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

Introduction

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

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

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

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

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

Statement of Purpose

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

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

Notice of Rulemaking and Public Comment

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

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

Discussion of Rule Changes

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

Summary of Changes

CHILD CARE ASSISTANCE, 8.9.3 NMAC

Removes family income limitations

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

Raises the reimbursement rates

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

ECECD contracted with Prenatal to Five Fiscal Strategies, national experts in early childhood and school age care, who gathered information from different program types on their costs to integrate into the cost model and gain a clearer and more accurate picture of the cost of delivering child care and school-age care. The experts met with ECECD leadership regularly to ensure the process aligned with the state's goals for the Child Care Development Fund programming and federal law. Beyond the ECECD leadership team, an Alternative Methodology Task Force was formed as a subcommittee of the Early Childhood Education and Care Advisory Council, to provide input and guidance to the alternative methodology process. Members of the task force included child care providers as well as representatives from policy, business, and education sectors.

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

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

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

Includes an Opt-In for an enhanced reimbursement

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

Reimbursement payment schedule

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

Qualifying activities

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

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

Presumptive eligibility

Under presumptive eligibility, families will be allowed to enroll for a 90-day period after providing the department

with minimal documentation. The family will then have 90 days to work with ECECD and provide all of the eligibility information for a final eligibility determination. If at the 90 days the ECECD determines that the family does not meet the presumptive eligibility requirements, the parent will no longer be presumptively eligible, and the provider will be notified of the determination. The final rule clarifies that providers will be paid for the provision of care for the 90 days regardless of ECECD's determination. Presumptive eligibility removes barriers for families in need of care who have additional difficulties documenting eligibility for child care assistance and makes the process of obtaining child care at no cost less burdensome and quicker for parents.

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

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

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

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

LICENSING

Nations, Pueblos, and Tribes (NPTs)

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

Professional Development Information System

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

Coordinating with early intervention specialists

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

or federal law.

Family handbook/program policy

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

Multi-age group size and ratios

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

Registered homes and Child and Adult Care Food Program

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

Conforming Language

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

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

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

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

8.9.3 NMAC - Explanatory Statement

8.9.3.6(B)		
Current Language	Proposed Language	Final Adopted Language
States have two options to	States have two options to	States have two options to
establish subsidy payment rates	establish subsidy payment rates	establish subsidy payment rates
that ensure equal access: lead	that ensure equal access: lead	that ensure equal access: lead
agencies must collect and	agencies must collect and	agencies must collect and
analyze data through either a	analyze data through either a	analyze data through either a
statistically valid and reliable	statistically valid and reliable	statistically valid and reliable
market rate survey, or through	market rate survey, or through	market rate survey, or through
an ACF pre-approved alternative	a[n ACF] <mark>administration for</mark>	a[n ACF] <mark>administration for</mark>
methodology, such as a cost	children and families pre-	children and families pre-
estimation model. New	approved alternative	approved alternative
Mexico's rates, as set forth	methodology, such as a cost	methodology, such as a cost
herein, and effective August 1,	estimation model. New Mexico's	estimation model. New Mexico's
2023, were informed by a cost	rates, as set forth herein[, and	rates, as set forth herein[, and
estimation model and with	effective August 1, 2023], were	effective August 1, 2023], were
extensive statewide stakeholder	informed by a cost estimation	informed by a cost estimation
engagement.	model and with extensive	model and with extensive
	statewide stakeholder	statewide stakeholder
	engagement.	engagement.
Explanatory Statement		

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

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

Explanatory Statement

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

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

accrediting association (ICAA);

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

accrediting association (ICAA);

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

(viii) association montessori internationale (AMI); or

(ix) american montessori society (AMS).

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

Explanatory Statement

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

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

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

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

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

(FFN)" means care provided temporarily in a home and only in the case of a public health emergency.	[(7) "Family, friend, or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.]	[(7)] (g) "Family, friend, or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.
Explanatory Statement		
ECECD is reverting to the current language for "Eamily friend, or neighbor (EEN)" to retain this provider		

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)		
Proposed Language	Final Adopted Language	
(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	(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	
supports their development in the areas of health care, nutrition and safety and multicultural awareness. Explanatory Statement	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.	

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

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

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

Explanatory Statement

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

8.9.3.8		
Current Language	Proposed Language	Final Adopted Language
These policies apply to child	These policies apply to child	These policies apply to child
care assistance benefits	care assistance benefits	care assistance benefits
provided to eligible children for	provided to eligible children for	provided to eligible children for
the following types of child care	the following types of child care	the following types of child care
to ensure that parents or legal	to ensure that parents or legal	to ensure that parents or legal
guardians have a variety of child	guardians have a variety of child	guardians have a variety of child
care services from which to	care services from which to	care services from which to
choose:	choose:	choose:
A. licensed child care programs	A. licensed child care programs	A. licensed child care programs
administered by public schools	administered by public schools	administered by public schools
and post-secondary institutions	and post-secondary institutions	and post-secondary institutions
that provide on-site care for the	that provide on-site care for the	that provide on-site care for the
children of students;	children of students;	children of students;
B. licensed child care programs	B. licensed child care programs	B. licensed child care programs
administered by tribal entities;	administered by tribal entities;	administered by tribal entities;
C. licensed child care programs	C. licensed child care programs	C. licensed child care programs
administered by church or	administered by church or	administered by church or
religious organizations;	religious organizations;	religious organizations;
D. in-home care;	D. in-home care;	D. in-home care;
E. licensed child care centers;	E. licensed child care centers;	E. licensed child care centers;
F. registered family childcare	F. registered family childcare	F. registered family childcare
homes;	homes;	homes;
G. licensed family and group	G. licensed family and group	G. licensed family and group
childcare homes;	childcare homes;	childcare homes;
H. licensed out of school time	H. licensed out of school time	H. licensed out of school time
programs;	programs;	programs;
I. licensed programs operated	I. licensed programs operated by	I. licensed programs operated by
by employers for their	employers for their employees;	employers for their employees;
employees; and	[and	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:	[PRIORITIES] CATEGORIES FOR ASSISTANCE:	[PRIORITIES] CATEGORIES FOR ASSISTANCE:
Any funds received by the		
department under the child care	A. Any funds received by the	A. Any funds received by the
development fund and other	department under the child care	department under the child care
sources are expended for child	development fund and other	development fund and other
care assistance pursuant to the	sources are expended for child	sources are expended for child
following priorities:	care assistance pursuant to the	care assistance pursuant to the
A. Priority one: Clients receiving	following [priorities] <mark>categories.</mark>	following [priorities] <mark>categories.</mark>
temporary assistance to needy	The department prioritizes child	The department prioritizes child
families (TANF) benefits to	care services for children with	care services for children with
include TANF diversionary	special needs, disabilities,	special needs, disabilities, families
payment, are considered priority	homeless families, and for teen	experiencing homelessness, and
one clients.	<mark>parents</mark> :	for teen parents:
(1) Participation exemption: The	[A. Priority one: Clients receiving	(A. Priority one: Clients receiving
human services department	temporary assistance to needy	temporary assistance to needy
(HSD) grants participation	families (TANF) benefits to	families (TANF) benefits to
exemptions to TANF clients who	include TANF diversionary	include TANF diversionary
cannot locate child care. The	payment, are considered priority	payment, are considered priority one clients.
Early Childhood Education and	one clients.	
Care Department is responsible	(1) Participation exemption: The	(1) Participation exemption: The
for the verification of the TANF	human services department	human services department
participant's inability to locate	(HSD) grants participation	(HSD) grants participation exemptions to TANF clients who
child care. Reasons for a	exemptions to TANF clients who	cannot locate child care. The
participation exemption due to	cannot locate child care. The	Early Childhood Education and
lack of child care are as follows:	Early Childhood Education and	Care Department is responsible
(a) the unavailability of	Care Department is responsible	for the verification of the TANF
appropriate child care within a	for the verification of the TANF	participant's inability to locate
reasonable distance from the	participant's inability to locate	child care. Reasons for a
individual's home or work site;	child care. Reasons for a	
(b) the unavailability or	participation exemption due to	participation exemption due to

appropriate child care within a

(a) the unavailability of

lack of child care are as follows:

arrangements; or (c) the

unsuitability of informal child

care by a relative or under other

lack of child care are as follows:

appropriate child care within a

(a) the unavailability of

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,

D. Priority two: Families

and for teen parents.

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.

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

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

disabilities, homeless families, and for teen parents.

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

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

clients in this priority.

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

disabilities, homeless families, and for teen parents.

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

- 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)

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

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

category.

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

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

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

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

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

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

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

Explanatory Statement

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

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

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

See Chart in Appendix, Table B1

- (2) Clients are not eligible for presumptive eligibility if they:
 (a) Received child care
- assistance in the previous month;
- (b) Obtained presumptive eligibility in their previous eligibility determination; or
- (c) Were denied for presumptive eligibility in their previous eligibility determination.

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

See Chart in Appendix, Table B2

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

Explanatory Statement

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

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

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

activity, the child care

placement agreement may

close; however, the client [will]

activity, the child care

placement agreement may

close; however, the client [will]

<mark>shall</mark>	remain eligible for the
appr	oved 12-month eligibility
perio	od.

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

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

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

Explanatory Statement

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

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

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

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

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

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

Explanatory Statement

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

8.9.3.11(C)(4)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.11 (C)(4): Eligibility	N/A – No Proposed Changes	8.9.3.11 (C)(4): Eligibility
Requirements	Published	Requirements
		_
(4) Family assets: A family's		(4) Family assets: [A f] <mark>F</mark> amily['s]
assets may not exceed one		assets [may not] exceed <mark>ing</mark> one
million dollars.		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.		

This amendment is a technical edit to maintain consistency with other provisions of these regulations.

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

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

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

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

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

demonstration of incapacitation. Explanatory Statement

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

8.9.3.11(I)

Current Language

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

Proposed Language

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

Final Adopted Language

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

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

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

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

J. Children enrolled in head 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.

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-

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

See Chart in Appendix, Table C1

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

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

See Chart in Appendix, Table C1

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

Explanatory Statement

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

Current Language

Proposed Language

Final Adopted Language

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

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

be granted in accordance with

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

eligibility requirements outlined	eligibility requirements outlined
in Subsection B of 8.9.3.11	in Subsection B of 8.9.3.11
NMAC.	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	A. Copayments: Copayments	A. Copayments: Copayments
are paid by all clients receiving	are paid by all clients receiving	are paid by all clients receiving
child care assistance benefits,	child care assistance benefits,	child care assistance benefits,
except for at-risk child care and	except for at-risk child care and	except for at-risk child care and
qualified grandparents or legal	qualified grandparents or legal	qualified grandparents or legal
guardians. Copayments are	guardians. Copayments are	guardians. Copayments are
determined by income and	determined by income and	determined by income and
household size. The copayment	household size. The copayment	household size. The copayment
schedule is published yearly at	schedule is published yearly at	schedule is published yearly at
https://www.nmececd.org/child	https://www.nmececd.org/child	https://www.nmececd.org/child
-care-assistance/. In the case of	<u>-care-assistance/</u> . In the case of	<u>-care-assistance/</u> . In the case of
an emergency, or under	an emergency, or under	an emergency, or under
extenuating circumstances, the	extenuating circumstances, the	extenuating circumstances, the
department secretary may waive	department secretary may waive	department secretary may waive
copayments for families	copayments for families	copayments for families
receiving child care, during	receiving child care, <mark>and for</mark>	receiving child care, <mark>and for</mark>
which period, the department	certain priority categories set	certain priority categories set
will pay providers the client's	forth in 8.9.3.9 NMAC, during	forth in 8.9.3.9 NMAC, during
approved rate, including	which period, the department	which period, the department
required copayments. If	will pay providers the client's	will pay providers the client's
copayments are waived, three	approved rate, including	approved rate, including
months notice will be given to	required copayments. If	required copayments. If
providers and families prior to	copayments are waived, three	copayments are waived, three
reinstatement.	months notice will be given to	months notice will be given to

Explanatory Statement

providers and families prior to

reinstatement.

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	(1) The first child is identified as	(1) The first child is identified as
the child requiring the most	the child requiring the [most]	the child requiring the [most]
hours of child care.		

providers and families prior to

reinstatement.

(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] highest number of hours needed for child care.

highest number of hours of child care.

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

Explanatory Statement

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

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

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

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

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

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

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

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

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

Explanatory Statement

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

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

Explanatory Statement

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

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

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

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

8.9.3.17(E)		
Current Language	Proposed Language	Final Adopted Language
E. The department pays for care	E. The department pays for care	E. The department pays for care
based upon the following units	based upon the following units	based upon the following units
of service:	of service:	of service:
See Chart in Appendix, Table E1	See Chart in Appendix, Table E2	See Chart in Appendix, Table E3
Explanatory Statement		
Multiple public comments were received addressing concern that the rates were not sufficient to		

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

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

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

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

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

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

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

8.9.3.17(J)		
Current Language	Proposed Language	Final Adopted Language

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

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

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

See Chart in Appendix, Table G1

See Chart in Appendix, Table G2

See Chart in Appendix, Table G3

Explanatory Statement

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

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

8.9.3.17(M)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	M. The department pays a higher	M. The department pays a higher
	rate to providers who provide at	rate to providers who provide at
	least ten hours of care during the	least ten hours of care during the
	day, and at least five days a	<mark>day, and at least five days a</mark>
	week, and meet the following	week (not including holidays,
	minimum pay requirements for	breaks, or special programming
	their staff:	<mark>such as parent teacher</mark>
		conferences and professional
		development), and meet the
		<mark>following minimum pay</mark>
		requirements for their floaters,
		assistant teachers, and
	See Chart in Appendix, Table H1	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:	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 I1	See Chart in Appendix, Table I2
Explanatory Statement		

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

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

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

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

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

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

Explanatory Statement

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

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

Appendix

Table A1

8.9.3.10(B): Application Process – Original Language

Verification Type	Acceptable documentation or information (examples)
Verification of Birth	-Birth certificate -Hospital or public health records -Certificate of Indian blood -Birth center records
Countable Earned Income	-Paystubs -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
Countable Unearned Income	department -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
Custouy	-Adoption records
	-Statement signed under penalty of perjury
	-Attorney records
Dependency	-Court order
Dependency	-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
	- Written statement with supervisor's approval
New Mexico Residency	-Lease/rental agreement
	-Utility bill
	-Mortgage receipt
	-Written statement from person you are residing with
	-Current New Mexico driver's license
	-Statement from landlord
	-Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government issued photo identification/passport
	-School photo identification
	-Government issued immigration document with photo
	-Employer identification with photo
Citizenship/Immigration	-United States birth certificate
Verification	-Military identification
	-Passport
	-Naturalization certificate
	-Permanent resident card
	-ASPEN/HSD verification (client must be listed as "eligible child")
	(example: refugees/other qualified aliens may receive services through HSD but also may
	have United States department of state form)
	-Numident (from social security office)
	-Refugee/asylee letter from United States secretary of state or from homeland security
	-Any document from the immigration and naturalization services (INS), department of
	homeland security (DHS), or other authoritative document showing a child's immigration
	status that qualifies the child for assistance

Table A2

8.9.3.10(B): Application Process – Proposed Language

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

New Mexico Residency	-Lease/rental agreement -Utility bill -Mortgage receipt -Written statement from person [you are] client is residing with -Current New Mexico driver's license -Statement from landlord -Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government issued photo identification/passport -School photo identification -Government issued immigration document with photo -Employer identification with photo
Citizenship/Immigration 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: -[4] 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] <u>Guardianship</u>	-Court order, or other legal records [-Adoption records] -Notarized statement -Guardianship documentation -Durable power of attorney -Statement signed under penalty of perjury -Attorney records
Dependency	-Court order [-Notarized statement -Divorce papers -Durable power attorney -Guardianship documentation] -Federal tax documents verifying person is claimed as a dependent -Written statement with supervisor's approval
New Mexico Residency	-Lease/rental agreement -Utility bill -Mortgage receipt -Written statement from person [you are] client is residing with -Current New Mexico driver's license -Statement from landlord -Other records that provide a name and address

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

Table B1

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

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

Table B2

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

Requirement	Presumptive Self Attested or Required Document
Verification of Birth	Required Documentation
Income Documentation	Self Attested
Qualifying Activity	Self Attested
NM Residency	Required documentation
Guardianship, as applicable	Required documentation
Citizenship/Immigration Verification	Required documentation
<u>Identification</u>	Required documentation
ECECD Approved Provider	Self Attested 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
Hours of service are approved based on a negotiated arrangement between	Head Start, New Mexico PreK, and school age children needing Wrap-	care) In the event one provider is unable to provide services for
the family and a single provider with a minimum of 29 hours per week	Around Care, including summer and breaks for a single provider	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		Part-Time Care (cases where a child may need two providers
		or less than full time care)
Hours of service are approved based		In the event one provider is
on a negotiated arrangement between		unable to provide services for
the family and a single provider with	-	all child's needs, and care is
a minimum of 29 hours per week		needed for multiple providers
		or other purposes and for care
		needed less than 29 weekly
		hours

Table D1

8.9.3.13(D): Client Responsibilities - Original Language

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

Table D2

8.9.3.13(D): Client Responsibilities – Proposed Language

FPL Percent Income Increments	Percent of Gross Income (Monthly) to Determine Copay
0.00 to 185.00	0.00%
185.01 to [200] 250	[0.29%]
[200.01 to 210] 250.01 to 325	[0.59%] <u>0.02%</u>
[210.01 to 220] 325.01 to 400	[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%]
400.01 to 475	<u>0.04%</u>
475.01 to 500	<u>0.05%</u>
500.01 and above	<u>1.50%</u>

Table D3

8.9.3.13(D): Client Responsibilities – Adopted Language

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

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 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

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

Table E3

8.9.3.17(E): Payment for Services – Adopted Language

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

Table F1

8.9.3.17(G): Payment for Services – Original Language

Toddler						
1 oddier	Pre-school	School-age				
\$775.00	\$700.00	\$500.00				
s (capacity: 7-12)						
Toddler	Pre-school	School-age				
\$1,000.00	\$830.00	\$475.00				
es (capacity: 6 or less)	I	I				
Toddler	Pre-school	School-age				
\$1,075.00	\$870.00	\$530.00				
Registered homes, in-home child care, and FFN						
Toddler	Pre-school	School-age				
\$425.00	\$375.00	\$ 350.00				
	Toddler \$1,000.00 s (capacity: 7-12) Toddler \$1,000.00 Toddler \$1,075.00 home child care, and FFN Toddler	Toddler				

Table F2

8.9.3.17(G): Payment for Services – Proposed Language

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

LICENSI	LICENSED CENTERS										
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-								(Wrap-	age
	Time			Time	Around		time		Full	Around	Part
		Care			Care				time	Care, full	Time
										year)	
<u>\$1,129</u>	<u>\$565</u>	<u>\$678</u>	<u>\$814</u>	<u>\$407</u>	<u>\$489</u>	<u>\$735</u>	<u>\$368</u>	<u>\$441</u>	<u>\$689</u>	\$52 <u>5</u>	<u>\$262.65</u>
LICENS I	ED FAM	ILY HO	MES	l			l			l	l.
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-	Full						age	(Wrap-	age
	Time	Around	Time	Time	Around	Time	time		Full	Around	Part
		Care			Care			Care	<u>time</u>	Care, full	Time
										<mark>vear)</mark>	
<u>\$1,156</u>	<u>\$578</u>	<u>\$693</u>	<u>\$1,129</u>	<u>\$565</u>	<u>\$678</u>	<mark>\$914</mark>	<u>\$457</u>	<u>\$548</u>	<u>\$730</u>	<u>\$557</u>	<u>\$278.41</u>
LICENSI	ED GRO	UP HON	MES				<u> </u>				. <mark>L</mark>
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-				Full			age	(Wrap-	age
	Time	Around		Time	Around	Time	time		Full	Around	Part
		Care			Care			Care	time	Care, full	Time
										year)	
<u>\$1,093</u>	<u>\$546</u>	<u>\$656</u>	\$1,051	<u>\$525</u>	<u>\$630</u>	<u>\$872</u>	<u>\$436</u>	<u>\$523</u>	<u>\$654</u>	<u>\$499</u>	<u>\$249.52</u>
REGIST	REGISTEERED HOMES										
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-								(Wrap-	age
	Time	Around		Time	Around		time		Full	Around	Part
		Care			Care			Care	time	Care, full	Time
										<mark>year)</mark>	
<u>\$750</u>	<u>\$375</u>	<u>\$450</u>	<u>\$750</u>	<u>\$375</u>	<u>\$450</u>	<u>\$425</u>	<u>\$213</u>	<u>\$255</u>	<u>\$459</u>	<u>\$350</u>	<u>\$175.00</u>

Table F3

8.9.3.17(G): Payment for Services – Adopted Language

LICENS	LICENSED CENTERS										
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time		Wrap-								(Wrap-	age
	Time	Around		Time	Around		time		Full	Around	Part
		Care			Care					Care, full	Time
										year)	
<u>\$1,200</u>	<mark>\$600</mark>	<u>\$720</u>	<u>\$875</u>	<u>\$438</u>	<u>\$525</u>	<u>\$735</u>	<u>\$368</u>	<u>\$552</u>	<u>\$689</u>	<u>\$525</u>	<u>\$263</u>
LICENS I	ED FAM	ILY HO	MES			•				•	•
<mark>Infant F</mark>	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time	Part	Wrap-								(Wrap-	age
	Time	Around	Time	Time	Around	Time	time		Full	Around	Part
		Care			Care			Care	time	Care, full	Time
										<mark>year)</mark>	
\$1,32 <u>5</u>	<mark>\$663</mark>	<u>\$795</u>	\$1,275	<u>\$638</u>	<u>\$765</u>	<u>\$914</u>	<u>\$457</u>	<mark>\$686</mark>	<u>\$730</u>	<u>\$557</u>	<u>\$278</u>
LICENSI	ED GRO	UP HON	MES								
<mark>Infant F</mark>	<u>Infant</u>	<u>Infant</u>	<u>Toddler</u>	<mark>Toddler</mark>	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time	<u>Part</u>	<mark>Wrap-</mark>	Full	<mark>Part</mark>	<mark>Wrap-</mark>	Full	<mark>l Part</mark>			<mark>(Wrap-</mark>	<mark>age</mark>
	Time	<u>Around</u>	Time_	Time_	<u>Around</u>	Time_	<u>time</u>	<u>Around</u>	<u>Full</u>	<u>Around</u>	<u>Part</u>
		Care			Care			Care	time_	Care, full	Time
										<mark>year)</mark>	
<u>\$1,200</u>	<u>\$600</u>	<u>\$720</u>	<u>\$1,150</u>	<u>\$575</u>	<u>\$690</u>	<u>\$872</u>	<u>\$436</u>	<mark>\$654</mark>	<u>\$654</u>	<u>\$499</u>	<u>\$249.52</u>
REGIST	REGISTERED HOMES AND FFN										
Infant F	Infant	Infant	Toddler	Toddler	Toddler	Preschool	Preschoo	Preschoo	School	School age	School
ull Time	Part	Wrap-								(Wrap-	age
	Time				Around Around		time		Full	Around	Part
		Care			Care				time	Care, full	Time
										vear)	
<u>\$750</u>	<u>\$375</u>	<u>\$450</u>	<u>\$750</u>	<u>\$375</u>	<u>\$450</u>	<u>\$425</u>	<u>\$213</u>	<u>\$255</u>	<u>\$459</u>	<u>\$350</u>	<u>\$175.00</u>

Table G1

8.9.3.17(J): Payment for Services – Original Language

Licensed Child Care Centers					
2+ Star FOCUS					
Infant	Toddler	Pre-school	School-age		
\$75.00	\$90.00	\$100.00	\$50.00		
3 Star FOCUS					
Infant	Toddler	Pre-school	School-age		

\$75.00	\$90.00	\$100.00	\$50.00
4 Star FOCUS			
Infant	Toddler	Pre-school	School-age
\$425.00	\$325.00	\$300.00	\$150.00
5 Star FOCUS or ECECI	D approved national accred	itation	
Infant	Toddler	Pre-school	School-age
\$850.00	\$725.00	\$425.00	\$ 250.00

Licensed Family and Group Homes						
2+ Star FOCUS						
Infant	Toddler	Pre-school	School-age			
\$75.00	\$50.00	\$80.00	\$70.00			
3 Star FOCUS						
Infant	Toddler	Pre-school	School-age			
\$75.00	\$50.00	\$80.00	\$70.00			
4 Star FOCUS						
Infant	Toddler	Pre-school	School-age			
\$175.00	\$175.00	\$205.00	\$150.00			
5 Star FOCUS or 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 Cer	nters		
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 ECECI) approved national accred	itation	
Infant	Toddler	Pre-school	School-age
\$850.00	\$725.00	\$425.00	\$ 250.00

Licensed Family and Gro	oup Homes		
2+ Star FOCUS			
Infant	Toddler	Pre-school	School age
\$75.00	\$50.00	\$80.00	\$70.00
3 Star FOCUS			
Infant	Toddler	Pre-school	School-age
\$75.00	\$50.00	\$80.00	\$70.00
4-Star FOCUS			
Infant	Toddler	Pre-school	School age
\$175.00	\$175.00	\$205.00	\$150.00
5 Star FOCUS or ECECI	Dapproved national accred	itation	
Infant	Toddler	Pre-school	School-age
\$275.00	\$250.00	\$290.00	\$195.00

LICE	ENSED CI	ENTER	<u>S</u>									
	<mark>Infant</mark> Fu ll Time	<mark>Infant</mark> Part	Infant Wrap- Aroun d Care	Toddler Full Time	<mark>r Part</mark>	r		Preschoo I Part time	l Wrap- Around	School age Full time	School age (Wrap- Aroun d Care, full vear)	School age Part Time
Star		<u>\$604</u>	\$725		\$454_				<u>\$504</u>	\$758_	<u>\$578</u>	\$288.92
Star		<u>\$604</u>	\$725		<u>\$454</u>				<u>\$504</u>	<u>\$758</u>	<u>\$578</u>	\$288.92
4 Star		<u>\$788</u>	\$946	<u>\$1,156</u>	<u>\$578</u>	<u>\$693</u>	<u>\$1,051</u>		<u>\$630</u>	<u>\$895</u>	<u>\$683</u>	\$341.45
<u>5</u> Star			\$1,213	<u>\$1,576</u>	<u>\$788</u>	<u>\$946_</u>	<u>\$1,182</u>	<u>\$591_</u>	<u>\$709_</u>	\$1,033	<u>\$788</u>	<u>\$393.98</u>
LICE	ENSED FA	MILY	HOME	<u>S</u>								
		Part Time	Infant Wrap- Aroun d Care	Full <mark>Time</mark>	<mark>r Part</mark> Time	r Wrap- Around Care	Time	<u>l Part</u> time	l Wrap- Around Care	age Full time	age (Wrap- Aroun d Care, full year)	
2+	<u>\$1,234</u>	<u>\$617</u>	<u>\$741</u>	<u>\$1,182</u>	<u>\$591</u>	<u>\$709</u>	<u>\$998</u>	<u>\$499</u>	<u>\$599</u>	<u>\$826</u>	<u>\$630</u>	<u>\$315.18</u>

<u>Star</u>												
3 Star	<u>\$1,234</u>	<u>\$617</u>	<u>\$741</u>	\$1,182	<u>\$591</u>	<u>\$709</u>	<u>\$998</u>	<u>\$499</u>	<u>\$599</u>	<u>\$826</u>	<u>\$630</u>	\$315.18
4 Star	\$1,340	<u>\$670</u>	<u>\$804</u>	\$1,313	<u>\$657</u>	<u>\$788</u>	\$1,129	<mark>\$565_</mark>	\$678_	\$937	<u>\$714</u>	\$357.21
5 Star	<u>\$1,445</u>	<u>\$722</u>	<u>\$867</u>	\$1,392	<u>\$696</u>	<u>\$835</u>	<u>\$1,219</u>	<u>\$609</u>	<u>\$731</u>	<u>\$999</u>	<u>\$762</u>	\$380.85
LICI	ENSED GI	ROUP I	HOMES		•							
F			Infant Wrap- Aroun d Care	Toddler Full Time	Toddle r Part Time	Toddle r Wrap- Around Care	Preschool Full Time	Preschoo I Part time	Preschoo Wrap- Around Care	School age Full time		School age Part Time
			Care			Carc					<u>full</u> year)	
2+ Star	<u>\$1,171 </u>	<u>\$586</u>	<u>\$703</u>	\$1,103	<u>\$552</u>	<u>\$662</u>	<u>\$956</u>	<u>\$478</u>	<u>\$574</u>	<u>\$751</u>	<u>\$573</u>	<u>\$286.29</u>
3 Star	<u>\$1,171 </u>	<u>\$586</u>	<u>\$703</u>	\$1,103	<u>\$552</u>	<u>\$662</u>	<u>\$956</u>	<u>\$478</u>	<u>\$574</u>	<u>\$751</u>	<u>\$573</u>	\$286.29
4 Star	<u>\$1,276</u>	<u>\$638</u>	<u>\$766</u>	\$1,234	<u>\$617</u>	<u>\$741</u>	<u>\$1,087</u>	<u>\$544</u>	<u>\$652</u>	\$861	<u>\$657</u>	\$328.32
5 Star	\$1,382	<u>\$691_</u>	<u>\$829</u>	\$1,313	<u>\$657</u>	<u>\$788</u>	<u>\$1,177</u>	<u>\$588</u>	<u>\$706</u>	<u>\$923</u>	<u>\$704</u>	\$351.95

Table G3

8.9.3.17(J): Payment for Services – Adopted Language

LICE	ENSED CI	ENTER	<u>S</u>									
	<u>Infant</u> Fu ll Time	<u>Infant</u>	Infant Wrap-	Full	<mark>r Part</mark>	r		Preschoo Part time	l Wrap- Around	age Full time	School age (Wrap- Aroun d Care, full vear)	School age Part Time
2 + S	<mark>tar</mark>	I			I	l			I.	I	<u> </u>	
	\$1,300	\$650	<u>\$780</u>	<u>\$975</u>	<u>\$488</u>	<u>\$585</u>	<u>\$840</u>	<u>\$420</u>	<u>\$630</u>	<u>\$758</u>	<u>\$578</u>	<u>\$263</u>
3 Star	<u>r</u>											
	\$1,300	<u>\$650</u>	\$780	<u>\$975</u>	<mark>\$488</mark>	<u>\$585</u>	<u>\$840</u>	<u>\$420</u>	<u>\$630</u>	<u>\$758</u>	<u>\$578</u>	<u>\$289</u>
4 Staı	r											
	\$1,650	<u>\$825</u>	\$990	\$1,250	<u>\$625</u>	<u>\$750</u>	<u>\$1,051</u>	<u>\$525</u>	<u>\$788</u>	<u>\$895</u>	<u>\$683</u>	<u>\$289</u>
5 Star	r FOCUS,	ECECD	approve	d nationa	l accred	itation, o	r Head Star	t, or Early	Head Star	t		
	<u>\$2,175</u>	<u>\$1,088</u>	\$1,305	<u>\$1,700</u>	<u>\$850</u>	<u>\$1020</u>	\$1,182	<u>\$591</u>	<u>\$886</u>	\$1,033	<u>\$788</u>	\$341
LICE	ENSED FA	MILY	HOME	<u>S</u>								
-			Infant Wrap- Aroun d	Full	<mark>r Part</mark>	r			l Wrap- Around	age		<mark>School</mark> age Part <mark>Time</mark>

			<u>Care</u>			<u>Care</u>					d Care,	
2+ St	t <mark>ar</mark>							1			<u>year)</u>	
	\$1,450	<u>\$725</u>	<u>\$870</u>	<u>\$1,375</u>	<u>\$688</u>	<u>\$825</u>	\$998 <u> </u>	\$499	<u>\$749</u>	<u>\$826</u>	<u>\$630</u>	\$315
3 Sta	<u>r</u>		•			•	•		-1	•		•
	•	<u>\$725</u>	<u>\$870</u>	<u>\$1,375</u>	<u>\$688</u>	<u>\$825</u>	<u>\$998</u>	<u>\$499</u>	<u>\$749</u>	<u>\$826</u>	<u>\$630</u>	<u>\$315</u>
4 Sta												
	<u>\$1,700</u>	<u>\$850</u>	<u>\$1,020</u>	<u>\$1,575</u>	<u>\$788</u>	<u>\$945</u>	<u>\$1,129</u>	<u>\$565</u>	<u>\$847</u>	<u>\$937</u>	<u>\$714</u>	<u>\$357</u>
5 Sta	r FOCUS,	<u>ECECD</u>			al accred	<mark>itation, o</mark>	r Head Sta	<mark>rt, or Early</mark>	Head Star	<u>rt</u>		
	<u>\$1,900</u>	<u>\$950</u>	<u>\$1,140</u>	<u>\$1,800</u>	<u>\$900</u>	<u>\$1,080</u>	<u>\$1,219</u>	<u>\$609</u>	<u>\$914</u>	<u>\$999 </u>	<u>\$762</u>	<u>\$381</u>
LICI	ENSED GI	ROUP F	HOMES					<u> </u>				
	<mark>Infant</mark> Fu	Infant	<mark>Infant</mark>	Toddler	Toddle	Toddle	Preschool	Preschoo	Preschoo	School	School	School
	<mark>ll Time</mark>	<u>Part</u>	Wrap-	Full	<mark>r Part</mark>	r	Full	<mark>l Part</mark>	l Wrap-	age _	age	<mark>age Part</mark>
		Time	<u>Aroun</u>	Time	Time	Wrap-	Time	time	Around	Full	(Wrap-	Time
1			d			Around			Coro	timo	Aroun	
			d Care			Around Care			<u>Care</u>	<u>time</u>	Aroun d Care,	
			<u>d</u> Care			Around Care			<u>Care</u>	<u>time</u>	<mark>d Care,</mark> full	
0 64			<u>d</u> Care						Care	time	<mark>d Care,</mark>	
2+ St		¢450		¢1.250		Care		¢470			d Care, full year)	\$294.20
<u>2+ St</u>		<u>\$650</u>	<u>d</u> <u>Care</u> <u>\$780</u>	\$1,250	\$625		\$956_	\$478	Care \$717	**************************************	<mark>d Care,</mark> full	\$286.29
2+ St	\$1,300	<u>\$650</u>		\$1,250		Care		\$478			d Care, full year)	\$286.29
3 Sta	\$1,300 r	\$650 \$650		\$1,250 \$1,250		Care		\$478 \$478			d Care, full year)	\$286.29
3 Sta	\$1,300 <u>r</u> \$1,300		<u>\$780</u>		\$62 <u>5</u>	Care \$750	<u>\$956</u>		<u>\$717</u>	<u>\$751</u>	d Care, full year)	
3 Star	\$1,300 r \$1,300 r		<u>\$780</u>	\$1,250	\$62 <u>5</u>	Care \$750	<u>\$956</u>		<u>\$717</u>	<u>\$751</u>	d Care, full year)	
3 Sta	\$1,300 r \$1,300 r \$1,575	\$650 \$788	\$780 \$780 \$780 \$945	\$1,250 \$1,500	\$625 \$625 \$750	\$750 \$750 \$900	\$956 \$956 \$1,087	\$478 \$544	\$717 \$717 \$816	\$751 \$751 \$861	d Care, full vear) \$573	\$286.29
3 Sta. 4 Sta. 5 Sta.	\$1,300 r \$1,300 r \$1,575 r FOCUS,	\$650 \$788 ECECD	\$780 \$780 \$945 approve	\$1,250 \$1,500 ed nationa	\$625 \$625 \$750 al accred	\$750 \$750 \$900 itation, o	\$956 \$956 \$1,087 r Head Sta	\$478 \$544 rt, or Early	\$717 \$717 \$816 Head Star	\$751 \$751 \$861	d Care, full year) \$573 \$573	\$286.29 \$328.32
3 Sta. 4 Sta. 5 Sta.	\$1,300 r \$1,300 r \$1,575 r FOCUS,	\$650 \$788	\$780 \$780 \$945 approve	\$1,250 \$1,500 ed nationa	\$625 \$625 \$750	\$750 \$750 \$900 itation, o	\$956 \$956 \$1,087	\$478 \$544	\$717 \$717 \$816	\$751 \$751 \$861	d Care, full vear) \$573	\$286.29

Table H1

8.9.3.17(M): Payment for Services – Proposed Language

	2+ Star Focus	3 Star Focus	4 Star Focus	5 Star Focus
Entry-level staff	<u>\$18/hour</u>	<u>\$19/hour</u>	<u>\$20/hour</u>	\$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	<u>\$17/hour</u>	<u>\$17/hour</u>	<u>\$18/hour</u>	<u>\$19/hour</u>

Table I1

8.9.3.17(N): Payment for Services – Proposed Language

LICENSE	CD CENTER:	<u>S</u>							
	Infant Full	Infant	Infant	<mark>Toddler Full</mark>	Toddler	Toddler	Preschool	Preschool	Preschool
	Time	<u>Part</u>	<mark>Wrap-</mark>	Time	Part	<mark>Wrap-</mark>	Full Time	<u>Part</u>	Wrap-
		Time	Around		Time	Around		Time	Around
2	#1.225 .00	Φ.C.1.0. T.O.	Care	***	A. (2)	Care Care	ф.О. С. Т	0.410	Care
2 star	<u>\$1,225.00</u>	<u>\$612.50</u>	<u>\$735.00</u>	-	<u>\$463</u>	<u>\$555</u>	<u>\$825</u>	<u>\$413</u>	<u>\$495.00</u>
2+ Star	<u>\$1,335.00</u>	<u>\$667.50</u>	<u>\$801.00</u>	<u>\$1,050</u>	<u>\$525</u>	<u>\$630</u>	<u>\$890</u>	<u>\$445</u>	<u>\$534.00</u>
3 Star	\$1,335.00	\$667.50_	\$801.00	<u>\$1,050</u>	<u>\$525</u>	<u>\$630</u>	<u>\$890</u>	<u>\$445</u>	\$534.00
4 Star	\$1,925.00	<u>\$962.50</u>	\$1,155.00	<u>\$1,500</u>	<u>\$750</u>	<u>\$900</u>	<u>\$1,150</u>	<u>\$575</u>	\$690.00
5 Star	\$2,350.00	\$1,175.00	\$1,410.00	\$1,900_	<u>\$950</u>	\$1,140	\$1,375	<u>\$688</u>	\$825.00
LICENSE	D FAMILY	HOMES	ı	1	1	ı	ı	1	1
	Infant Full	<u>Infant</u>	Infant	Toddler Full	Toddler	Toddler	Preschool	Preschool	Preschool
	Time	<u>Part</u>	<mark>Wrap-</mark>	Time	<u>Part</u>	<mark>Wrap-</mark>	Full Time	<u>Part</u>	<mark>Wrap-</mark>
		Time	<u>Around</u>		Time	<u>Around</u>		Time	<u>Around</u>
			<u>Care</u>			<u>Care</u>			<u>Care</u>
2 star	<u>\$1,325.00</u>	<u>\$662.50</u>	<u>\$795.00</u>	<u>\$1,250</u>	<u>\$625</u>	<u>\$750</u>	<u>\$1,050</u>	<u>\$525</u>	<u>\$630.00</u>
2+ Star	<u>\$1,600.00</u>	\$800.00	<u>\$960.00</u>	<u>\$1,515</u>	<u>\$758</u>	<u>\$909</u>	<u>\$1,175</u>	<u>\$588</u>	<u>\$705.00</u>
3 Star	\$1,600.00	\$800.00	<u>\$960.00</u>	\$1,515_	<u>\$758</u>	<u>\$909</u>	\$1,175	<u>\$588</u>	\$705.00
4 Star	\$1,950.00	<u>\$975.00</u>	\$1,170.00	\$1,825	<u>\$913</u>	\$1,095	\$1,375	<u>\$688</u>	\$825.00
5 Star	\$2,050.00	\$1,025.00	\$1,230.00	<u>\$1,900</u>	<u>\$950</u>	\$1,140	\$1,450	<u>\$725</u>	\$870.00
LICENSE	CD GROUP H	IOMES							
Group	<mark>Infant Full</mark>	Infant	Infant	<mark>Toddler</mark> Full	<mark>Toddler</mark>	Toddler	Preschool	Preschool	Preschool
Homes	Time	<u>Part</u>	<mark>Wrap-</mark>	<mark>Time</mark>	<u>Part</u>	Wrap-	Full Time	<u>Part</u>	<mark>Wrap-</mark>
		Time	<u>Around</u>		Time	Around		Time	<u>Around</u>
_			Care Care			Care Care			Care
2 star	<u>\$1,215.00</u>	\$607.50_	<u>\$729.00</u>	<u>\$1,150</u>	<u>\$575</u>	<u>\$690_</u>	<u>\$975</u>	<u>\$488</u>	<u>\$585</u>
2+ Star	<u>\$1,460.00</u>	<u>\$730.00</u>	<u>\$876.00</u>	<u>\$1,390</u>	\$695_	<u>\$834</u>	<u>\$1,075</u>	<u>\$538</u>	<u>\$645</u>
3 Star	\$1,460.00	\$730.00	\$876.00	\$1,390	<u>\$695</u>	<u>\$834</u>	\$1,075	\$538	<u>\$645</u>
4 Star	\$1,750.00	\$875.00	\$1,050.00	\$1,675	\$838	\$1,005	\$1,200	<u>\$600</u>	<u>\$720</u>
5 Star	\$1,875.00	\$937.50	\$1,125.00	\$1,800	<u>\$900</u>	\$1,080	\$1,300	<u>\$650</u>	<u>\$780</u>

Table I2

8.9.3.17(N): Payment for Services – Adopted Language

LICENSED CENTERS – ENHANCED RATE

	Infant Full	<u>Infant</u>	<u>Infant</u>	Toddler Full	Toddler	<u>Toddler</u>	Preschool	Preschool	
	Time	Part	Wrap-	<u>Time</u>	Part	Wrap-	Full Time	Part	Wrap-
		Time	Around Care		Time	Around Care	Time	Time	Around Care
2 Star	<u> </u>	<u>-I</u>					<u>I</u>		
	<u>\$1,350</u>	<u>\$675</u>	<u>\$810</u>	<u>\$1,015</u>	<u>\$508</u>	<mark>\$609</mark>	\$825	<u>\$413</u>	<mark>\$619</mark>
2+ Star	<u>I</u>	<u>.I</u>	<u>-</u>	- L	l	l	I.		
	<u>\$1,400</u>	<u>\$700</u>	<u>\$840</u>	<u>\$1,075</u>	<u>\$538</u>	<u>\$645</u>	<u>\$890</u>	<u>\$445</u>	<u>\$668</u>
3 Star		<u>.I.</u>	. 1		<u> </u>	<u> </u>		1	1
	<u>\$1,400</u>	<u>\$700</u>	<u>\$840</u>	<u>\$1,075</u>	<u>\$538</u>	<u>\$645</u>	<u>\$890</u>	<u>\$445</u>	<u>\$668</u>
4 Star	1	<u>.</u> I.			1	ı		1	1
	\$1,950	<u>\$975</u>	<u>\$1,170</u>	<u>\$1,525</u>	<u>\$763</u>	<u>\$915</u>	\$1,150	<u>\$575</u>	\$863
5 Star FOCU	S, ECECD at	r <mark>pproved na</mark> t	tional accred	itation, or Hea	<mark>d Start, o</mark>	<mark>r Early H</mark>	ead Start		
	<u>\$2,500</u>	<u>\$1,250</u>	<u>\$1,500</u>	<u>\$1,975</u>	<u>\$988</u>	<u>\$1,185</u>	<u>\$1,375</u>	<u>\$688</u>	<u>\$1,031</u>
LICENSED	FAMILY H	OMES – E	NHANCED	RATE	<u> </u>	1		1	
	Infant Full	Infant	<u>Infant</u>	Toddler Full	Toddler	Toddler	Preschool	Preschool	Preschool
	Time	<u>Part</u>	Wrap-	Time	<u>Part</u>	<mark>Wrap-</mark>	Full	<u>Part</u>	Wrap-
		Time	Around Care		Time	Around Care	Time	Time	Around Care
2 Star			Care			Care			Care
	<u>\$1,500</u>	<u>\$750</u>	<mark>\$900</mark>	<u>\$1,425</u>	<u>\$713</u>	<u>\$855</u>	<u>\$1,050</u>	<u>\$525</u>	<u>\$788</u>
2+ Star	1	<u>.</u> I.				ı		ı	1
	<u>\$1,625</u>	<u>\$813</u>	<u>\$975</u>	<u>\$1,525</u>	<u>\$763</u>	<u>\$915</u>	<u>\$1,175</u>	<u>\$588</u>	<u>\$881</u>
3 Star	1	<u>.</u> I.			1	ı		1	1
	<u>\$1,625</u>	<u>\$813</u>	<u>\$975</u>	<u>\$1,525</u>	<u>\$763</u>	<u>\$915</u>	<u>\$1,175</u>	<u>\$588</u>	<u>\$881</u>
4 Star	1	<u>.I.</u>	.1		1	1	l	1	1
	<u>\$1,975</u>	<mark>\$988</mark>	<u>\$1,185</u>	<u>\$1,850</u>	<mark>\$925</mark>	\$1,110	<u>\$1,375</u>	<u>\$688</u>	<u>\$1031</u>
5 Star FOCU	S, ECECD at	pproved nat	tional accred	itation, or Hea	d Start, o	<mark>r Early H</mark>	ead Start	1	1
	<u>\$2,175</u>	\$1,088	<u>\$1,305</u>	<u>\$2,025</u>	\$1,013	\$1,215	<u>\$1,450</u>	<u>\$725</u>	<u>\$1088</u>
LICENSED	GROUP HO	DMES – EN	NHANCED	RATE	1	1	I	<u> </u>	I
Group	Infant Full	<u>Infant</u>	<u>Infant</u>	Toddler Full	Toddle r	Toddle r	Preschool	Preschool	Preschool
Homes	Time	Part	Wrap-	Time	Part	Wrap-	Full	Part	Wrap-
		Time	Around Care		Time	Around Care	Time	Time	Around Care
2 Star	<u> </u>	_1		1	ı		1	1	
	<u>\$1,375</u>	<u>\$688</u>	<u>\$825</u>	<u>\$1,300</u>	<u>\$650</u>	<u>\$780</u>	<u>\$975</u>	<u>\$488</u>	<u>\$731</u>
2+ Star									
	<u>\$1,475</u>	<u>\$738</u>	<u>\$885</u>	<u>\$1,400</u>	<u>\$700</u>	<u>\$840</u>	\$1,07 <u>5</u>	<u>\$538</u>	<u>\$806</u>
3 Star									
	<u>\$1,475</u>	<u>\$738</u>	<u>\$885</u>	<u>\$1,400</u>	<u>\$700</u>	<u>\$840</u>	\$1,07 <u>5</u>	<u>\$538</u>	<u>\$806</u>
4 Star									
			_						<u> </u>
	<u>\$1,775</u>	<u>\$888</u>	<u>\$1,065</u>	<u>\$1,700</u>	<u>\$850</u>	<u>\$1,020</u>	<u>\$1,200</u>	<u>\$600</u>	<u>\$900</u>

LICENSED CENTERS—ENHANCED RATE – SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap- Around Care
2 Star	<mark>\$699</mark>	<u>\$268</u>	<u>\$535</u>
2+ Star	<u>\$768</u>	<u>\$294</u>	<u>\$588</u>
3 Star	<mark>\$768</mark>	\$ 294	\$588
<mark>4 Star</mark>	<mark>\$905</mark>	\$ 347	<u>\$693</u>
<mark>5 Star</mark>	\$1,043	\$ 399	\$798

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

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	<u>\$761</u>	\$292	\$583
3 Star	<u>\$761</u>	\$292	\$583
4 Star	\$871	\$334	<u>\$667</u>
5 Star	\$933	\$357	<u>\$714</u>

8.9.4 NMAC – Explanatory Statement

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

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

Explanatory Statement

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

8.9.4.7(P)(2)

8.9.4.7 P (2): Definitions

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

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

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

Explanatory Statement

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

8.9.4.7 (L)(1)

Current Language	Proposed Language	Final Adopted Language
"License" means a document issued 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.		"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)

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

Explanatory Statement

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

8.9.4.11 A (1)

6.3.4.11A(1)			
Current Language	Proposed Language	Final Adopted Language	
8.9.4.11 A (1): Licensing	8.9.4.11 A (1): Licensing	8.9.4.11 A (1): Licensing	
8.9.4.11 A (1): Licensing ANNUAL LICENSE: An annual license is issued for a one-year period to a child care facility that has met all requirements of these regulations.	[ANNUAL] INITIAL LICENSE: A[nannual] license is issued[for a one-	[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

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

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

Current Language	Proposed Language	Final Adopted Language
director's appointment is valid for 90	director's appointment is valid for 90	director's appointment is valid for 90
days.	days.	days.
There were no substantive nublic com	Explanatory Statement	a proposed amondment
There were no substantive public corr	nments received. ECECD is adopting th	e proposed amendment.
8.9.4.11(A)(6)		
		8.9.4.11(A)(6): Tribal Government License
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.	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.

and requirements.

Current Language	Proposed Language	Final Adopted Language
		(iv) A Tribal Government license
		may be revoked if the New Mexico
		licensing authority is notified by the
		center or licensed home's Tribal
		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.
	Evolanatory Statement	

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

- (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

8.9.4.11 B: Renewal of License

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

Current Language	Proposed Language	Final Adopted Language	
facility is in compliance with these	facility is in compliance with these	facility is in compliance with these	
regulations.	regulations.	regulations.	
(4) If a licensee fails to submit a	(4) If a licensee fails to submit a	(4) If a licensee fails to submit a	
notarized renewal application with	notarized renewal application with	notarized renewal application with	
the required fee before the current	the required fee before the current	the required fee before the current	
license expires, the licensing	license expires, the licensing	license expires, the licensing	
authority may require the agency to	authority may require the agency to	authority may require the agency to	
cease operations until all licensing	cease operations until all licensing	cease operations until all licensing	
requirements are completed.	requirements are completed.]	requirements are completed.]	
	Explanatory Statement		
There were no substantive public con	nments received. ECECD is adopting th	ne proposed amendment.	
8.9.4.11 E			
8.9.4.11 E: Automatic Expiration of	8.9.4.11 E: Automatic Expiration of	8.9.4.11 [E] (D): Automatic Expiration of	
License	License	License	
A license will expire automatically at	A license will expire automatically at		
midnight on the expiration date	midnight on [the expiration date	A license will expire automatically at	
noted on the license unless earlier	noted on the license unless earlier	midnight on [the expiration date	
suspended or revoked, or:	suspended or revoked, or] the date	noted on the license unless earlier	
	the following occurs:	suspended or revoked, or] the date	
		the following occurs:	
Explanatory Statement			
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.12 A			
8.9.4.12 A: Licensing Actions and	8.9.4.12 A: Licensing Actions and	8.9.4.12 A: Licensing Actions and	
Administrative Appeals	Administrative Appeals	Administrative Appeals	
The licensing authority may revoke,	The licensing authority may revoke,	The licensing authority may revoke,	
suspend, or restrict a license,	suspend, or restrict a license,	suspend, or restrict a license,	
reduce star status, deny an initial or	reduce star status, deny an initial or	reduce star status, deny an initial [or	
renewal license application, impose	renewal license application, impose	renewat] license application,	
monetary sanctions pursuant to	monetary sanctions pursuant to	impose monetary sanctions	
7.1.8 NMAC put in place conditions	[7.1.8] 8.370.4 NMAC, put in place	pursuant to [7.1.8 NMAC] 8.370.4	
of operation, issue a cease and	conditions of operation, issue a	NMAC, put in place conditions of	
desist letter, impose other sanctions	cease and desist letter, impose	operation, issue a cease and desist	
or requirements against a licensee,	other sanctions or requirements	letter, impose other sanctions or	
or reduce to a base level of child	against a licensee, or reduce to a	requirements against a licensee, or	
care assistance reimbursement a	base level of child care assistance	reduce to a base level of child care	
licensee who is in receipt of a higher	reimbursement a licensee who is in	assistance reimbursement a	
than base level of child care	receipt of a higher than base level of	licensee who is in receipt of a higher	
assistance reimbursement, for any	child care assistance	than base level of child care	
		l	

reimbursement, for any of the

when reviewing a facility's

suspensions that may be considered

following reasons:

suspensions that may be considered (11) discovery of prior revocations or

of the following reasons:

when reviewing a facility's

renewal;

(11) discovery of prior revocations or

application for licensure or license

assistance reimbursement, for any

(11) discovery of prior revocations

of the following reasons:

or suspensions that may be

considered when reviewing a

Current Language	Proposed Language	Final Adopted Language
	application for licensure or license renewal;	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.

8.9.4.12 A (9)

8.9.4.12 A (9): Licensing Actions and	8.9.4.12 A (9): Licensing Actions and	8.9.4.12 A (9): Licensing Actions and
Administrative Appeals	Administrative Appeals	Administrative Appeals
failure to comply with provisions of	failure to comply with provisions of	failure to comply with provisions of
the other related regulations listed in	the other related regulations listed [the other related regulations listed [
these regulations;	in these regulations] <u>herein</u> ;	in these regulations] <u>herein</u> ;
	·	

Explanatory Statement

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

8.9.4.12 C

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

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	8.9.4.17 E: Surveys for Child Care	8.9.4.17 E: Surveys for Child Care
Facilities	Facilities	Facilities
By applying for either a new license	By applying for either a new license	By applying for <mark>either</mark> a new license,
or a license renewal, the licensee	or a license renewal, the licensee	or a license renewal, the licensee
grants the licensing authority	grants the licensing authority	grants the licensing authority
representative the right to enter the	representative the right to enter the	representative the right to enter the
premises and survey the child care	premises and survey the child care	premises and survey the child care

Current Language	Proposed Language	Final Adopted Language
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.	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.	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		

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

8.9.4.19 A

8.9.4.19 A: Background Checks

the staff member was found eligible as a direct provider of care in a child care center, licensed child care, home licensed group home, or registered home within the past five years and has not

been separated from employment

for more than 180 days; and

8.9.4.19 A: Background Checks

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

8.9.4.19 A: Background Checks

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

Explanatory Statement

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

8.9.4.21 A (1)

8.9.4.21 A (1): Licensure Requirements for Centers

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

8.9.4.21 A (1): Licensure Requirements for Centers

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

8.9.4.21 A (1): Licensure Requirements for Centers

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

Explanatory Statement

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

Current Language	Proposed Language	Final Adopted Language
8.9.4.21 A (3)		
8.9.4.21 A (3): Licensure	8.9.4.21 A (3): Licensure	8.9.4.21 A (3): Licensure
Requirements for Centers	Requirements for Centers	Requirements for Centers
ZONING, BUILDING, AND OTHER	ZONING, BUILDING, AND OTHER	ZONING, BUILDING, AND OTHER
APPROVALS: An applicant will have:	APPROVAL: An applicant [will] shall	APPROVAL: An applicant [will] shall
current written finalized zoning	have the following:	have the following:
approval from the appropriate city,		
county or state authority; current	(a) current written finalized zoning	(a) current written finalized zoning
written building approval, such as a	approval from the appropriate city,	approval from the appropriate city,
certificate of occupancy, from the	county or state authority;	county or state authority;
appropriate city, county or state	(b) current written building approval,	(b) current written building approval,
authority; current written approval of	such as a certificate of occupancy,	such as a certificate of occupancy,
the state fire marshal office or other	from the appropriate city, county or	from the appropriate city, county or
appropriate city, county or state fire-	state authority;	state authority;
prevention authority; current written	(c) current written approval of the	(c) current written approval of the
approval from the New Mexico	state fire marshal office or other	state fire marshal office or other
environment department or other	appropriate city, county or state fire-	appropriate city, county or state fire-
environmental health authority for:	prevention authority;	prevention authority;
(a) a kitchen, if meals are prepared	(d) current written approval from the	(d) current written approval from the
on site and served in the center;	New Mexico environment	New Mexico environment
(b) private water supply, if	department or other environmental	department or other environmental
applicable;	health authority for:	health authority for:
(c) private waste or sewage disposal,		[(a)] (i) a kitchen, if meals are
if applicable; and	prepared on site and served in the	prepared on site and served in the
(d) a swimming pool, if applicable.	center;	center;
	[(b)] (iii) private water supply, if	[(b)] (iii) private water supply, if
	applicable;	applicable;
	(iii) private waste or sewage	(iii) private waste or sewage
	disposal, if applicable; and	disposal, if applicable; and
	[(d)] (iv) a swimming pool, if	[(d)] (iv) a swimming pool, if
	applicable.	applicable.
Explanatory Statement		
Some public comments expressed concern about zoning and other requirements that allow home-based		

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

8.9.4.21 B (4)(a)

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

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

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

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.

Current Language	Proposed Language	Final Adopted Language
	regardless of available square	
	footage.	

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

All facilities using these regulations must have written policies and procedures covering the following areas:

8.9.4.22 C: Policy and Procedures

FALL 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 <u>reflect any revisions. Whenever</u> 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

8.9.4.22 C: Policy and Procedures

FAll 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 <u>reflect any revisions. Whenever</u> 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

must cover the following areas:

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 8.9.4.22 C (6): Policy and Procedures 8.9.4.22 C (6): Policy and Procedures

policies and procedures for actions to be taken in case a child is found missing from the center; Septendory Statement			
to be taken in case a child is found missing from the center; September S			Final Adopted Language
missing from the center; [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 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: Explanatory Statement Although public comments received reised concerns with proposed changes to policy and procedures, the have been amended and addressed in other sections of the regulation. This section provides a minor updatang the family handbook; General Information Explanatory Statement Although public comments received reised concerns with proposed changes to policy and procedures, the have been amended and addressed in other sections of the regulation. This section provides a minor updatanguage and terms. ECECD is adopting the proposed amendments. 8.9.4.22 D(1)(d) 8.9.4.22 D(1)(d) 8.9.4.22 D(1)(d): Family Handbook; General Information name of director and how he/she may be reached; Information name of director and how he/she may be reached; Information Explanatory Statement There were no substantive comments received. ECECD is adopting the proposed amendment. 8.9.4.22 E: Children's Records A center (witt) shall maintain a complete record for each child, including	-	·	policies and procedures for actions
Indicate the following: Indicate the fol			
September Sept	sing 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 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: Explanatory Statement Although public comments received raised concerns with proposed changes to policy and procedures, the have been amended and addressed in other sections of the regulation. This section provides a minor updating the family handbook. S.9.4.22 D(1)(d): Family Handbook (witt) shall include the following: Explanatory Statement Although public comments received raised concerns with proposed changes to policy and procedures, the have been amended and addressed in other sections of the regulation. This section provides a minor updating the family handbook; General Information 8.9.4.22 D(1)(d): Family Handbook; General Information 8.9.4.22 E: Children's Records 8.9.4.22 E: Children's Records 8.9.4.22 E: Children's Records 8.9.4.22 E: Children's Record for each child, complete record for each child, c			discovered unattended or missing
Received. ECECD is adopting the proposed amendment. 8.9.4.22 D: Family Handbook 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: Explanatory Statement Although public comments received raised concerns with proposed changes to policy and procedures, the have been amended and addressed in other sections of the regulation. This section provides a minor updating general information Reparently 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 (wittl) shall include the following: Explanatory Statement Although public comments received raised concerns with proposed changes to policy and procedures, the have been amended and addressed in other sections of the regulation. This section provides a minor updatanguage and terms. ECECD is adopting the proposed amendments. 8.9.4.22 D(1)(d) 8.9.4.22 D(1)(d) 8.9.4.22 D(1)(d): Family Handbook; General Information name of director and how he/she may be reached; may be reached fitheir contact information: Explanatory Statement There were no substantive comments received. ECECD is adopting the proposed amendment. 8.9.4.22 E: Children's Records A center [witt] shall maintain a complete record for each child, including		from the center;	from the center;
8.9.4.22 D: Family Handbook All facilities using these regulations must have a parent handbook. Upon updating the family handbook. Upon updating the 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 will include the following: Explanatory Statement S.9.4.22 D(1)(d): Family Handbook; General Information			
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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: Explanatory Statement Say 4.22 D(1)(d): Family Handbook; General Information	4.22 D		
must have a parent handbook. Upon updating the family handbook. Upon 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: Explanatory Statement Although public comments received raised concerns with proposed amendments.	4.22 D: Family Handbook	8.9.4.22 D: Family Handbook	8.9.4.22 D: Family Handbook
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: Explanatory Statement	acilities using these regulations	All facilities [using] <mark>operating under</mark>	All facilities [using] <mark>operating under</mark>
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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: Explanatory Statement	ating the family handbook,	[parent] <mark>family handbook</mark> . Upon	[parent] <mark>family handbook</mark> . Upon
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: Comparison of the proposed of the proposed dampes and posted in a common area. The handbook will include the following: Comparison of the proposed dampes are proposed dampes are proposed amendments.	nges must be approved and	updating the family handbook,	updating the family handbook,
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sent out to familties, parents, or guardians and posted in a common area. The handbook will include the following: Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall include the following: Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall include the following: Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall include the following: Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall include the following: Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall include the following: Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall maintain a complete record for each child, including Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall maintain a complete record for each child, including Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall maintain a common area. The handbook [witt] shall maintain a complete record for each child, including Sent out to familties, parents, or guardians and posted in a common area. The handbook [witt] shall maintain a common area. The handbook [witt] shall maintain a complete record for each child, including Sent out to families and posted in a common area. The handbook [witt] shall maintain a complete record for each child, including Sent out to families and posted in a common area. The handbook [witt] shall maintain a complete record for each child, Sent out to families and posted in a common area. The handbook [witt] shall maintain a complete record for each child, Sent out to families and posted in a common area. The handbook [witt] shall maintain a complete record for each child, Sent out to families and posted in a common area. The handbook [witt] shall include	r any changes, notice must be	submitted to the licensing authority.	submitted to the licensing authority
area. The handbook will include the following: Shall include the following: Shall includ	out to families, parents, or	After any changes, notice must be	After any changes, notice must be
area. The handbook will include the following: Shall include the following: Shall includ	rdians and posted in a common	sent out to families, parents, or	sent out to families, parents, or
following: area. The handbook [witt] shall include the following: area. The handbook [witt] shall include the following: area. The handbook [witt] shall include the following: Explanatory Statement Although public comments received raised concerns with proposed changes to policy and procedures, the have been amended and addressed in other sections of the regulation. This section provides a minor update 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 General Information name of director and how he/she may be reached; Information: Explanatory Statement There were no substantive comments received. ECECD is adopting the proposed amendment. 8.9.4.22 E: Children's Records A center will maintain a complete record for each child, including A center [witt] shall maintain a complete record for each child, including	-	-	guardians and posted in a common
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R.9.4.22 D(1)(d) 8.9.4.22 D(1)(d): Family Handbook; General Information name of director and how he/she may be reached; information; Explanatory Statement There were no substantive comments received. ECECD is adopting the proposed amendment. 8.9.4.22 E: Children's Records A center will maintain a complete record for each child, including R.9.4.22 D(1)(d): Family Handbook; General Information Handbook; General Information General Information name of director and [how he/she may be reached] their contact information; Explanatory Statement 8.9.4.22 E: Children's Records A center [will] shall maintain a complete record for each child, complete record for each child, including		· · · · · · · · · · · · · · · · · · ·	
8.9.4.22 D(1)(d): Family Handbook; General Information Reneral Informat		_	
8.9.4.22 D(1)(d): Family Handbook; General Information Reneral Informat			
General Information General Information General Information General Information General 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 A center will maintain a complete record for each child, including A center [witt] shall maintain a complete record for each child, complete record for each child.			
name of director and how he/she may be reached; name of director and [how he/she may be reached] their contact information; 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 A center will maintain a complete record for each child, including A complete record for each child, including name of director and [how he/she may be reached] their contact information; Replanatory Statement Substantive comments received. ECECD is adopting the proposed amendment. A center [will] shall maintain a complete record for each child, complete record for each child, complete record for each child,			8.9.4.22 D(1)(d): Family Handbook;
may be reached] their contact information; 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 A center will maintain a complete record for each child, including A complete record for each child, including may be reached] their contact information; may be reached] their contact information; and be reached] their contact information; may be reached] their contact information; and a center [with] their co	eral Information	General Information	General Information
may be reached] their contact information; 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 A center will maintain a complete record for each child, including A complete record for each child, including may be reached] their contact information; may be reached] their contact information; and be reached] their contact information; may be reached] their contact information; and a center [with] their co	ne of director and how he/she	name of director and [how he/she	name of director and I how he/she
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 A center will maintain a complete record for each child, including information; information; information; Explanatory Statement 8.9.4.22 E: Children's Record amendment. 8.9.4.22 E: Children's Records A center [will] shall maintain a complete record for each child, complete record for each child,			
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 A center will maintain a complete record for each child, including 8.9.4.22 E: Children's Records A center [will] shall maintain a complete record for each child, complete record for each child,			
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 8.9.4.22 E: Children's Records 8.9.4.22 E: Children's Records A center [will] shall maintain a complete record for each child, complete record for each child,		Explanatory Statement	
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 8.9.4.22 E: Children's Records A center [will] shall maintain a complete record for each child, complete record for each child,	re were no substantive comments	received. ECECD is adopting the prop	osed amendment.
A center will maintain a complete record for each child, including A center [will] shall maintain a complete record for each child, complete record for each child,	8.9.4.22 E		
record for each child, including complete record for each child, complete record for each child,	4.22 E: Children's Records	8.9.4.22 E: Children's Records	8.9.4.22 E: Children's Records
record for each child, including complete record for each child, complete record for each child,	enter will maintain a complete	A center [will] <mark>shall</mark> maintain a	 A center [will] <mark>shall</mark> maintain a
	-		
	_	-	
is admitted. Records will be kept at before the child is admitted. before the child is admitted.	-		
·	·		Records [will] shall be kept at the
			center for 12 months after the

child's last day of attendance.

Records [will] shall contain at least:

Records will contain at least:

child's last day of attendance.

Records [will] <mark>shall</mark> contain at least:

Proposed Language	Final Adopted Language		
	i machaoptou Language		
There were no substantive comments received. ECECD is adopting the proposed amendment.			
Trootwoo. Lot ob adopting the prop			
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] activity destination, date and time of [fieldtrip] activity and expected return time from [fieldtrip] activity; Explanatory Statement areceived. ECECD is adopting the prop	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; osed amendment.		
8.9.4.22 E(l): Children's Records	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.	a signed acknowledgment that the parent or guardian has read and understands the [parent] family handbook.		
Explanatory Statement			
received. ECECD is adopting the prop	osed amendment.		
8.9.4.22 F (1): Personnel Records	8.9.4.22 F (1): Personnel Records		
A licensee [will] shall keep and maintain a complete up-to-date file in ECECD's professional development information system (PDIS) for	A licensee [will] 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	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	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		
	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] activity destination, date and time of [fieldtrip] activity and expected return time from [fieldtrip] activity; Explanatory Statement s received. ECECD is adopting the prop 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 s received. ECECD is adopting the prop 8.9.4.22 F (1): Personnel Records A licensee [will] 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 tast day of employment.] If the center chooses to retain duplicate physical copies of these records, these records		

staff members. New

in process then documentation of

staff members. New

Final Adopted Language Current Language Proposed Language the notice of provisional information shall be updated information shall be updated employment showing that it is in <u>in a timely manner in PDIS.</u> <u>in a timely manner in PDIS.</u> process, must be placed in file. A **Providers will have six months** Providers will have six months to comply from the date these to comply from the date these background check must be regulations are promulgated. <mark>regulations are promulgated.</mark> conducted at least once every five Records [will] shall contain at Records [will] shall contain at years on all required individuals; (f) an annual signed statement that [least] <u>a minimum</u> the [least] <u>a minimum</u> the the staff member would or would following: following: not be disqualified as a direct (a) name, address and telephone (a) name, address and telephone provider of care under the most number; number; current version of the background (b) position; (b) position; (c) current and past duties and checks and employment history (c) current and past duties and verification provisions pursuant to responsibilities; responsibilities; 8.9.6 NMAC; (d) dates of hire and termination; (d) dates of hire and termination; (g) documentation of current first-(e) documentation of a background (e) documentation of a background aid and cardiopulmonary check and employment history check and employment history resuscitation training; verification; if background check is verification; if background check is (h) documentation of all appropriate in process then documentation of in process then documentation of training by date, time, hours and the notice of provisional the notice of provisional area of competency; employment showing that it is in employment showing that it is in (i) emergency contact number; process, must be placed in file. A process, must be placed in file. A (j) universal precaution background check must be background check must be acknowledgment form; conducted at least once [every five conducted at least once [every five (k) confidentiality form; years] per five year interval on all years] per five year interval on all (l) results of performance required individuals; required individuals; evaluations; (f) an annual signed statement that (f) an annual signed statement that (m) administrative actions or the staff member would or would the staff member would or would reprimands; not be disqualified as a direct not be disqualified as a direct (n) written plan for ongoing provider of care under the most provider of care under the most professional development for each current version of the background current version of the background educator, including the director, that checks and employment history checks and employment history is based on the seven areas of verification provisions pursuant to verification provisions pursuant to competency, consistent with the 8.9.6 NMAC; 8.9.6 NMAC: (g) documentation of current first-(g) documentation of current firstcareer lattice, and based on the individual's goals; and aid and cardiopulmonary aid and cardiopulmonary (o) signed acknowledgment that the resuscitation training; resuscitation training; staff have read and understand the (h) documentation of all appropriate (h) documentation of all appropriate personnel handbook; training by date, time, hours and training by date, time, hours and (p) signed acknowledgement that all area of competency; area of competency; staff have reviewed and are aware of (i) emergency contact number; (i) emergency contact number; the center's disaster preparedness (j) universal precaution (j) universal precaution plan and evacuation plan; and acknowledgment form; acknowledgment form; (q) form I-9, employment eligibility (k) confidentiality form; (k) confidentiality form; verification. (l) results of performance (l) results of performance evaluations (shall be maintained evaluations; (m) administrative actions or outside of PDIS);

reprimands;

(n) written plan for ongoing

professional development for each educator, including the director, that

(m) administrative actions or reprimands (shall be maintained)

outside of PDIS);

Current Language	Proposed Language	Final Adopted Language
	is based on the seven areas of	(n) written plan for ongoing
	competency, consistent with the	professional development for each
	department's career lattice, and	educator, including the director, that
	based on the individual's goals; and	is based on the seven areas of
	(o) signed acknowledgment that the	competency, consistent with the
	staff have read and understand the	[department's] career lattice, and
	personnel handbook;	based on the individual's goals; and
	(p) signed acknowledgement that all	(o) signed acknowledgment that the
	staff have reviewed and are aware of	staff have read and understand the
	the center's disaster preparedness	personnel handbook;
	plan and evacuation plan; and	(p) signed acknowledgement that all
	(q) [form I-9, employment eligibility	staff have reviewed and are aware of
	verification.] hourly rate of pay.	the center's disaster preparedness
		plan and evacuation plan[; and
		(q) form I-9, employment eligibility
		verification]
Evolunatory Statement		

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

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 | 8.9.4.23 A (9): Personnel and Staffing | 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.

Requirements

A program [will] <mark>shall</mark> 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.

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

Current Language	Proposed Language	Final Adopted Language
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	8.9.4.23 B (2)(a)(xi): Training	8.9.4.23 B (2)(a)(xi): Training
parent handbook;	[parent] <mark>family</mark> handbook;	[parent] <mark>family</mark> handbook;
Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.		
8.9.4.23 B(2)(b)(xii)		

8.9.4.23 B (2)(b)(xii): Training

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 threecredit early care and education course or an equivalent approved by the department.

8.9.4.23 B (2)(b)(xii): 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.

8.9.4.23 B (2)(b)(xii): 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 threecredit 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

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

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

Current Language	Proposed Language	Final Adopted Language
throughout the day or night shall not be permitted.		cups by young children throughout the day or night shall not be
	permitted.	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 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.

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 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

Current Language	Droposed Longuego	Final Adapted Language	
Current Language	Proposed Language	Final Adopted Language	
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	8.9.4.24 G (1): Physical Environment	8.9.4.24 G (1): Physical Environment	
Environment shall be organized into	Environment shall be organized into	Environment shall be organized into	
age appropriate functional	age[-] <mark>-</mark> appropriate functional <mark>, and</mark>	age[-] <mark>-</mark> appropriate functional <mark>, and</mark>	
identifiable learning areas.	identifiable learning areas.	identifiable learning areas.	
	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.24 I(11)			
8.9.4.24 I (11): Equipment and Program	8.9.4.24 I (11): Equipment and Program	8.9.4.24 I (11): Equipment and Program	
Full-time children shall have a	[Full-time c] <mark>C</mark> hildren <mark>in full time care</mark>	[Full-time c] <mark>C</mark> hildren <mark>in full time care</mark>	
minimum of 60 minutes of physical	shall have a minimum of 60 minutes	shall have a minimum of 60 minutes	
activity daily, weather permitting,	of physical activity daily, weather	of physical activity daily, weather	
preferably outside. Part-time children shall have a minimum of 30	permitting, preferably outside.	permitting, preferably outside.	
minutes of physical activity daily,	[Part-time c] Children in part time care shall have a minimum of 30	[Part-time c] <mark>C</mark> hildren <u>in part time</u> care shall have a minimum of 30	
preferably outside. The center will	minutes of physical activity daily,	minutes of physical activity daily,	
ensure drinking water is available	preferably outside. The center [will]	preferably outside. The center [will]	
and maintained at a cool	shall ensure drinking water is	shall ensure drinking water is	
temperature while playing outside.	available and maintained at a cool	available and maintained at a cool	
	temperature while playing outside.	temperature while playing outside.	
	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.24 J(3)			
8.9.4.24 J (3): Outdoor Play Areas	8.9.4.24 J (3): Outdoor Play Areas	8.9.4.24 J (3): Outdoor Play Areas	
TABLE, ROW 2, COLUMN 2	TABLE, ROW 2, COLUMN 2	TABLE, ROW 2, COLUMN 2	
s inches	[s] 6	[s] 6	
	inches	inches	
	Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4.24 J(7)	8.9.4.24 J(7)		
8.9.4.24 J (7): Outdoor Play Areas	8.9.4.24 J (7): Outdoor Play Areas	8.9.4.24 J (7): Outdoor Play Areas	
Children shall be protected from the	Children shall be protected from the	Children shall be protected from the	
sun during outdoor play by providing	sun during outdoor play by providing	sun during outdoor play by providing	
shade (as necessary), sunscreen,	shade (as necessary), sunscreen (as	shade (as necessary), sunscreen (as	
proper attire and limiting the time of	permitted by parent, family or	permitted by parent, family or	
exposure to the elements. The	guardian), proper attire and limiting	guardian), proper attire and limiting	
center must also consider	the time of exposure to the elements. The center must also	the time of exposure to the elements. The center must also	
instructions by the child's parent or guardian.	dements. The center must also	coments. The center must also	
<u> </u>	I	I	

Current Language	Proposed Language	Final Adopted Language	
	consider additional instructions by	consider additional instructions by	
	the child's parent or guardian.	the child's parent or guardian.	
	Explanatory Statement	-	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.24 K(2)			
N/A – New text	8.9.4.24 K (2): Swimming, Wading	8.9.4.24 K (2): Swimming, Wading	
	and Water	and Water	
	Children shall be constantly	Children shall be constantly	
	supervised while swimming, wading,	supervised while swimming, wading,	
	or in or near, and the number of	or in or near, and the number of	
	adults present must be proportional	adults present must be proportional	
	to the ages and abilities of the	to the ages and abilities of the	
	children and type of water hazard in	children and type of water hazard in	
	Evalenatory Statement	use.	
Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4.24 K(4)			
8.9.4.24 K(3)(c)	8.9.4.24 K(4)	8.9.4.24 K(4)	
(c)when in use, children will be	[(c) when in use, children will be	[(c) when in use, children will be	
constantly supervised and the	constantly supervised and the	constantly supervised and the	
number of adults present will be	number of adults present will be	number of adults present will be	
proportional to the ages and abilities	proportional to the ages and abilities	proportional to the ages and abilities	
of the children and type of water	of the children and type of water	of the children and type of water	
hazard in use.	hazard in use.]	hazard in use.]	
Explanatory Statement			
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.25 A			
8.9.4.25 A: Food Service	8.9.4.25 A: Food Service	8.9.4.25 A: Food Service	
Requirements for Centers	Requirements for Centers	Requirements for Centers	
MEAL PATTERN REQUIREMENTS: All	MEAL PATTERN REQUIREMENTS: All	MEAL PATTERN REQUIREMENTS: All	
foods prepared by the center will	foods prepared by the center [will]	foods prepared by the center [will]	
conform to the guidelines from	shall conform to the guidelines from	shall conform to the guidelines from	
United States department of	United States [d]Department of	United States [d]Department of	
agriculture's (USDA's) child and	[a]Agriculture's (USDA's) [c]Child	[a]Agriculture's (USDA's) [c]Child	
adult care food program (CACFP) for	and [a]Adult [c]Care [f]Food	and [a]Adult [c]Care [f]Food	
foods, meal patterns and serving	[p]Program (CACFP) for foods, meal	[p]Program (CACFP) for foods, meal	
sizes.	patterns and serving sizes.	patterns and serving sizes.	
	Explanatory Statement		
There were no substantive comments received. ECECD is adopting the proposed amendment.			
8.9.4.25 B(4)			
8.9.4.25 B (4): Meals and Snacks	8.9.4.25 B (4): Meals and Snacks	8.9.4.25 B (4): Meals and Snacks	

Current Language	Proposed Language	Final Adopted Language
Parents of children who have special	Parents or guardians of	Parents or guardians of
dietary needs may provide written	children who have special	children who have special
permission to the child care program	dietary needs may provide	dietary needs may provide
to exempt their child from the	written permission to the child	written permission to the child
following requirements if necessary	care program to exempt their	care program to exempt their
due to such special dietary needs.	child from the following	child from the following
	requirements if necessary[due	requirements if necessary[due
	to such special dietary needs].	to such special dietary needs].
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.25 B(4)(a)		
8.9.4.25 B (4)(a): Meals and Snacks	8.9.4.25 B (4)(a): Meals and Snacks	8.9.4.25 B (4)(a): Meals and Snacks
One hundred percent or vegetable	One hundred percent <mark>fruit</mark> or	One hundred percent <mark>fruit</mark> or
juice may be diluted with water.	vegetable juice may be diluted with	vegetable juice may be diluted with
	water.	water.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.28 A		
8.9.4.28 A: Transportation	8.9.4.28 A: Transportation	8.9.4.28 A: Transportation
Requirements	Requirements	Requirements
When a center provides	When a center provides	When a center provides
transportation to children, it is	transportation to children, it is	transportation to children, it is
responsible for the care of children	responsible for the care of children	responsible for the care of children
from the time of pick up to delivery	from the time of pick up to the time	from the time of pick up to the time
to a responsible adult.	of delivery to a responsible adult	of delivery to a responsible adult
·	Explanatory Statement	1
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.29 B(1-2)		
8.9.4.29 B (1-2): Pest Control	8.9.4.29B (1-2): Pest Control	8.9.4.30B (1-2): Pest Control
(1) All licensed child care centers	(1) All licensed child care	(1) All licensed child care
must use a New Mexico licensed	centers must use a New Mexico	centers must use a New Mexico
applicator whenever applying	licensed [applicator] pest	licensed [applicator] pest
pesticides on the center's buildings	control professional whenever	control professional whenever
or grounds.	applying pesticides on the	applying pesticides on the
(2) The licensed applicator may not	center's buildings or grounds.	center's buildings or grounds.
apply pesticides when children are	(2) The licensed	(2) The licensed
on the premises.	[applicator] pest control	[applicator] pest control
on the premises.		
	professional may not	professional may not
	apply pesticides when	apply pesticides when
	children are on the	children are on the
	premises.	premises.

Current Language	Proposed Language	Final Adopted Language
Guiront Lunguago	Explanatory Statement	I mat Adopted Ediffadge
There were no substantive comments	received. ECECD is adopting the prop	osed amendment
	received. Locob is adopting the prop	osca ameriament.
8.9.4.29 C(3)		
8.9.4.29 C (3): Mechanical Systems	8.9.4.29 C (3): Mechanical Systems	8.9.4.29 C (3): Mechanical Systems
A center will not use un-vented	A center [will] <mark>shall</mark> not use[un-	A center [will] <mark>shall</mark> not use[un-
heaters, open flame heaters or	vented] heaters <u>without vents</u> , open	vented] heaters without vents, open
portable heaters. A center will	flame heaters or portable heaters. A	flame heaters or portable heaters. A
install barriers or take other steps to	center [will] <mark>shall</mark> install barriers or	center [will] <mark>shall</mark> install barriers or
ensure heating units are	take other steps to ensure heating	take other steps to ensure heating
inaccessible to children.	units are inaccessible to children.	units are inaccessible to children.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.29 G(4)(b-c)		
8.9.4.29 G (4)(b-c): Toilet and	8.9.4.29 G (4)(b-c): Toilet and	8.9.4.29 G (4)(b-c): Toilet and
Bathing Facilities	Bathing Facilities	Bathing Facilities
(b) two toilets and two lavatories for	(b) two toilets and two lavatories for	(b) two toilets and two lavatories for
13 through 25 children;	13 [through] <u>to</u> 25 children;	13 [through] <u>to</u> 25 children;
(c) one toilet and one lavatory for	(c) one toilet and one lavatory for	(c) one toilet and one lavatory for
each additional 15 children or	[each] <mark>up to an additional</mark> 15	[each] <mark>up to an additional</mark> 15
fraction thereof; or	[children or fraction thereof]; or	children [or fraction thereof]; or
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.29 H(3)(g)		
8.9.4.29 H(3)(g): Safety Compliance	8.9.4.29 H(3)(g): Safety Compliance	8.9.4.29 H(3)(g): Safety Compliance
a center will keep a telephone in an	a center [will] <mark>shall</mark> keep a telephone	a center [will] <mark>shall</mark> keep a telephone
easily accessible place for calling for	in an easily accessible place for	in an easily accessible place for
help in an emergency and will post	calling for help in an emergency and	calling for help in an emergency and
emergency phone numbers for fire,	[will] <mark>shall</mark> post emergency phone	[will] <mark>shall</mark> post emergency phone
police, ambulance and the poison	numbers for fire, police, ambulance	numbers for fire, police, ambulance
control center next to the phone; a	and the poison control center next to	and the poison control center next to
center will not use a pay phone to	the phone; [a center will not use a	the phone; [a center will not use a
fulfill this requirement;	pay phone to fulfill this	pay phone to fulfill this
	requirement;]	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	8.9.4.29 H (3)(l): Safety Compliance	8.9.4.29 H (3)(l): Safety Compliance
fire extinguishers, alarm systems,	fire extinguishers, alarm systems,	fire extinguishers, alarm systems,
automatic detection equipment, and	automatic detection equipment, and	automatic detection equipment, and
other firefighting must be properly	other firefighting devices must be	other firefighting <u>devices</u> must be

Current Language	Proposed Language	Final Adopted Language	
maintained and inspected on a least	properly maintained and inspected	properly maintained and inspected	
yearly basis;	on a least yearly basis;	on a least yearly basis;	
	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.29 I			
8.9.4.29 I: Smoking, Firearms, Etc.	8.9.4.29 I: Smoking, Firearms, Etc.	8.9.4.29 I: Smoking, Firearms, Etc.	
A center will prohibit smoking, ecigarettes, 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.	A center [will] 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 [will] shall not allow any alcoholic beverages, cannabis, firearms, lethal or non-lethal weapons or non-prescription	A center [will] 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 [will] shall not allow any alcoholic beverages, cannabis, firearms, lethal or non-lethal weapons or non-prescription	
	controlled substances (drugs) on the	controlled substances (drugs) on the	
	premises or in vehicles.	premises or in vehicles.	
	Explanatory Statement		
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.	
8.9.4.31 A(1)			
8.9.4.31 A (1): Licensing Requirements for Homes - Application Form An applicant will complete an	8.9.4.31 A (1): Licensing Requirements for Homes - Application Form An applicant will complete an	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.	application form provided by the licensing authority[-and include payment for the non-refundable application fee].	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 prop	osed amendment.	
8.9.4.32 A(5)			
8.9.4.32 A (5): Administrative Records for Homes	8.9.4.32 A (5): Administrative Records for Homes	8.9.4.32 A (5): Administrative Records for Homes	
an up to date emergency evacuation and disaster preparedness plan,	an up[] <mark>-</mark> to[] <mark>-</mark> date emergency evacuation and disaster preparedness plan,	an up[] <mark>-</mark> to[] <mark>-</mark> 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	8.9.4.32 C: [PARENT] <mark>FAMILY</mark> HANDBOOK	8.9.4.32 C: [PARENT] <mark>FAMILY</mark> HANDBOOK	

Current Language	Proposed Language	Final Adopted Language
PARENT HANDBOOK: All facilities		
using these regulations must have a	[PARENT] <mark>FAMILY</mark> HANDBOOK: All	All facilities using these regulations
parent handbook. Upon updating	facilities using these regulations	must have a [parent] <mark>family</mark>
the parent handbook, changes must	must have a [parent] <mark>family</mark>	handbook. Upon updating the
be approved and submitted to	handbook. Upon updating the	[parent] <mark>family</mark> handbook, changes
licensing and submitted to the	[parent] <mark>family</mark> handbook, changes	must be approved and submitted to
licensing authority. After any	must be approved and submitted to	licensing and submitted to the
changes, notices must be sent out	licensing and submitted to the	licensing authority. After any
to families, parents, or guardians	licensing authority. After any	changes, notices must be sent out to
and posted in a common area. The	changes, notices must be sent out to	families, parents, or guardians and
handbook will include the following:	families, parents, or guardians and	posted in a common area. The
(d) name of licensee and how he/she	posted in a common area. The	handbook [will] <mark>shall</mark> include the
may be reached;	handbook [will] <mark>shall</mark> include the	following:
(g) a statement supportive of family	following:	(d) name of licensee and how
involvement that includes an open	(d) name of licensee and how	[he/she] <mark>they</mark> may be reached;
door policy to the family or group	[he/she] <mark>they</mark> may be reached;	- (g) a statement supportive of
child care home;	(g) a statement supportive of family	family involvement that includes an
	involvement that includes an open[]-	open[] <mark>-</mark> door
	door	
Evalanatory 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.

8.9.4.32 C(2)

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

Current Language	Proposed Language	Final Adopted Language
	and procedures through all means	
	set forth in these regulations and	
	otherwise legally available. The	
	written policies and procedures	
	must cover the following areas:	
E0E0D: 17 :	Explanatory Statement	
policies and procedures in centers amended to create clarity by focusi	anguage to address concerns raised in p s necessary to maintain health and safe ng on the core purpose of changes to thi adhere to, and document any changes to and equitable access to services.	ety. The proposed language has been s section – requiring child care
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	A home [will] <mark>shall</mark> maintain a	A home [will] <mark>shall</mark> maintain a
record for each child, including	complete record for each	complete record for each
drop-ins, completed before the chil	d child, including drop-ins,	child, including drop-ins,
is admitted and kept at the home fo	r completed before the child is	completed before the child is
12 months after the child's last day	admitted and kept at the home	admitted and kept at the home
of attendance. Records will contain	for 12 months after the child's	for 12 months after the child's
at least:	last day of attendance.	last day of attendance.
	Records [will] shall contain at	Records [will] <mark>shall</mark> contain at
	[least] <mark>minimum</mark> :	[least] <mark>minimum</mark> :
	Explanatory Statement	
There were no substantive commen	ts received. ECECD is adopting the prop	oosed amendment.
8.9.4.32 D(1)(b)		
8.9.4.32 D (1)(b): Personal	8.9.4.32 D (1)(b): Personal	8.9.4.32 D (1)(b): Personal
Information	Information	Information
names of the parents or guardians,	names of the parents or guardians,	names of the parents or guardians,
the parents or guardians current	the parents or guardians current	the parents or guardians current
places of employment, addresses,	places of employment, addresses,	places of employment, addresses,
pager, cellular and work telephone	[pager,] cellular and work telephone	[pager,] cellular and work telephone
numbers;	numbers;	numbers;
	Explanatory Statement	
There were no substantive commen	ts received. ECECD is adopting the prop	oosed amendment.
8.9.4.32 D(1)(g)		
8.9.4.32 D (1)(g): Personal	8.9.4.32 D (1)(g): Personal	8.9.4.32 D (1)(g): Personal
Information	Information	Information
written authorization from the child	's written authorization from the	written authorization from the
parent or guardian to remove a child		child's parent or guardian to
from the premises to participate in	remove a child from the	remove a child from the
off-site activities; authorization mus		premises to participate in off-
contain fieldtrip destination, date	site activities; authorization	site activities; authorization

must contain [fieldtrip] <mark>activity</mark>

must contain [fieldtrip] activity

Current Language	Proposed Language	Final Adopted Language
and time of fieldtrip and expected	destination, date and time of	destination, date and time of
return time from fieldtrip;	[fieldtrip] activity and expected	[fieldtrip] activity and expected
Totalii tiillo iloiii ilotatiip,	return time from [fieldtrip]	return time from [fieldtrip]
	activity;	activity;
	,	,
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	oosed amendment.
8.9.4.32 D(1)(k)		
8.9.4.32 D (1)(k): Personal	8.9.4.32 D (1)(k): Personal	8.9.4.32 D (1)(k): Personal
Information	Information	Information
a signed asknowledgement that the	a signed salmouladgement that	a signed solve suled goment that
a signed acknowledgement that the parent or guardian has read and	a signed acknowledgement that	a signed acknowledgement that the parent or guardian has read
understands the parent handbook.	the parent or guardian has read and understands the [parent]	and understands the [parent]
understands the parent nandbook.	family handbook.	family handbook.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	oosed amendment.
8.9.4.32 E(5)		
N/A - New text	8.9.4.32 E (5): Personnel Records	8.9.4.32 E (5): Personnel Records
	(5) Licensed child care homes	(5) Licensed child care homes
	shall maintain the complete,	shall maintain the complete,
	up-to-date personnel records in	up-to-date personnel records in
	ECECD's professional	ECECD's professional
	development information	development information
	system, (PDIS), for each staff	system, (PDIS), for each staff
	member, including substitutes	member, including substitutes
	and volunteers working more	and volunteers working more
	than six hours of any week and	than six hours of any week and
	having direct contact with the children. If the home chooses	having direct contact with the
	to retain duplicate physical	children. If the home chooses to retain duplicate physical
	copies of these records, these	copies of these records, these
	records shall be stored in a	records shall be stored in a
	secure location for the privacy	secure location for the privacy
	of the staff members. New	of the staff members. New
	information shall be updated in	information shall be updated in
	a timely manner in PDIS.	a timely manner in PDIS.
	Records shall contain at a	Records shall contain at a
	minimum the following:	minimum the following:
	(a) name, address and telephone	(a) name, address and telephone
	number;	number;
	(b) position;	(b) position;
	(c) current and past duties and	(c) current and past duties and
	responsibilities;	<mark>responsibilities;</mark>
	(d) dates of hire and termination;	(d) dates of hire and termination;
	(e) documentation of a	(e) documentation of a

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

Current Language	Proposed Language	Final Adopted Language
	(o) signed	and
	acknowledgment that the	<mark>(o) signed</mark>
	staff have read and	acknowledgment that the
	understand the personnel	staff have read and
	<mark>handbook;</mark>	understand the personnel
	<mark>(p) signed</mark>	<mark>handbook;</mark>
	acknowledgement that	<mark>(p) signed</mark>
	all staff have reviewed	acknowledgement that
	and are aware of the	all staff have reviewed
	<mark>center's disaster</mark>	<mark>and are aware of the</mark>
	<mark>preparedness plan and</mark>	<mark>center's disaster</mark>
	evacuation plan; and	<mark>preparedness plan and</mark>
	(q) hourly rate of pay.	evacuation plan;
Frank and the Charles and		

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)

and 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 threecredit early care and education course or an equivalent approved by the department.

8.9.4.33 B (1) (l): Staff qualifications

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

8.9.4.33 B (1) (l): Staff qualifications and 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 threecredit 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	8.9.4.33 B (5): Staff qualifications	8.9.4.33 B (5): Staff qualifications
and training	and training	and training
	An educator cannot count	An educator cannot count

Current Language	Proposed Language	Final Adopted Language
An educator cannot count more than	more than three hours in first	more than three hours in first
three hours in first aid or CPR	aid or CPR training toward the	aid or CPR training toward the
training toward the	total hours required. Online	total hours required. Online
total hours required. Online first aid	first aid and CPR training [will]	first aid and CPR training [will]
and CPR training will not be	shall not be approved unless	shall not be approved unless
approved unless there is a hands-on	there is a hands-on	there is a hands-on
component included. In-person	component included. In-	component included. In-
requirements may be waived in case	person requirements may be	person requirements may be
of an emergency. For this purpose, a	waived in case of an	waived in case of an
year begins and ends at the	emergency. [For this purpose,	emergency. [For this purpose,
anniversary date of employment.	a] <mark>A</mark> year begins and ends at the	a] <mark>A</mark> year begins and ends at the
Training must be provided by	anniversary date of	anniversary date of
individuals who are registered on the	employment. Training must be	employment. Training must be
New Mexico trainer registry. Identical	provided by individuals who	provided by individuals who
trainings shall not be repeated for	are registered on the New	are registered on the New
the purpose of obtaining credit.	Mexico trainer registry.	Mexico trainer registry.
	Identical trainings shall not be	Identical trainings shall not be
	repeated for the purpose of	repeated for the purpose of
	obtaining credit.	obtaining credit.

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

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.

8.9.4.34 (B)(3): Services and Care of Children in Homes – Naps or Rest Period

Each child [will] 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.

8.9.4.34 (B)(3): Services and Care of Children in Homes – Naps or Rest Period

Each child [will] 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 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 bottlefeeding. Infants unable to sit shall always be held for bottle8.9.4.34 (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 bottlefeeding. Infants unable to sit shall always be held for bottle-

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Current Language	Proposed Language	Final Adopted Language
	guardian's consent. Family Education Right and Privacy Act (FERPA) will be respected at all times.	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)		
	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 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		

Current Language	Dronosod Longuago	Final Adopted Language
Current Language	Proposed Language	Final Adopted Language
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		
		sign and agree to standard policies and
	n, and that child care providers may to	
	the presence of the early intervention	
	defined by the applicable federal or st	· · · · · · · · · · · · · · · · · · ·
•	ntion service provider from their facili	•
	8 hours to ECECD with a detailed reas	-
8.9.4.34 G(5)		
8.9.4.34 (G)(5): Physical	8.9.4.34 (G)(5): Physical	8.9.4.34 (G)(5): Physical Environment
Environment	Environment	
21111101111		Materials are [well] <mark>properly</mark>
Materials are well cared for and	Materials are [well]	cared for and organized by
organized by type. Where	properly cared for and	type. Where appropriate,
appropriate, materials are labeled	organized by type. Where	materials are labeled with
with words or pictures. Adaptations	appropriate, materials are	words or pictures.
to materials are made when needed	labeled with words or	Adaptations to materials
to accommodate various abilities of	pictures. Adaptations to	are made when needed to
all children. Unused materials are	materials are made when	accommodate various
stored in inaccessible storage.	needed to accommodate	abilities of all children.
· ·	various abilities of all	Unused materials are
	children. Unused	stored in inaccessible
	materials are stored in	storage.
	inaccessible storage.	
	Explanatory Statement	
There were no substantive comment	s received. ECECD is adopting the pro	posed amendment.
8.9.4.34 I(1)		
8.9.4.34 (I)(1): Equipment and	8.9.4.34 (I)(1): Equipment and	8.9.4.34 (I)(1): Equipment and
Program	Program	Program
Toys and equipment must be safe,	Toys and equipment must be	Toys and equipment must be
durable, and easy to clean, non-	safe, durable, and easy to	safe, durable, and easy to
toxic and sanitized daily. Toys shall	clean, non-toxic and	clean, non-toxic and
be disinfected, at a minimum of,	sanitized daily. Toys shall be	sanitized daily. Toys shall be
once per week. Frequency of	disinfected, at a minimum	disinfected, at a minimum
disinfection of toys must be	of, once per week.	of, once per week.
increased in the event of a	Frequency of disinfection of	Frequency of disinfection of
communicable disease, following	toys must be increased in	toys must be increased in
appropriate guidance	the event of a	the event of a communicable
	communicable disease, by	disease, <mark>by</mark> following
	following appropriate	appropriate guidance.
	1	
	guidance.	
Thomas	guidance. Explanatory Statement s received. ECECD is adopting the pro	

8.9.4.34 (I)(9): Equipment and

Program

8.9.4.34 I(9)

Program

8.9.4.34 (I)(9): Equipment and

8.9.4.34 (I)(9): Equipment and

Program

Current Language	Proposed Language	Final Adopted Language
Full-time children shall have a	Full-time children shall have a	Full-time children shall have a
minimum of 60 minutes of physical		minimum of 60 minutes of
activity daily, preferably outside.	physical activity daily,	physical activity daily, preferably
Part time children shall have a	preferably outside. Part[]-time	outside. Part[] <mark>-</mark> time <mark>enrolled</mark>
minimum of 30 minutes of physical	enrolled children shall have a	children shall have a minimum
activity daily, preferably outside.	minimum of 30 minutes of	of 30 minutes of physical activity
The provider will ensure drinking	physical activity daily,	daily, preferably outside. The
water is available and maintained at	preferably outside. The provider	provider [will] <mark>shall</mark> ensure
a cool temperature while playing	[will] <mark>shall</mark> ensure drinking water	drinking water is available and
outside.	is available and maintained at a	maintained at a cool
	cool temperature while playing	temperature while playing
	outside.	outside.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 J(2)		
8.9.4.34(J)(2): Outdoor Play	8.9.4.34(J)(2): Outdoor Play	8.9.4.34(J)(2): Outdoor Play
A home will enclose the outdoor	A home [will] <mark>shall</mark> enclose the	A home [will] <mark>shall</mark> enclose the
play area with a fence at least four	outdoor play area with a fence	outdoor play area with a fence
feet high and with at least one	at least four feet high and with	at least four feet high and with
latched gate available for an	at least one latched gate	at least one latched gate
emergency exit.	available [for] <mark>as</mark> an emergency	available [for] <mark>as</mark> an emergency
	exit.	exit.
Explanatory Statement		
There were no comments received. E	CECD is adopting the proposed amend	lment.
8.9.4.34 J(4)		
8.9.4.34(J)(4): Outdoor Play	8.9.4.34(J)(4): Outdoor Play	8.9.4.34(J)(4): Outdoor Play
The use of a trampoline is prohibited	The state of the s	The use of a trampoline is
at any time during the hours of	prohibited at [any] <mark>all</mark> time	prohibited at [any] <mark>all</mark> time
operation or by any children	during the hours of operation or	during the hours of operation or
receiving care at the facility.	by any children receiving care	by any children receiving care at
	at the facility.	the facility.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 J(5)		
8.9.4.34(J)(5): Outdoor Play	8.9.4.34(J)(5): Outdoor Play	8.9.4.34(J)(5): Outdoor Play
Children shall be protected from the	Children shall be protected	Children shall be protected
sun during outdoor play by providing	from the sun during outdoor	from the sun during outdoor
shade (as necessary), sunscreen,	play by providing shade (as	play by providing shade (as
proper attire and limiting the time of	necessary), sunscreen (as	necessary), sunscreen <u>(as</u>
exposure to the elements. The	permitted by parent/guardian),	permitted by parent/guardian),
provider must also consider	proper attire and limiting the	proper attire and limiting the
[*]	time of exposure to the	time of exposure to the
instructions by the child's parent or	מווום טו פגףטפעום נט נוופ	title of exhospie to tile

Current Language	Proposed Language	Final Adopted Language
guardian. Drinking water should be	elements. The provider must	elements. The provider must
available as needed and outlined in	also consider instructions by	also consider instructions by
Paragraph (9) of Subsection I of	the child's parent or guardian.	the child's parent or guardian.
8.9.4.34 NMAC.	Drinking water should be	Drinking water should be
	available as needed and	available as needed and
	outlined in Paragraph (9) of	outlined in Paragraph (9) of
	Subsection I of 8.9.4.34 NMAC.	Subsection I of 8.9.4.34 NMAC.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 K(2)		
N/A; New text	8.9.4.34(K) <mark>(2):</mark> Swimming, Wading	8.9.4.34(K) <mark>(2):</mark> Swimming, Wading
	and Water	and Water
	Children shall be constantly	Children shall be constantly
	supervised while swimming, wading,	supervised while swimming, wading,
	or in or near, and the number of	or in or near, and the number of
	adults present must be proportional	adults present must be proportional
	to the ages and abilities of the	to the ages and abilities of the
	children and type of water hazard in	children and type of water hazard in
	use.	use.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.34 K(4)		
8.9.4.34 K(3)(c)	8.9.4.34 K(4)	8.9.4.34 K(4)
()()		,
(c)when in use, children will be	[(c) when in use, children will be	(c) when in use, children will be
constantly supervised and the	constantly supervised and the	constantly supervised and the
number of adults present will be	number of adults present will be	number of adults present will be
proportional to the ages and abilities	proportional to the ages and abilities	proportional to the ages and abilities
of the children and type of water	of the children and type of water	of the children and type of water
hazard in use.	hazard in use.]	hazard in use.]
	Explanatory Statement	-
There were no substantive comments	s received. ECECD is adopting the prop	osed amendment.
8.9.4.35 B(2)		
8.9.4.35 (B)(2): Meals and Snacks	8.9.4.35 (B)(2): Meals and Snacks	8.9.4.35 (B)(2): Meals and Snacks
A home will serve if necessary a	A home [will] <mark>shall</mark> serve [if	A home [will] <mark>shall</mark> serve [if
child a therapeutic or special diet	necessary to a child a	necessary to a child a
with a written prescription/diet order		therapeutic or special diet with
from a physician or a registered or	with a written prescription/diet	a written prescription/diet
licensed dietician. Diet orders must	order from a physician or a	order from a physician or a
be complete and descriptive, and	registered or licensed	registered or licensed
not subject to interpretation by the	dietician. Diet orders must be	dietician. Diet orders must be
educators.	complete and descriptive, and	complete and descriptive, and
euucatuis.	not subject to interpretation	not subject to interpretation by
	by the educators.	the educators.
	שין נווכ כנונטנטוט.	เมอ ฮนนบสเบเจ.

Current Language	Proposed Language	Final Adopted Language
Curront Lunguage	Explanatory Statement	i matriaspisa zangasgo
There were no substantive comments	s received. ECECD is adopting the prop	oosed amendment.
8.9.4.35 D(5)		
• •	9.0.4.25 (D)/5): Kitohono	9.0.4.25 (D)(E): Vitabana
8.9.4.35 (D)(5): Kitchens	8.9.4.35 (D)(5): Kitchens	8.9.4.35 (D)(5): Kitchens
If food is brought from the child's	If food is brought from the	If food is brought from the
home, a home will label it with the	child's [home] <u>residence</u> , a	child's [home] <mark>residence</mark> , a
child's name and refrigerate if	home [will] <mark>shall</mark> label it with	home [will] shall label it with the
necessary. A home will label and	the child's name and	child's name and refrigerate if
refrigerate bottles of infant formula	refrigerate if necessary. A	necessary. A home [will] shall
or breast milk. Labeling is not	home [will] shall label and	label and refrigerate bottles of
necessary if only one child is using	refrigerate bottles of infant	infant formula or breast milk.
bottles.	formula or breast milk.	Labeling is not necessary if only
	Labeling is not necessary if	one child is using bottles.
	only one child is using bottles.	
	Explanatory Statement	
There were no substantive comments	s received. ECECD is adopting the prop	osed amendment.
8.9.4.38 C(2)		
8.9.4.38 (C)(2): Mechanical Systems	8.9.4.38 (C)(2): Mechanical Systems	8.9.4.38 (C)(2): Mechanical Systems
A home will not use unvented	A home [will] shall not use	A home [will] shall not use
heaters, open flame heaters or	[unvented] heaters without	[unvented] heaters without
portable heaters. A home will install	vents, open flame heaters or	vents, open flame heaters or
barriers or take other steps to ensure heating units, are	portable heaters. A home [will] shall install barriers or take	portable heaters. A home [will] shall install barriers or take other
inaccessible to children.	other steps to ensure heating	steps to ensure heating units,
maccessible to children.	units, are inaccessible to	are inaccessible to children.
	children.	are maccessible to emurem.
	Explanatory Statement	
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.
8.9.4.38 E		
8.9.4.38 (E): Exits	8.9.4.38 (E): Exits	8.9.4.38 (E): Exits
All activity appears for abildren and a	All activity opened for abildren	All activity spaces for children
All activity spaces for children under the age of two and a half years shall	All activity spaces for children	
be on the "level of exit discharge" or	under the age of two[]-and[]-a half[]-years shall be on the	under the age of two[]-and[]-a half[]-years shall be on the
ground floor.	"level of exit discharge" or	"level of exit discharge" or
ground noor.	ground floor.	ground floor
	Explanatory Statement	J 6 2
There were no substantive comments	s received. ECECD is adopting the prop	oosed amendment.
8.9.4.38 H		
8.9.4.38 (H): Smoking, Firearms,	8.9.4.38 (H): Smoking, Firearms,	8.9.4.38 (H): Smoking, Firearms,
Alcoholic Beverages, Illegal Drugs	Alcoholic Beverages, Illegal Drugs	Alcoholic Beverages, Illegal Drugs
and Controlled Substances	and Controlled Substances	and Controlled Substances

Current Language Proposed Language Final Adopted Language A home will prohibit smoking, e-A home, including any vehicles, A home, including any vehicles, cigarettes, vaporizers, and the will prohibit smoking, ewill prohibit smoking, edrinking of alcoholic beverages in all cigarettes, nicotine and cigarettes, nicotine and areas, including vehicles, when cannabis vaporizers, and any cannabis vaporizers, and any children are present. A home will other vaporizing device not other vaporizing device not unload all guns, such as pellet or BB prescribed by a licensed prescribed by a licensed medical medical professional in all professional in all areas, when guns, rifles and handguns, lethal areas, when children are children are present. A home, and non-lethal weapons and keep present. A home, including any including any vehicles, will them in a locked area inaccessible vehicles, will prohibit the to children. prohibit the drinking of alcoholic drinking of alcoholic beverages beverages in all areas[, including in all areas[, including vehicles], vehicles], when children are when children are present. A present. A home [will] shall home [will] shall unload all guns, unload all guns, such as pellet or such as pellet or BB guns, rifles BB guns, rifles and handguns, and handguns, lethal and nonlethal and non-lethal weapons lethal weapons and keep them and keep them in a locked area in a locked area inaccessible to inaccessible to children. children. **Explanatory Statement** There were no substantive comments received. ECECD is adopting the 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): <u>Animals or Pets</u> **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 8.9.4.40 (A)(1): Licensing 8.9.4.40 (A)(1): Licensing Requirements: Application Form Requirements: Application Form Requirements: Application Form An applicant will complete an An applicant [will] shall complete an An applicant [will] shall complete an application form provided by the application form provided by the application form provided by the licensing authority and include licensing authority[and include licensing authority[and include payment for the non-refundable payment for the non-refundable payment for the non-refundable application fee. Applications will be application fee]. Applications will be application fee]. Applications will be rejected unless all supporting rejected unless all supporting rejected unless all supporting documents are received within six documents are received within six documents are received within six months of the date indicated on the months of the date indicated on the months of the date indicated on the application. A 45 day extension will application. A 45 day extension will application. A 45 day extension will be granted if the licensee provides be granted if the licensee provides be granted if the licensee provides documentation to the licensing documentation to the licensing documentation to the licensing authority that documents were authority that documents were authority that documents were

submitted to the appropriate

these agencies.

agencies in a timely manner but,

through no fault of their own, they

have not received responses from

submitted to the appropriate

these agencies.

agencies in a timely manner but,

through no fault of their own, they

have not received responses from

submitted to the appropriate

these agencies.

agencies in a timely manner but,

through no fault of their own, they

have not received responses from

Current Language	Proposed Language	Final Adopted Language
Current Lunguage	Explanatory Statement	i macraoptou zangaago
There were no substantive comments	received. ECECD is adopting the prop	oosed amendment.
8.9.4.40 B(3)(a)		
8.9.4.40 (B)(3)(a): Capacity of a	8.9.4.40 (B)(3)(a): Capacity of a	8.9.4.40 (B)(3)(a): Capacity of a
Program	Program	Program
35 square feet of indoor activity 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.	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.	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.
	regardless of available square footage.	
	Explanatory Statement	
staffing and scheduling burden to ma	ment include the potential loss of capa intain compliance during opening and e concerns, ECECD is not adopting the	closing hours when mixed-age groups
8.9.4.41 (A): Administrative Records	8.9.4.41 (A): Administrative Records	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:	ADMINISTRATION RECORDS: A licensee shall display in a prominent place that is readily visible to parents, guardians, staff and visitors:	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 prop	osed 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
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 prop	oosed amendment.
8.9.4.41 C(2)		
N/A; New text	8.9.4.41 (C)(2): Family Handbook – Policies and Procedures	8.9.4.41 (C)(2): Family Handbook – Policies and Procedures

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

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

8.9.4.41 D(1)(b)

8.9.4.41 (D)(1)(b) Children's Records	8.9.4.41 (D)(1)(b) Children's Records	8.9.4.41 (D)(1)(b) Children's Records
– Personal Information	– Personal Information	– Personal Information
names of the parents or guardians,	names of the parents or guardians,	names of the parents or guardians,
the parents or guardian's current	the parents or guardian's current	the parents or guardian's current
places of employment, addresses,	places of employment, addresses,	places of employment, addresses,
and pager, cellular and work	[and pager,] cellular and work	[and pager,] cellular and work
telephone numbers;	telephone numbers;	telephone numbers;
Explanatory Statement		
Ti		

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	8.9.4.41 (D)(1)(f) Children's Records	8.9.4.41 (D)(1)(f) Children's Records
– Personal Information	– Personal Information	– Personal Information

Current Language	Proposed Language	Final Adopted Language
written authorization from the	written authorization from the	written authorization from the
child's parent or guardian to remove	child's parent or guardian to	child's parent or guardian to
a child from the premises to	remove a child from the	remove a child from the
participate in off-site activities;	premises to participate in off-	premises to participate in off-
authorization must contain fieldtrip	site activities; authorization	site activities; authorization
destination, date and time of	must contain [fieldtrip] <mark>activity</mark>	must contain [fieldtrip] <mark>activity</mark>
fieldtrip and expected return time	destination, date and time of	destination, date and time of
from fieldtrip;	[fieldtrip] activity and expected	[fieldtrip] activity and expected
	return time from	return time from
	[fieldtrip]activity;	[fieldtrip]activity;

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

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.

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

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.

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

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

Current Language	Proposed Language	Final Adopted Language
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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

employment showing that

<u>it is in process, must be</u>

placed in file. A

background check must be

conducted at least once per five year interval on all

required individuals;

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 <u>number;</u>
- (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

<u>it is in</u> process, must be

placed in file. A

background check must be conducted at least once

per five year interval on all

required individuals;

Current Language	Proposed Language	Final Adopted Language
	(f) an annual signed	(f) an annual signed
	statement that the staff	statement that the staff
	<mark>member would or would</mark>	<mark>member would or would</mark>
	not be disqualified as a	<mark>not be</mark>
	direct provider of care	direct provider of care
	under the most current	under the most current
	version of the background	version of the background
	checks and employment	checks and employment
	history verification	history verification
	provisions pursuant to	provisions pursuant to
	8.9.6 NMAC;	8.9.6 NMAC;
	(g) documentation of current	(g) documentation of current
	first-aid and cardiopulmonary	first-aid and cardiopulmonary
	resuscitation training;	resuscitation training;
	(h) documentation of	(h) documentation of
	all appropriate	all appropriate training
	training by date, time,	<mark>by date, time, hours</mark>
	hours and area of	<mark>and area of</mark>
	competency;	<mark>competency;</mark>
	(i) emergency contact number;	(i) emergency contact number;
	(j) universal precaution	(j) universal precaution
	<mark>acknowledgment form;</mark>	acknowledgment form;
	(k) confidentiality form;	(k) confidentiality form;
	(I) results of performance	(I) results of performance
	evaluations; (m) administrative actions or	evaluations (shall be maintained outside of PDIS);
	reprimands;	(m) administrative actions or
	(n) written plan for ongoing	reprimands (shall be maintained
	professional development	outside of PDIS);
	for each educator,	<mark>(n)</mark> written plan for ongoing
	including the director, that	professional development
	is based on the seven areas	for each educator, including
	of competency, consistent	the director, that is based
	with the department's	on the seven areas of
	career lattice, and based	<mark>competency, consistent</mark>
	on the individual's goals;	with the [department's]
	and	<mark>career lattice, and</mark> based on
	(o) signed	the individual's goals; and
	acknowledgment that the	<mark>(o)</mark> signed
	staff have read and	acknowledgment that the
	understand the personnel	staff have read and
	handbook;	understand the personnel
	(p) signed	<mark>handbook;</mark>
	acknowledgement that	<mark>(p) signed</mark>
	all staff have reviewed	<mark>acknowle</mark> dgement that
	and are aware of the	all staff have reviewed
	center's disaster	<mark>and are aware of the</mark>
	preparedness plan and	<mark>center's disaster</mark>
	evacuation plan; and	<mark>preparedness plan and</mark>
	(q) hourly rate of pay.	evacuation plan;
	tan in the second party.	
	1	

Current Language	Proposed Language	Final Adopted Language
	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)

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

8.9.4.41 (F)(20): Personnel

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)

age five.

The site director or a designated codirector 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

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 codirector 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
8.9.4.42 (A)(8): Personnel and	8.9.4.42 (A)(8): Personnel and	8.9.4.42 (A)(8): Personnel and
Staffing Requirements	Staffing Requirements	Staffing Requirements

Proposed Language	Final Adopted Language
If the program has [less] fewer than seven children, the second staff member may be engaged in other duties.	If the program has [less] fewer than seven children, the second staff member may be engaged in other duties.
Explanatory Statement	
s received. ECECD is adopting the prop	oosed amendment.
8.9.4.42 (B)(1): Staff Qualifications	8.9.4.42 (B)(1): Staff Qualifications
Unless exempted under Paragraph (3) below, an out[]-of[]-school[]-time program [will] shall have an administrator/director who is at least 21 years old and has proof of a current copy of:	Unless exempted under Paragraph (3) below, an out[]-of[]-school[]-time program [will] shall have an administrator/director who is at leas 21 years old and has proof of a current copy of:
Explanatory Statement	
s received. ECECD is adopting the prop	oosed amendment.
8.9.4.42 (B)(2): Staff Qualifications	8.9.4.42 (B)(2): Staff Qualifications
Every site of an out[]-of[]-school[]-time program [will] 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.	Every site of an out[]-of[]-school[]-time program [will] 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	
	seven children, the second staff member may be engaged in other duties. Explanatory Statement received. ECECD is adopting the property services and services and services are ceived. ECECD is adopting the property services and services are ceived. ECECD is adopting the property shall have an administrator/director who is at least 21 years old and has proof of a current copy of: Explanatory Statement received. ECECD is adopting the property site of an out[]-of[]-school[]-time program [witl] 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(3)

Current Language	Proposed Language	Final Adopted Language
8.9.4.42 (B)(3): Staff Qualifications	8.9.4.42 (B)(3): Staff Qualifications	8.9.4.42 (B)(3): Staff Qualifications
Program administrators and site	Program administrators and site	Program administrators and site
directors employed in a licensed	directors employed in a licensed	directors employed in a licensed
program on the date these	program on the date these	program on the date these
regulations become effective but	regulations become effective <mark>,</mark> but	regulations become effective <mark>,</mark> but
who are not qualified will continue	who are not qualified <mark>,</mark> will [continue	who are not qualified <mark>,</mark> will [continue
to qualify in their positions as long	to qualify in] be qualified to continue	to qualify in] be qualified to continue
as they continuously work as	in their positions as long as they	in their positions as long as they
program administrators or site	continuously work as program	continuously work as program
directors.	administrators or site directors.	administrators or site directors.
Explanatory Statement		

	Proposed Language	Final Adopted Language		
There were no substantive comments	s received. ECECD is adopting the prop	osed amendment.		
8.9.4.42 C(2)(k)				
Current Language	Proposed Language	Final Adopted Language		
8.9.4.42 (C)(2)(k): Training	8.9.4.42 (C)(2)(k): Training	8.9.4.42 (C)(2)(k): Training		
a child development course that 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 threecredit 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	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.	the department.		
	Explanatory Statement			
	register. ECECD will adopt the propose	ning requirements in the Child Care ed amendment.		
and Development Fund in the federal Some public comments recommend based social-emotional learning and	-	ed amendment. If additional training in evidence-		
and Development Fund in the federal Some public comments recommend based social-emotional learning and 8.9.4.42 C(6)	register. ECECD will adopt the proposed the requirement or incentivization of inclusive practices. ECECD will not reconstructions.	ed amendment. If additional training in evidence- quire additional training at this time.		
and Development Fund in the federal Some public comments recommend based social-emotional learning and	register. ECECD will adopt the propose ed the requirement or incentivization o	ed amendment. If additional training in evidence-		
and Development Fund in the federal Some public comments recommend based social-emotional learning and 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	ed the requirement or incentivization of inclusive practices. ECECD will not reconstruct the proposed as 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	additional training in evidence-quire additional training at this time. 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		
and Development Fund in the federal Some public comments recommend based social-emotional learning and 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.	ed the requirement or incentivization of inclusive practices. ECECD will not reconstruct the proposed as 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.	additional training in evidence-quire additional training at this time. 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.		
and Development Fund in the federal Some public comments recommend based social-emotional learning and 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.	ed the requirement or incentivization of inclusive practices. ECECD will not reconstruct the proposed as 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	additional training in evidence-quire additional training at this time. 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.		
and Development Fund in the federal Some public comments recommend based social-emotional learning and 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. There were no substantive comments 8.9.4.43 B(6) 8.9.4.43 (B)(6): Physical Environment Materials are well cared for and	ed the requirement or incentivization of inclusive practices. ECECD will not red 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 is received. ECECD is adopting the proping the proping services are [well] properly cared	additional training in evidence-quire additional training at this time. 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.		
and Development Fund in the federal Some public comments recommend based social-emotional learning and 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. There were no substantive comments 8.9.4.43 B(6) 8.9.4.43 (B)(6): Physical Environment	ed the requirement or incentivization of inclusive practices. ECECD will not reconclusive provided by individuals who have education or experience in the competency area (or areas) in which they provided training. Explanatory Statement areceived. ECECD is adopting the proposition of the pro	additional training in evidence-quire additional training at this time. 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. sosed amendment. 8.9.4.43 (B)(6): Physical Environment Materials are [well] properly cared		
and Development Fund in the federal Some public comments recommend based social-emotional learning and 8.9.4.42 C(6) 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. There were no substantive comments 8.9.4.43 B(6) 8.9.4.43 (B)(6): Physical Environment Materials are well cared for and organized by type.	ed the requirement or incentivization of inclusive practices. ECECD will not red 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 is received. ECECD is adopting the proping the proping services are [well] properly cared	additional training in evidence-quire additional training at this time. 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. sosed amendment. 8.9.4.43 (B)(6): Physical Environment Materials are [welt] properly cared for and organized by type.		

Current Language	Proposed Language	Final Adopted Language		
N/A	8.9.4.43 (E) (3): Additional	N/A		
	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.			
	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	Licensees shall protect children	Licensees shall protect children		
from the sun during outdoor play by	from the sun during outdoor play by	from the sun during outdoor play by		
providing shade (as necessary),	providing shade (as necessary),	providing shade (as necessary),		
sunscreen, proper attire and limiting	sunscreen <mark>(as permitted by</mark>	sunscreen <mark>(as permitted by</mark>		
the time of exposure to the	parent/guardian), proper attire and	parent/guardian), proper attire and		
elements.	by limiting the time of exposure to	by limiting the time of exposure to		
	the elements.	the elements.		
	Explanatory Statement			
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.		
8.9.4.43 G(2)				
N/A – New text	8.9.4.43 (G) <mark>(2):</mark> Swimming, Wading and Water	8.9.4.43 (G) <mark>(2):</mark> Swimming, Wading and Water		
	Children shall be constantly	Children shall be constantly		
	supervised while swimming, wading,	supervised while swimming, wading,		
	or in or near, and the number of	or in or near, and the number of		
	adults present must be proportional	adults present must be proportional		
	to the ages and abilities of the	to the ages and abilities of the		
	children and type of water hazard in	children and type of water hazard in		
	use.	use.		
Explanatory Statement				
There were no substantive comments received. ECECD is adopting the proposed amendment.				
8.9.4.43 G(4)				
8.9.4.43 (G)(3)(c): Swimming,	8.9.4.43 (G) [(3)(c)]	8.9.4.43 (G) [(3)(c)]		
wading and water	wading and water	wading and water		

Current Language	Proposed Language	Final Adopted Language		
when in use, children will be	[(c) when in use, children will	[(c) when in use, children will be		
constantly supervised and the	be constantly supervised	constantly supervised and the		
number of adults present will be	and the number of adults	number of adults present will be		
proportional to the ages and abilities	present will be proportional	proportional to the ages and abilities		
of the children and type of water	to the ages and abilities of	of the children and type of water		
hazard in use	the children and type of	hazard in use.]		
	water hazard in use.]			
	Explanatory Statement			
There were no substantive comments received. ECECD is adopting the proposed amendment.				
8.9.4.45 D(2)				
8.9.4.45 D (2): Illness	8.9.4.45 D (2): Illness	8.9.4.45 D (2): Illness		
A program will separate and	A program [will] <mark>shall</mark> separate	A program [will] <mark>shall</mark> separate and		
constantly observe a child who	and constantly observe a child	constantly observe a child who		
becomes sick at the program and	who becomes sick[at the	becomes sick[at the program] <mark>on the</mark>		
promptly notify a parent or guardian	program] <mark>on the premises</mark> and	premises and promptly notify a		
of the child's illness.	promptly notify a parent or	parent or guardian of the child's		
	guardian of the child's illness.	illness.		
	Explanatory Statement			
There were no substantive comments	s received. ECECD is adopting the pro	pposed amendment.		
8.9.4.45 D(4)				
8.9.4.45 D (4): Illness	8.9.4.45 D (4): Illness	8.9.4.45 D (4): Illness		
The program will have a cot or mat	The program [will] <mark>shall</mark> have a	The program [will] shall have a cot or		
available for sick children and it will	cot or mat available for sick	mat available for sick children [and		
be cleaned and disinfected	children [and it] <mark>which</mark> will be	it] which will be cleaned and		
thoroughly after use.	cleaned and disinfected	disinfected thoroughly after use.		
and a significant of the signifi	thoroughly after use.	and the same of th		
	Explanatory Statement			
There were no substantive comments	received. ECECD is adopting the pro	pposed amendment.		
8.9.4.47 A(2)				
8.9.4.47 (A)(2): Housekeeping	8.9.4.47 (A)(2): Housekeeping	8.9.4.47 (A)(2): Housekeeping		
Matarials dangarous to children		Materials dangerous to children		
Materials dangerous to children must be secured in a manner	Matarials dangarous to children	must be secured in a manner making		
	Materials dangerous to children must be secured in a manner	them inaccessible to children and		
making them inaccessible to children and away from food storage	making them inaccessible to	away from food [storage or		
or preparation areas.	children and away from food]preparation or storage areas.		
or preparation areas.	[storage or]preparation or	The paration of storage areas.		
	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	(1) All licensed programs must use a	(1) All licensed programs must use a			
New Mexico licensed applicator	New Mexico licensed	New Mexico licensed			
whenever applying pesticides in or	[applicator] <mark>pest control</mark>	[applicator]pest control professional			
on the program's buildings and	professional whenever applying	whenever applying pesticides in or			
grounds.	pesticides in or on the program's	on the program's buildings and			
	buildings and grounds.	grounds.			
(2) The applicator may not apply					
pesticides when children are on the	(2) [The applicator may not apply	(2) [The applicator may not apply			
premises.	p]Pesticides may not be applied	p] <mark>P</mark> esticides <u>may not be applied</u>			
	when children are on the premises.	when children are on the premises			
	Explanatory Statement				
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.			
8.9.4.47 C(3)					
8.9.4.47 (C)(3): Mechanical Systems	8.9.4.47 (C)(3): Mechanical Systems	8.9.4.47 (C)(3): Mechanical Systems			
A program will not use unvented	A program [will] <mark>shall</mark> not use	A program [will] <mark>shall</mark> not use			
heaters, open flame heaters or	[unvented] heaters <mark>without vents</mark> ,	[unvented] heaters <mark>without vents</mark> ,			
portable heaters.	open flame heaters or	open flame heaters or			
	portable heaters.	portable heaters.			
	Explanatory Statement				
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.			
8.9.4.47 E(2)					
8.9.4.47 E (2): Exits and Windows	8.9.4.47 E (2): Exits and Windows	8.9.4.47 E (2): Exits and Windows			
Exit ways must be kept free from	Exit [ways] <u>access</u> must be kept free	Exit [ways] <u>access</u> must be kept free			
obstructions at all times.	from obstructions at all times.	from obstructions at all times.			
	Explanatory Statement				
There were no substantive comments	received. ECECD is adopting the prop	osed amendment.			
8.9.4.47 F(2)					
8.9.4.47 F (2): Toilet and Bathing	8.9.4.47 F (2): Toilet and Bathing	8.9.4.47 F (2): Toilet and Bathing			
Facilities	Facilities	Facilities			
The staff manual and all manimum a	The shoff was as bounded in the in-	The staff was male an all was intained			
The staff member shall maintain a	The staff member shall maintain a	The staff member shall maintain a			
direct line of sight of the child until the child enters the bathroom and	direct line of sight of the child until the child enters the bathroom and	direct line of sight of the child until the child enters the bathroom and			
from the time the child leaves the	from the time the child leaves the	from the time the child leaves the			
bathroom until the child returns. A	bathroom [until the child returns]	bathroom [until the child returns]			
staff member will accompany	and returns to the supervised area.	and returns to the supervised area.			
children to the bathroom door when	A staff member [will] shall	A staff member [will] shall			
maintaining a line of sight is	accompany children to the	accompany children to the bathroom			
impossible due to bathrooms being	bathroom door [when] <mark>if</mark> maintaining	door [when] <mark>if</mark> maintaining a line of			
not located within a direct line of	a line of sight is impossible due to	sight is impossible due to bathrooms			
sight.	bathrooms being not located within	being not located within a direct line			
	a direct line of sight.	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	8.9.4.47 (G) (1): Safety Compliance	8.9.4.47 (G) (1): Safety Compliance
A program will conduct emergency preparedness practice drills at least quarterly beginning of each school calendar year.	A program [will] shall conduct quarterly emergency preparedness practice drills [at least quarterly beginning] starting at the commencement of each school calendar year.	A program [will] shall conduct quarterly emergency preparedness practice drills [at least quarterly beginning] starting at the commencement of each school calendar year.
	Evalonatory 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

8.9.4.47 (G) (5): Safety Compliance

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

8.9.4.47 (G) (5): Safety Compliance

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

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

8.9.5 NMAC – Explanatory Statement

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

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

8.9.5.7 C (2)

Current Language	Proposed Language	Final Adopted Language
8.9.5.7 C (2): Definitions	8.9.5.7 C (2): Definitions	8.9.5.7 C (2): Definitions
A cease and desist letter is usually issued when a registered care giver violates applicable regulations, but there is not an immediate threat to the health and safety of children in care, and seeks to compel compliance before more serious action is taken.	A cease and desist letter is usually issued when a registered care [-]giver violates applicable regulations, but there is not an immediate threat to the health and safety of children in care, and seeks to compel compliance before more serious action is taken.	A cease and desist letter is usually issued when a registered care[-]giver violates applicable regulations, but there is not an immediate threat to the health and safety of children in care, and seeks to compel compliance before more serious action is taken.
Explanatory Statement		
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	8.9.5.7 D (1): Definitions	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.	"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.	"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	8.9.5.7 E (2): Definitions
	"Environment" means that the	"Environment" means a space
	space meets all required local,	meeting all required local, state,
	state, and federal regulations.	and federal regulations.
	Environment includes space (both	Environment includes space (both
	indoors and outdoors) with	indoors and outdoors) with
	appropriate equipment and	appropriate equipment and
	materials that encourage children	materials that encourage children
	to engage in hands-on learning.	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	
	<mark>care.</mark>	
Explanatory Statement		

As a result of the addition of 8.9.5.16(C) NMAC, this proposed language was amended for clarity.

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

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

8.9.5.7 H (1)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 H (1): Definitions	8.9.5.7 H (1): Definitions	8.9.5.7 H (1): Definitions

- (1) "Home" means a private residence and its premises registered under these regulations where children receive care, services, and supervision. The caregiver will reside in the home 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.
- (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 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.
- (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 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.

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

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

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

8.9.5.7 R (3)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.7 R (3): Definitions	8.9.5.7 R (3): Definitions	8.9.5.7 R (3): Definitions
"Registered family child care food-	"Registered family child care	"Registered family child care
only home" means the residence of	food-only home" means the	food-only home" means the
an independent primary caregiver	residence of an independent	residence of an independent
who registers the home under these	primary caregiver who	primary caregiver who
regulation to participate in the child	registers the home under these	registers the home under these
and adult care food program only	regulation to participate in the	regulation to participate in the
and does not participate in the	child and adult care food	child and adult care food

state and federal child care assistance program.	program (CACFP) only and does not participate in the state and federal child care assistance program.	program (CACFP) only and does not participate in the state and federal child care assistance program.
	Explanatory Statement	
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

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

8.9.5.8 A		
Current Language	Proposed Language	Final Adopted Language
8.9.5.8 A: Application	8.9.5.8 A: Application	8.9.5.8 A: Application
An independent caregiver who 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	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	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	licensed with CCSB . [All registered	licensed with CCSB. [All registered
homes receiving child care	homes receiving child care	homes receiving child care
assistance subsidies must be	assistance subsidies must be	assistance subsidies must be
enrolled and participate in the	enrolled and participate in the	enrolled and participate in the
CACFP, unless they are exempt.	CACFP, unless they are exempt.]	CACFP, unless they are exempt.]
Primary caregivers must provide	Primary caregivers must provide	Primary caregivers must provide
photo identification to prove	photo identification to prove	photo identification to prove

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

8.9.5.8 D		
Current Language	Proposed Language	Final Adopted Language
8.9.5.8 D: Application	8.9.5.8 D: Application	8.9.5.8 D: Application
N/A – New Language	N/A – No Proposed Changes	(D) Child care homes operating on sovereign tribal lands are governed and inspected by the federal Tribal Child Care and Development Fund (CCDF) Lead Agency. Therefore, such registered homes do not require an inspection by the New Mexico registered authority. (1) Homes governed and inspected by the federal Tribal Child
		Care and Development Fund (CCDF) Lead Agency, may choose to apply for a Tribal Government registration from ECECD.
		(a) A Tribal Government registration may be issued for the purposes of receiving child care assistance subsidies through 8.9.3 NMAC.
		under a Tribal Government registration must comply with their sponsoring Tribal Child Care and Development Lead Agency and are not required to be inspected by the New Mexico registered home authority or comply with any other regulations under this part other than 8.9.5.8(D) NMAC.
		(c) Registered homes operating under a Tribal Government

registration must comply with their sponsoring Tribal Child Care and Development Lead Agency rules and requirements.

- (d) A Tribal Government registration may be revoked if the New Mexico registered authority is notified by the registered home's Tribal Child Care and Development Lead agency of the registered home's non-compliance with their rules and requirements.
- (2) Caregivers registered by the Tribal CCDF Lead Agency program must submit the following to obtain a tribal government child care registration from ECECD:
- (a) Application;
- (b) Proof of Tribal CCDF Lead

 Agency approval;
- (c) Annual submission of a letter or memorandum attesting compliance with state, federal or Tribal background check clearances;
- (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.
- 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.

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

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

8.9.5.10 H		
Proposed Language	Final Adopted Language	
8.9.5.10 H: Caregiver Requirements	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	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	training within three months of their original date of initial	
	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	

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:

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:

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.

, , , , , , , , , , , , , , , , , , , ,	Final Adopted Language .5.10 H (12): Caregiver
, , , , , , , , , , , , , , , , , , , ,	5.10 H (12): Caregiver
Requirements Requirements Req	.5.1011 (12). Galegivei
	quirements
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 threecredit early care and education course or an equivalent approved by the department. 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 threecredit early care and education course or an equivalent approved course or an equivalent approved	nild development course that dresses all major domains of all development, including gnitive, social emotional, visical development and broach to learning as defined by federal Child Care and velopment Fund tps://www.ecfr.gov/current/title-subtitle-A/subchapter-A/part-198.44.b.ii).] in 45 CFR § 98.44 ning and professional velopment, or approved three-dit early care and education arse or an equivalent approved the department.

Explanatory Statement

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

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

8.9.5.11 (B)		
Current Language	Proposed Language	Final Adopted Language
8.9.5.11 B: Background Checks	8.9.5.11 B: Background Checks	8.9.5.11 B: Background Checks
B. The primary caregiver will be responsible for obtaining background checks on all adults residing in the home using the requirements outlined in the department's most current version of the background checks and employment history verification provisions (8.9.6 NMAC). A household member reaching the age of 18, must submit their background check in accordance with the most current provisions of 8.9.6 NMAC within 30 days after their eighteenth birthday. However, in the case of a registered family child care foodonly home, all household members are only required to undergo a criminal history and child abuse and neglect screening.	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 care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.	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 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	8.9.5.11 C: Background Checks	8.9.5.11 C: Background Checks
Any adult who is present in the	Any adult who is present in the	Any adult who is present in the
registered primary caregiver's home	registered <u>home, who is not the</u>	registered <u>home, who is not the</u>
for significant periods while	primary caregiver['s home] for	primary caregiver['s home] for
children are in care, or who	significant periods while	significant periods while
commences being present in the	children are in care, or who	children are in care, or who
registered primary caregiver's home	commences being present in	commences being present in
for significant periods, may be	the registered primary	the registered primary
required by the department to	caregiver's home for significant	caregiver's home for significant
obtain either a background check	periods, may be required by the	periods, may be required by the

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.

department to obtain either a background check or criminal history and child abuse and neglect screening. 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.

department to obtain either a background check or criminal history and child abuse and neglect screening. 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	8.9.5.11(F): Background Checks	8.9.5.11(F): Background Checks
The primary caregiver shall certify upon renewal that they, or any other adult living in the home have not been convicted of a disqualifying offense during the last twelve months.	N/A – No changes proposed	The primary caregiver shall certify yearly [upon renewal] that they, or any other adult living in the home have not been convicted of a disqualifying offense during the last twelve months.

ECECD modified the original regulatory language to address a public comment. The public comment

recommended replacing the language "upon renewal" with "yearly" to align with proposed amendments in other sections to remove the requirement for annual registration renewals. The final adopted language makes this recommended change.

8.9.5.12		
Current Language	Proposed Language	Final Adopted Language
8.9.5.12 Annual Registration:	8.9.5.12 [ANNUAL]Initial	8.9.5.12 [ANNUAL]Initial
	Registration:	Registration:
An annual registration is issued for	A[n annual] registration is	A[n annual] registration is
a one-year period to a child care	issued [for a one-year period]	issued [for a one-year period]
home that has met all requirements	to a child care home that has	to a child care home that has
of these regulations.	met all requirements of these	met all requirements of these
A. Primary caregivers must	regulations and shall remain	regulations <mark>and shall remain</mark>
renew registration annually, and	valid as long as the registrant	valid as long as the registered
only after receiving an onsite	maintains good standing in	home maintains good
inspection by ECECD, by	compliance with all	standing in compliance with
submitting a registration		all applicable rules of the

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.

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.

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.

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:	8.9.5.13: Visits by the Sponsoring Agency and Registered Authority:	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.	Caregivers [witt]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.	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	8.9.5.13 A: Visits by the Sponsoring	8.9.5.13 A: Visits by the Sponsoring
Agency and Registered Authority	Agency and Registered Authority	Agency and Registered Authority
A. The registered authority will	A. The registered authority	A. The registered authority
conduct a survey at least once a	will conduct a survey at least	will conduct a survey at least
year at each registered residence	once a year at each registered	once a year at each registered
using these regulations as the	residence using these	residence using these
criteria. The registered authority	regulations as the criteria. The	regulations as the criteria. The
will conduct additional surveys or	registered authority [will] <mark>shall</mark>	registered authority [will] <mark>shall</mark>
visit the registered residence	conduct additional surveys or	conduct additional surveys or
additional times to provide	visit the registered residence	visit the registered residence
technical assistance, to check	additional times to provide	additional times to provide
progress on correction of	technical assistance, to check	technical assistance, to check
deficiencies found on previous	progress on correction of	progress on correction of
surveys, or to investigate any	deficiencies found on previous	deficiencies found on previous
complaints.		

	surveys, or to investigate any complaints.	surveys, or to investigate any complaints.
Explanatory Statement		

8.9.5.13 C			
Current Language	Proposed Language	Final Adopted Language	
8.9.5.13 C: Visits by the Sponsoring Agency and Registered Authority	8.9.5.13 C: Visits by the Sponsoring Agency and Registered Authority	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.	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.	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	8.9.5.14 C: Non-transferability of registration	8.9.5.14 C: Non-transferability of registration
(C)If the primary caregiver moves to a new location or has a change of name, the primary caregiver must register again by submitting a new application and pay the processing charge. The caregiver must report a new location or change of name prior to the occurrence and receive	(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	(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.	a new on-site health and safety inspection by ECECD.	a new on-site health and safety inspection by ECECD.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the proposed amendment.		

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

8.9.5.15		
Current Language	Proposed Language	Final Adopted Language
8.9.5.15: Incident Reports:	8.9.5.15: Incident Reports:	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	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	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
but no later than 24 hours after the incident occurred. A report shall	possible but no later than 24 hours after the incident occurred. A report	possible but no later than 24 hours after the incident occurred. A report
moluent occurred. A report shall	arter the incluent occurred. A report	arter the incluent occurred. A report

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:

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: 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:	8.9.5.15 B: Incident Reports:	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.	B. A home [wilt] 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.	B. A home [wilt] 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		

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

8.9.5.16 C		
Current Language	Proposed Language	Final Adopted Language
N/A – New text	8.9.5.16 C: Compliance	8.9.5.16 C: Compliance
	C. The caregiver must comply with all state and federal laws to include children with disabilities. The caregiver must allow children with disabilities who receive early intervention services to be served in accordance with the child's Individualized Family Service Plan (IFSP). If the registered home is designated as a natural environment for the child in the child's IFSP, the caregiver must allow ECECD Family, Infant, Toddler (FIT) providers access to the registered home to provide services.	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.

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.

Explanatory Statement

8.9.5.17 A-B		
Current Language	Proposed Language	Final Adopted Language
8.9.5.17 A-B Non-Compliance	8.9.5.17 A-B Non-Compliance	8.9.5.17 A-B Non-Compliance

- A. ECECD may deny, suspend, 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:

issues within the scope of this proposed change.

- 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.
- 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:
- 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	8.9.5.17 B (14): Non-Compliance	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.	(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.	(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		

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

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	J. There shall be no right to an appeal or administrative review when the registered authority issues a cease and desist letter[;], provided[,	J. There shall be no right to an appeal or administrative review when the registered authority issues a cease and desist letter[;], provided[;

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.

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.

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

8.9.5.19 E		
Current Language	Proposed Language	Final Adopted Language
8.9.5.19 E: Administrative Appeal Rights	8.9.5.19 E: Administrative Appeal Rights	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 days from date of notice to request an administrative appeal in writing.	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 allowed 10 working days from date of notice to request an administrative appeal in writing.	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 allowed 10 working days from date of notice to request an administrative appeal in writing.

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

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

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

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

- than 82 degrees Fahrenheit. A home may use portable fans if the fans are secured and inaccessible to children and do not present any tripping, safety or fire hazard.
- E. The home must be adequately ventilated at all times.
- F. A home will not use unvented heaters or open flame heaters. Portable heaters will be used in accordance with manufacture instructions. A home will install barriers or take other steps to ensure heating units are inaccessible to children. Heating units include hot water pipes, infrared heaters, ceramic heaters, hot water baseboard heaters hotter than 110 degrees Fahrenheit, fireplaces, fireplace inserts and wood stoves.
- G. All homes will have hot and cold running water. Water coming from a faucet will be below 110 degrees Fahrenheit in all areas accessible to children. A home may install a water tempering control valve ahead of all domestic water-heater piping.
- H. A caregiver must provide safe playing areas inside and outside the home. A caregiver's inside and outside play areas must be safe, clean and free of any debris.
- ١. 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

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

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

registered authority. The provider 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,

- feet high and [witl] 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 [witl] shall not be inspected or approved by the registered authority. The provider [witl] shall ensure the play area is safe from hazards prior to allowing children [to play] into the area.
- J. The use of a trampoline is prohibited at any time during the hours of operation or by any children receiving care at the registered home.
- K A caregiver [will] shall keep all poisons, toxic materials, cleaning substances, alcohol, alcoholic beverages, prescriptions and over the counter medications, intoxicating substances, sharp and pointed objects or any other dangerous materials in a storage area inaccessible to children.
- The primary caregiver must have a working telephone in the home and a valid working phone number on file with ECECD at all times. Emergency numbers [will] shall be posted on any cordless or cellular telephones. A cellular telephone is acceptable as the only phone in the home. The cellular telephone [will] shall remain in the same room, charged and accessible to the provider a caregiver at all times.
- M A caregiver [will] shall post emergency numbers for the police, fire department, ambulance, and poison control center in a visible location.
- N. A caregiver [will] shall install at least one

- when determined to be necessary for safety by the registered authority. The fence must be at least four feet high and [will] shall have one latched gate for emergency exits. For apartment buildings or residences with no outdoor play areas, a common park/playground can be used for outdoor play but [will] shall not be inspected or approved by the registered authority. The provider [will] shall ensure the play area is safe from hazards prior to allowing children [to play] into the area.
- J. The use of a trampoline is prohibited at any time during the hours of operation or by any children receiving care at the registered home.
- K A caregiver [will] shall keep all poisons, toxic materials, cleaning substances, alcohol, alcoholic beverages, prescriptions and over the counter medications, intoxicating substances, sharp and pointed objects or any other dangerous materials in a storage area inaccessible to children.
- The primary caregiver must have a working telephone in the home and a valid working phone number on file with ECECD at all times. Emergency numbers [will] shall be posted on any cordless or cellular telephones. A cellular telephone is acceptable as the only phone in the home. The cellular telephone [will] shall remain in the same room, charged and accessible to the provider a caregiver at all times.

- swords and other items designed or used for inflicting bodily harm or physical damage.
- P. A caregiver, will prohibit smoking, the use of e-cigarettes/vaporizers and the drinking of alcoholic beverages in all areas, including vehicles, when children are present. Possessing or knowingly permitting illegal drugs, paraphernalia, or non-prescription controlled substances to be possessed or sold on the premises at any time regardless of whether children are present is prohibited.
- Q. A home will have a fully charged 2A-10B:C fire extinguisher in an easily accessible place. A fire extinguisher must be certified once a year and will have official tags noting the date of inspection.
- R. A caregiver will store combustible and flammable materials in a safe area away from water heater rooms, furnace rooms, heaters, fireplaces or laundry rooms.
- In case of a fire, the caregiver's first responsibility is to evacuate the children to safety. An up to date emergency evacuation and disaster preparedness plan must be available by the caregiver, which shall include steps for evacuation, relocation, shelter-in-place, lockdown, communication, reunification with parents, individual plans for children with special needs and children with chronic medical conditions, accommodations of infants and toddlers, and continuity of operations. The plans shall be approved annually by the registered authority and the department will provide guidance on developing these plans.

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

 210ABC fire extinguisher in an easily accessible place. A fire extinguisher must be certified once a year and [will] shall have official tags noting the date of inspection.
- R. A caregiver [will] shall store combustible and flammable materials in a safe area away from water heater rooms,

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

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

- 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] shall conduct at least one fire drill each month and an emergency preparedness practice drill at least quarterly beginning January of each calendar year. A caregiver [will] shall hold the drills at different times of the day and [will] shall keep a record of the drills with the date, time, number of adults and children participating, and any problems.
- U. A home [will] shall have two major exits readily accessible to children with no obstructions in the pathways of these exits.
- V. Toys and objects (including high chairs, playpens and cribs) are safe, durable, easy to clean and nontoxic. Toys [will] shall be disinfected, at a minimum of, once per week. Frequency of disinfection of toys must be increased in the event of a communicable disease, following appropriate guidance.
- W. Cribs [will] shall meet federal standards (CPSC 16

- Q. A home [will] shall have a fully charged [2A-10B:C]
 210ABC fire extinguisher in an easily accessible place. A fire extinguisher must be certified once a year and [will] shall have official tags noting the date of inspection.
- R. A caregiver [will] shall store combustible and flammable materials in a safe area away from water heater rooms, furnace rooms, heaters, fireplaces or laundry rooms.
- S. In case of a fire, the caregiver's first responsibility is to evacuate the children to safety. An up to date emergency evacuation and disaster preparedness plan must be available by the caregiver, which shall include steps for evacuation, relocation, shelter-in-place, lockdown, communication, reunification with parents, individual plans for children with special needs and children with chronic medical conditions, accommodations of infants and toddlers, and continuity of operations. The plans shall be approved annually by the registered authority and the department will provide guidance on developing these plans.
- T. Caregiver's [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 [will] shall have two major exits readily

- 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 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

- CFR1219,1220), be kept in good repair, and not be used for storage. A home [will]shall not use plastic bags or lightweight plastic sheeting to cover a mattress and [will]shall not use pillows in cribs. Animals and pets [will]shall not be allowed in cribs or on sleeping materials.
- X. Children [wilt] shall not use a common towel or wash cloth. All toilet rooms used by children [wilt] shall have toilet paper, soap and disposable towels.
- Y. The home [witt] shall have a first aid kit stored in a convenient place inaccessible to children, but easily accessible [by] to the caregiver. The kit [witt]shall contain at [least] minimum band-aids, gauze pads, adhesive tape, scissors, soap, non-porous latex gloves, and a thermometer.
- Z. A caregiver with pets [will] shall comply with the following requirements:
- (1) A home [will] shall inform parents or guardians in writing before pets are allowed [at] in the residence.
- (2) A home [witt] shall inoculate any pets as prescribed by a veterinarian and keep a record of proof of inoculation prior to the pet's presence at the residence.
- (3) A home [will]
 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.

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

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 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

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

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

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

before pets are allowed [at] in the residence.

(2) A home [wilt] shall inoculate any pets as prescribed by a veterinarian and keep a record of proof of inoculation prior to the pet's presence at the residence.

(3) A home [will] shall no allow on the premises pets or other animals that are undomesticated, dangerous, contagious, or vicious in nature.

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

excrement daily.

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

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

BB. Children may be transported only in vehicles that have current registration and insurance coverage. All drivers must have current driver's license and comply with motor vehicle and traffic laws. A child shall only be transported if the child is properly secured in an age appropriate restraining device. Persons who have been convicted in the last seven

outside air temperature falls below 50 degrees Fahrenheit the center will ensure the vehicle is heated

- II. A home will load and unload children at the curbside of the vehicle or in a protected parking area or driveway. The home will ensure children do not cross a street unsupervised after leaving the vehicle.
- JJ. No one will smoke, use ecigarettes or vaporizers - in a 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]

- DD. Children one year of age through four years of age, regardless of weight, or children who weigh 40 pounds, regardless of age, shall be properly secured in a child passenger restraint device that meets federal standards.
- EE. Children five years of age through six years of age, regardless of weight, or children who weigh less than 60 pounds, regardless of age, shall be properly secured in either a child booster seat or an appropriate child passenger restraint device that meets federal standards.
- FF. Children seven years of age through 12 years of age shall be secured in a child passenger restraint device or by a seat belt.
- GG. Vehicles used for transporting children [will] shall be enclosed and properly maintained. Vehicles shall be cleaned and inspected inside and out.
- HH. Vehicles operated by the home to transport children shall be air-conditioned whenever the outside air temperature exceeds 82 degrees Fahrenheit. If the outside air temperature falls below 50 degrees Fahrenheit the center [will] shall ensure the vehicle is heated
- II. A home [witt]shall load and unload children at the curbside of the vehicle or in a protected parking area or driveway. The home [witt]shall ensure children do not cross a street unsupervised after leaving the vehicle.
- JJ. No one [will]shall smoke, use e-cigarettes, nicotine and cannabis[or] vaporizers, or any other vaporizing device not prescribed by a licensed medical professional in a

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 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.

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vehicle used for transporting Vehicles shall be cleaned and children. inspected inside and out. KK. Persons transporting HH. Vehicles operated by the children [will] shall also home to transport children take the safe shall be air-conditioned transportation practices whenever the outside air training. temperature exceeds 82 degrees Fahrenheit. If the outside air temperature falls below 50 degrees Fahrenheit, the center [will] shall ensure the vehicle is heated II. A home [will]shall load and unload children at the curbside of the vehicle or in a protected parking area or driveway. The home [will]shall ensure children not cross а street unsupervised after leaving the vehicle. JJ. No one [will]shall smoke, use e-cigarettes, nicotine and cannabis or vaporizers, or any other vaporizing device not prescribed by a licensed medical professional in a vehicle used for transporting children. KK. Persons transporting children [will] shall also take the safe transportation practices training.

Explanatory Statement

8.9.5.23		
Current Language	Proposed Language	Final Adopted Language
8.9.5.23: Meal Requirements:	8.9.5.23: Meal Requirements:	8.9.5.23: Meal Requirements:
A. Children will not use shared eating or drinking utensils. B. Children will not use common eating or drinking utensils.	 A. Children [will] shall not use shared eating or drinking utensils. B. Children [will] shall not use common eating or drinking utensils. C. A caregiver [will] shall provide readily accessible 	A. Children [will] shall not use shared eating or drinking utensils. B. Children [will] shall not use common eating or drinking utensils.

- C. A caregiver will provide readily accessible drinking water in sanitary cups or glasses.
- D. Meals must meet ageappropriate USDA requirements.
- E. A caregiver must keep a daily menu.
- F. Caregivers will serve meals family style and allow children to assist in the preparation and 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.

- drinking water in sanitary cups or glasses.
- D. Meals must meet ageappropriate USDA requirements.
- E. A caregiver must keep a daily menu.
- F. Caregivers [will] shall serve meals family style and allow children to assist in the preparation and serving of food and snacks.
- G. Caregivers [will] shall feed children a meal or snack every three hours.
- H. Caregivers and children [will] shall wash their hands regularly and before each meal time.
- I. Caregivers [will] shall keep food requiring refrigeration, including formula, at 41 degrees Fahrenheit or below.

- C. A caregiver [will] shall provide readily accessible drinking water in sanitary cups or glasses.
- D. Meals must meet ageappropriate USDA requirements.
- E. A caregiver must keep a daily menu.
- F. Caregivers [will] shall serve meals family style and allow children to assist in the preparation and serving of food and snacks.
- G. Caregivers [will] shall feed children a meal or snack every three hours.
- H. Caregivers and children [will] shall wash their hands regularly and before each meal time.
- I. Caregivers [will] shall keep food requiring refrigeration, including formula, at 41 degrees Fahrenheit or below.

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

8.9.5.24 J		
Current Language	Proposed Language	Final Adopted Language
8.9.5.24 J: Record Keeping	8.9.5.24 J: Record Keeping	8.9.5.24 J: Record Keeping
Requirements	Requirements	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.	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.	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	8.9.5.25 Caregiver's	8.9.5.25 Caregiver's
Responsibilities	Responsibilities	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.	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	A. A caregiver [will] shall directly supervise and actively care for children at all times during hours of operation including naptime and outdoor playtime[and naptime]. Caregivers [will] shall interact with children and provide a safe and positive learning environment. B. Children [will] shall never be left unattended. A caregiver [will] shall be with the children at all times whether activities are inside or outside of the
C. A caregiver will use	home. Caregivers [will] <mark>shall</mark> be	home. Caregivers [will] <mark>shall</mark> be
guidance that is positive,	onsite, available and	onsite, available and
consistent and age-appropriate.	responsive to children during all	responsive to children during all
The caregiver will not use:	hours of operation.	hours of operation.

- (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 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

- C. A caregiver [wilt] shall use guidance that is positive, consistent and age-appropriate.
 The caregiver [wilt] shall not use:
- (1) physical punishment of any type, including shaking, biting, hitting, pinching or putting anything on or in a child's mouth;
- (2) withdrawal of food, rest, bathroom access, or outdoor activities;
- (3) abusive or profane language, including yelling;
- (4) any form of public or private humiliation, including threats of physical punishment; or
- (5) unsupervised separation; or
- (6) children [will] shall not be lifted by the arms, hands, wrist, legs, feet, ankles, or clothing.
- Each home must develop policies and procedures for expulsion of children. Policies and procedures shall include how the home [will] shall maintain a positive environment and [will] shall focus on preventing the expulsion of children age birth to five. The home must develop policies that include clear, appropriate, consistent expectations, and consequences to address disruptive student behaviors; and shall ensure fairness, equity, and continuous improvement.
- E. Each home must develop an anti-discrimination policy that promotes the equal access of services for all children and families and prohibits discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender

- C. A caregiver [will]
 shall use guidance that
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 and age-appropriate.
 The caregiver [will] shall
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- (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 [wilt] shall 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] shall maintain a positive environment and [will] shall focus on preventing the expulsion of children age birth to five. The home must develop policies that include clear, appropriate, consistent expectations, and consequences to address disruptive student behaviors; and shall ensure fairness, equity, and continuous improvement.
- E. Each home must develop an anti-discrimination policy that promotes the equal access of services for all children and families and prohibits discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender

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.
- Η. Infants shall either be held or be fed sitting up for bottlefeeding. Infants unable to sit shall always be held for bottle-feeding. Infants and toddlers shall not be placed in a laying position while drinking bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted. Caregivers will allow infants to eat and sleep on their own schedules. Children will not be allowed to walk/run with pacifiers. Pacifiers will not be used outside of cribs in rooms with mobile infants or toddlers. Pacifiers will be labeled and not shared. Pacifiers will not be tied to the child. Dropped pacifiers shall be cleaned using warm water and soap.
- **I.** Caregivers will ensure age appropriate naps or rest periods as follows:
- (1) A home shall allow children who do not sleep to get up and

- identity), national origin, disability, or age (40 and older).
- Each home must offer children activities and experiences that are developmentally appropriate, allow children choices, and promote positive social, emotional, physical and intellectual growth and wellbeing. Caregivers [will] shall schedule activities in these areas. A caregiver [will] 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 [will] shall also provide a variety of indoor and outdoor equipment to meet the children's developmental interests and needs. Equipment [will] shall encourage large and fine muscle activity, solitary and group play and active and quiet play. Television, video[tapes] viewing and video games should be limited to two hours a day and should be ageappropriate.
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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;
- **(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.

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