (iii) private waste or sewage disposal, if applicable; and {{d}} (iv) a swimming pool, if 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 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.	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. The number of children allowed in a center is also limited by the group size regulations, regardless of available square footage.	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.
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
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 written policies and procedures must cover 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 and date it. 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 final adopted 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.		
8.9.4.22 C (6)		
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;	8.9.4.22 C (6): Policy and Procedures policies and procedures for actions to be taken in case[a] child ren [is]are [found] discovered unattended or missing from the center;	8.9.4.22 C (6): Policy and Procedures policies and procedures for actions to be taken in case[a] child ren [is]are [found] discovered unattended or missing from the center;
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed 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 must have a parent handbook. Upon updating the family handbook, changes must be approved and submitted to the licensing authority. After any changes, notice must be sent out to families, parents, or guardians and posted in a common area. The handbook will include the following:	All facilities [using] operating under these regulations must have a [parent] family handbook. Upon updating the family handbook, changes must be approved and submitted to the licensing authority. After any changes, notice must be sent out to families, parents, or guardians and posted in a common area. The handbook [with] shall include the following:	All facilities [using] operating under these regulations must have a [parent] family handbook. Upon updating the family handbook, changes must be approved and submitted to the licensing authority. After any changes, notice must be sent out to families, parents, or guardians and posted in a common area. The handbook [with] shall include the following:
Explanatory Statement		
Although public comments received 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 language and terms. ECECD is adopting the proposed amendments.		
8.9.4.22 D(1)(d)		
8.9.4.22 D(1)(d): Family Handbook; General Information	8.9.4.22 D(1)(d): Family Handbook; General Information	8.9.4.22 D(1)(d): Family Handbook; General Information
name of director and how he/she may be reached;	name of director and [how he/she may be reached]their contact information;	name of director and [how he/she may be reached]their contact information;
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
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 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 [with] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [with] shall be kept at the center for 12 months after the child's last day of attendance. Records [with] shall contain at least:	A center [with] shall maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records [with] shall be kept at the center for 12 months after the child's last day of attendance. Records [with] shall contain at least:
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.22 E(1)(h)		
8.9.4.22 E (1)(h): Children's Records	8.9.4.22 E(1)(h): Children's Records	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 off-site activities; authorization must contain fieldtrip destination, date and time of	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] activity destination, date and time of	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] activity destination, date and time of

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

Current Language	Proposed Language	Final Adopted Language
verification provisions pursuant to 8.9.6 NMAC; (g) documentation of current first-aid and cardiopulmonary resuscitation training; (h) documentation of all appropriate training by date, time, hours and area of competency; (i) emergency contact number; (j) universal precaution acknowledgment form; (k) confidentiality form; (l) results of performance evaluations; (m) administrative actions or reprimands; (n) written plan for ongoing professional development for each educator, including the director, that is based on the seven areas of competency, consistent with the career lattice, and based on the individual's goals; and (o) signed acknowledgment that the staff have read and understand the personnel handbook; (p) signed acknowledgement that all staff have reviewed and are aware of the center's disaster preparedness plan and evacuation plan; and (q) form I-9, employment eligibility verification.	(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 employment showing that it is in process, must be placed in file. A background check must be conducted at least once [every five years] per five year interval on all required individuals; (f) an annual signed statement that the staff member 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; (g) documentation of current first-aid and cardiopulmonary resuscitation training; (h) documentation of all appropriate training by date, time, hours and area of competency; (i) emergency contact number; (j) universal precaution acknowledgment form; (k) confidentiality form; (l) results of performance evaluations; (m) administrative actions or reprimands; (n) written plan for ongoing professional development for each educator, including the director, that is based on the seven areas of competency, consistent with the department's career lattice, and based on the individual's goals; and (o) signed acknowledgment that the staff have read and understand the personnel handbook; (p) signed acknowledgement that all staff have reviewed and are aware of the center's disaster preparedness plan and evacuation plan; and (q) [form I-9, employment eligibility verification.] hourly rate of pay.	(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 employment showing that it is in process, must be placed in file. A background check must be conducted at least once [every five years] per five year interval on all required individuals; (f) an annual signed statement that the staff member 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; (g) documentation of current first-aid and cardiopulmonary resuscitation training; (h) documentation of all appropriate training by date, time, hours and area of competency; (i) emergency contact number; (j) universal precaution acknowledgment form; (k) confidentiality form; (l) results of performance evaluations (shall be maintained outside of PDIS); (m) administrative actions or reprimands (shall be maintained outside of PDIS); (n) written plan for ongoing professional development for each educator, including the director, that is based on the seven areas of competency, consistent with the [department's] career lattice, and based on the individual's goals; and (o) signed acknowledgment that the staff have read and understand the personnel handbook; (p) signed acknowledgement that all staff have reviewed and are aware of the center's disaster preparedness plan and evacuation plan[-and

Current Language	Proposed Language	Final Adopted Language
		(q) form I-9, employment eligibility verification]
Explanatory 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.		
Other public comments expressed opposition to the deletion of the I-9 form as a required personnel record, as maintaining I-9 forms for employees is a federal requirement. Providers are responsible for complying with all applicable federal and state laws. Not all laws providers must comply with are listed in these regulations. An I-9 is not needed for the PDIS system and should not be uploaded into that system under this section. Therefore, ECECD will maintain the deletion of the I-9 form.		
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 not adopt that proposed language and will revert to the original language.		
8.9.4.23 A(9)		
8.9.4.23 A (9): Personnel and Staffing Requirements A program will maintain staff/child ratios and group sizes at all times based on the age of the majority of children in the group. Children must never be left unattended whether inside or outside the facility. Staff 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.	8.9.4.23 A (9): Personnel and Staffing Requirements A program [with] shall maintain staff/child ratios and group sizes at all times based on the age of the [majority of children] youngest child in the group. Children must never be left unattended whether inside or outside the facility. Staff 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.	8.9.4.23 A (9): Personnel and Staffing Requirements A program will maintain staff/child ratios and group sizes at all times based on the age of the majority of children in the group. Children must never be left unattended whether inside or outside the facility. Staff 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)		
8.9.4.23 B (2)(a)(xi): Training parent handbook;	8.9.4.23 B (2)(a)(xi): Training [parent] family handbook;	8.9.4.23 B (2)(a)(xi): Training [parent] family 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 a child development course that addresses all major domains of	8.9.4.23 B (2)(b)(xii): Training a child development course that addresses all major domains of child	8.9.4.23 B (2)(b)(xii): Training a child development course that addresses all major domains of child

Current Language	Proposed Language	Final Adopted Language
child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii), or approved three-credit early care and education course or an equivalent approved by the department.	development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund [https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii] in 45 CFR § 98.44 Training and Professional development , or approved three-credit early care and education course or an equivalent approved by the department.	development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund [https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii] in 45 CFR § 98.44 Training and Professional development , or approved three-credit early care and education course or an equivalent approved 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.		
8.9.4.24 C(13)		
8.9.4.24 C (13): Services and Care of Children in Centers – Additional Requirements for Infants and Toddlers Infants shall either be held or 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.	8.9.4.24 C (13): Services and Care of Children in Centers – Additional Requirements for Infants and Toddlers Infants shall either be held or 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] supine position while drinking via bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted.	8.9.4.24 C (13): Services and Care of Children in Centers – Additional Requirements for Infants and Toddlers Infants shall either be held or 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] supine position while drinking via bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.24 E(3)		
N/A – New text	8.9.4.24 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 who receive early intervention	8.9.4.24 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 who receive early intervention services to be served in accordance with the

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	services 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 pursuant to the child's IFSP.	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 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.
Explanatory 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.		
8.9.4.24 G(1)		
8.9.4.24 G (1): Physical Environment Environment shall be organized into age appropriate functional identifiable learning areas.	8.9.4.24 G (1): Physical Environment Environment shall be organized into age[-] appropriate functional, and identifiable learning areas.	8.9.4.24 G (1): Physical Environment 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 Full-time children shall have a minimum of 60 minutes of physical activity daily, weather permitting,	8.9.4.24 I (11): Equipment and Program [Full-time c]Children in full time care shall have a minimum of 60 minutes of physical activity daily, weather	8.9.4.24 I (11): Equipment and Program [Full-time c]Children in full time care shall have a minimum of 60 minutes of physical activity daily, weather

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preferably outside. Part-time children shall have a minimum of 30 minutes of physical activity daily, preferably outside. The center will ensure drinking water is available and maintained at a cool temperature while playing outside.	permitting, preferably outside. [Part-time c] Children in part time care shall have a minimum of 30 minutes of physical activity daily, preferably outside. The center [will] shall ensure drinking water is available and maintained at a cool temperature while playing outside.	permitting, preferably outside. [Part-time c] Children in part time care shall have a minimum of 30 minutes of physical activity daily, preferably outside. The center [will] shall ensure drinking water is available and maintained at a cool temperature while playing outside.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.24 J(3)		
8.9.4.24 J (3): Outdoor Play Areas TABLE, ROW 2, COLUMN 2 s inches	8.9.4.24 J (3): Outdoor Play Areas TABLE, ROW 2, COLUMN 2 [s]6 inches	8.9.4.24 J (3): Outdoor Play Areas TABLE, ROW 2, COLUMN 2 [s]6 inches
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.24 J(7)		
8.9.4.24 J (7): Outdoor Play Areas Children shall be protected from the sun during outdoor play by providing shade (as necessary), sunscreen, proper attire and limiting the time of exposure to the elements. The center must also consider instructions by the child's parent or guardian.	8.9.4.24 J (7): Outdoor Play Areas Children shall be protected from the sun during outdoor play by providing shade (as necessary), sunscreen (as permitted by parent, family or guardian), proper attire and limiting the time of exposure to the elements. The center must also consider additional instructions by the child's parent or guardian.	8.9.4.24 J (7): Outdoor Play Areas Children shall be protected from the sun during outdoor play by providing shade (as necessary), sunscreen (as permitted by parent, family or guardian), proper attire and limiting the time of exposure to the elements. The center must also consider additional instructions by the child's parent or guardian.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.24 K(2)		
N/A – New text	8.9.4.24 K (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.	8.9.4.24 K (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.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.24 K(4)		

Current Language	Proposed Language	Final Adopted Language
8.9.4.24 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.	8.9.4.24 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 of the children and type of water hazard in use.]	8.9.4.24 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 of the children and type of water hazard in use.]
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.25 A		
8.9.4.25 A: Food Service Requirements for Centers MEAL PATTERN REQUIREMENTS: All foods prepared by the center will conform to the guidelines from United States department of agriculture's (USDA's) child and adult care food program (CACFP) for foods, meal patterns and serving sizes.	8.9.4.25 A: Food Service Requirements for Centers MEAL PATTERN REQUIREMENTS: All foods prepared by the center [with] shall conform to the guidelines from United States [d] D epartment of [a] A griculture's (USDA's) [e] C hild and [a] A dult [e] C are [f] F ood [p] P rogram (CACFP) for foods, meal patterns and serving sizes.	8.9.4.25 A: Food Service Requirements for Centers MEAL PATTERN REQUIREMENTS: All foods prepared by the center [with] shall conform to the guidelines from United States [d] D epartment of [a] A griculture's (USDA's) [e] C hild and [a] A dult [e] C are [f] F ood [p] P rogram (CACFP) for foods, meal patterns and serving sizes.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.25 B(4)		
8.9.4.25 B (4): Meals and Snacks Parents of children who have special dietary needs may provide written permission to the child care program to exempt their child from the following requirements if necessary due to such special dietary needs.	8.9.4.25 B (4): Meals and Snacks Parents or guardians of children who have special dietary needs may provide written permission to the child care program to exempt their child from the following requirements if necessary [due to such special dietary needs] .	8.9.4.25 B (4): Meals and Snacks Parents or guardians of children who have special dietary needs may provide written permission to the child care program to exempt their child from the following requirements if necessary [due 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 One hundred percent or vegetable juice may be diluted with water.	8.9.4.25 B (4)(a): Meals and Snacks One hundred percent fruit or vegetable juice may be diluted with water.	8.9.4.25 B (4)(a): Meals and Snacks One hundred percent fruit or vegetable juice may be diluted with water.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		

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8.9.4.28 A		
8.9.4.28 A: Transportation Requirements When a center provides transportation to children, it is responsible for the care of children from the time of pick up to delivery to a responsible adult.	8.9.4.28 A: Transportation Requirements When a center provides transportation to children, it is responsible for the care of children from the time of pick up to the time of delivery to a responsible adult	8.9.4.28 A: Transportation Requirements When a center provides transportation to children, it is responsible for the care of children from the time of pick up to the time of delivery to a responsible adult
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.29 B(1-2)		
8.9.4.29 B (1-2): Pest Control (1) All licensed child care centers must use a New Mexico licensed applicator whenever applying pesticides on the center's buildings or grounds. (2) The licensed applicator may not apply pesticides when children are on the premises.	8.9.4.29B (1-2): Pest Control (1) All licensed child care centers must use a New Mexico licensed [applicator] pest control professional whenever applying pesticides on the center's buildings or grounds. (2) The licensed [applicator] pest control professional may not apply pesticides when children are on the premises.	8.9.4.30B (1-2): Pest Control (1) All licensed child care centers must use a New Mexico licensed [applicator] pest control professional whenever applying pesticides on the center's buildings or grounds. (2) The licensed [applicator] pest control professional may not apply pesticides when children are on the premises.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.29 C(3)		
8.9.4.29 C (3): Mechanical Systems A center will not use un-vented heaters, open flame heaters or portable heaters. A center will install barriers or take other steps to ensure heating units are inaccessible to children.	8.9.4.29 C (3): Mechanical Systems A center [will] shall not use [un-vented] heaters without vents , open flame heaters or portable heaters. A center [will] shall install barriers or take other steps to ensure heating units are inaccessible to children.	8.9.4.29 C (3): Mechanical Systems A center [will] shall not use [un-vented] heaters without vents , open flame heaters or portable heaters. A center [will] shall install barriers or take other steps to ensure heating units are inaccessible to children.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.29 G(4)(b-c)		
8.9.4.29 G (4)(b-c): Toilet and Bathing Facilities (b) two toilets and two lavatories for 13 through 25 children;	8.9.4.29 G (4)(b-c): Toilet and Bathing Facilities (b) two toilets and two lavatories for 13 [through]to 25 children;	8.9.4.29 G (4)(b-c): Toilet and Bathing Facilities (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 each additional 15 children or fraction thereof; or	(c) one toilet and one lavatory for [each] up to an additional 15 [children or fraction thereof]; or	(c) one toilet and one lavatory for [each] up to an additional 15 children [or fraction thereof]; or
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.29 H(3)(g)		
8.9.4.29 H(3)(g): Safety Compliance a center will keep a 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 center will not use a pay phone to fulfill this requirement;	8.9.4.29 H(3)(g): Safety Compliance a center [with] shall keep a telephone in an easily accessible place for calling for help in an emergency and [with] shall post emergency phone numbers for fire, police, ambulance and the poison control center next to the phone; [a center will not use a pay phone to fulfill this requirement;]	8.9.4.29 H(3)(g): Safety Compliance a center [with] shall keep a telephone in an easily accessible place for calling for help in an emergency and [with] shall post emergency phone numbers for fire, police, ambulance and the poison control center next to the phone; [a center will not use a pay phone to fulfill this requirement;]
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.29 H(3)(l)		
8.9.4.29 H (3)(l): Safety Compliance fire extinguishers, alarm systems, automatic detection equipment, and other firefighting must be properly maintained and inspected on a least yearly basis;	8.9.4.29 H (3)(l): Safety Compliance fire extinguishers, alarm systems, automatic detection equipment, and other firefighting devices must be properly maintained and inspected on a least yearly basis;	8.9.4.29 H (3)(l): Safety Compliance fire extinguishers, alarm systems, automatic detection equipment, and other firefighting devices must be properly maintained and inspected on a least yearly basis;
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.29 I		
8.9.4.29 I: Smoking, Firearms, Etc. A center will prohibit smoking, 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.	8.9.4.29 I: Smoking, Firearms, Etc. A center [with] shall prohibit smoking, 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]. A center [with] 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.	8.9.4.29 I: Smoking, Firearms, Etc. A center [with] shall prohibit smoking, 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]. A center [with] 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		
There were no substantive comments received. ECECD is adopting the proposed amendment.		

Current Language	Proposed Language	Final Adopted Language
8.9.4.31 A(1)		
8.9.4.31 A (1): Licensing Requirements for Homes - Application Form An applicant will complete an application form provided by the licensing authority and include payment for the non-refundable application fee.	8.9.4.31 A (1): Licensing Requirements for Homes - Application Form An applicant will complete an application form provided by the licensing authority [and include payment for the non-refundable application fee] .	8.9.4.31 A (1): Licensing Requirements for Homes - Application Form An applicant will complete an application form provided by the licensing authority [and include payment for the non-refundable 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 Records for Homes an up to date emergency evacuation and disaster preparedness plan,	8.9.4.32 A (5): Administrative Records for Homes an up[]to[]-date emergency evacuation and disaster preparedness plan,	8.9.4.32 A (5): Administrative Records for Homes an up[]to[]-date emergency evacuation and disaster 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 PARENT HANDBOOK: All facilities using these regulations must have a parent handbook. Upon updating the parent handbook, changes must be approved and submitted to licensing and submitted to the licensing authority. After any changes, notices must be sent out to families, parents, or guardians and posted in a common area. The handbook will include the following: (d) name of licensee and how he/she may be reached; (g) a statement supportive of family involvement that includes an open door policy to the family or group child care home;	8.9.4.32 C: [PARENT] FAMILY HANDBOOK [PARENT] FAMILY HANDBOOK: All facilities using these regulations must have a [parent] family handbook. Upon updating the [parent] family handbook, changes must be approved and submitted to licensing and submitted to the licensing authority. After any changes, notices must be sent out to families, parents, or guardians and posted in a common area. The handbook [witt] shall include the following: (d) name of licensee and how [he/she]they may be reached; (g) a statement supportive of family involvement that includes an open[]-door	8.9.4.32 C: [PARENT] FAMILY HANDBOOK All facilities using these regulations must have a [parent] family handbook. Upon updating the [parent] family handbook, changes must be approved and submitted to licensing and submitted to the licensing authority. After any changes, notices must be sent out to families, parents, or guardians and posted in a common area. The handbook [witt] shall include the following: (d) name of licensee and how [he/she]they may be reached; - (g) a statement supportive of family involvement that includes an open[]-door
Explanatory Statement		
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 (2): Policies and Procedures All licensed homes 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 and otherwise legally available. The written policies and procedures must cover the following areas:	8.9.4.32 C (2): Policies and Procedures 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:
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		
8.9.4.32 D: Children's Records	8.9.4.32 D: Children's Records	8.9.4.32 D: Children's Records
A home will 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 contain at least:	A home [with] 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 [with] shall contain at [least] minimum:	A home [with] 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 [with] shall contain at [least] minimum:

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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 names of the parents or guardians, the parents or guardians current places of employment, addresses, pager, cellular and work telephone numbers;	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;	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;
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.32 D(1)(g)		
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;	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 activity destination, date and time of fieldtrip activity and expected return time from fieldtrip activity ;	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 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 proposed amendment.		
8.9.4.32 D(1)(k)		
8.9.4.32 D (1)(k): Personal Information a signed acknowledgement that the parent or guardian has read and understands the parent handbook.	8.9.4.32 D (1)(k): Personal Information a signed acknowledgement that the parent or guardian has read and understands the parent family handbook.	8.9.4.32 D (1)(k): Personal Information a signed acknowledgement that the parent or guardian has read and understands the parent family handbook.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.32 E(5)		
N/A - New text	8.9.4.32 E (5) : Personnel Records (5) Licensed child care homes shall maintain the complete, up-to-date personnel records in	8.9.4.32 E (5) : Personnel Records (5) Licensed child care homes shall maintain the complete, up-to-date personnel records in

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	ECECD's professional development information system, (PDIS), for each staff member, including substitutes and volunteers working more than six hours of any week and having direct contact with the children. If the home chooses to retain duplicate physical copies of these records, these records shall be stored in a secure location for the privacy of the staff members. New information shall be updated in a timely manner in PDIS. Records shall contain at a minimum the following: (a) name, address and telephone number; (b) position; (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 employment showing that it is in process, must be placed in file. A background check must be conducted at least once per five year interval on all required individuals; (f) an annual signed statement that the staff member 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; (g) documentation of current first-aid and cardiopulmonary resuscitation training;	ECECD's professional development information system, (PDIS), for each staff member, including substitutes and volunteers working more than six hours of any week and having direct contact with the children. If the home chooses to retain duplicate physical copies of these records, these records shall be stored in a secure location for the privacy of the staff members. New information shall be updated in a timely manner in PDIS. Records shall contain at a minimum the following: (a) name, address and telephone number; (b) position; (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 employment showing that it is in process, must be placed in file. A background check must be conducted at least once per five year interval on all required individuals; (f) an annual signed statement that the staff member 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; (g) documentation of current first-aid and cardiopulmonary resuscitation training;

Current Language	Proposed Language	Final Adopted Language
	(h) documentation of all appropriate training by date, time, hours and area of competency; (i) emergency contact number; (j) universal precaution acknowledgment form; (k) confidentiality form; (l) results of performance evaluations; (m) administrative actions or reprimands; (n) written plan for ongoing professional development for each educator, including the director, that is based on the seven areas of competency, consistent with the department's career lattice, and based on the individual's goals; and (o) signed acknowledgment that the staff have read and understand the personnel handbook; (p) signed acknowledgement that all staff have reviewed and are aware of the center's disaster preparedness plan and evacuation plan; and (q) hourly rate of pay.	(h) documentation of all appropriate training by date, time, hours and area of competency; (i) emergency contact number; (j) universal precaution acknowledgment form; (k) confidentiality form; (l) results of performance evaluations (shall be maintained outside of PDIS); (m) administrative actions or reprimands (shall be maintained outside of PDIS); (n) written plan for ongoing professional development for each educator, including the director, that is based on the seven areas of competency, consistent with the [department's] career lattice, and based on the individual's goals; and (o) signed acknowledgment that the staff have read and understand the personnel handbook; (p) signed acknowledgement that all staff have reviewed and are aware of the center's disaster preparedness plan and evacuation plan;
Explanatory 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 and training	8.9.4.33 B (1) (l): Staff qualifications and training	8.9.4.33 B (1) (l): Staff qualifications and training

Current Language	Proposed Language	Final Adopted Language
a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii), or approved three-credit early care and education course or an equivalent approved by the department.	a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund [(https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii)] in 45 CFR § 98.44 Training and Professional development , or approved three-credit early care and education course or an equivalent approved by the department.	a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund [(https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii)] in 45 CFR § 98.44 Training and Professional development , or approved three-credit early care and education course or an equivalent approved by the department.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.33 B(5)		
8.9.4.33 B (5): Staff qualifications and training An educator cannot count more than three hours in first aid or CPR training toward the total hours required. Online first aid and CPR training will not be approved unless there is a hands-on component included. In-person requirements may be waived in case of an emergency. For this purpose, a year begins and ends at the anniversary date of employment. Training must be provided by individuals who are registered on the New Mexico trainer registry. Identical trainings shall not be repeated for the purpose of obtaining credit.	8.9.4.33 B (5): Staff qualifications and training An educator cannot count more than three hours in first aid or CPR training toward the total hours required. Online first aid and CPR training [with] shall not be approved unless there is a hands-on component included. In-person requirements may be waived in case of an emergency. [For this purpose, a] A year begins and ends at the anniversary date of employment. Training must be provided by individuals who are registered on the New Mexico trainer registry. Identical trainings shall not be repeated for the purpose of obtaining credit.	8.9.4.33 B (5): Staff qualifications and training An educator cannot count more than three hours in first aid or CPR training toward the total hours required. Online first aid and CPR training [with] shall not be approved unless there is a hands-on component included. In-person requirements may be waived in case of an emergency. [For this purpose, a] A year begins and ends at the anniversary date of employment. Training must be provided by individuals who are registered on the New Mexico trainer registry. Identical trainings shall not be repeated for the purpose of obtaining credit.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.34 B(3)		
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): Services and Care of Children in Homes – Naps or Rest Period

Current Language	Proposed Language	Final Adopted Language
Each child will have an individual bed, cot, or mat that is sanitized after each use, regardless of the same child using the mat or cot. Linens can be used multiple times over the course of a week but must be laundered before being used by another child.	Each child [with] shall have an individual bed, cot, or mat that is sanitized after each use, regardless of whether the same child is using the same mat or cot. Linens can be used multiple times over the course of a week but must be laundered before being used by another child.	Each child [with] shall have an individual bed, cot, or mat that is sanitized after each use, regardless of whether the same child is using the same mat or cot. Linens can be used multiple times over the course of a week but must be laundered before being used by another child.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.34 C(10)		
8.9.4.34 (C)(10): Services and Care of Children in Homes – Additional Requirements for Infants and Toddlers 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.	8.9.4.34 (C)(10): Services and Care of Children in Homes – Additional Requirements for Infants and Toddlers 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] supine position while drinking via bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted.	8.9.4.34 (C)(10): Services and Care of Children in Homes – Additional Requirements for Infants and Toddlers 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] supine position while drinking via bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.34 D(1)		
8.9.4.34 (D)(1): Services and Care of Children in Homes – Diapering and Toileting An educator will plan toilet training with a parent so the toilet routine is consistent. A home will not attempt to toilet train a child who is not developmentally ready.	8.9.4.34 (D)(1): Services and Care of Children in Homes – Diapering and Toileting An educator [with] shall plan toilet training with a parent[so the toilet routine is consistent] to facilitate a consistent toileting routine . A home [with] shall not attempt to toilet train a child who is not developmentally ready.	8.9.4.34 (D)(1): Services and Care of Children in Homes – Diapering and Toileting An educator [with] shall plan toilet training with a parent[so the toilet routine is consistent] to facilitate a consistent toileting routine . A home [with] shall not attempt to toilet train a child who is not developmentally ready.
Explanatory Statement		
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 Requirements for Children with Special Needs Child care facilities are responsible for staff awareness of community resources for families of children with disabilities, including children under the age of five years as well as those of school age. If family or group home educators believe that a child may have a delay or disability, possible resources for referral and assistance are provided to parents when appropriate. No referral for special needs services to an outside agency will be made without a parent's consent. Family Education Right and Privacy Act (FERPA) will be respected at all times.	8.9.4.34 (E) (1): Additional Requirements for Children with Special Needs Child care facilities are responsible for staff awareness of community resources for families of children with disabilities, including children under the age of five years as well as those of school age. If family or group home educators believe that a child may have a delay or disability, possible resources for referral and assistance are provided to parents or guardians when appropriate. No referral for special needs services to an outside agency will be made without a parent[’s] or guardian’s consent. Family Education Right and Privacy Act (FERPA) will be respected at all times.	8.9.4.34 (E) (1): Additional Requirements for Children with Special Needs Child care facilities are responsible for staff awareness of community resources for families of children with disabilities, including children under the age of five years as well as those of school age. If family or group home educators believe that a child may have a delay or disability, possible resources for referral and assistance are provided to parents or guardians when appropriate. No referral for special needs services to an outside agency will be made without a parent[’s] or guardian’s consent. Family Education Right and Privacy Act (FERPA) will be respected at all 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 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.	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 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.
Explanatory 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.		
8.9.4.34 G(5)		
8.9.4.34 (G)(5): Physical Environment Materials are well cared for and organized by type. Where appropriate, materials are labeled with words or pictures. Adaptations to materials are made when needed to accommodate various abilities of all children. Unused materials are stored in inaccessible storage.	8.9.4.34 (G)(5): Physical Environment Materials are [well] properly cared for and organized by type. Where appropriate, materials are labeled with words or pictures. Adaptations to materials are made when needed to accommodate various abilities of all children. Unused materials are stored in inaccessible storage.	8.9.4.34 (G)(5): Physical Environment Materials are [well] properly cared for and organized by type. Where appropriate, materials are labeled with words or pictures. Adaptations to materials are made when needed to accommodate various abilities of all children. Unused materials are stored in inaccessible storage.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.34 I(1)		
8.9.4.34 (I)(1): Equipment and Program	8.9.4.34 (I)(1): Equipment and Program Toys and equipment must be	8.9.4.34 (I)(1): Equipment and Program Toys and equipment must be

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

Current Language	Proposed Language	Final Adopted Language
operation or by any children receiving care at the facility.	during the hours of operation or by any children receiving care at the facility.	during the hours of operation or by any children receiving care at the facility.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.34 J(5)		
8.9.4.34(J)(5): Outdoor Play Children shall be protected from the sun during outdoor play by providing shade (as necessary), sunscreen, proper attire and limiting the time of exposure to the elements. The provider must also consider instructions by the child's parent or guardian. Drinking water should be available as needed and outlined in Paragraph (9) of Subsection I of 8.9.4.34 NMAC.	8.9.4.34(J)(5): Outdoor Play Children shall be protected from the sun during outdoor play by providing shade (as necessary), sunscreen (as permitted by parent/guardian) , proper attire and limiting the time of exposure to the elements. The provider must also consider instructions by the child's parent or guardian. Drinking water should be available as needed and outlined in Paragraph (9) of Subsection I of 8.9.4.34 NMAC.	8.9.4.34(J)(5): Outdoor Play Children shall be protected from the sun during outdoor play by providing shade (as necessary), sunscreen (as permitted by parent/guardian) , proper attire and limiting the time of exposure to the elements. The provider must also consider instructions by the child's parent or guardian. Drinking water should be available as needed and outlined in Paragraph (9) of Subsection I of 8.9.4.34 NMAC.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.34 K(2)		
N/A; New text	8.9.4.34(K)(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.	8.9.4.34(K)(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.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
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 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 proportional to the ages and abilities of the children and type of water hazard in use.]
Explanatory Statement		

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

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

Current Language	Proposed Language	Final Adopted Language
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.	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.	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.		
8.9.4.40 B(3)(a)		
8.9.4.40 (B)(3)(a): Capacity of a Program 35 square feet of indoor activity space measured wall to wall on the inside for each child in a program, excluding single-use areas, such as restrooms, kitchens, and storage areas, and excluding offsets and built-in fixtures.	8.9.4.40 (B)(3)(a): Capacity of a Program 35 square feet of indoor activity space measured wall to wall on the inside for each child in a program, excluding single-use areas, such as restrooms, kitchens, and storage areas, and excluding offsets and built-in fixtures. The number of children allowed in a program is also limited by the group size regulations, regardless of available square footage.	8.9.4.40 (B)(3)(a): Capacity of a Program 35 square feet of indoor activity space measured wall to wall on the inside for each child in a program, excluding single-use areas, such as restrooms, kitchens, and storage areas, and excluding offsets and built-in fixtures.
Explanatory Statement		
Concerns raised through public comment include the potential loss of capacity, limited enrollment, and a staffing and scheduling burden to maintain compliance during opening and closing hours when mixed-age groups are often necessary. To address those concerns, ECECD is not adopting the proposed amendment.		
8.9.4.41 A		
8.9.4.41 (A): Administrative Records ADMINISTRATION RECORDS: A licensee shall display in a prominent place that is readily visible to parents, staff and visitors:	8.9.4.41 (A): Administrative Records ADMINISTRATION RECORDS: A licensee shall display in a prominent place that is readily visible to parents, guardians , staff and visitors:	8.9.4.41 (A): Administrative Records ADMINISTRATION RECORDS: A licensee shall display in a prominent place that is readily visible to parents, guardians , staff and visitors
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.41 C(1)(d)		
8.9.4.41 (C)(1)(d): Family Handbook – General Information	8.9.4.41 (C)(1)(d): Family Handbook – General Information	8.9.4.41 (C)(1)(d): Family Handbook – General Information

Current Language	Proposed Language	Final Adopted Language
name of director and how he/she may be reached;	name of director and how he/she they may be reached;	name of director and how he/she they may be reached;
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.41 C(2)		
N/A; New text	8.9.4.41 (C)(2): Family Handbook – Policies and Procedures 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 and otherwise legally available. The written policies and procedures must cover the following areas:	8.9.4.41 (C)(2): Family Handbook – Policies and Procedures 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:
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 – Personal Information	8.9.4.41 (D)(1)(b) Children’s Records – Personal Information	8.9.4.41 (D)(1)(b) Children’s Records – Personal Information
names of the parents or guardians, the parents or guardian’s current places of employment, addresses,	names of the parents or guardians, the parents or guardian’s current places of employment, addresses,	names of the parents or guardians, the parents or guardian’s current places of employment, addresses,

Current Language	Proposed Language	Final Adopted Language
and pager, cellular and work telephone numbers;	[and pager,] cellular and work telephone numbers;	[and pager,] cellular and work telephone numbers;
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.41 D(1)(f)		
8.9.4.41 (D)(1)(f) Children's Records – 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;	8.9.4.41 (D)(1)(f) Children's Records – 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] activity destination, date and time of [fieldtrip] activity and expected return time from [fieldtrip] activity;	8.9.4.41 (D)(1)(f) Children's Records – 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] 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 proposed amendment.		
8.9.4.41 E(1)		
8.9.4.41 (E) (1) Personnel Records A licensee will keep a complete file for each staff member, including substitutes and volunteers having direct contact with the children. A program will keep the file for one year after the staff member's last day of employment. Unless otherwise indicated, a licensee may keep the items listed below in a central location except the following items which shall be kept on site: background clearances, abuse and neglect statements, staff emergency numbers and first aid/CPR certificates. Records will contain at least the following:	8.9.4.41 (E) (1) Personnel Records A licensee [will] shall keep a complete up-to-date file for each staff member, including substitutes and volunteers having direct contact with the children. A program [will] shall keep the file for one year after the staff member's last day of employment. Unless otherwise indicated, a licensee [may] shall keep the items listed below in a central location except the following items which shall be kept on site: background clearances, abuse and neglect statements, staff emergency numbers and first aid/CPR certificates. Records [will] shall contain at least the following:	8.9.4.41 (E) (1) Personnel Records A licensee [will] shall keep a complete up-to-date file for each staff member, including substitutes and volunteers having direct contact with the children. A program [will] shall keep the file for one year after the staff member's last day of employment. Unless otherwise indicated, a licensee [may] shall keep the items listed below in a central location except the following items which shall be kept on site: background clearances, abuse and neglect statements, staff emergency numbers and first aid/CPR certificates. Records [will] shall contain at least the following:
Explanatory Statement		
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 professional development for each staff member, including the director, that is based on the seven areas of competency, consistent with the career lattice, and based on the individual's goals.	a written plan for ongoing professional development for each staff member, including the director, that is based on the seven areas of competency, consistent with the department's career lattice, and based on the individual's goals.	a written plan for ongoing professional development for each staff member, including the director, that is based on the seven areas of competency, consistent with the career lattice, and based on the individual's goals.
Explanatory Statement		
Public comments expressed confusion with the change to “department’s” career lattice, as a career lattice from the department is currently unavailable. The development of a career lattice is a requirement from the New Mexico legislature and is not owned by the department. To address this, ECECD will revert this amendment to original language.		
8.9.4.41 E(3)		
N/A; New text	8.9.4.41 (E)(3) Personnel Records Licensed child care centers shall maintain the complete, up-to-date personnel records in ECECD's professional development information system, (PDIS), for each staff member, including substitutes and volunteers working more than six hours of any week and having direct contact with the children.. If the program chooses to retain duplicate physical copies of these records, these records shall be stored in a secure location for the privacy of the staff members. New information shall be updated in a timely manner in PDIS. Records shall contain at a minimum the following: (a) name, address and telephone number; (b) position; (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	8.9.4.41 (E)(3) Personnel Records Licensed child care centers shall maintain the complete, up-to-date personnel records in ECECD's professional development information system, (PDIS), for each staff member, including substitutes and volunteers working more than six hours of any week and having direct contact with the children.. If the program chooses to retain duplicate physical copies of these records, these records shall be stored in a secure location for the privacy of the staff members. New information shall be updated in a timely manner in PDIS. Records shall contain at a minimum the following: (a) name, address and telephone number; (b) position; (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 it is in process, must be placed in file. A background check must be conducted at least once per five year interval on all required individuals; (f) an annual signed statement that the staff member 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; (g) documentation of current first-aid and cardiopulmonary resuscitation training; (h) documentation of all appropriate training by date, time, hours and area of competency; (i) emergency contact number; (j) universal precaution acknowledgment form; (k) confidentiality form; (l) results of performance evaluations; (m) administrative actions or reprimands; (n) written plan for ongoing professional development for each educator, including the director, that is based on the seven areas of competency, consistent with the department's career lattice, and based on the individual's goals; and (o) signed acknowledgment that the staff have read and understand the personnel handbook; (p) signed acknowledgement that all staff have reviewed	employment showing that it is in process, must be placed in file. A background check must be conducted at least once per five year interval on all required individuals; (f) an annual signed statement that the staff member 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; (g) documentation of current first-aid and cardiopulmonary resuscitation training; (h) documentation of all appropriate training by date, time, hours and area of competency; (i) emergency contact number; (j) universal precaution acknowledgment form; (k) confidentiality form; (l) results of performance evaluations (shall be maintained outside of PDIS); (m) administrative actions or reprimands (shall be maintained outside of PDIS); (n) written plan for ongoing professional development for each educator, including the director, that is based on the seven areas of competency, consistent with the [department's] career lattice, and based on the individual's goals; and (o) signed acknowledgment that the staff have read and understand the personnel handbook; (p) signed acknowledgement that

Current Language	Proposed Language	Final Adopted Language
	and are aware of the center's disaster preparedness plan and evacuation plan; and (g) hourly rate of pay.	all staff have reviewed and are aware of the center's disaster preparedness plan and evacuation plan;
Explanatory 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 is not adopting that proposed language.		
8.9.4.41 F(20)		
8.9.4.41 (F)(20): Personnel Handbook policies and procedures for 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.	8.9.4.41 (F)(20): Personnel Handbook policies and procedures for 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.	8.9.4.41 (F)(20): Personnel Handbook policies and procedures for 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		
8.9.4.42 A(6)		
8.9.4.42 (A)(6): Personnel and Staffing Requirements The site director or a designated co-director who meets the same qualifications as the site director will be on site 50 percent of the program's core hours of operation.	8.9.4.42 (A)(6): Personnel and Staffing Requirements The site director or a designated co-director who meets the same qualifications as the site director will be on site for 50 percent of the program's core hours of operation.	8.9.4.42 (A)(6): Personnel and Staffing Requirements The site director or a designated co-director who meets the same qualifications as the site director will be on site for 50 percent of the program's core hours of operation.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.42 A(8)		

Current Language	Proposed Language	Final Adopted Language
Current Language	Proposed Language	Final Adopted Language
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	8.9.4.42 (A)(8): Personnel and Staffing Requirements If the program has [less] fewer than seven children, the second staff member may be engaged in other duties.	8.9.4.42 (A)(8): Personnel and Staffing Requirements If the program has [less] fewer than seven children, the second staff member may be engaged in other duties.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.42 B(1)		
8.9.4.42 (B)(1): Staff Qualifications 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:	8.9.4.42 (B)(1): Staff Qualifications Unless exempted under Paragraph (3) below, an out[]-of[]-school[]-time program [witt] shall have an administrator/director who is at least 21 years old and has proof of a current copy of:	8.9.4.42 (B)(1): Staff Qualifications Unless exempted under Paragraph (3) below, an out[]-of[]-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		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.42 B(2)		
8.9.4.42 (B)(2): Staff Qualifications Every site of an out of school time program will have a site director who has at least a high school diploma or GED and proof of at least three years of experience working with children.	8.9.4.42 (B)(2): Staff Qualifications Every site of an out[]-of[]-school[]-time program [witt] shall have a site director who has at least a high school diploma or GED and proof of at least three years of experience working with children.	8.9.4.42 (B)(2): Staff Qualifications Every site of an out[]-of[]-school[]-time program [witt] shall have a site director who has at least a high school diploma or GED and proof of at least three years of experience working with children.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.42 B(3)		
Current Language	Proposed Language	Final Adopted Language
8.9.4.42 (B)(3): Staff Qualifications Program administrators and site directors employed in a licensed program on the date these regulations become effective but who are not qualified will continue to qualify in their positions as long as they continuously work as	8.9.4.42 (B)(3): Staff Qualifications Program administrators and site directors employed in a licensed program on the date these regulations become effective, but who are not qualified, will [continue to qualify in] be qualified to continue in their positions as long as they	8.9.4.42 (B)(3): Staff Qualifications Program administrators and site directors employed in a licensed program on the date these regulations become effective, but who are not qualified, will [continue to qualify in] be qualified to continue in their positions as long as they

Current Language	Proposed Language	Final Adopted Language
program administrators or site directors.	continuously work as program administrators or site directors.	continuously work as program 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 a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii), or approved three-credit early care and education course or an equivalent approved by the department.	8.9.4.42 (C)(2)(k): Training a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund [https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii] in 45 CFR § 98.44 Training and Professional development , or approved three-credit early care and education course or an equivalent approved by the department.	8.9.4.42 (C)(2)(k): Training a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund [https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii] in 45 CFR § 98.44 Training and Professional development , or approved three-credit early care and education course or an equivalent approved 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.		
8.9.4.42 C(6)		
8.9.4.42 (C)(6): Training Training must be provided by individuals who have education or experience in the competency area (or areas) in which they train.	8.9.4.42 (C)(6): Training Training must be provided by individuals who have education or experience in the competency area (or areas) in which they provide training .	8.9.4.42 (C)(6): Training Training must be provided by individuals who have education or experience in the competency area (or areas) in which they provide training .
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.43 B(6)		
8.9.4.43 (B)(6): Physical Environment Materials are well cared for and organized by type.	8.9.4.43 (B)(6): Physical Environment Materials are [well] properly cared for and organized by type.	8.9.4.43 (B)(6): Physical Environment Materials are [well] properly cared for and organized by type.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		

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 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.	N/A
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 proposed amendment.		
8.9.4.43 G(2)		
N/A – New text	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.	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.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed 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)} (4): Swimming, wading and water	8.9.4.43 (G){(3)(c)} (4): Swimming, wading and water

Current Language	Proposed Language	Final Adopted Language
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	[(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.]	[(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.]
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.45 D(2)		
8.9.4.45 D (2): Illness A program will separate and constantly observe a child who becomes sick at the program and promptly notify a parent or guardian of the child's illness.	8.9.4.45 D (2): Illness A program [with] shall separate and constantly observe a child who becomes sick[at the program] on the premises and promptly notify a parent or guardian of the child's illness.	8.9.4.45 D (2): Illness A program [with] shall separate and constantly observe a child who becomes sick[at the program] on the premises and promptly notify a parent or guardian of the child's 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 The program will have a cot or mat available for sick children and it will be cleaned and disinfected thoroughly after use.	8.9.4.45 D (4): Illness The program [with] shall have a cot or mat available for sick children [and it] which will be cleaned and disinfected thoroughly after use.	8.9.4.45 D (4): Illness The program [with] shall have a cot or mat available for sick children [and it] which will be cleaned and disinfected thoroughly after use.
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 Materials dangerous to children must be secured in a manner making them inaccessible to children and away from food storage or preparation areas.	8.9.4.47 (A)(2): Housekeeping Materials dangerous to children must be secured in a manner making them inaccessible to children and away from food [storage or] preparation or storage areas.	8.9.4.47 (A)(2): Housekeeping Materials dangerous to children must be secured in a manner making them inaccessible to children and away from food [storage or] preparation or storage areas.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed 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 New Mexico licensed applicator whenever applying pesticides in or on the program's buildings and grounds. (2) The applicator may not apply pesticides when children are on the premises.	(1) All licensed programs must use a New Mexico licensed [applicator] pest control professional whenever applying pesticides in or on the program's buildings and grounds. (2) The applicator may not apply pesticides may not be applied when children are on the premises.	(1) All licensed programs must use a New Mexico licensed [applicator] pest control professional whenever applying pesticides in or on the program's buildings and grounds. (2) The applicator may not apply pesticides may not be applied 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 A program will not use unvented heaters, open flame heaters or portable heaters.	8.9.4.47 (C)(3): Mechanical Systems A program [with] shall not use unvented heaters without vents , open flame heaters or portable heaters.	8.9.4.47 (C)(3): Mechanical Systems A program [with] shall not use unvented heaters without vents , open flame heaters or 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 Exit ways must be kept free from obstructions at all times.	8.9.4.47 E (2): Exits and Windows Exit ways access must be kept free from obstructions at all times.	8.9.4.47 E (2): Exits and Windows Exit ways access must be kept free 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 Facilities The staff member shall maintain a direct line of sight of the child until the child enters the bathroom and from the time the child leaves the bathroom until the child returns. A staff member will accompany children to the bathroom door when maintaining a line of sight is impossible due to bathrooms being not located within a direct line of sight.	8.9.4.47 F (2): Toilet and Bathing Facilities The staff member shall maintain a direct line of sight of the child until the child enters the bathroom and from the time the child leaves the bathroom [until the child returns] and returns to the supervised area . A staff member [with] shall accompany children to the bathroom door [when] if maintaining a line of sight is impossible due to bathrooms being not located within a direct line of sight.	8.9.4.47 F (2): Toilet and Bathing Facilities The staff member shall maintain a direct line of sight of the child until the child enters the bathroom and from the time the child leaves the bathroom [until the child returns] and returns to the supervised area . A staff member [with] shall accompany children to the bathroom door [when] if maintaining a line of sight is impossible due to bathrooms being not located within a direct line of sight.
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		

Current Language	Proposed Language	Final Adopted Language
8.9.4.47 G(1)		
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.	8.9.4.47 (G) (1): Safety Compliance A program [with] shall conduct quarterly emergency preparedness practice drills [at least quarterly beginning] starting at the commencement of each school calendar year.	8.9.4.47 (G) (1): Safety Compliance A program [with] shall conduct quarterly emergency preparedness practice drills [at least quarterly beginning] starting at the commencement of each school calendar year.
Explanatory Statement		
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 [with] shall keep a working telephone in an easily accessible place for calling for help in an emergency and [with] 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 [with] shall keep a working telephone in an easily accessible place for calling for help in an emergency and [with] 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
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed 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 [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.	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		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4 - Throughout		
Current Language	Proposed Language	Final Adopted Language
will	[witt] shall	
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		

8.9.5 NMAC – Explanatory Statement

8.9.5.3		
Current Language	Proposed Language	Final Adopted Language
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.	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,} 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.	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,} 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 “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.	8.9.5.7 A (3): Definitions “Attended” means ” means the physical presence of a staff member of educator supervising children under care. Merely being within eyesight {off} or hearing of the children does not mean actively engaged or meet the intent of this definition.	8.9.5.7 A (3): Definitions “Attended” means ” means the physical presence of a staff member of educator supervising children under care. Merely being within eyesight {off} 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		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 D (1)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 D (1): Definitions “Disinfect” means to destroy or inactivate most germs on any inanimate object, but not bacterial spores. Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.	8.9.5.7 D (1): Definitions “Disinfect means to destroy or inactivate most germs, but not bacterial spores , on any inanimate object, [but not bacterial spores] . Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.	8.9.5.7 D (1): Definitions “Disinfect means to destroy or inactivate most germs, but not bacterial spores , on any inanimate object, [but not bacterial spores] . Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (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 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.	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.
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 “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.	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 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.	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 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 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.	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.] [RESERVED]	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.
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 (1) “Home” means a private residence and its premises registered under these regulations where children receive care, services, and supervision. The caregiver will reside in the home and be the primary caregiver. A	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 caregiver [will] shall reside in the home	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 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 (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.	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 employment.}}	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 employment.}}
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.7 P(3)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 P(3): Definitions (3) “Primary caregiver” means a registered child care home caregiver 18 years of age or older who is personally providing care to children, less than 24 hours a day, in his/her own residence and has	8.9.5.7 P(3): Definitions (3) “Primary caregiver” means a registered child care home caregiver 18 years of age or older who is personally providing care to children, less than 24 hours a day, in his/her own residence and has	8.9.5.7 P(3): Definitions (3) “Primary caregiver” means a registered child care home caregiver 18 years of age or older who is personally providing care to children, less than 24 hours a day, 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 “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.	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 (CACFP) or in the state and federal child care assistance programs.	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 (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 “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.	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 (CACFP) only and does not participate in the state and federal child care assistance program.	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 (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 (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	8.9.5.7 S (6): Definitions (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.	8.9.5.7 S (6): Definitions (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 An independent caregiver who wants to participate in the federal child and adult care food program and state and federal child care assistance programs must apply as a registered family child care home by submitting an application, receiving an on-site health and safety inspection by ECECD, completing the registration process and paying the processing charge. One primary caregiver per household can be registered or licensed with CCSB. All registered homes receiving child care assistance subsidies must be enrolled and participate in the CACFP, unless they are exempt. Primary caregivers must provide photo identification to prove identity and documentation of proof of address.	8.9.5.8 A: Application An independent caregiver who wants to participate in the federal child and adult care food program and state and federal child care assistance programs must apply as a registered family child care home by submitting an application, receiving an on-site health and safety inspection by ECECD, completing the registration process and paying the processing charge. One primary caregiver per household can be registered or licensed with CCSB. [All registered homes receiving child care assistance subsidies must be enrolled and participate in the CACFP, unless they are exempt.] Primary caregivers must provide photo identification to prove identity and documentation of proof of address.	8.9.5.8 A: Application An independent caregiver who wants to participate in the federal child and adult care food program and state and federal child care assistance programs must apply as a registered family child care home by submitting an application, receiving an on-site health and safety inspection by ECECD, and completing the registration process [and paying the processing charge]. One primary caregiver per household can be registered or licensed with CCSB. [All registered homes receiving child care assistance subsidies must be enrolled and participate in the CACFP, unless they are exempt.] Primary caregivers must provide photo identification to prove identity and documentation of proof of address.
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		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.8 C		
Current Language	Proposed Language	Final Adopted Language
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.	8.9.5.8 C: Application 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.	8.9.5.8 C: Application 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 N/A – New Language	8.9.5.8 D: Application N/A – No Proposed Changes	8.9.5.8 D: Application (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.

(b) Registered homes operating 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; (d) Annual submission of all caregivers employed by the registered home, listing each individual staff member's name, date of birth, and home address; and (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 All child care primary caregivers who receive child care assistance reimbursements are required to be	8.9.5.10 A: Caregiver Requirements All child care primary caregivers who receive child care assistance reimbursements are required to be	8.9.5.10 A: Caregiver Requirements 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 H. All new primary and substitute caregivers of registered family child care homes, with the exception of registered family child care food-only homes, must complete the following training within three months of their original date of initial registration. Training must be approved to fulfill the following requirements. Approved trainings and substitutions will be listed on the ECECD's website. All current primary and substitute caregivers in a registered family child care home will have three months to comply with the following training from the date these regulations are promulgated:	8.9.5.10 H: Caregiver Requirements H. All new primary and substitute caregivers of registered family child care homes, with the exception of registered family child care food-only homes, must complete the following training within three months of their original date of initial registration. Training must be approved to fulfill the following requirements. Approved trainings and substitutions [will] shall be listed on the ECECD's website. All current primary and substitute caregivers in a registered family child care home [will] shall have three months to comply with the following training from the date these regulations are promulgated:	8.9.5.10 H: Caregiver Requirements H. All new primary and substitute caregivers of registered family child care homes, with the exception of registered family child care food-only homes, must complete the following training within three months of their original date of initial registration. Training must be approved to fulfill the following requirements. Approved trainings and substitutions [will] shall be listed on the ECECD's website. All current primary and substitute caregivers in a registered family child care home [will] shall have three months to comply with the following training from the date these regulations are promulgated:
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

Current Language	Proposed Language	Final Adopted Language
8.9.5.10 H (12): Caregiver Requirements a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii), or approved three-credit early care and education course or an equivalent approved by the department.	8.9.5.10 H (12): Caregiver Requirements a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii), in 45 CFR § 98.44 training and professional development, or approved three-credit early care and education course or an equivalent approved by the department.	8.9.5.10 H (12): Caregiver Requirements a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii), in 45 CFR § 98.44 training and professional development, or approved three-credit early care and education course or an equivalent approved 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 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 food-only home, all household members are only required to undergo a	8.9.5.11 B: Background Checks 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 of a registered family child	8.9.5.11 B: Background Checks 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 of a

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

8.9.5.11 (C)		
Current Language	Proposed Language	Final Adopted Language
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.	8.9.5.11 C: Background Checks 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 screeninging. Family members or guests visiting for temporary periods ([less] 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 children in care at any time.	8.9.5.11 C: Background Checks 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 screeninging. Family members or guests visiting for temporary periods ([less] 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 children in care at any time.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.11 (F)		
Current Language	Proposed Language	Final Adopted Language
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	8.9.5.11(F): Background Checks N/A – No changes proposed	8.9.5.11(F): Background Checks 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 months.		disqualifying offense during the last twelve months.
Explanatory Statement		
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
8.9.5.12 Annual Registration: An annual registration is issued for a one-year period to a child care home that has met all requirements of these regulations. A. Primary caregivers must renew registration annually, and only after receiving an onsite inspection by ECECD, by submitting a registration application and paying the processing charge with cashier's check or a money order. In-home care registrations are exempt from the application fee. B. Primary caregiver's who 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. 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.	8.9.5.12 [ANNUAL] Initial Registration: A[n annual] registration is issued [for a one-year period] to a child care home that has met all requirements of these regulations and shall remain valid as long as the registrant maintains good standing in compliance with all applicable rules and regulations. [A. Primary caregivers must renew registration annually, and only after receiving an onsite inspection by ECECD, by submitting a registration application and paying the processing charge with cashier's check or a money order. In-home care registrations are exempt from the application fee. B. Primary caregiver's who 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.	8.9.5.12 [ANNUAL] Initial Registration: A[n annual] registration is issued [for a one-year period] to a child care home that has met all requirements of these regulations and shall remain valid as long as the registered home maintains good standing in compliance with all applicable 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 or has entered into a plan of correction during their annual inspection, and the registered home certifies on its annual inspection survey its desire to renew the registration for another year. A denial of an initial or renewal application may only occur pursuant to 8.9.5.17 NMAC. [A. Primary caregivers must renew registration annually, and only after receiving an onsite inspection by ECECD, by submitting a registration application and paying the processing charge with cashier's check or a money order. In-home care registrations are exempt from the application fee. B. Primary caregiver's who 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.
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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 [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.
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 [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.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.13 C		
Current Language	Proposed Language	Final Adopted Language
8.9.5.13 C: Visits by the Sponsoring Agency and Registered Authority By applying for either a new registration or a registration renewal, the caregiver grants the registering authority representative the right to enter the premises and survey the registered residence, including inspecting and copying of child care records, both while the application is being processed and, if registered, at any time during the registration period.	8.9.5.13 C: Visits by the Sponsoring Agency and Registered Authority By applying for [either] a [new] registration[or a registration renewal], the caregiver grants the registering authority representative the right to enter the premises and survey the registered residence, including inspecting and copying of child care records, both while the application is being processed and, if registered, at any time during the registration period.	8.9.5.13 C: Visits by the Sponsoring Agency and Registered Authority By applying for [either] a [new] registration[or a registration renewal], the caregiver grants the registering authority representative the right to enter the premises and survey the registered residence, including inspecting and copying of child care records, both while the application is being processed and, if registered, at any time during the 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 automatically at midnight of the expiration date unless earlier suspended or revoked, or: (1) if the primary caregiver moves; or (2) changes their name.	[A] The registration will expire [automatically at midnight of the expiration date unless earlier suspended or revoked, or:] if the primary caregiver moves, changes their name, or is suspended or revoked. [(1) if the primary caregiver moves; or (2) changes their name.]	[A] The registration will expire [automatically at midnight of the expiration date unless earlier suspended or revoked, or:] if the primary caregiver moves, changes their name, or is suspended or revoked. [(1) if the primary caregiver moves; or (2) changes their name.]
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.14 C		
Current Language	Proposed Language	Final Adopted Language
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.	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.	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.
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 (D)A caregiver with only a change in name will not need to pay an amended fee or processing charge.	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.]	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.]
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	Proposed Language	Final Adopted 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.	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.	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 COMPLIANCE: By completing the ECECD registration process and annual renewals, the primary caregiver is agreeing to comply with these regulations to include the following:	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:	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:
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
N/A – New text	8.9.5.16 C: Compliance <u>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.</u>	8.9.5.16 C: Compliance <u>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 services 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.</u>
Explanatory 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 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 A. ECECD may deny, suspend, revoke or decline to renew registration at any time it is reasonably determined that the caregiver is not in compliance with these regulations, or is unable to maintain compliance with registration standards. B. Violation of any provisions of these regulations, especially when the registered authority has reason to believe that the health, safety or welfare of a child is at risk, or has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children may be grounds to suspend, revoke, issue a cease and desist letter or decline to renew registration include but are not limited to:	8.9.5.17 A-B Non-Compliance A. ECECD may deny, suspend, revoke or decline[to renew]^a registration at any time it is reasonably determined that the caregiver is not in compliance with these regulations, or is unable to maintain compliance with registration standards. B. Violation of any provisions of these regulations, especially when the registered authority has reason to believe that the health, safety or welfare of a child is at risk, or has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children may be grounds to suspend, revoke, issue a cease and desist letter or decline[to renew]^a registration include but are not limited to:	8.9.5.17 A-B Non-Compliance A. ECECD may deny, suspend, revoke or decline to renew registration at any time it is reasonably determined that the caregiver is not in compliance with these regulations, or is unable to maintain compliance with registration standards. B. Violation of any provisions of these regulations, especially when the registered authority has reason to believe that the health, safety or welfare of a child is at risk, or has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children may be grounds to suspend, revoke, issue a cease and desist letter or decline to renew registration include but are not limited to:

Explanatory Statement

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

8.9.5.17 B (14)

Current Language	Proposed Language	Final Adopted Language
8.9.5.17 B (14): Non-Compliance (14) any serious violation or other circumstance which reasonably leads the department to determine that the caregiver cannot reliably safeguard the health and safety of children.	8.9.5.17 B (14): Non-Compliance (14) any serious violation or other circumstance which^{reasonably} leads the department to ^{reasonably} determine that the caregiver cannot reliably safeguard the health and safety of children.	8.9.5.17 B (14): Non-Compliance (14) any serious violation or other circumstance which^{reasonably} leads the department to ^{reasonably} determine that the caregiver cannot reliably safeguard the health and safety of children.

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

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.
Explanatory Statement		
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 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 an appeal of the following action is concluded and the action is either upheld or overturned.	8.9.5.19 D: Administrative Appeal Rights 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.	8.9.5.19 D: Administrative Appeal Rights 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		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.19 E		
Current Language	Proposed Language	Final Adopted Language
8.9.5.19 E: Administrative Appeal Rights E. If the contemplated action does not take immediate effect, and the primary caregiver is given advance notice of the contemplated action, the primary caregiver is allowed 10 working	8.9.5.19 E: Administrative Appeal Rights E. If the contemplated action does not take immediate effect, and the primary caregiver is given advance notice of the contemplated action, the primary caregiver [is] will be	8.9.5.19 E: Administrative Appeal Rights E. If the contemplated action does not take immediate effect, and the primary caregiver is given advance notice of the contemplated action, the 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		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.20 A (3)		
Current Language	Proposed Language	Final Adopted Language
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.	8.9.5.20 A (3): Probable Cause of Imminent Danger (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.	8.9.5.20 A (3): Probable Cause of Imminent Danger (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 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-	8.9.5.21: Group Composition Requirements 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.	8.9.5.21: Group Composition Requirements 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.

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 [witt] 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 [witt] 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 [witt] 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 [witt] 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.
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Explanatory Statement

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

8.9.5.22

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

I. 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 [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 [witt] shall not use[un-vented] heaters without vents or open flame heaters. Portable heaters [witt] shall be used in accordance with manufacture instructions. A home [witt] 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 [witt]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 [witt] 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 [witt] shall not use[un-vented] heaters without vents or open flame heaters. Portable heaters [witt] shall be used in accordance with manufacture instructions. A home [witt] 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 [witt]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 telephones. A 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 [witt] shall not be inspected or approved by the registered authority. The provider [witt] 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 [witt] 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. 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 [witt] shall be posted on any cordless or cellular telephones. A cellular telephone is acceptable as the only phone in the home. The cellular telephone [witt] shall remain in the same room, charged and accessible to the provider a caregiver at all times. M A caregiver [witt] shall post emergency numbers for the police, fire department, ambulance, and poison control center in a visible location. N. A caregiver [witt] 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 [witt] 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 [witt] shall not be inspected or approved by the registered authority. The provider [witt] 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 [witt] 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. 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 [witt] shall be posted on any cordless or cellular telephones. A cellular telephone is acceptable as the only phone in the home. The cellular telephone [witt] shall remain in the same room, charged and accessible to the provider a caregiver at all times. M A caregiver [witt] shall post emergency numbers for the police, fire department, ambulance, and poison
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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. 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, 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 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. P. [A] When children are present a caregiver, [witt] shall prohibit smoking, the use of e-cigarettes[/], 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 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 [witt] 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 [witt] 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 [witt] shall install at least one working smoke detector and a carbon monoxide detector in an appropriate area in the home. 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. P. [A] When children are present a caregiver, [witt] shall prohibit smoking, the use of e-cigarettes[/], 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 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 [witt] 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 [witt] shall
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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 band-aids, 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 [witt] 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 [witt] shall hold the drills at different times of the day and [witt] 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 [witt] 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 [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	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 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 [witt] 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 [witt] shall hold the drills at different times of the day and [witt] 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 [witt] shall be
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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 [witt] shall not use a common towel or wash cloth. All toilet rooms used by children [witt] 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 [witt] 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 [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 [witt] shall not use a common towel or wash cloth. All toilet rooms used by children [witt] 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 [witt] 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 [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
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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 e-cigarettes or vaporizers - in a	change. A caregiver [witt] 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 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 change. A caregiver [witt] 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
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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 [witt] 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 [witt] 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 [witt] 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 [witt] 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 [witt] 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 [witt] 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
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		home [witt] shall ensure children do not cross a street unsupervised after leaving the vehicle. JJ. No one [witt] 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 [witt] shall also take the safe transportation practices training.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

8.9.5.23		
Current Language	Proposed Language	Final Adopted Language
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 age-appropriate 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 serving of food and snacks. G. Caregivers will feed children a meal or snack every three hours. H. Caregivers and children will wash their hands regularly and before each meal time. I. Caregivers will keep food requiring refrigeration, including formula, at 41 degrees Fahrenheit or below.	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 age-appropriate USDA requirements. E. A caregiver must keep a daily menu. F. Caregivers [witt] shall serve meals family style and allow children to assist in the preparation and serving of food and snacks. G. Caregivers [witt] shall feed children a meal or snack every three hours. H. Caregivers and children [witt] shall wash their hands regularly and before each meal time.	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 age-appropriate USDA requirements. E. A caregiver must keep a daily menu. F. Caregivers [witt] shall serve meals family style and allow children to assist in the preparation and serving of food and snacks. G. Caregivers [witt] shall feed children a meal or snack every three hours. H. Caregivers and children [witt] shall wash their hands regularly and before each meal time. I. Caregivers [witt] shall keep food requiring

	I. Caregivers [with] 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
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 be granted for children in foster care or homeless children and youth, or at-risk 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 [with] shall be granted for children in foster care or homeless children and youth, or at-risk 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 [with] shall be granted for children in foster care or homeless children and youth, or at-risk children and youth as determined by the department;
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

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.

Explanatory Statement

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

8.9.5.25

Current Language	Proposed Language	Final Adopted Language
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. 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 [witt] shall never be left unattended. A caregiver [witt] shall be with the children at all times whether activities are inside or outside of the home. Caregivers [witt] shall be onsite, available and responsive to children during all hours of operation. C. A caregiver [witt] shall use guidance that is positive, consistent and age-appropriate. The caregiver [witt] 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 [witt] shall not be lifted by the arms, hands, wrist, legs, feet, ankles, or clothing.	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 [witt] shall never be left unattended. A caregiver [witt] shall be with the children at all times whether activities are inside or outside of the home. Caregivers [witt] shall be onsite, available and responsive to children during all hours of operation. C. A caregiver [witt] shall use guidance that is positive, consistent and age-appropriate. The caregiver [witt] 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 [witt] 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). F. 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.	D. Each home must develop policies and procedures for expulsion of children. Policies and procedures shall include how the home [witt] shall maintain a positive environment and [witt] 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). F. 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 [witt] shall schedule activities in these areas. A caregiver [witt] shall 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 [witt] shall also provide a variety of indoor and outdoor equipment to meet the	D. Each home must develop policies and procedures for expulsion of children. Policies and procedures shall include how the home [witt] shall maintain a positive environment and [witt] 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). F. 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 [witt] shall schedule activities in these areas. A caregiver [witt] shall 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 [witt] shall also provide a variety of indoor and outdoor equipment to meet the
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H. 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 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 [witt] 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 age-appropriate. G. Caregivers of infants [witt] 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. H. 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 [witt] shall allow infants to eat and sleep on their own schedules. Children [witt] shall not be allowed to walk/run with pacifiers. Pacifiers [witt] shall not be used outside of cribs in rooms with mobile infants or toddlers. Pacifiers [witt] shall be labeled and not shared. Pacifiers [witt] shall not be tied to the child. Dropped pacifiers shall be cleaned using warm water and soap. I. Caregivers [witt] shall ensure age appropriate naps or rest periods as follows: (1) A home shall allow children who do not sleep to	children's developmental interests and needs. Equipment [witt] 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 age-appropriate. G. Caregivers of infants [witt] 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. H. 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 [witt] shall allow infants to eat and sleep on their own schedules. Children [witt] shall not be allowed to walk/run with pacifiers. Pacifiers [witt] shall not be used outside of cribs in rooms with mobile infants or toddlers. Pacifiers [witt] shall be labeled and not shared. Pacifiers [witt] shall not be tied to the child. Dropped pacifiers shall be cleaned using warm water and soap. I. Caregivers [witt] shall ensure age appropriate naps or rest periods as follows: (1) A home shall allow children who do not sleep to
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(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 [witt] shall drain and fill the wading pool with fresh water daily and disinfect the pool regularly; (b) a home [witt] shall empty a wading pool when it is not in use and remove it from areas accessible to children; and (c) a home [witt] 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 [witt] shall be constructed, maintained and used in accordance with applicable state and local regulations; (b) the fixture [witt] shall be constructed and protected so that, when not in use, it is inaccessible to children; and (c)when in use, children [witt] shall be constantly supervised and ensure adequate safety for the ages,	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 [witt] shall drain and fill the wading pool with fresh water daily and disinfect the pool regularly; (b) a home [witt] shall empty a wading pool when it is not in use and remove it from areas accessible to children; and (c) a home [witt] 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 [witt] shall be constructed, maintained and used in accordance with applicable state and local regulations; (b) the fixture [witt] shall be constructed and protected so that, when not in use, it is inaccessible to children; and (c)when in use, children [witt] shall be constantly supervised and ensure adequate safety for the ages,
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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.		