



NEW MEXICO

## **Early Childhood**

Education & Care Department

# **How to Become a New Mexico Non-Licensed Registered Family Child Care Home (A.K.A. Registered Home)**

# Turn Your Passion for Children into a Career — Right from Home

*Love caring for children? Want flexible hours, steady income, and the chance to make a difference in your community? This packet explains the process to open a registered child care home in New Mexico.*

## Why become a Registered Home child care provider?

- ▶ **Work from your home** while doing meaningful work
- ▶ **Set your own hours** and build a schedule that fits your life
- ▶ **Start your own small business** that supports your community
- ▶ **Care for up to six children** in a warm, home-based setting
- ▶ **Earn reliable income** while serving local families
- ▶ **Get access to supports** like training, coaching, and resources

## What are the Registered Home options?

- ▶ **Registered Family Child Care Home – Food Only** means the residence of a primary caregiver who registers the home to participate in the Child and Adult Care Food Program (CACFP) only and receives reimbursements for meals and snacks that meet USDA nutritional standards served to the children in care and does not participate in the state and federal Child Care Assistance (CCA) program.
- ▶ **Registered Family Child Care Home – Subsidy Only** means the residence of a primary caregiver who registers the home to participate in, and receive payment from the state and Federal Child Care Assistance (CCA) program only and does not participate the Child and Adult Care Food Program (CACFP).
- ▶ **Registered Family Child Care Home – Food and Subsidy** means the residence of a primary caregiver who registers the home to participate in, and receive reimbursement for, the Child and Adult Care Food Program (CACFP) and the state and federal Child Care Assistance (CCA) program.

## Is there help available to get started?

Whether you're brand new or already caring for children informally, we'll help you take the next step. New Mexico's Early Childhood Education and Care Department (ECECD) offers:

- ▶ Step-by-step guidance to help you register
- ▶ Training and coaching to build your skills
- ▶ Ongoing support to help your business grow and succeed

## Ready to get started?

This application packet will explain all the steps and guide you through the process. Let's go!

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## Required Forms

*This table describes the forms you will need to complete for your initial application as well as forms needed for amendments and changes to your application.*

REQUIRED FORMS	DESCRIPTION
Background Check Application - Child Care Home Caregivers	▶ This form must be completed and submitted for the primary caregiver, and substitute caregiver (if applicable).
Registered Family Child Care Home Application	▶ This form must be completed and submitted as part of the application process.
Provider Participation Agreement	▶ This form must be completed and submitted as part of the application process.
Substitute Form W-9	▶ This form must be completed and submitted in order to receive payment. A voided check or letter from your financial institution must be included in order to receive payment by direct deposit.
FORMS IN THE APPENDIX	DESCRIPTION
Background Check Application - Adult Household Member/Visitor	▶ Share this form with each adult (age 18+) who lives in or frequently visits the home so they can complete their own background check.
Background Check Update	▶ Complete and submit if there are any new adults who move into or frequently visit the home after the registration is approved.

## Required Documents

*This table lists the documents you will have to submit along with your initial application as well as documents needed for amendments or changes to your application.*





PURPOSE	DOCUMENTS YOU MUST SUBMIT WITH AN INITIAL APPLICATION
Initial Application	<ul style="list-style-type: none"> <li>▶ Copy of background check results for all adults, age 18 and over, living in the home</li> <li>▶ Copy of your government-issued photo ID (e.g., driver’s license, non-driver ID, passport)</li> <li>▶ Copy of your social security card OR Federal Employer Identification Number (FEIN)</li> <li>▶ Proof of physical address (e.g., lease, mortgage statement, gas/electric/water bill)</li> <li>▶ Copy of pediatric CPR/First Aid training certificate (in-person or hybrid)</li> </ul>
PURPOSE	DOCUMENTS YOU MUST SUBMIT WITH AN AMENDED APPLICATION
Change of Name	<ul style="list-style-type: none"> <li>▶ Copy of your government-issued photo ID (e.g., driver’s license, non-driver ID, passport)</li> <li>▶ Proof of legal name change</li> <li>▶ Copy of your social security card OR Federal Employer Identification Number (FEIN)</li> </ul>
Change of Address	<ul style="list-style-type: none"> <li>▶ Proof of new physical address (e.g., lease, mortgage statement, gas/electric/water bill)</li> </ul>
Change in Household Members	<ul style="list-style-type: none"> <li>▶ Background check update form for new adults living in or frequently visiting the home</li> </ul>

## Home Visit Documents

*This table describes documents you must present at your home visit with an ECECD Child Care Specialist. Review the regulations for Registered Homes, 8.9.5 NMAC, and the Checklist for the Home Visit for details.*

REGULATION	DOCUMENTS YOU MUST PRESENT
8.9.6 NMAC	Background check results for all adults, age 18 and over, living in the home
8.9.5.22 M NMAC	Emergency numbers for police, fire, ambulance, poison control are in a visible location
8.9.5.22 S NMAC	Emergency evacuation and disaster preparedness plan
8.9.5.22 Z NMAC	Pet vaccination records and written notification to parents if there are pets in the home
8.9.5.22 BB NMAC	If transporting children, current driver's license, vehicle registration and proof of insurance coverage
8.9.5.25 D NMAC	Policies and procedures for expulsion of children
8.9.5.25 E NMAC	Anti-discrimination policy
8.9.5.25 J (1) NMAC	Written permission from a parent or guardian before a child enters a pool (if applicable)
8.9.5.24 A-I NMAC	Information card/record sheet for each child
8.9.5.24 J NMAC	Sign in/sign out form
8.9.5.22 T NMAC	Fire Drill and Emergency Evacuation Log (updated every three months)

## Requirements for Registered Home Providers

STEP 1	The Background Check
	<p>Follow the guidelines in the background check and fingerprint instructions section.</p> <ul style="list-style-type: none"> <li>▶ <b>Registered Homes</b> that accept subsidy payments require full background check clearances for ALL adult household members. There is no fee paid at the time of registration.</li> <li>▶ <b>Registered Home - Food Only</b> requires a full background check clearance for the primary caregiver only. All other household members are only required to undergo a child abuse and neglect screen.</li> </ul>
STEP 2	The Registered Home Application
	<p>Once you receive your background check approval letter(s), submit the following documents:</p> <ul style="list-style-type: none"> <li>▶ Registered Family Child Care Home Application</li> <li>▶ Background check clearance letter for primary caregiver and all adult household members (food-only providers need a background check clearance letter for the caregiver only).</li> <li>▶ Copy of your photo ID and Social Security Card or Federal Employer Identification Number (FEIN) documentation.</li> <li>▶ Proof of physical address for the home being registered (e.g., lease, mortgage statement, gas/electric/water bill).</li> <li>▶ Provider Participation Agreement (PPA).</li> <li>▶ Substitute W-9 (for providers who are going to participate in the Child Care Assistance Program and accept the subsidy payments).</li> <li>▶ Once your application and supporting documents are received, a Child Care Specialist will contact you to schedule a visit within 14 calendar days.</li> </ul>
STEP 3	The Home Visit
	<ul style="list-style-type: none"> <li>▶ Have background check clearance letter(s) available in your records.</li> <li>▶ Review the 8.9.5 NMAC Child Care Homes Regulations on page 29.</li> <li>▶ Review <i>Checklist for Home Visit</i> on page 21 to make certain you meet all requirements.</li> <li>▶ Once the home visit is completed and the provider and home are in compliance, the Child Care Home Registration form will be completed and issued to child care provider.</li> </ul>
STEP 4	The Child & Adult Care Food Program (CACFP) Application
	<p>If you choose to participate in CACFP, once you have received your approved Child Care Home Registration form, you will need to contact the Child Care Food Program Sponsor from page 24 in this packet. The Food Sponsoring agency will conduct a home visit and issue a CACFP Application and Agreement verifying your participation with the food program.</p>

If you don't submit ALL of the information requested, or if you do not agree to comply with the Child Care Home registration NMAC regulations and standards, you will not be registered. You will not be eligible to receive Child Care Assistance subsidy payments and you will not be eligible to participate in the CACFP reimbursement program.

Once approved, the registration is valid, with no expiration date, with the following exceptions:

- ▶ An application for a registration amendment must be submitted if the child care home has a change of address or location.
- ▶ An application for a registration amendment must be submitted if there is a change in the primary caregiver's name.
- ▶ A registration is not transferable to other individuals or locations.

If you have any questions regarding the registration process, please feel free to contact the Child Care Regulatory Oversight Unit office closest to your location as listed on page 23.

Thank you!

*ECECD extends our sincere thanks to our community partners Growing Up New Mexico and the Community Partnership for Children for contributing their time and expertise to the development of this document. Their collaboration and shared commitment helped shape a resource that reflects the needs and interests of the communities we serve.*

# Becoming a Registered Home: Overview

## Know the minimum requirements to become a Registered Home provider

Registered home providers care for no more than four non-resident children in their own home, and no more than six children under six years of age at any one time (including their own children). Providers can be paid to care for children between six weeks and 12 years of age but won't be paid for any children who live with them.

To be a registered home provider, you will need to meet the minimum requirements:

- ▶ Be at least 18 years old
- ▶ Pass a background check, including all adults who live in, or frequently visit, the home
- ▶ Complete required training, including CPR and First Aid
- ▶ Keep records and documents on file
- ▶ Maintain a safe, child-friendly home (see Home Visit Checklist on page 21 for more information)

## Understand the types of Registered Homes

There are three categories of registration available for providers:

- ▶ **Registered Home – Food and Subsidy** chooses to participate with both the Child & Adult Care Food Program (CACFP) and Child Care Assistance Program (CCA). All adult household members are required to obtain a full background check clearance for this home type. Providers are responsible for all applicable federal and state taxes (income and gross receipts) for monies received from ECECD. The Department will issue IRS Form 1099 (earning statements) at the end of each year.
- ▶ **Registered Home - Subsidy Only** chooses to participate with the Child Care Assistance Program (CCA) only. All adult household members are required to obtain a full background check clearance for this home type. Providers are responsible for all applicable federal and state taxes (income and gross receipts) for monies received from ECECD. The Department will issue IRS Form 1099 (earning statements) at the end of each year.
- ▶ **Registered Home - Food Only** chooses to participate with the Child & Adult Care Food Program only. Only the primary caregiver is required to obtain a full background check clearance. All other household members are required to undergo a child abuse and neglect screening. Providers will be reimbursed only for the meals/snacks served and will not receive other income for child care from ECECD. The Department will NOT issue IRS Form 1099 (earning statements) at the end of each year. Providers that choose Food Only are required to take less training than providers that participate in the Subsidy program.

## Get familiar with the regulations for Registered Homes

It is important to read the New Mexico Administrative Code (NMAC) regulations for registered homes so that you understand the background check requirements, home requirements, administrative requirements, training requirements, and other important rules. Regulations are included in the appendices in this packet.

## Complete the Fingerprint and Background Check Process

See the background check instructions starting on page 10 for more details.

### Who is required to complete fingerprinting and a background check?

- ▶ All caregivers (primary and secondary/substitute caregivers) and all adults over 18 who live in the home must get fingerprinted, fill out a Background Check Application, and undergo a background check.
- ▶ Other adults who are in the home for significant periods of time may also be required by the Department to obtain either a background check or criminal history and child abuse and neglect screen.
- ▶ Only the primary caregiver is required to obtain a full background check clearance for a Registered Home - Food Only. All other household members must fill out a Background Check Application and will undergo a child abuse and neglect screening.

### You should not pay anything to get fingerprinted

Applicants can obtain a coupon code (or codes) from the ECECD Background Check Unit. The coupon code will be used during the fingerprint registration process and will waive the \$59 fee. You can ask for a coupon code by emailing [ECECD.BCU@ececd.nm.gov](mailto:ECECD.BCU@ececd.nm.gov) or calling (505) 827-9910. Email is the best way to get the coupon code because the coupon codes are long. If emailed, you can copy and paste it to the Identogo (the fingerprinting company) website during the registration process.

### Other Important Information

Go to your appointment and get fingerprinted. After your appointment check your email for the confirmation receipt from Identogo. The confirmation page will have your TCN number. The TCN number is used by ECECD to retrieve the fingerprint results. Save this confirmation page.

Fingerprints are only valid for 29 days after fingerprinting is completed. It is important to submit your Fingerprint Registration confirmation page as soon as you receive it from Identogo. Send the confirmation page, along with the Application for Background Check through the secure upload link below or by mail. Please note that due to privacy/confidentiality reasons, you should not submit your application by email.

- ▶ **Secure upload:** <https://files.ececd.nm.gov/filedrop/ECECDBCU>
- ▶ **Mail:** ECECD Background Check Unit, PO Drawer 5619, Santa Fe, NM 87502
- ▶ **Hand Delivery:** ECECD Background Check Unit, 1120 Paseo de Peralta, Santa Fe NM 87501

## **Get your CPR/First Aid Certification with a pediatric component**

All caregivers must have current pediatric CPR/First Aid certification. Online-only courses are not accepted. The certificate must be for an in-person/instructor-led course or a blended learning course that includes an in-person skills test.

## **Prepare your Application for a Registered Home**

Once you have your Background Check Clearance Letter, fill out the Registered Family Child Care Home Application on page 14. You will need to provide information about the people who live in your home, and adults who spend a significant amount of time in your home as well as submit the documents listed on page 4.

## **Fill out the Provider Participation Agreement**

The Provider Participation Agreement is required for providers who will be accepting Child Care Assistance (subsidy) payments from ECECD.

## Fill out the Substitute W-9

The State of New Mexico Substitute W-9 form is required for providers who will be receiving payments from ECECD. Review the instructions on page 19.

## Submit your Application and Supporting Documents

Once you have filled out your Registered Home Application, Provider Participation Agreement and W-9, submit your complete packet:

- ▶ **Upload** your application to <https://files.ececd.nm.gov/filedrop/ECECD-CCSB>
- ▶ **Mail** your application to ECECD Child Care Services Bureau - Licensing Unit, PO Drawer 5619 Santa Fe, NM 87502-5619
- ▶ **Hand deliver** your application to the closest Child Care office that serves the county where the Registered Home is located as listed on page 23.

Once your application and supporting documents are received, a Child Care Specialist will contact you to schedule a visit within 14 calendar days.

## Prepare for Your Home Visit

Once you have a home visit scheduled with an ECECD Child Care Specialist, get ready with the items listed on page 5 of this packet. Once the home visit is finished, and the provider and home are in compliance, the Child Care Home Registration Form will be completed and issued to the child care provider.

## If participating in the Child and Adult Care Food Program, choose a sponsor

The Child and Adult Care Food Program (CACFP) also known as the “Food Program”, provides reimbursement to child care providers for nutritious meals and snacks served to children in child care settings.

If you want to participate in the Food Program, identify and contact the food sponsor in your region, see page 24. The Food Sponsor agency will also do a home visit and give you a CACFP Application and Agreement.

## How to Submit Your Application

Due to privacy/confidentiality reasons, DO NOT submit your documents by email. If you upload your application documents, please be sure the file names include your name so the staff know who the documents belong to (e.g., application-jane-doe.pdf, background-check-jane-doe.pdf).

Registered Home Application Forms & Documents	Background Check Application Forms
<ul style="list-style-type: none"><li>▶ <b>Securely upload:</b> <a href="https://files.ececd.nm.gov/filedrop/ECECD-CCSB">https://files.ececd.nm.gov/filedrop/ECECD-CCSB</a></li><li>▶ <b>Mail:</b> ECECD Child Care Services Bureau - Licensing Unit, PO Drawer 5619, Santa Fe, NM 87502-5619</li><li>▶ <b>Hand deliver:</b> to the closest Child Care office that serves the county where the Registered Home is located as listed on page 23.</li></ul>	<ul style="list-style-type: none"><li>▶ <b>Securely upload:</b> <a href="https://files.ececd.nm.gov/filedrop/ECECDBCU">https://files.ececd.nm.gov/filedrop/ECECDBCU</a></li><li>▶ <b>Mail:</b> ECECD Background Check Unit, PO Drawer 5619, Santa Fe, NM 87502-5619</li><li>▶ <b>Hand deliver:</b> ECECD Background Check Unit, 1120 Paseo de Peralta, Santa Fe NM 87501</li></ul>



# Comprehensive Background Check Process



## Licensed/Registered Child Care Homes

**Step 1:** Register for fingerprinting at: <https://nm.ue.state.identogo.com/ue>

**Step 2:** Enter Service Code and click Get Started

- New Applicant, enter: 2BHV48
- 5-year background check renewal, enter: 2BHV5S
- Volunteer, enter: 2BHV66

**Step 3:** Reviewing Agency should be: NM931220Z – New Mexico Early Childhood Education and Care Department (ECECD)

- Click Start Enrollment

**Step 4:** Review and Accept Privacy Statement, select Continue

**Step 5:** Enter Personal Information, select Continue

**Step 6:** Selection a location near you by entering zip code or city, select Search

- Select location, date, and time for fingerprinting services, select Continue
- Review, select Yes, Confirm
- Select, Continue to Payment

**Step 7:** Enter Coupon Code, select apply

- **Note:** Coupon Codes are obtained from the ECECD Background Check Unit for child care applicants via telephone at: (505) **827-9910**.
- Select Pay and Submit (using the coupon code means you will not have to pay for the background check).
- Confirmation page will be emailed to applicant and can also be printed and/or downloaded.

**Step 8:** Submit the Registered Home Background Check application form, along with your fingerprint registration receipt, immediately via the secure upload link below or by mail. Please note that due to privacy/confidentiality reasons, you should not submit your application by email.

- **Secure upload:** <https://files.ececd.nm.gov/filedrop/ECECDBCU>
- **Mail:** ECECD Background Check Unit, PO Drawer 5619, Santa Fe, NM 87502

**Please note:** fingerprint results are only valid for 29 days after the applicant has been fingerprinted. Therefore, please submit the application immediately after the applicant has been fingerprinted to avoid any delays. We will not know you have been fingerprinted unless we receive your form.

### ► Out of State Background Checks

If an applicant has lived in any other state within the past 5 years, we require them to obtain a background check from that state(s). The background check unit will provide the state's appropriate forms and instructions to the applicant for completing criminal history and abuse and neglect requests. Completion of these requests is essential to preventing delays.

► **ECECD Website** | [Comprehensive Background Check Process](#)

Updated: October 9, 2025



Learn more about ECECD at [nmeccd.org](http://nmeccd.org)

Toll free: (800) 832-1321 | [ececd-ecs-customerservice@ececd.nm.gov](mailto:ececd-ecs-customerservice@ececd.nm.gov)



@NewMexicoECECD

# Background Check Application

## Child Care Home Caregivers

This is a “fillable” form. You can type into this form. If you handwrite it, use blue or black ink. print clearly in block lettering. Type “N/A” in the field if not applicable. Forms will be rejected if incomplete, incorrect or the handwriting is not clear.

TYPE OF HOME (check only one)			TYPE OF CAREGIVER	
<input type="checkbox"/> Licensed Home	<input type="checkbox"/> Registered Home	<input type="checkbox"/> Registered Home-Food Only	<input type="checkbox"/> Primary <input type="checkbox"/> Substitute	
Name of Primary Caregiver				
EPICS Number <i>(if it's been issued)</i>		TCN Number <i>(Provided After Fingerprinting)</i>		
Child Care Home: Physical Address		City	State	Zip
Child Care Home: Mailing Address (if different than above)		City	State	Zip

APPLICANT INFORMATION				
Legal Name: First Name	Middle Name <input type="checkbox"/> no middle name <input type="checkbox"/> initial only	Last Name		
Other Names Used (e.g., maiden name, previous married name, legal name change, nicknames, alias)				
Phone	<input type="checkbox"/> home <input type="checkbox"/> cell <input type="checkbox"/> work	Email		
Date of Birth (MM/DD/YYYY)	Country of Birth	Sex (on birth certificate)	Social Security Number or ITIN #	
		<input type="checkbox"/> Female <input type="checkbox"/> Male		
Marital Status			<input type="checkbox"/> I don't have a social security number	
<input type="checkbox"/> Married <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Single <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed				
Primary/Preferred Language		<input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other:		

HOUSEHOLD MEMBERS <i>now and for the last five years</i> AND CHILDREN				
<i>List all <b>adults</b> (18+) that live or spend a significant amount of time in the home (spouse/partner, parent, relative, roommate/tenant) now and in the past 5 years, AND all your <b>children</b> (including adult children: biological, adopted, foster, step, away at college). In the last column, type <b>H</b> for Current household member, <b>P</b> for Prior household member, or <b>V</b> for frequent visitor. <b>If you need additional space, please use a separate sheet of paper.</b></i>				
Name (First, Middle, Last)	Age/DOB (MM/DD/YYYY)	Sex (M, F)	Relationship	H P V

**Official Use Only:** This application has been reviewed under the applicable regulations found at 8.9.6 NMAC General Provisions, Governing Background Checks and Employment History Verification, and a determination has been made that this applicant is granted background check eligibility. Any changes to the information in this application must be immediately reported to ECECD.

\_\_\_\_\_  
ECECD-BCU Representative Signature

\_\_\_\_\_  
Date



# Disposition Request Information

Should an applicant, household member or frequent visitor have criminal history, ECECD will request the disposition, or outcome, because some types of convictions can result in denial of a background check clearance.

## Where to find disposition

If you were arrested, the disposition can often be found at the courts in the county where the arrest occurred. You can also contact the agency that arrested you, or contact the attorney who represented you, if you had one.

Phone numbers for the Courts, Police Departments, and Attorneys can generally be found on the internet.

## Acceptable forms of disposition

Disposition information can be found in documents called:

- ▶ Judgment and Sentence
- ▶ Plea and Disposition Agreement
- ▶ Nolle Prosequi
- ▶ Certificate of Conviction

If you are unsure which of the forms contain your disposition, ask the court clerk for help.

## We will not accept

- ▶ Clerk's Certificates marked "No Felony Convictions"
- ▶ Documentation from the arresting agency marked "No Record Found"
- ▶ An explanation of the arrest from your attorney.

Please call our office at (505) 827-9910 if you have any questions.

Dispositions must be received no later than 15 days after the date of the request. It is your responsibility to provide this information to ECECD. This sheet is for informational purposes only. Your search for disposition should not be limited to the ideas presented here.

# Application: Registered Home Child Care Provider

This is a “fillable” form. You can type into this form. If you handwrite it, use blue or black ink. print clearly in block lettering. Type “N/A” in the field if not applicable. Forms will be rejected if incomplete, incorrect or the handwriting is not clear.

APPLICATION TYPE			
Application Purpose	<input type="checkbox"/> Initial Application	<input type="checkbox"/> Amended Application	EPICS Number: <input type="text"/>
Provider Type	<input type="checkbox"/> Registered Home	<input type="checkbox"/> Military Home	<input type="checkbox"/> Tribal Home
Home Type	<input type="checkbox"/> Food Only	<input type="checkbox"/> Subsidy Only	<input type="checkbox"/> Food and Subsidy

Amendment Type (check all that apply)	Old Information	New Information
<input type="checkbox"/> Name Change		
<input type="checkbox"/> Address Change		
<input type="checkbox"/> Status Change	<input type="checkbox"/> Food Only <input type="checkbox"/> Subsidy Only <input type="checkbox"/> Subsidy & Food	<input type="checkbox"/> Food Only <input type="checkbox"/> Subsidy Only <input type="checkbox"/> Subsidy & Food

PRIMARY CAREGIVER INFORMATION					
Legal Name: First		Middle		Last	
Physical Address			City	County	State Zip
Mailing Address (if different than above)			City	County	State Zip
Home Phone Number		Cell Phone Number		After Hours Emergency Phone Number	
Email Address 1			Email Address 2		
Date of Birth (MM/DD/YYYY)		Primary/Preferred Language			
		<input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other:			
Marital Status					
<input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Other:					
Race (check all that apply)				Ethnicity	
<input type="checkbox"/> American Indian or Alaska Native		<input type="checkbox"/> Asian		<input type="checkbox"/> Hispanic or Latino	
<input type="checkbox"/> Black or African American		<input type="checkbox"/> White		<input type="checkbox"/> Not Hispanic or Latino	
<input type="checkbox"/> Native Hawaiian/Other Pacific Islander		<input type="checkbox"/> Multi-Racial		Nation/Pueblo/Tribal Affiliation	
<input type="checkbox"/> Other:					

**HOUSEHOLD MEMBERS (including yourself)**

List all **adults (18+)** that live or spend a significant amount of time in the home (adult child, spouse/partner, parent, relative, roommate, tenant). In the last column, type **H** for household member or **V** for frequent visitor.

Name (First, Middle, Last)	Age/DOB (MM/DD/YYYY)	Sex (M, F)	Relationship	H, V

**PROVIDER PROGRAM INFORMATION**

CACFP Participant <input type="checkbox"/> Yes <input type="checkbox"/> No	Food Sponsor Name (if applicable)	Food Sponsor Provider #
Licensed foster/treatment foster care provider <input type="checkbox"/> Yes <input type="checkbox"/> No	Are the children you will be providing care for <input type="checkbox"/> Residents <input type="checkbox"/> Non-residents <input type="checkbox"/> Both	

**DAYS/HOURS OF OPERATION**

Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Sunday	
Open	Close	Open	Close	Open	Close	Open	Close	Open	Close	Open	Close	Open	Close

**PROVIDER CERTIFICATIONS (Please read and initial each statement below)**

	I certify that I am over eighteen (18) years of age and do hereby file this application to operate a family child care home.
	I certify that I reside in, and care will be provided, at the address listed on this application.
	I assume responsibility for the conduct, affairs and dealings of the family child care home for which the registration is requested.
	I certify that I have read and understand the regulations for Non-Licensed Family Child Care Homes (8.9.5 NMAC).
	I understand that I will be responsible for ensuring that my child care home complies with current non-licensed family child care home regulations.
	I understand that failure to comply with the current non-licensed family child care home regulations may result in denial, suspension or revocation of the registration to operate a family child care home.
	I understand that the family child care home is subject to inspection by ECECD authorized personnel during all hours of operation and that pictures may be taken at the time of any visit.
	I certify that the information I have provided is true and accurate to the best of my knowledge. I understand that if what I have reported is found to be incorrect, my application may be denied or my registration terminated.

\_\_\_\_\_  
Primary Caregiver Signature

\_\_\_\_\_  
Date



# Provider Participation Agreement

Please complete this form once you become an eligible child care provider.

This form is confidential and will not be part of any public record.

This is a "fillable" form. You can type into this form. If you handwrite it, use blue or black ink. Print clearly in block lettering. Type "N/A" in the field if not applicable. Forms will be rejected if incomplete, incorrect or the handwriting is not clear.

## PROVIDER INFORMATION

Legal Name (as it appears on your federal tax form, for the business or person providing care)		EPICS Number			
Mailing Address (for checks)		City	County	State	Zip
Primary Phone Number		Email Address			

Provider Type	Home Status	Food Sponsor (if applicable)
<input type="checkbox"/> Registered Home <input type="checkbox"/> Military Home <input type="checkbox"/> Tribal Home	<input type="checkbox"/> Licensed Home <input type="checkbox"/> Licensed Center <input type="checkbox"/> Out of School Time Program	<input type="checkbox"/> food only <input type="checkbox"/> subsidy only <input type="checkbox"/> food and subsidy

## PROVIDER AGREEMENT

Providers must comply with 8.9.3 NMAC and 8.9.4 NMAC or 8.9.5 NMAC and the statements below. Please read and initial each statement.

Initials	ALL PROVIDERS
	I understand that I am not an employee of ECECD and that I am not entitled to payment or benefits other than the subsidy reimbursement outlined in the agreement.
	I understand that I will be responsible for all applicable federal and state taxes. The Department will issue IRS Form 1099 (Earnings Statement).
	I understand that parents/guardians may choose to transfer the child(ren) to another provider.
	I understand that parents/guardians may visit their child(ren) at any time and that a caregiver will be available to discuss issues or concerns with the parents/guardians while the children are in their care.
	I understand I must keep daily attendance records for each child and make them available to ECECD upon request.
	I certify that all caregivers are aged 18 or older.
	I understand that I have the right to accept or not accept a child into my care. I also understand that this decision will not be based on race, color, sex, religious creed, national origin or political beliefs of the child(ren) or parent(s).
	I understand that I am responsible for the health, safety and well-being of children while they are in my care. I understand that I must meet the standards established in 8.9.4 NMAC or 8.9.5 NMAC or military authorities.
	I understand that children in my care will receive nutritious meals and snacks and will meet age-appropriate USDA requirements.
	I understand that I will not receive payment from ECECD or the Child and Adult Care Food Program (CACFP) until I am approved as a provider, begin to provide care for a child/children and meet the requirements set forth by ECECD.
	I understand that if I move or change my name, I must submit a new application prior to the occurrence and receive a new on-site health and safety inspection by the Department.

## Initials PROVIDER ONLY RECEIVING SUBSIDY

	I agree to participate as a child care provider in the child care assistance program administered by ECECD and comply with all state and federal requirements.
	I understand that the parents/guardians have the right to select their child care provider. I will be asked to sign an agreement to provide care for a particular child(ren) receiving subsidy.
	I understand that collecting any required co-payment is my responsibility. Non-payment must be reported to

<b>Initials</b>	<b>PROVIDER ONLY RECEIVING SUBSIDY</b>
	ECECD. ECECD assists the provider in collecting the co-payment only if the co-payment has been in arrears 30 calendar days or less.
	I will notify ECECD immediately if a child disenrolls within three (3) business days and if a child has been absent for a period of five (5) consecutively scheduled days without explanation from parents/guardians.
	I understand that ECECD will pay me only for child care services I am authorized to provide and that I will make child care available at the times agreed upon.
	I agree to accept the ECECD child care payment rate for services and may not charge families receiving child care assistance above the ECECD rate for the number of hours listed on the placement agreement.
	I understand that if I provide child care services at times other than authorized, ECECD is not responsible and will NOT pay for those services.
	I understand that payment for child care is provided by state and federal monies. Providing false information or misusing these monies will result in loss of benefits, be subject to other legal action, and/or require repayment.
	I understand that the payment process will not be initiated until a signed agreement is received by my local ECECD child care office.
	I understand that payment will be discontinued on the date that my license or registration expires.
	I understand that I may be responsible for repaying any and all amounts that are paid to me in error.
	I agree to provide a copy of my FEIN document or social security card and a picture ID.
	I understand that I can request a copy of the child care assistance policies at any time.

<b>Initials</b>	<b>PROVIDER CERTIFICATIONS (Please read and initial each statement below)</b>
	I agree to maintain compliance with all Background Check (8.8.3 NMAC) requirements.
	I agree to maintain compliance with all Non-Licensed Child Care Provider (8.9.5 NMAC) regulations.
	I agree to maintain compliance with all Child and Adult Care Food Program (8.2.2 NMAC) requirements (if applicable)
	Neither I, nor any adult living in my home, have been convicted of a disqualifying offense during the last 12 months.
	I understand that no subsidy payment from ECECD will be issued for any care provided prior to the approval date on the Child and Adult Care Food Program Application issued by the Food Sponsor verifying my participation, if applicable.
	I consent to permit visits by personnel or authorized representatives of ECECD, and the Food Sponsor if applicable, at any time during normal hours of operation when children are present.

**PROVIDER SIGNATURE**

I understand that the information I have provided is true and accurate to the best of my knowledge and Early Childhood Education & Care Department (ECECD) may verify all information provided. I agree to meet all requirements listed in Section IV in addition to any state or federal regulations governing the child care assistance programs. I also certify that I have the legal authority to sign this agreement and to bind myself or the organization listed above to the requirements of this agreement.

\_\_\_\_\_  
 Provider Signature

\_\_\_\_\_  
 Date

## Instructions for Completing the Substitute W-9 Form

This form substitutes for the IRS W-9 form. Complete this form if you will receive payment from the State of New Mexico and/or you are a vendor who provides goods and services to the State of New Mexico. To comply with the Internal Revenue Service (IRS) regulations regarding 1099 reporting, the State of New Mexico is required to collect the following information to be completed on the Substitute W-9 form. The information collected on this form will allow the State to confirm that our records contain the official name of your business, the Tax Identification Number (TIN) that the IRS has on file for your business and business type.

Check the appropriate box(es) for which this form is to be utilized and fill in the corresponding section(s) next to the box(es) checked.

### PART I: VENDOR INFORMATION

- 1. Legal Name** Enter the legal name as registered with the IRS or Social Security Administration.
- 2. DBA/Trade Name** Individuals leave blank. Sole Proprietorships: Enter DBA (doing business as) name. All Others: Complete only if business name is different than Legal Name.
- 3. Entity Type** Check ONE box which describes business entity. If a current, past, or becoming a state employee, please also mark the State of New Mexico Employee box and enter the Business Unit number for the agency. Also, provide the 6-digit employee ID as assigned in SHARE HCM in the Part II Taxpayer Identification Number (TIN) & Taxpayer Identification Type section and mark the Employee ID box.
- 4. 1099 Reporting** Check the appropriate box that applies to the type of services being provided to the State. If the type of service is not specifically stated, enter the type of service in the Other box.

### PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

- 1. Taxpayer Identification Number** Enter TIN with no dashes in the boxes provided
  - a. TIN** is always a 9-digit number. Provide the Social Security Number (SSN) assigned by the Social Security Administration (SSA) or the Federal Employer Identification Number (FEIN) assigned to the business or other entity by the Internal Revenue Service (IRS).
  - b. Employee ID** is always a 6-digit number. Provide the number assigned by the State of New Mexico for payroll processing in SHARE HCM.
- 2. TIN Identification Type** Mark the appropriate box for the TIN provided above.

### PART III: ADDRESS

- 1. Address 1** - Where correspondence, payment(s), purchase order(s) or 1099s should be sent.
  - a. Employees** - If a current employee, please provide the following:
    - i. Address Line #1:** State Agency Name
    - ii. Address Line #2:** Field Office Mailing Address
    - iii. Address Line #3:** Suite or building number, if applicable
  - b. CDBG** When providing a Community Development Block Grant (CDBG) remittance address, enter CDBG on line #1 and entity's remittance address in line #2
- 2. Address 2** - If different than Address 1
- 3. Zip Code and Phone Number** - The 5 + 4 zip code will be required to be entered for all zip codes. If the last 4 digits are unknown, then 4 zeros (0) can be entered. Do not enter the "-" as part of the zip code. When entering the phone number, only enter the 10 digit number. Do not enter the "(" or "-" as part of the phone number.

### PART IV: CERTIFICATION

By signing this document, you are certifying that all information provided is accurate and complete. The person signing this document should be the partner in the partnership, an officer of the corporation, the individual or sole proprietor noted under legal name above, or the New Mexico State Employee for which the vendor account is established. Identifying information is required of the person signing the form.

**PART V: OPTIONAL DIRECT DEPOSIT (ACH)** You may elect to receive payments from the State of New Mexico through Automated Clearing House (ACH) direct deposit. Please provide a copy of a voided check or letter from financial institution with the banking information. Without one of the two items, ACH information WILL NOT be entered and payments will be made by warrant (paper check). Select the type of account being provided.

**I Acknowledge** Print name and sign to acknowledge the IAT warning and to authorize the State of New Mexico to initiate direct deposit of funds to your financial institution provided.

**Privacy Act Notice** Section 6109 requires you to furnish your correct TIN to persons who must file information.

DO NOT SEND TO  
IRS

SUBMIT FORM TO  
REQUESTING  
AGENCY

FCD 04/2021

NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION  
FINANCIAL CONTROL DIVISION  
SUBSTITUTE FORM W-9

REQUEST FOR TAXPAYER IDENTIFICATION NUMBER, CERTIFICATION

TYPE OR PRINT NEATLY, PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION



**PART I: SUPPLIER INFORMATION**

1. Legal Name (as shown on income tax return). Required, do not leave blank.		2. Business/Trade/Disregarded Entity Name (if different from #1)	
3. Entity Type (Check only one, unless you are or have been a State of New Mexico Employee, then also check State of New Mexico Employee box):			
<input type="checkbox"/> Individual / Sole Proprietorship / Single Member LLC	<input type="checkbox"/> Government (Local, State, Federal, Tribe)		<input type="checkbox"/> State of New Mexico Employee (Enter Agency No.) <input type="text"/>
<input type="checkbox"/> Partnership	<input type="checkbox"/> Tax-Exempt organization under IRC Section 501 C		
<input type="checkbox"/> C Corporation / S Corporation	<input type="checkbox"/> State of New Mexico Employee (Enter Agency No.)		<input type="text"/>
<input type="checkbox"/> Trust / Estate			
<input type="checkbox"/> Limited liability Company: Enter the tax classification (C=C corporation, S=S corporation, P=Partnership)		<input type="text"/>	
4. 1099 Reporting: Services provided to the State by vendor:			
<input type="checkbox"/> Health care or medical service	<input type="checkbox"/> Royalties	<input type="checkbox"/> Agency Volunteer (Agency No.)	
<input type="checkbox"/> Attorney services	<input type="checkbox"/> State of NM Appointed Board member / commissioner / committee member	<input type="checkbox"/> DUAL Supplier & Active NM Employee	
<input type="checkbox"/> Rental of Real Property	<input type="checkbox"/> Other:	<input type="text"/>	

**PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE**

1. Enter your TIN here (DO NOT USE DASHES)		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
2. Taxpayer Identification Type (check appropriate box):									
<input type="checkbox"/> Employer ID No. (EIN)	<input type="checkbox"/> Social Security Number (SSN)	<input type="checkbox"/> Employee ID	<input type="checkbox"/> N/A (Non-United States Business Entity)						

**PART III: ADDRESS**

1. <b>ADDRESS 1:</b> (Location where payments and correspondence can be sent) (if a NM state employee, enter Agency name and field office address)				2. <b>ADDRESS 2, IF DIFFERENT:</b> (location specifically used for payment remittance that is different than address 1, if applicable)			
Agency Name				Agency Name			
Street Address				Street Address			
Apt/Suite/Bldg #				Apt/Suite/Bldg #			
City	State	Zip +4		City	State	Zip +4	

**PART IV: CERTIFICATION**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct tax payer identification number (or I am waiting for a number to be issued to me), **AND**
- I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have **not** been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **AND**
- I am a U.S. Citizen or other U.S. person.

**The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding**

Printed Name	Occupation	Telephone Number
Signature	Email for receiving ACH advices	Date (mm/dd/yyyy)

**PART V: OPTIONAL DIRECT DEPOSIT (ACH)**

**Warning:** The State of New Mexico will not process International ACH Transactions (IAT). If any payment to you from the State will ever result in an IAT under National Automated Clearing House Association (NACHA) operating rules, or if you are not sure if the rules apply to you, DO NOT FILL OUT THIS SECTION OF THE FORM.

Include a voided check or letter from your financial institution if requesting ACH payments. Type of Account:  Checking  Savings

I acknowledge the IAT warning and authorize the State of New Mexico to initiate direct deposit of funds to the account and financial institution indicated, and to recover funds deposited in error if necessary, in compliance with NACHA regulations.

Signature	Printed Name

## Registered Home Visit Checklist

Caregivers must be in compliance with all health and safety requirements in NMAC, as listed below, at all times.

Citation	Description
	<b>Health and Safety Requirements</b>
8.9.5.22 A	Home, grounds, and equipment are safe, clean, in good repair, and free of debris or other potentially dangerous hazards.
8.9.5.22 B,C	All electrical outlets within reach of the children must be covered. Multiple plugs or gang plugs are prohibited unless surge protection devices are used.
8.9.5.22 D	Indoor temperature must be maintained (between 68 to 82 degrees)
8.9.5.22 E	Home must be adequately ventilated at all times.
8.9.5.22 F	A home will install barriers or take other steps to ensure heating units are inaccessible to children. Heating units include hot water pipes, hot water baseboard heaters hotter than 110° Fahrenheit, fireplaces, fireplace inserts, and wood stoves. Homes will use un-vented heaters or open flame heaters.
8.9.5.22 G	All homes must have hot and cold running water. Water temperature must be at or below 110° Fahrenheit.
8.9.5.22 H	A caregiver must provide safe playing areas inside and outside the home. The outside play area must be approved by the registering authority.
8.9.5.22 I	Play area must be on premises. The caregiver will fence the outside play area when it is next to a highway, busy street, ditch, arroyo, or other hazardous area determined to be necessary for safety by the registered authority. The fence must have one latched gate for emergency. If park/playground used it will not be inspected by the registered authority.
8.9.5.22 J	Trampolines are prohibited any time during the hours of operation or by any children receiving care at the registered home.
8.9.5.22 K	All poisons, toxic materials, cleaning substances, alcohol, sharp and pointed objects or any other dangerous materials must be stored in an area that is inaccessible to children.
8.9.5.22 L	Must have a working telephone and a valid phone number on file with ECECD at all times.
8.9.5.22 M	Emergency numbers must be posted for <u>Police, Fire Dept., Ambulance, and Poison Control in a visible location.</u>
8.9.5.22 N	Home must have at least one <u>operational smoke detector and carbon monoxide detector installed in the home.</u>
8.9.5.22 O	All firearms (rifles, handguns, pellet, or BB guns etc.) must be unloaded and kept in a locked area inaccessible to children. All weapons must be in a locked area inaccessible to children.
8.9.5.22 P	Smoking, consumption of alcoholic beverages in all areas, including vehicles, is prohibited when children are present. Possessing or knowingly permitting illegal drugs or non-prescription controlled substances to be possessed or sold on premises at any time regardless of whether children are present is prohibited.
8.9.5.22 Q	Home must have a <u>2A-10BC</u> fire extinguisher in easily accessible place. A fire extinguisher must be certified once a year and will have official tags noting the date of inspection.
8.9.5.22 R	All flammables must be stored away from water heaters, furnaces, heaters, fireplaces, and laundry rooms.
8.9.5.22 S	An updated emergency evacuation and disaster preparedness plan must be available. The caregiver shall also develop a plan for care during a public health emergency.
8.9.5.22 T	Fire drill (monthly) and Emergency Evacuation Log (once every three months).
8.9.5.22 U	Home must have two (2) major exits with no obstruction in pathway accessible to children.
8.9.5.22 V	Toys and objects (including highchairs, playpens, and cribs) must be safe, durable and easy to clean & non-toxic. Cribs must meet federal standards and be kept in good repair. A home will not use plastic bags or lightweight plastic sheeting to cover mattress and will not use pillows in cribs.
8.9.5.22 W	Cribs shall meet federal standards (CPSC 16 CFR1219,1220), be kept in good repair, and not be used for storage. A home shall not use plastic bags or lightweight plastic sheeting to cover a mattress and shall not use pillows in cribs. Animals and pets shall not be allowed in cribs or on sleeping materials.

Citation	Description
8.9.5.22 X	Bathroom must always have <ul style="list-style-type: none"> <li>• toilet paper</li> <li>• soap</li> <li>• disposable towels accessible to children</li> </ul>
8.9.5.22 Y	Home must have First-Aid Kit, and it must contain <ul style="list-style-type: none"> <li>• Band-Aids</li> <li>• Tape</li> <li>• Soap</li> <li>• Thermometer</li> <li>• Gauze Pads</li> <li>• Scissors</li> <li>• Non-porous latex gloves</li> </ul>
8.9.5.22 Z	All homes with pets must have current inoculation records for each pet, Written notification to parents before pets are allowed in home, areas of confinement (cages and pens) and outside play area must be cleaned of excrement daily. A home will not allow on the premises of pets or other animals that are undomesticated, dangerous, contagious, or vicious in nature.
8.9.5.22 AA	Wet and soiled diapers and clothing will be changed promptly. Diaper changing surface must be clean, safe, and waterproof. Caregiver will never change diaper in food preparation area. Caregiver will wash their hands and the child’s hands after every diaper change. Caregiver must discard any disposable covers and disinfect the surface after each diaper change.
8.9.5.22 BB	If transporting children, caregiver must have <ul style="list-style-type: none"> <li>• Current driver’s license</li> <li>• Vehicle registration</li> <li>• Proof of insurance coverage</li> <li>• Appropriate restraining devices such as car seats, seat belts, etc.</li> </ul>
8.9.5.22 KK	Provider transporting children will also take the safe transportation practices training.
	<b>Meal Requirements</b>
8.9.5.23 I, J	Caregivers shall keep food requiring refrigeration, including formula, at 41 degrees Fahrenheit or below. Refrigerators and freezers shall have working thermometers.
	<b>Caregiver Responsibilities</b>
8.9.5.25 D	Home must develop a policy and procedure for the expulsion of children.
8.9.5.25 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).
8.9.5.25 J	If a home has a bult in or above ground swimming pool, ditch fishpond or other water hazard, the fixture will constructed, maintained and used in accordance with applicable state and local regulations, will be constructed and protected so that, when not in use, it is inaccessible to children; and when in use, children will be constantly supervised and ensure adequate safety for the ages, abilities and type of water hazard in use.
8.9.5.25 J(1)	A caregiver must obtain written permission from a parent or guardian before a child enters a pool.
	<b>Record Keeping Requirements: Caregiver must keep an information card for each child (including drop-in children) with:</b>
8.9.5.24	A. Child’s full name B. Child’s birth date C. Any known food or drug allergies or unusual physical conditions D. Name, telephone number and location of parent or guardian to contacted in case of an emergency E. Name and telephone number of the child’s physician F. Authorization from a parent or guardian for caregiver to seek professional medical care in an emergency G. Written permission from parent or guardian for the caregiver to administer medication prescribed by a physician or requested by the parent H. Current immunization record or written waiver for immunizations granted by the Department of Health I. Written permission from parent to transport children outside of the registered home. J. Sign-in and Sign-out form

# ECECD Child Care Regulatory Oversight Unit Contact List

Applicants and registered or licensed providers should contact the office that serves the county where the child care home is located.

TITLE, OFFICE ADDRESS	PHONE NUMBER	FAX NUMBER
<b>NORTHERN REGION:</b> <i>Cibola, McKinley, San Juan, San Miguel, Mora, Colfax, Harding, Union, Santa Fe, Torraine, Taos, Rio Arriba, Los Alamos Counties</i>		
Regulatory Oversight Regional Manager 4801 Indian School RD NE, Albuquerque, NM 87110	(505) 412-5311	(505) 206-5719
Child Care Compliance Supervisor 1105 S. St. Francis Dr, Santa Fe, NM 87505	(505) 231-6411	(505) 827-4250
Child Care Regulatory Lead 1105 S. St. Francis Dr, Santa Fe, NM 87505	(505) 690-7520	(505) 827-4250
<b>CENTRAL REGION:</b> <i>Bernalillo, Sandoval, Socorro, Valencia Counties</i>		
Regulatory Oversight Regional Manager 4801 Indian School RD NE, Albuquerque, NM 87110	(505) 412-5311	(505) 206-5719
Child Care Compliance Supervisor 1 4801 Indian School RD NE, Albuquerque, NM 87110	(505) 331-3578	(505) 206-5719
Child Care Compliance Supervisor 2 4801 Indian School RD NE, Albuquerque, NM 87110	(505) 506-7902	(505) 206-5719
<b>SOUTHWEST REGION:</b> <i>Doña Ana, Grant, Hidalgo, Catron, Luna, Otero, Lincoln, Sierra Counties</i>		
Regulatory Oversight Regional Manager 2100 Summit Ct. Las Cruces, NM 88011	(575) 640-8291	(575) 373-6648
Child Care Compliance Supervisor 1 2100 Summit Ct. Las Cruces, NM 88011	(575) 740-1005	(575) 373-6648
Child Care Compliance Supervisor 2 2100 Summit Ct. Las Cruces, NM 88011	(505) 469-5740	(575) 373-6648
<b>SOUTHEAST REGION:</b> <i>Curry, DeBaca, Guadalupe, Chaves, Lea, Eddy, Roosevelt, Quay Counties</i>		
Regulatory Oversight Regional Manager 2100 Summit Ct. Las Cruces, NM 88011	(575) 640-8291	(575) 373-6648
Child Care Compliance Supervisor 400 Pennsylvania Ave, Ste 441, Roswell, NM 88201	(575) 690-7463	(575) 625-6748

## Statewide Food Sponsor Organizations

The Child and Adult Care Food Program (CACFP) provides free nutritious meals and snacks to children at participating child care homes, centers, and out-of-school time programs. Meals are offered at no cost to eligible families at participating centers. Funded by the U.S. Department of Agriculture (USDA) and administered by the Early Childhood Education and Care Department (ECECD), CACFP provides reimbursements to providers for nutritious meals and snacks to eligible children. Registered Home providers who wish to participate must select a Food Sponsor in their region from the list below. The Food Sponsor will provide training, manage recordkeeping, and visit an active provider’s home at least four times per year.

CACFP SPONSORING AGENCY	ADDRESS	PHONE	FAX
<b>NORTHERN REGION:</b> <i>Cibola, McKinley, San Juan, San Miguel, Mora, Colfax, Harding, Union, Santa Fe, Torrance, Taos, Rio Arriba, Los Alamos Counties</i>			
Chicanos Por La Causa NM	3006 E Hwy 66, Gallup, NM 87301	(505) 445-5788	(505) 287-7550
Chicanos Por La Causa NM	900 Mt. Taylor Ave, Grants, NM 87020	(505) 317-2282	(505) 287-3351
<b>CENTRAL REGION:</b> <i>Bernalillo, Sandoval, Socorro, Valencia Counties</i>			
Chicanos Por La Causa NM	2101-A Mountain Rd. NW, Albuquerque, NM 87104	(505) 317-9674	(505) 265-0420
YDI	428 S. Los Lentos, Los Lunas, NM 87031	(505) 270-2769	(505) 865-7422
CAA of Southern NM	2727 San Pedro Dr. NE, Albuquerque, NM 87110	(505) 977-9240	(505) 214-5517
<b>SOUTHWEST REGION:</b> <i>Doña Ana, Grant, Hidalgo, Catron, Luna, Otero, Lincoln, Sierra Counties</i>			
CAA of Southern NM	3880 Foothills Rd, Ste A, Las Cruces, NM 88011	(575) 523-4085	(575) 527-9028
Chicanos Por La Causa NM	505 S. Main St, Ste 141 Las Cruces, NM 88001	(575) 323-0313	(575) 449-3233
<b>SOUTHEAST REGION:</b> <i>Curry, DeBaca, Guadalupe, Chaves, Lea, Eddy, Roosevelt, Quay Counties</i>			
Southeast NM C.A.C.	1915 San Jose Blvd, Carlsbad, NM 88220	(575) 887-3939	(575)887-6357

# Frequently Asked Questions (FAQs)

## How much are the registration fees?

Effective November 1, 2025, application fees for child care providers have been eliminated. Providers no longer need to pay for an initial or amended license or registration.

## I'm not sure which home-based provider type to select. What is the difference between a licensed family home, licensed group home, and a registered home?

A Registered Home provides care, services and supervision for no more than 4 non-resident children. A Licensed Family Home provides care, services and supervision for no more than six children. A Licensed Family Group Home provides care, services, and supervision for at least seven but not more than 12 children. Licensed Family and Group Homes have different regulations and additional requirements, not described in this application packet, including zoning, environmental and fire department inspections. More information can be found on the ECECD website here [Regulatory Oversight Unit | Early Childhood Education & Care Department](#).

## What documents do I need for registration?

For a Registered Home you will need a background check clearance for the provider, secondary caregiver, and household members over the age of 18, copy of driver's license or picture ID, copy of Social Security Card or Federal Employer Identification Number (FEIN) documentation, proof of physical address, pediatric CPR/First Aid certification, and a W-9 to receive child care assistance payments.

## The application is asking for an EPICS number. What is an EPICS Number?

EPICS is the department's database where provider licensing/registration, contracts, payments and related data are managed and it serves as your license or registration number. Your background check, and your staff or secondary caregiver's background checks, will be tied to your EPICS number. For a registered home provider, an EPICS number is assigned when you complete your background check.

## What is a substitute W-9 and why is it needed?

The substitute W-9 form is used by the State of New Mexico to create your vendor ID and enable ECECD to pay you for the children enrolled through the Child Care Assistance program. Required documents include social security card, Individual Tax Identification Number (ITIN), or an Employee Identification Number (EIN) letter. A copy of your government-issued photo identification (e.g., driver's license, passport) should be submitted with your W-9 form. If the provider wishes to add direct deposit, a voided check or bank letter must be attached to the request along with a secondary phone number for the state to verify your bank information.

## What happens after the application is received by ECECD?

Once the application is submitted, it is reviewed to ensure it is complete. If all required documents are received, the application will be assigned to an ECECD Child Care Specialist who will schedule an initial visit within 14 calendar days.

If any documents are missing, you will be contacted by an ECECD supervisor who will explain what is needed to complete the application. If you are unable to submit all the required documents within six months, you will be required to start the application process again.

## Can I operate before receiving my license or registration?

No. Family child care homes, and other early care and education programs within the State of New Mexico must obtain a license or registration before operating a child care program and receiving payment from ECECD. ECECD will not reimburse providers retroactively for care provided before the license or registration is issued.

## What are the current reimbursement rates as a provider?

The department pays child care providers monthly based upon the child's enrollment with the provider as reflected in the child care placement agreement issued, rather than daily attendance. The amount of the payment is based upon the child care facility type, age of the child, average number of hours of care per week, and the provider's star rating. You may access the reimbursement rates here: [Universal Child Care | Early Childhood Education & Care Department](#).

## How can I amend my existing license or registration?

If you need to update your license or registration because you have moved, changed your name, or you wish to change your home type, an application amendment must be submitted. You can submit an application amendment via:

- ▶ **Upload** your application to <https://files.ececd.nm.gov/filedrop/ECECD-CCSB>
- ▶ **Mail** your application to ECECD Child Care Services Bureau - Licensing Unit, PO Drawer 5619 Santa Fe, NM 87502-5619
- ▶ **Hand deliver** your application to the closest regional ECECD office as listed on page 23.

# Background Check Application

## Adult Household Member/Visitor

This is a “fillable” form. You can type into this form. If you handwrite it, use blue or black ink. print clearly in block lettering. Type “N/A” in the field if not applicable. Forms will be rejected if incomplete, incorrect or the handwriting is not clear.

PRIMARY CAREGIVER INFORMATION				
Primary Caregiver Name (First, Middle, Last)				Applicant TCN Number
Primary Caregiver <i>Physical</i> Address				
City	State	Zip		
Primary Caregiver <i>Mailing</i> Address				Provided After Fingerprinting; Not needed in food only home
City	State	Zip		

APPLICANT INFORMATION				
Applicant Role	<input type="checkbox"/> Current Household Member <input type="checkbox"/> Frequent Visitor			
Applicant First Name	Middle Name	<input type="checkbox"/> no middle name <input type="checkbox"/> initial only		Last Name
Other Names Used (e.g., maiden name, previous married name, legal name change, nicknames, alias)				
Phone	<input type="checkbox"/> home <input type="checkbox"/> cell <input type="checkbox"/> work		Email	
Date of Birth (MM/DD/YYYY)	Country of Birth	Sex (on birth certificate)	Social Security Number or ITIN #	
		<input type="checkbox"/> female <input type="checkbox"/> male		
Primary/Preferred Language	<input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other:		<input type="checkbox"/> I don't have a social security number	
Marital Status	<input type="checkbox"/> Married <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Single <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed			

APPLICANT ADDRESS/EMPLOYMENT/SCHOOL HISTORY <i>now and for the last five years</i>		
Current Street Address (include Apt # if applicable)	City, State, Zip	Start – End Dates (MM/YYYY)
Prior Street Addresses	City, State, Zip	Start – End Dates (MM/YYYY)
Employer or School (college/university, trade school)	City, State, Zip	Start – End Dates (MM/YYYY)





# APPENDIX III: Non-Licensed Family Child Care Homes Regulations

**TITLE 8 SOCIAL SERVICES**

**CHAPTER 9 EARLY CHILDHOOD EDUCATION AND CARE**

**PART 5 NON-LICENSED CHILD CARE; REQUIREMENTS GOVERNING REGISTRATION OF NON-LICENSED FAMILY CHILD CARE HOMES**

**8.9.5.1 ISSUING AGENCY:** Early Childhood Education and Care Department (“ECECD”).  
[8.9.5.1 NMAC - N, 11/01/2022]

**8.9.5.2 SCOPE:** All non-licensed family child care homes within the state of New Mexico who are intending to participate in the child and adult care food program or the child care services programs.  
[8.9.5.2 NMAC - N, 11/01/2022]

**8.9.5.3 STATUTORY AUTHORITY:** The requirements (regulations) set forth herein, are established pursuant to the federal regulations at 7 CFR Part 226 CACFP, 45 CFR Part 98 CCDBG, the New Mexico Public Health Act, Sections 24-1-2 and 24-1-5 NMSA 1978, and the New Mexico Children’s Code, Section 32A-15-3 NMSA 1978. These regulations are promulgated by the authority set forth in Subsection E of Section 9-29-6 NMSA 1978. Pursuant to these regulations for participation in the child care assistance programs (CCAP) with the Early Childhood Education and Care Department, registered homes are health facilities within the scope of Sections 24-1-2, 24-1-5 NMSA 1978, and Section 32A-15-3 NMSA 1978. *See also* Paragraph (3) of Subsection (A) of Section 9-29-3 NMSA 1978.  
[8.9.5.3 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.4 DURATION:** Permanent.  
[8.9.5.4 NMAC - N, 11/01/2022]

**8.9.5.5 EFFECTIVE DATE:** November 1, 2022, unless a later date is cited at the end of a section.  
[8.9.5.5 NMAC - N, 11/01/2022]

**8.9.5.6 OBJECTIVE:** The objective of 8.9.5 NMAC is to establish standards and procedures to permit independent caregivers who are not required to be licensed as family child care homes under state regulation 8.9.4 NMAC to participate in the federal child and adult care food program and the state and federal child care assistance programs through the registration process. The objective of 8.9.5 NMAC is also to establish standards and procedures that promote equal access to services and prohibit discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 or older).  
[8.9.5.6 NMAC - N, 11/01/2022]

**8.9.5.7 DEFINITIONS:**

**A. Terms beginning with the letter “A”:**

**(1) “Abuse”** means any act or failure to act, performed intentionally, knowingly or recklessly, which causes or is likely to cause harm to a child, including:

**(a)** physical contact that harms or is likely to harm a child;

**(b)** inappropriate use of a physical restraint, isolation, medication or other means that harms or is likely to harm a child;

(c) punishment that is hazardous to the physical, emotional or mental state of the child; and

(d) an unlawful act, a threat or menacing conduct directed toward a child that results or might be expected to result in fear or emotional or mental distress to a child.

(2) **“Adult”** means a person who has a chronological age of 18 years or older.

(3) **“Attended”** means the physical presence of a staff member of educator supervising children under care. Merely being within eyesight or hearing of the children does not mean actively engaged or meet the intent of this definition.

**B. Terms beginning with the letter “B”: [RESERVED]**

**C. Terms beginning with the letter “C”:**

(1) **“Care”** means the provisions of what is necessary to meet the needs of the health, welfare, maintenance, and protection of a child.

(2) **“Cease and desist letter”** means a formal letter from the registered authority to a provider outlining any ongoing violation of applicable regulations and providing 24 - 72 hours, depending on the circumstances, to rectify the violation(s) before additional action, including suspension or revocation, is taken by the registered authority. A cease and desist letter is usually issued when a registered caregiver 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 must provide the specific deadline to rectify the violation(s), 24 to 72 hours, and specify the subsequent action the registered authority will take if the violation(s) is not corrected by that deadline.

(3) **“Child”** means any person who is under the chronological age of 18 years.

(4) **“Child and adult care food program (CACFP)”** means the state of New Mexico's family nutrition bureau which administers the federal child and adult care food program.

(5) **“Child care assistance program (CCAP)”** means the state of New Mexico’s child care services bureau (CCSB) which administers the federal child care and development fund (CCDF).

(6) **“Child with a disability or special needs”** means a child with an identified disability, health, or mental health conditions requiring early intervention, special education services, or other specialized services and support; or children without identified conditions, but requiring specialized services, supports, or monitoring.

(7) **“Clean”** means to physically remove all dirt and contamination.

(8) **“Conditions of operation”** means a written plan that applies to a registered home and is developed by the licensing authority when the registered authority determines that provisions within these regulations have been violated. The plan addresses corrective actions that the caregiver must take within a specified timeframe.

(9) **“Corrective action plan”** means the plan submitted by the caregiver addressing how and when identified deficiencies will be corrected.

**D. Terms beginning with the letter “D”:**

(1) **“Disinfect”** means to destroy or inactivate most germs, but not bacterial spores, on any inanimate object. Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.

(2) **“Drop-in”** means a child who attends a child care home on an occasional or unscheduled basis to include children who come to play with provider’s children without parent being present.

**E. Terms beginning with the letter “E”:**

(1) **“Emergency caregiver”** means someone 18 years of age or older who is authorized by the primary caregiver to provide care on an emergency basis, eight hours or less, on behalf of the primary caregiver.

(2) **“Environment”** means the space meeting all required local, state, and federal

regulations. Environment includes space (both indoors and outdoors) with appropriate equipment and materials that encourage children to engage in hands-on learning.

**(3) “Exempt caregiver”** means a child care home primary caregiver who is exempt from participating in the CACFP because 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.

**(4) “Exploitation”** of a child consists of the act or process, performed intentionally, knowingly, or recklessly, or using a child’s property for another person’s profit, advantage or benefit without legal entitlement to do so.

**(5) “Expulsion”** means the involuntary termination of the enrollment of a child or family.

**F. 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.

**G. Terms beginning with the letter “G”: “Guidance”** means fostering a child’s ability to become self-disciplined. Guidance shall be consistent and developmentally appropriate.

**H. Terms beginning with the letter “H”:**

**(1) “Home”** means a private residence and its premises registered under these regulations where children receive care, services, and supervision. The caregiver 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.

**(2) “Homeless children and youth”** means individuals who lack a fixed, regular, and adequate nighttime residence, which includes:

**(a)** children and youth who are temporarily sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks (excludes mobile homes), or camping ground due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

**(b)** children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

**(c)** children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

**(d)** migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in subparagraphs (a) through (c) of this Paragraph.

**I. Terms beginning with the letter “I”:**

**(1) “Infant”** means a child from birth to 12 months.

**(2) “In-home care”** means care provided in the child’s own home. In-home care registrations are limited to care of children with documented special needs or a medical condition, and the siblings of qualifying child. In-home care registrations must comply with the following:

**(a)** Parents or legal guardians who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent or legal guardian who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent or legal guardian.

**(b)** Parents or guardians are responsible for submitting documentation from a medical professional detailing the need for in-home care.

**(c)** Parent or guardians must consent to initial and annual inspections in accordance with 8.9.5.13 NMAC.

**(d)** In-home care registrations are exempt from the health and safety requirements outlined in Subsections C, D, E, F, G, H, I, J, R, T, U, V, W, X, Z of 8.9.5.22 NMAC; 8.9.5.23 NMAC; and

Subsections D and I of 8.9.5.25 NMAC.

**J. Terms beginning with the letter “J”:** [RESERVED]

**K. Terms beginning with the letter “K”:** [RESERVED]

**L. Terms beginning with the letter “L”:** [RESERVED]

**M. Terms beginning with the letter “M”:** “Media” means the use of televisions, video games, and non-educational on-line streaming such as video and social media.

**N. Terms beginning with the letter “N”:**

(1) “Neglect” means the failure to provide the common necessities including but not limited to: food, shelter, a safe environment, education, emotional well-being and healthcare that may result in harm to the child.

(2) “Non-resident child” means any child who does not reside in the primary caregiver's home.

(3) “Notifiable diseases” means confirmed or suspected diseases/conditions as identified by the New Mexico department of health which require immediate reporting to the office of epidemiology which include but are not limited to: measles, pertussis, food borne illness, hepatitis and acquired immune deficiency syndrome.

**O. Terms beginning with the letter “O”:** [RESERVED]

**P. Terms beginning with the letter “P”:**

(1) “Pacifier” means a rubber or plastic device, often shaped into a nipple, for an infant to suck or bite.

(2) “Premises” means all parts of the buildings, grounds, and equipment of a non-licensed home pursuant to these regulations.

(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, and has no other employment during hours of care. The primary caregiver must reside in the home.

**Q. Terms beginning with the letter “Q”:** [RESERVED]

**R. Terms beginning with the letter “R”:**

(1) “Registered authority” means the child care services bureau - regulatory oversight unit of the early education, care and nutrition division of the New Mexico Early Childhood Education and Care Department (ECECD).

(2) “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.

(3) “Registered family child care food-only home” means the residence of an independent primary caregiver who registers the home under these regulation to participate in the child and adult care food program (CACFP) only and does not participate in the state and federal child care assistance program.

(4) “Resident child” means any child who resides in the home, such as the primary caregiver’s own children by birth or adoption, foster children, grandchildren, or cohabitant's children who are part of the residential unit.

**S. Terms beginning with the letter “S”:**

(1) “Serious injury” means the death of a child or accident, illness, or injury that requires treatment by a medical professional or hospitalization.

(2) “Significant amount of time” means someone who is on the premises for more than one hour per day during hours of care.

(3) “Substantiated” means an incident or complaint determined to factual, based on an investigation of events.

(4) “Substitute caregiver” means someone 18 years of age or older who is authorized by

the primary caregiver and the registered authority to provide care in the absence of the primary caregiver and is required to complete all the items required of primary caregivers, including background check clearance in accordance with the most current provisions of 8.9.6 NMAC governing background checks and employment history verification provisions.

(5) **“Supervision”** means the direct observation and guidance of children at all times and requires being physically present with them.

(6) **“Survey”** means a representative of ECECD’s authority to enter a home, observe activity, examine records and premises, interviews parents and record deficiencies.

**T. Terms beginning with the letter “T”:** “Toddler” means a child age 12 months to 24 months.

**U. Terms beginning with the letter “U”:**

(1) **“Unattended”** means a caregiver is not physically present with a child or children under care.

(2) **“Unsubstantiated”** means an incident or complaint not determined to be factual based on an investigation of events.

**V. Terms beginning with the letter “V”:** [RESERVED]

**W. Terms beginning with the letter “W”:** [RESERVED]

**X. Terms beginning with the letter “X”:** [RESERVED]

**Y. Terms beginning with the letter “Y”:** [RESERVED]

**Z. Terms beginning with the letter “Z”:** [RESERVED]

[8.9.5.7 NMAC - N, 11/01/2022; A, 11/04/2025]

#### **8.9.5.8 APPLICATION:**

**A.** 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. One primary caregiver per household can be registered or licensed with CCSB. Primary caregivers must provide photo identification to prove identity and documentation of proof of address.

**B.** An applicant shall complete an application form provided by the registered authority. 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, the applicant has not received responses from these agencies. In home care registrations are exempt from the application fee.

**C.** A home 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.

**D.** Child care homes operating on sovereign tribal lands are governed and inspected by the federal Tribal Child Care and Development Fund (CCDF) Lead Agency. Therefore, such registered homes do not require an inspection by the New Mexico registered authority.

(1) Homes governed and inspected by the federal Tribal Child Care and Development Fund (CCDF) Lead Agency may choose to apply for a Tribal Government registration from ECECD.

(a) A Tribal Government registration may be issued for the purposes of receiving child care assistance subsidies through 8.9.3 NMAC.

(b) Registered homes operating under a Tribal Government registration must comply with their sponsoring Tribal Child Care and Development Lead Agency and are not required to be inspected by the New Mexico registered home authority comply with any other regulations under this part other than 8.9.5.8(D) NMAC.

(c) Registered homes operating under a Tribal Government registration must

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

(d) A Tribal Government registration may be revoked if the New Mexico registered authority is notified by the registered home's Tribal Child Care and Development Lead agency of the registered home's non-compliance with their rules and requirements.

(2) Caregivers registered by the Tribal CCDF Lead Agency program must submit the following to obtain a tribal government child care registration from ECECD:

(a) Application;

(b) Proof of Tribal CCDF Lead Agency approval;

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

(d) Annual submission of all caregivers employed by the registered home, listing each individual staff member's name, date of birth, and home address; and

(e) W-9 form and supporting documentation, if applicable.

(3) As an alternative to a Tribal Government registration, registered homes operating on sovereign tribal lands may choose to apply for a state registration. To receive a state registration, the registered home must follow the full process outlined in 8.9.5 NMAC and agree to follow and be subject to all the rules and requirements of 8.9.5 NMAC.

[8.9.5.8 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.9 REGISTERED AUTHORITY (ADMINISTRATION AND ENFORCEMENT RESPONSIBILITY):** The child care services bureau - *regulatory oversight unit of the early education, care and nutrition division of ECECD*, hereafter called the registered authority, has been granted the responsibility by ECECD for the administration and enforcement of these regulations pursuant to the Early Childhood Education and Care Department Act, Sections 9-29-1 to 9-29-12 NMSA 1978, as amended.

[8.9.5.9 NMAC - N, 11/01/2022]

**8.9.5.10 CAREGIVER REQUIREMENTS:**

**A.** 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.

**B.** All caregivers, including primary, substitute and emergency caregivers must be at least 18 years of age, and must demonstrate the ability to perform essential job functions that reasonably ensure the health, safety and welfare of children in care.

**C.** Primary and substitute caregivers must comply with background check requirements in accordance with the most current provisions of 8.9.6 NMAC governing background checks and employment history verification provisions. A request for a background check must be submitted prior to a substitute caregiver employment. A substitute caregiver must receive a notice of provisional employment prior to beginning employment or obtain a background check in accordance with 8.9.6 NMAC.

**D.** Emergency caregivers may provide care on unforeseen, unforeseeable and rare occasions for up to eight hours per month on behalf of the primary caregiver. Emergency caregivers must comply with background check requirements, and be certified in first – aid and cardiopulmonary resuscitation (CPR) with a pediatric component. Emergency caregivers may be exempted from all other training requirements. Anyone who provides care repeatedly or in reasonably foreseeable circumstances is a substitute caregiver and must have the required background checks and training.

**E.** A substitute caregiver is anyone who provides care repeatedly or in reasonably foreseeable circumstances and must have the required background checks and training.

**F.** In the event care is provided by a substitute or emergency caregiver, all parents/guardians must be notified as promptly as possible.

**G.** All caregivers are responsible for immediately reporting to the appropriate authorities any signs or symptoms of child abuse or neglect.

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

- (1) prevention and control of infectious diseases (including immunization);
- (2) prevention of sudden infant death syndrome and use of safe sleeping practices;
- (3) administration of medication, consistent with standards for parental consent;
- (4) prevention of and response to emergencies due to food or other allergic reactions;
- (5) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (6) prevention of shaken baby syndrome and abusive head trauma;
- (7) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused;
- (8) handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
- (9) precautions in transporting children (if applicable);
- (10) first aid and cardiopulmonary resuscitation (CPR) awareness with a pediatric component;
- (11) recognition and reporting of child abuse and neglect; and
- (12) 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 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.

**I.** Primary and substitute caregivers are required to attend six hours of training annually. Training documentation must be maintained for three years and include the caregiver's name, the date of training, instructor's name and signature, topic of training and number of hours completed.

**J.** Primary and substitute caregivers caring for infants shall receive two hours of infant or toddler specific training within six-months of registration.

**K.** If a registered home caregiver completes the 18-hour course, it will count toward the six-hour annual training requirement during the year in which the course was completed and the following year, exclusive of training required by CACFP.

**L.** Primary and substitute caregivers are required to obtain current first aid and CPR certification with a pediatric component prior to becoming registered and maintain this certification at all times. On-line first aid and CPR classes are not valid unless there is a hands-on component included. In-person requirements may be waived in case of an emergency. A caregiver cannot count more than four hours in first aid and CPR trainings toward their total hours of annual training requirements.

**M.** Training shall be within the seven competency areas. The competency areas are:

- (1) child growth, development and learning;
- (2) health, safety, nutrition and infection control;
- (3) family and community collaboration;
- (4) developmentally appropriate content;
- (5) learning environment and curriculum implementation;
- (6) assessment of children and programs; and
- (7) professionalism.

[8.9.5.10 NMAC - N, 11/01/2022; A, 10/08/2024; A, 11/04/2025]

**8.9.5.11 BACKGROUND CHECKS:**

**A.** All background checks shall be conducted in accordance with the most current provisions of 8.9.6 NMAC governing background checks and employment history verification provisions as promulgated by ECECD. All non-licensed child care caregivers must adhere to these provisions to maintain their registration status. A background check must be conducted in accordance with 8.9.6 NMAC on all required individuals at least once every five years from the original date of eligibility regardless of the date of hire or transfer of eligibility. A direct provider of care may request a transfer of background check eligibility if:

**(1)** 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

**(2)** submits an application for transfer and is found eligible pursuant to 8.9.6.11 NMAC.

**B.** The primary caregiver 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.

**C.** Any adult who is present in the registered home, who is not the primary caregiver for significant periods while children are in care, or who commences being present in the registered primary caregiver's home for significant periods, may be required by the department to obtain either a background check or criminal history and child abuse and neglect screening. Family members or guests visiting for temporary periods (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.

**D.** All requirements of the current background checks and employment history verification provisions pursuant to 8.9.6 NMAC must be met prior to the issuance of an initial registration.

**E.** The registered primary caregiver must maintain documentation of all applications, correspondence and clearances relating to the background checks required in this section and make them available to the registered authority upon request.

**F.** The primary caregiver shall certify yearly that they, or any other adult living in the home have not been convicted of a disqualifying offense during the last twelve months.

[8.9.5.11 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.12 INITIAL REGISTRATION:** A registration is issued to a child care home that has met all requirements of these regulations and shall remain valid as long as the registered home maintains good standing in compliance with all applicable rules of the department, or if not in compliance with a rule, has been granted a waiver or variance of that rule by the department or has entered into a plan of correction during their annual inspection, and the registered home certifies on its annual inspection survey its desire to renew the registration for another year. A denial of an initial or renewal application may only occur pursuant to 8.9.5.17 NMAC. Primary caregivers shall ensure that all adults residing in the home, as well as secondary caregivers and adults spending a significant amount of time in the home, are listed on all documentation required by ECECD and sponsoring agencies.

[8.9.5.12 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.13 VISITS BY THE SPONSORING AGENCY AND REGISTERED AUTHORITY:** Caregivers shall grant the registered authority representative the right to enter the premises and, conduct visits, including

and complaint investigations when child care children are present and during the caregiver's stated normal hours of operation.

**A.** The registered authority will conduct a survey at least once a year at each registered residence, using these regulations as the criteria. The registered authority shall conduct additional surveys or visit the registered residence additional times to provide technical assistance, to check progress on correction of deficiencies found on previous surveys, or to investigate any complaints.

**B.** Upon the completion of a survey, the registered authority will discuss the findings with the caregiver or their substitute caregiver and will provide an official written report of the findings and a request for a plan or plans of correction, if appropriate. Each survey will be made available for review on a public web portal.

**C.** By applying for a registration, 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.

**D.** The registering authority may or may not announce a survey. A substitute caregiver knowledgeable in the daily operations, that has access to all records and locked areas, and can represent the caregiver for survey purposes, must be present in the residence if the primary caregiver is not present. [8.9.5.13 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.14 NON-TRANSFERABILITY OF REGISTRATION:**

**A.** The primary caregiver's registration agreement is personal, and not transferable to any other person or location.

**B.** The registration will expire if the primary caregiver moves, changes their name, or is suspended or revoked.

**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. The caregiver must report a new location or change of name prior to the occurrence and receive a new on-site health and safety inspection by ECECD. [8.9.5.14 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.15 INCIDENT REPORTS:** The 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 as soon as possible but no later than 24 hours after the incident occurred. A report shall first be made by telephone and followed with written notification. The caregiver shall report to the appropriate authorities the following incidents, including but not limited to:

- A.** Any incident that has threatened or could threaten the health and safety of children, including but not limited to:
- (1)** a lost, missing child or unattended child;
  - (2)** a serious injury;
  - (3)** the suspected abuse or neglect of a child;
  - (4)** fire, flood, or other natural disaster that creates structural damages to a home or poses a health hazard;
  - (5)** any of the illnesses on the current list of notifiable diseases and communicable published by the office of epidemiology of the New Mexico department of health;
  - (6)** any legal action against a caregiver or household member;
  - (7)** any incident that could affect the background check eligibility of any cleared person related to this registration;
  - (8)** the use of physical or mechanical restraints, unless due to documented emergencies or

medically documented necessity; or

(9) any known change in a caregiver’s health condition or use of medication that impairs his or her ability to provide for the health, safety or welfare of children in care.

B. A home 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.

C. Incident reports involving suspected child abuse and neglect must be reported immediately to children’s protective services and local law enforcement. The registered authority follows written protocols/procedures for the prioritization, tracking, investigation and reporting of incidents, as outlined in the complaint investigation protocol and procedures.

[8.9.5.15 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.16 COMPLIANCE:** By completing the ECECD registration process, the primary caregiver is agreeing to comply with these regulations to include the following:

A. The primary caregiver agrees to continue to meet these requirements, to correct deficiencies promptly and to take prompt action to resolve problems cited in complaints filed with state agencies and referred to the caregiver.

B. The caregiver must grant the registered authority the right to enter the premises and survey the caregiver’s home and the inspection and copying of records. This includes any investigations which are announced or un-announced.

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 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.

[8.9.5.16 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.17 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:

(1) failure to comply with the group composition requirement;

(2) any health and safety violations which place the children in immediate danger, including but not limited to:

(a) a dwelling infested with vermin, including rodents, with no effort to correct the problem;

- (b) lack of basic sanitary facilities, such as an open cesspool or open sewer line draining onto the ground surface; and
- (c) unlocked or unsecured firearms and weapons in the home;
- (3) background check denial or suspension;
- (4) failure to timely obtain required background checks;
- (5) misrepresentation or falsification of any information given to ECECD or CACFP;
- (6) failure to allow access to the registered home by authorized representatives of the department or sponsor, at any time that children are present in the registered home;
- (7) failure to properly protect the health, safety and welfare of children due to impaired health or conduct or hiring or continuing to allow any person whose health or conduct impairs the person's ability to properly protect the health, safety, and welfare of the children;
- (8) discovery of repeat violations of these regulations or failure to correct deficiencies of survey findings in current or past contiguous or noncontiguous certification periods;
- (9) possessing or knowingly permitting non-prescription controlled substances or illegal drugs to be present on the premises at any time, regardless of whether children are present;
- (10) substantiated non-compliance with caregiver requirements to care for children in the registered home as defined in these regulations;
- (11) substantiated abuse or neglect of children by the caregiver or household member as determined by the Children, Youth and Families Department (CYFD), ECECD or a law enforcement agency;
- (12) allowing any person to be active in the child care home who is or would be disqualified as a primary caregiver 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 teenaged children living in a family child care home operated in a private residence whether or not they are active in the child care operation;
- (13) situations where the children in care are placed in unreasonable or unnecessary danger, including but not limited to: evidence of illegal drug use in the home, evidence of domestic violence in the home, a convicted sex offender maintaining residence in the home, a convicted sex offender in the home when children are present, accusations of sexual child abuse against a caregiver or household member, or pending the outcome of a child protective services referral; and
- (14) any serious violation or other circumstance which leads the department to reasonably determine that the caregiver cannot reliably safeguard the health and safety of children.

**C.** Commencement of an ECECD, CYFD, or law enforcement investigation may be grounds for immediate suspension of registration pending the outcome of the investigation. Upon receipt of the final results of the investigation, the department may take such further action as is supported by the investigation results.

**D.** A suspension, revocation, or conditions of operations imposed pursuant to part A of this section may take effect immediately if in the discretion of the department that the health, safety or welfare of a child is at risk, or has reason to believe that the caregiver cannot reasonably safeguard the health and safety of children.

**E.** The Early Childhood Education and Care Department notifies the primary caregiver in writing when registration is denied, suspended or revoked, or if renewal is declined. The notification shall include the reasons for the department's action. The primary caregiver may obtain an administrative appeal of the department's action.

**F.** The child care services bureau notifies the family nutrition bureau of any revocation or suspension of registration for a primary caregiver participating in the child care assistance programs.

**G.** Primary caregivers whose registration has previously been suspended or revoked may re-apply for registration through the regular registration process. The child care services bureau may consider the reasons for the previous action, as well as changed and current circumstances, in determining whether to

allow the new application. 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 obtain re-registration.

**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.

**I.** Caregivers who are required to implement actions or to agree to conditions pursuant to Subsections G or H, are notified in writing, and shall have the opportunity for administrative appeal.

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

[8.9.5.17 NMAC - N, 11/01/2022; A, 11/04/2025]

#### **8.9.5.18 COMPLAINTS:**

**A.** Complaints received by ECECD shall be investigated promptly.

**B.** An authorized ECECD representative receiving complaints will ask complainants to identify themselves and provide all information necessary to document the complaint.

**C.** The authorized ECECD representative will investigate any complaint in which the health, safety or welfare of a child could be in danger. The complaint will be reviewed and prioritized immediately according to the nature and severity of the complaint. The registered authority will follow established protocols and procedures for prioritizing, tracking, initiating and reporting of complaints and complaint investigations. Complaints will be investigated in a timely manner as follows:

**(1)** Priority 1 complaints: investigation will be initiated within 24 hours.

**(2)** Priority 2 complaints: investigation will be initiated within three working days.

**(3)** Priority 3 complaints: investigation will be initiated within five working days.

**(4)** Initiation timeframes for investigations may be shortened based on the severity and nature of the complaint, but timeframes may not be extended.

**D.** The caregiver shall cooperate in good faith with any investigation by the authorized ECECD authority. Obstruction of an investigation may subject the primary caregiver to sanctions, up to and including revocation.

**E.** Action by the authorized ECECD representative:

**(1)** The registered authority will provide a written letter on the results of the investigation to the registered home primary caregiver that is the subject of the complaint and the complainant if an action is taken.

**(2)** If the authorized ECECD representative finds the complaint is unsubstantiated, it will be so designated and the authorized ECECD representative will take no further action.

**(3)** If the authorized ECECD representative finds that a complaint is substantiated, it will make the complaint part of the authorized ECECD file on the child care registered home. The following additional actions will, at the discretion of the authorized ECECD representative, be taken:

**(a)** the ECECD authority will require the registered home caregiver to submit and comply with a written corrective action plan; or

**(b)** the ECECD authority will sanction the registered home administratively including,

without limitation, suspension, revocation, or restriction of a registration; or

(c) the ECECD authority will pursue criminal charges or civil remedies.

F. The authorized ECECD representative will report all cases of suspected child abuse and neglect to both CYFD's protective services and the local law enforcement agency.

[8.9.5.18 NMAC - N, 11/01/2022]

#### **8.9.5.19 ADMINISTRATIVE APPEAL RIGHTS:**

A. Any primary caregivers who receives notice that registration is denied, revoked, suspended or that renewal is denied, has a right to an administrative appeal of the decision. Any primary caregiver who is required by the department to implement specific actions, or to agree to specific conditions, in order to maintain registered status, has a right to administrative appeal.

B. Administrative appeals shall be conducted by a hearing officer appointed by the department's secretary pursuant to ECECD's identified administrative hearing regulations.

C. If the suspension or revocation is to take effect immediately, or if required conditions of continued operation are to take effect immediately, the department affords the primary caregiver the opportunity for an administrative appeal within five working days. If registration is suspended pending the results of an investigation, the primary caregiver may elect to postpone the hearing until the investigation has been completed.

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.

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

F. For any action taken by the department pursuant to 8.9.5.20 NMAC of this regulation, the applicable hearing procedure shall be that contained in 8.9.5.20 NMAC.

[8.9.5.19 NMAC - N, 11/01/2022; A, 11/04/2025]

#### **8.9.5.20 PROBABLE CAUSE OF IMMINENT DANGER:**

A. In circumstances in which Public Health Act, Subsection (N) of Section 24-1-5 (2005) NMSA 1978 may apply, and in which other provisions of this regulation are not adequate to protect children from imminent danger of abuse or neglect while in the care of a provider, the provisions of Subsection (N) of Section 24-1-5 NMSA 1978 shall apply as follows:

(1) The department shall consult with the owner or operator of the child care facility.

(2) Upon a finding of probable cause, the department shall give the owner or operator notice of its intent to suspend operation of the child care facility and provide an opportunity for a hearing to be held within three working days, unless waived by the owner or operator.

(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 of no more than fifteen days.

(4) Prior to the date of the hearing, the department shall make a reasonable effort to notify the parents of children in the care of the registered home of the notice and opportunity for hearing given to the caregiver.

(5) No later than the conclusion of the 15 day period, the department shall determine whether other action is warranted under this regulation.

B. Nothing in this section of the regulation shall be construed to require registration that is not

otherwise required in this regulation.

[8.9.5.20 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.21 GROUP COMPOSITION REQUIREMENTS:**

- A. A caregiver shall care for no more than four non-resident children at any one time.
- B. A caregiver shall care for no more than two children under two years of age at any one time, including the caregiver's own children.
- C. A caregiver shall care for no more than six children under six years of age at any one time, including the caregiver's own children.
- D. Drop-in children shall be counted in the group composition requirements listed above.
- E. Shifts are allowed provided there are never more than four non-resident children present at any one time, including during change of shifts.
- F. All caregivers 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.

[8.9.5.21 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.22 HEALTH AND SAFETY REQUIREMENTS:**

- A. A caregiver shall maintain the home, grounds and equipment in safe condition. The home and grounds must be clean and free of debris or other potential hazards. All equipment must be in good repair.
- B. All electrical outlets within reach of children shall have safety outlets or have protective covers.
- C. A caregiver shall not use multiple plugs or gang plugs unless surge protection devices are used.
- D. A caregiver shall keep the temperature of 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 shall not use heaters without vents or open flame heaters. Portable heaters shall be used in accordance with manufacture instructions. A home 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 shall have hot and cold running water. Water coming from a faucet 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 indoor and outdoor play areas must be safe, clean and free of any debris.
- I. A caregiver's outdoor play area must be on the premises and approved by the registered authority. The caregiver shall fence the outdoor play area when determined to be necessary for safety by the registered authority. The fence must be at least four feet high and 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 shall not be inspected or approved by the registered authority. The provider shall ensure the play area is safe from hazards prior to allowing children 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 shall keep all poisons, toxic materials, cleaning substances, alcohol, alcoholic beverages, prescriptions and over the counter medications, intoxicating substances, sharp and pointed objects or any other dangerous materials in a storage area inaccessible to children.

- L.** The primary caregiver must have a working telephone in the home and a valid working phone number on file with ECECD at all times. Emergency numbers shall be posted on any cordless or cellular telephones. A cellular telephone is acceptable as the only phone in the home. The cellular telephone shall in the same room, charged and accessible to the provider a caregiver at all times.
- M.** A caregiver shall post emergency numbers for the police, fire department, ambulance, and poison control center in a visible location.
- N.** A caregiver shall install at least one working smoke detector and a carbon monoxide detector in an appropriate area in the home.
- O.** A caregiver shall unload all guns, such as pellet or BB guns, rifles and handguns, lethal and non-lethal weapons and keep them in a locked area inaccessible to children. For purposes of this regulation, a weapon is (including but not limited to): firearms, tasers and stun guns, pepper spray, knives, swords and other items designed or used for inflicting bodily harm or physical damage.
- P.** When children are present a caregiver, shall prohibit smoking, the use of e-cigarettes, nicotine and cannabis vaporizers, and any other vaporizing device not prescribed by a licensed medical professional in all areas, including vehicles. A caregiver shall prohibit the drinking of alcoholic beverages or use of cannabis in all areas, including vehicles, when children are present. Possessing or knowingly permitting illegal drugs, paraphernalia, or non-prescription controlled substances to be possessed or sold on the premises at any time regardless of whether children are present is prohibited.
- Q.** A home shall have a fully - charged 210ABC fire extinguisher in an easily accessible place. A fire extinguisher must be certified once a year and shall have official tags noting the date of inspection.
- R.** A caregiver shall store combustible and flammable materials in a safe area away from water heater rooms, furnace rooms, heaters, fireplaces or laundry rooms.
- S.** In case of a fire, the caregiver's first responsibility is to evacuate the children to safety. An up-to-date emergency evacuation and disaster preparedness plan must be available by the caregiver, which shall include steps for evacuation, relocation, shelter-in-place, lock-down, communication, reunification with parents, individual plans for children with special needs and children with chronic medical conditions, accommodations of infants and toddlers, and continuity of operations. The plans shall be approved annually by the registered authority and the department will provide guidance on developing these plans.
- T.** Caregivers 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 shall hold the drills at different times of the day and shall keep a record of the drills with the date, time, number of adults and children participating, and any problems.
- U.** A home 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 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 shall meet federal standards (CPSC 16 CFR1219,1220), be kept in good repair, and not be used for storage. A home shall not use plastic bags or lightweight plastic sheeting to cover a mattress and shall not use pillows in cribs. Animals and pets shall not be allowed in cribs or on sleeping materials.
- X.** Children shall not use a common towel or wash cloth. All toilet rooms used by children shall have toilet paper, soap and disposable towels.
- Y.** The home shall have a first aid kit stored in a convenient place inaccessible to children, but easily accessible to the caregiver. The kit shall contain at minimum band-aids, gauze pads, adhesive tape, scissors, soap, non-porous latex gloves, and a thermometer.
- Z.** A caregiver with pets shall comply with the following requirements:
- (1)** A home shall inform parents or guardians in writing before pets are allowed in the residence.

(2) A home 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 shall 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 shall change wet and soiled diapers and clothing promptly. A caregiver shall not change a diaper in a food preparation area. Caregivers shall wash their hands and the child's hands after every diaper change. A caregiver 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 on condition that the passenger-side air bag is deactivated if the vehicle is equipped with a deactivation switch for the passenger-side air bag.

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

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

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

**GG.** Vehicles used for transporting children 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 shall ensure the vehicle is heated

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

**JJ.** No one shall smoke, use e-cigarettes, nicotine and cannabis vaporizers, or any other vaporizing device not prescribed by a licensed medical professional in a vehicle used for transporting children.

**KK.** Persons transporting children shall also take the safe transportation practices training.  
[8.9.5.22 NMAC - N, 11/01/2022; A, 11/04/2025]

#### **8.9.5.23 MEAL REQUIREMENTS:**

- A.** Children shall not use shared eating or drinking utensils.
- B.** Children shall not use common eating or drinking utensils.
- C.** A caregiver shall provide readily accessible drinking water in sanitary cups or glasses.
- D.** Meals must meet age-appropriate USDA requirements.
- E.** A caregiver must keep a daily menu.

- F. Caregivers shall serve meals family style and allow children to assist in the preparation and serving of food and snacks.
- G. Caregivers shall feed children a meal or snack every three hours.
- H. Caregivers and children shall wash their hands regularly and before each meal time.
- I. Caregivers shall keep food requiring refrigeration, including formula, at 41 degrees Fahrenheit or below.
- J. Refrigerators and freezers shall have working thermometers.

[8.9.5.23 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.24 RECORD KEEPING REQUIREMENTS:** Caregivers must keep an information card for each child (including drop-in children) with:

- A. the child's full name;
- B. the child's birth date;
- C. any known food or drug allergies or unusual physical condition;
- D. the name, telephone number, and location of a parent or other responsible adult to be contacted in any emergency;
- E. the name and telephone number of the child's physician;
- F. authorization from a parent or guardian for the caregiver to seek professional medical care in an emergency;
- G. written permission from a parent or guardian for the caregiver to administer medication prescribed by a physician or requested by the parent;
- 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 shall be granted for children in foster care or homeless children and youth, or at-risk children and youth as determined by the department;
- I. written permission from parent to transport children outside of the registered home; and
- J. A record of the time the child arrived and departed from the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child. The attendance log must be kept on file for 12 months.

[8.9.5.24 NMAC - N, 11/01/2022; A, 11/04/2025]

**8.9.5.25 CAREGIVER'S RESPONSIBILITIES:**

- A. A caregiver shall directly supervise and actively care for children at all times during hours of operation including naptime and outdoor playtime. Caregivers shall interact with children and provide a safe and positive learning environment.
- B. Children shall never be left unattended. A caregiver shall be with the children at all times whether activities are inside or outside of the home. Caregivers shall be onsite, available and responsive to children during all hours of operation.
- C. A caregiver shall use guidance that is positive, consistent and age-appropriate. The caregiver 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 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 shall maintain a positive environment and shall focus on preventing the expulsion of children age birth to five. The home must develop policies that include clear, appropriate, consistent expectations, and consequences to address disruptive student behaviors; and shall ensure fairness, equity, and continuous improvement.

**E.** Each home must develop an anti-discrimination policy that promotes the equal access of services for all children and families and prohibits discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 and older).

**F.** Each home must offer children activities and experiences that are developmentally appropriate, allow children choices, and promote positive social, emotional, physical and intellectual growth and well-being. Caregivers shall schedule activities in these areas. A caregiver 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 shall also provide a variety of indoor and outdoor equipment to meet the children's developmental interests and needs. Equipment shall encourage large and fine muscle activity, solitary and group play and active and quiet play. Television, video viewing and video games should be limited to two hours a day and should be age-appropriate.

**G.** Caregivers of infants shall allow them to crawl or toddle. Infants shall not be confined to one area for prolonged periods of time unless the infant is content and responsive. Children that are awake should be moved every 30 minutes to offer new stimulation.

**H.** Infants shall either be held or be fed sitting up for bottle-feeding. Infants unable to sit shall always be held for bottle-feeding. Infants and toddlers shall not be placed in a laying position while drinking bottles or sippy cups. The carrying of bottles and sippy cups by young children throughout the day or night shall not be permitted. Caregivers shall allow infants to eat and sleep on their own schedules. Children shall not be allowed to walk/run with pacifiers. Pacifiers shall not be used outside of cribs in rooms with mobile infants or toddlers. Pacifiers shall be labeled and not shared. Pacifiers shall not be tied to the child. Dropped pacifiers shall be cleaned using warm water and soap.

**I.** Caregivers shall ensure age appropriate naps or rest periods as follows:

**(1)** A home shall allow children who do not sleep to get up and participate in quiet activities that do not disturb the other children.

**(2)** Caregivers shall ensure that nothing covers the face or head of a child age 12 months or younger when the child is laid down to sleep and while the child is sleeping.

**(3)** Caregivers shall not place anything over the head or face of a child over 12 months of age when the child is laid down to sleep or while the child is sleeping.

**(4)** No child(ren) shall be allowed to sleep behind closed doors.

**J.** Swimming, wading and water:

**(1)** A caregiver must obtain written permission from a parent or guardian before a child enters a pool;

**(2)** If a home has a portable wading pool:

**(a)** a home shall drain and fill the wading pool with fresh water daily and disinfect the pool regularly;

**(b)** a home shall empty a wading pool when it is not in use and remove it from areas accessible to children; and

**(c)** a home shall not use a portable wading pool placed on concrete or asphalt.

**(3)** If a home has a built in or above ground swimming pool, ditch, fish pond or other water hazard:

**(a)** the fixture shall be constructed, maintained and used in accordance with applicable state and local regulations;

**(b)** the fixture shall be constructed and protected so that, when not in use, it is

inaccessible to children; and

(c) when in use, children shall be constantly supervised and ensure adequate safety for the ages, abilities and type of water hazard in use.

[8.9.5.25 NMAC - N, 11/01/2022; A, 11/04/2025]

**HISTORY OF 8.9.5 NMAC: [RESERVED]**

# APPENDIX IV: Background Check Regulations

**TITLE 8            SOCIAL SERVICES**  
**CHAPTER 9        EARLY CHILDHOOD EDUCATION AND CARE**  
**PART 6             GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION**

**8.9.6.1            ISSUING AGENCY:** Early Childhood Education and Care Department (“ECECD”)  
[8.9.6.1 NMAC - N, 11/01/2022]

**8.9.6.2            SCOPE:** This rule has general applicability to operators, volunteers, including student interns, employees, and prospective operators, staff and employees, of child-care facilities, including every facility, ECECD contractor, program receiving ECECD funding or reimbursement, or other program that has or could have primary custody of children for twenty hours or more per week, and direct providers of care for children including, but not limited to the following settings: licensed and registered child care, home visiting programs, and Family Infant Toddler (FIT) programs.  
[8.9.6.2 NMAC - N, 11/01/2022]

**8.9.6.3            STATUTORY AUTHORITY:** The statutory authority for these regulations is contained in the Criminal Offender Employment Act, Section 28-2-1 to 28-2-6 NMSA and in the New Mexico Children’s and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to 32A-15-4 NMSA 1978 Amended. ECECD’s rule making authority for this rule arises from Subsection E of Section 9-29-6 NMSA 1978; Subsection H of Section 9-29-8 NMSA 1978; and Section 9-29-8.1 NMSA 1978.  
[8.9.6.3 NMAC - N, 11/01/2022]

**8.9.6.4            DURATION:** Permanent  
[8.9.6.4 NMAC - N, 11/01/2022]

**8.9.6.5            EFFECTIVE DATE:** November 1, 2022, unless a later date is cited at the end of a section.  
[8.9.6.5 NMAC - N, 11/01/2022]

**8.9.6.6            OBJECTIVE:**

- A. The purpose of these regulations is to set out general provisions regarding background checks and employment history verification required in settings to which these regulations apply.
- B. Background checks are conducted in order to identify information in applicants’ backgrounds bearing on whether they are eligible to provide services in settings to which these regulations apply.
- C. Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background checks pursuant to 8.9.4 NMAC and 8.9.5 NMAC will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years.

[8.9.6.6 NMAC - N, 11/01/2022]

**8.9.6.7            DEFINITIONS:**

- A. **“Administrative review”** means an informal process of reviewing a decision that may include an informal conference or hearing or a review of written records.
- B. **“Administrator”** means the adult in charge of the day-to-day operation of a facility. The administrator may be the licensee or an authorized representative of the licensee.
- C. **“Adult”** means a person who has a chronological age of 18 years or older, except for persons under Medicaid certification as set forth in Subsection K below.

- D. **“Appeal”** means a review of a determination made by the BCU, which may include an administrative review or a hearing.
- E. **“Applicant”** means any person who is required to obtain a background check under these rules and NMSA 1978, Section 32A-15-3.
- F. **“Arrest”** means notice from a law enforcement agency about an alleged violation of law.
- G. **“BCU”** means the ECECD background check unit.
- H. **“Background check”** means a screen of ECECD’s information databases, state and federal criminal records and any other reasonably reliable information about an applicant.
- I. **“Care recipient”** means any person under the care of a licensee.
- J. **“Child”** means a person who has a chronological age of less than 18 years, and persons under applicable Medicaid certification up to the age of 21 years.
- K. **“Conditional employment”** means a period of employment status for a new applicant prior to the BCU’s final disposition of the applicant’s background check.
- L. **“Criminal history”** means information possessed by law enforcement agencies of arrests, indictments, or other formal charges, as well as dispositions arising from these charges.
- M. **“Direct physical supervision”** means continuous visual contact or live video observation by a direct provider of care who has been found eligible by a background check of an applicant during periods when the applicant is in immediate physical proximity to care recipients.
- N. **“Direct provider of care”** means any individual who, as a result of employment or, contractual service or volunteer service has direct care responsibilities or potential unsupervised physical access to any care recipient in the settings to which these regulations apply.
- O. **“Eligibility”** means the determination that an applicant does not pose an unreasonable risk to care recipients after a background check is conducted.
- P. **“Employment history”** means a written summary of the most recent three-year period of employment with names, addresses and telephone numbers of employers, including dates of employment, stated reasons for leaving employment, and dates of all periods of unemployment with stated reasons for periods of unemployment, and verifying references.
- Q. **“Licensed”** means authorized to operate by the licensing authority by issuance of an operator’s license or certification certificate.
- R. **“Licensee”** means the holder of, or applicant for, a license, certification, or registration pursuant to, 8.9.4 NMAC, 8.9.5 NMAC or other program or entity within the scope of these regulations. ECECD LICENSEE means program or entity within the scope of these regulations.
- S. **“Licensing authority”** means the ECECD division having authority over the licensee.
- T. **“Moral turpitude”** means an intentional crime that is wanton, base, vile or depraved and contrary to the accepted rules of morality and duties of a person within society. In addition, because of the high risk of injury or death created by, and the universal condemnation of the act of driving while intoxicated, a crime of moral turpitude includes a second or subsequent conviction for driving while intoxicated or any crime involving the use of a motor vehicle, the elements of which are substantially the same as driving while intoxicated. The record name of the second conviction shall not be controlling; any conviction subsequent to an initial one may be considered a second conviction.
- U. **“Notice of provisional employment”** means a written notice issued to a child care center or home applicant indicating the BCU 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.
- V. **“Relevant conviction”** means a plea, judgment or verdict of guilty, no contest, nolo contendere, conditional plea of guilty, or any other plea that would result in a conviction for a crime in a court of law in New Mexico or any other state. The term RELEVANT CONVICTION also includes decrees adjudicating juveniles

as serious youthful offenders or youthful offenders, or convictions of children who are tried as adults for their offenses. Successful or pending completion of a conditional discharge under Section 31-20-13 (1994) NMSA 1978, or Section 30-31-28 (1972) NMSA 1978, or a comparable provision of another state’s law, is not a relevant conviction for purposes of these regulations, unless or until such time as the conditional discharge is revoked or rescinded by the issuing court. The term RELEVANT CONVICTION does not include any of the foregoing if a court of competent jurisdiction has overturned the conviction or adjudicated decree and no further proceedings are pending in the case or if the applicant has received a legally effective executive pardon for the conviction. The burden is on the applicant to show that the applicant has a pending or successful completion of any conditional discharge or consent decree, or that the relevant conviction has been overturned on appeal, or has received a legally effective pardon.

W. **“Unreasonable risk”** means the quantum of risk that a reasonable person would be unwilling to take with the safety or welfare of care recipients.

[8.9.6.7 NMAC - N, 11/01/2022]

**8.9.6.8 APPLICABILITY:** These regulations apply to all licensees and direct providers of care in the following settings:

- A. licensed child care homes;
- B. licensed child care centers;
- C. registered child care homes;
- D. home visiting programs;
- E. licensed before and after school care;
- F. non-licensed or exempt after school programs participating in the at risk component of the child and adult care food program;
- G. Family Infant Toddler (FIT) programs;
- H. ECECD contractors, and any other programs receiving ECECD funding or reimbursement, that:
  - (1) has or could have primary custody of children for twenty hours or more per week; or
  - (2) will have direct contact with children in the provision of ECECD sponsored services.

[8.9.6.8 NMAC - N, 11/01/2022]

**8.9.6.9 NON-APPLICABILITY:**

A. These regulations do not apply to the following settings, except to the extent that such a program receives funding or reimbursement from ECECD:

- (1) hospitals or infirmaries;
- (2) intermediate care facilities;
- (3) children’s psychiatric centers;
- (4) home health agencies;
- (5) diagnostic and treatment centers; and
- (6) unlicensed or unregistered child care homes.
- (7) behavior management skills development;
- (8) case management services;
- (9) day treatment services;
- (10) residential treatment services;
- (11) treatment foster care services agency staff;
- (12) licensed shelter care;
- (13) comprehensive community support services;
- (14) AOC (administrative office of the courts) supervised visitation and safe exchange

program providers.

B. These regulations do not apply to the following adults:

- (1) treatment foster care parents;
- (2) relative care providers who are not otherwise required to be licensed or registered;
- (3) foster grandparent volunteers; and
- (4) all other volunteers for any program or entity within the scope of these regulations if

the volunteer spends less than six hours per week at the program, is under direct physical supervision, and is not counted in the facility ratio.

[8.9.6.9 NMAC - N, 11/01/2022]

#### **8.9.6.10 COMPLIANCE:**

A. Compliance with these regulations is a condition of licensure, registration, certification or renewal, or continuation of same or participation in any other program or contract within the scope of these regulations.

B. The licensee is required to:

(1) submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.9.4 NMAC or 8.9.5 NMAC as applicable. 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.

(2) Applicants required to obtain background checks pursuant to 8.9.4 NMAC and 8.9.5 NMAC must indicate states where they resided during the preceding five years and obtain the following:

(a) a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

(b) an inter-state criminal history check in each state where a new applicant resided during the preceding five years. An inter-state criminal history check is not required if a new applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if an applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

(3) Verify the employment history of any prospective direct provider of care by contacting references and prior employers/agencies to elicit information regarding the reason for leaving prior employment or service; the verification shall be documented and available for review by the licensing authority; EXCEPTION: verification of employment history is not required for registered home providers or child care homes licensed for six or fewer children.

(4) submit an adult household member written statement form for each adult household member in a registered family child care food-only home setting in order to conduct criminal history and child abuse and neglect screens on such household members; an adult household member is an adult living in the household or an adult that spends a significant amount of time in the home; the licensee must submit the required forms for new adult household members pursuant to 8.9.5 NMAC.

(5) provide such other information BCU staff determines to be necessary; and

(6) maintain documentation of all applications, correspondence and eligibility relating to the background checks required; in the event that the licensee does not have a copy of an applicant's eligibility documentation and upon receipt of a written request for a copy, the BCU may issue duplicate eligibility documentation to the original licensee provided that the request for duplicate eligibility

documentation is made within one year of the applicant's eligibility date.

C. If there is a need for any further information from an applicant at any stage of the process, the BCU shall request the information in writing from the applicant. If the BCU does not receive the requested information within fifteen calendar days of the date of the request, the BCU shall deny the application and send a notice of background check denial.

D. Any person who knowingly makes a materially false statement in connection with these requirements will be denied eligibility.

[8.9.6.10 NMAC - N, 11/01/2022]

#### **8.9.6.9 COMPLIANCE EXCEPTIONS:**

A. An applicant may not begin providing services prior to obtaining background check eligibility unless all of the following requirements are met:

(1) the ECECD licensee may not be operating under a corrective action plan (childcare), sanctions, or other form of disciplinary action;

(2) the licensee or applicant shall send the BCU a completed application form and an electronic fingerprint submission receipt prior to employment;

(3) until receiving background eligibility, the applicant shall at all times be under direct physical supervision. See next paragraph for standards regarding applicants required to obtain a background check pursuant to 8.9.4 NMAC or 8.9.5 NMAC;

(4) a licensee or applicant required to obtain a background check pursuant to 8.9.4 NMAC or 8.9.5 NMAC must receive either a notice of provisional employment or background check eligibility prior to beginning employment. Applicants working after receipt of a notice of provisional employment shall at all times be under direct physical supervision until receiving background check eligibility. Upon completion of Paragraph 2 of this subsection, a notice of provisional employment decision will be provided to the child care center or home within five days unless the BCU determines there is good cause shown for an extension; and

(5) no more than 45 days shall have passed since the date of the initial application unless the BCU documents good cause shown for an extension.

B. With the exception of the provision under 8.9.4.19 NMAC and 8.9.5.11 NMAC, if a direct provider of care has a break in employment or transfers employment more than 180 days after the date of an eligibility letter from the BCU, the direct provider of care must re-comply with 8.9.6.10 NMAC. A direct provider of care may transfer employment, as permitted by 8.9.4.19 NMAC and 8.9.5.11 NMAC, or for a period of 180 days after the date of an eligibility letter from the BCU without complying with 8.9.6.10 NMAC only if the direct provider of care submits a preliminary application that meets the following conditions:

(1) the direct provider of care submits a statement swearing under penalty of perjury that he or she has not been arrested or charged with any crimes, has not been an alleged perpetrator of abuse or neglect and has not been a respondent in a domestic violence petition;

(2) the direct provider of care submits an application that describes the prior and subsequent places of employment, registration or certification with sufficient detail to allow the BCU to determine if further background checks or a new application is necessary; and

(3) the BCU determines within 15 days that the direct provider of care's prior background check is sufficient for the employment or position the direct provider of care is going to take.

[8.9.6.11 NMAC - N, 11/01/2022]

#### **8.9.6.12 PROHIBITIONS:**

A. Any ECECD licensee who violates these regulations is subject to revocation, suspension, sanctions, denial of licensure, certification, or registration or termination of participation in any other program within the scope of these regulations.

B. Licensure, certification, registration or participation in any other program within the scope of

these regulations is subject to receipt by the licensing authority of a satisfactory background check for the licensee or the licensee's administrator.

C. Except as provided in 8.9.6.13 NMAC below, licensure, certification, registration or participation in any other program within the scope of these regulations may not be granted by the licensing authority if a background check of the licensee or the licensee's administrator reveals an unreasonable risk.

D. A licensee may not retain employment, volunteer service or contract with any direct provider of care for whom a background check reveals an unreasonable risk. The BCU shall deliver one copy of the notice of unreasonable risk to the facility or program by U.S. mail, facsimile transmission, secure (or encrypted) e-mail or hand delivery, and to the licensing authority by facsimile transmission, secure (or encrypted) e-mail or hand delivery.

E. A licensee shall be in violation of these regulations if it retains a direct provider of care for more than ten working days following the issuing of a notice of background check denial for failure to respond by the BCU.

F. A licensee shall be in violation of these regulations if it retains any direct provider of care inconsistent with Subsection A of 8.9.6.11 NMAC.

G. A licensee shall be in violation of these regulations if it hires, contracts with, uses in volunteer service, or retains any direct provider of care for whom information received from any source including the direct provider of care, indicates the provider of care poses an unreasonable risk to care recipients.

H. Any firm, person, corporation, individual or other entity that violates this section shall be subject to appropriate sanctions up to and including immediate emergency revocation of license or registration pursuant to the regulations applicable to that entity or termination of participation in any other program within the scope of these regulations.

[8.9.6.12 NMAC - N, 11/01/2022]

### **8.9.6.13 ARRESTS, CONVICTIONS AND REFERRALS:**

A. For the purpose of these regulations, the following information shall result in a conclusion that the applicant is an unreasonable risk:

(1) a conviction for a felony, or a misdemeanor involving moral turpitude, and the criminal conviction directly relates to whether the applicant can provide a safe, responsible and morally positive setting for care recipients;

(2) a conviction for a felony, or a misdemeanor involving moral turpitude, and the criminal conviction does not directly relate to whether the applicant can provide a safe, responsible and morally positive setting for care recipients if the department determines that the applicant so convicted has not been sufficiently rehabilitated;

(3) a conviction, regardless of the degree of the crime or the date of the conviction, of trafficking in controlled substances, criminal sexual penetration or related sexual offenses or child abuse;

(4) a substantiated referral, regardless of the date, for sexual abuse or for a substantiation of abuse or neglect relating to a failure to protect against sexual abuse;

(5) the applicant's child is in New Mexico's Children, Youth, and Families Department (CYFD) or another state's custody; or

(6) a registration, or a requirement to be registered, on a state sex offender registry or repository or the national sex offender registry established under the Adam Walsh Child Protection and Safety Act of 2006.

B. A disqualifying conviction may be proven by:

(1) a copy of the judgment of conviction from the court;

(2) a copy of a plea agreement filed in court in which a defendant admits guilt;

(3) a copy of a report from the federal bureau of investigation, criminal information services division, or the national criminal information center, indicating a conviction;

- (4) a copy of a report from the state of New Mexico, department of public safety, or any other agency of any state or the federal government indicating a conviction;
  - (5) any writing by the applicant indicating that such person has been convicted of the disqualifying offense, provided, however, that if this is the sole basis for denial, the applicant shall be given an opportunity to show that the applicant has successfully completed or is pending completion of a conditional discharge for the disqualifying conviction.
- C. If a background check shows pending charges for a felony offense, any misdemeanor offense involving domestic violence, child abuse, any other misdemeanor offense of moral turpitude, or an arrest but no disposition for any such crime, there shall be a determination of unreasonable risk if a conviction as charged would result in a determination of unreasonable risk.
- D. If a background check shows a pending CYFD child protective services referral or any other investigation of abuse or neglect by ECECD, CYFD, or any other state or federal agency with authority to investigate, there shall be a determination of unreasonable risk.
- E. If a background check shows that an applicant has an outstanding warrant, there shall be a determination of unreasonable risk.
- [8.9.6.13 NMAC - N, 11/01/2022]

**8.9.6.14 UNREASONABLE RISK:**

- A. The BCU may, in its discretion, use all reasonably reliable information about an applicant and weigh the evidence about an applicant to determine whether the applicant poses an unreasonable risk to care recipients. The BCU may also consult with legal staff, treatment, assessment or other professionals in the process of determining whether the cumulative weight of credible evidence establishes unreasonable risk.
- B. In determining whether an applicant poses an unreasonable risk, the BCU need not limit its reliance on formal convictions or substantiated referrals, but nonetheless must only rely on evidence with indicia of reliability such as:
- (1) reliable disclosures by the applicant or a victim of abuse or neglect;
  - (2) domestic violence orders that allowed an applicant notice and opportunity to be heard and that prohibits or prohibited them from injuring, harassing or contacting another;
  - (3) circumstances indicating the applicant is or has been a victim of domestic violence;
  - (4) child or adult protection investigative evidence that indicates a likelihood that an applicant engaged in inappropriate conduct but there were reasons other than the credibility of the evidence to not substantiate; or
  - (5) any other evidence with similar indicia of reliability.
- [8.9.6.14 NMAC - N, 11/01/2022]

**8.9.6.15 REHABILITATION PETITION:** Any applicant whom the BCU concludes is an unreasonable risk on any basis other than those described at Paragraphs (1), (3), (4), (5), or (6) of Subsection A of 8.9.6.13 NMAC, may submit to the BCU a rehabilitation petition describing with specificity all information that tends to demonstrate that the applicant is not an unreasonable risk. The petition may include, but need not be limited to, a description of what actions the applicant has taken subsequent to any events revealed by the background check to reduce the risk that the same or a similar circumstance will recur.

[8.9.6.15 NMAC - N, 11/01/2022]

**8.9.6.16 ELIGIBILITY SUSPENSIONS, REINSTATEMENTS AND REVOCATIONS:**

- A. An applicant’s background check eligibility may be suspended for the following:
- (1) an arrest or criminal charge for any felony offense, any misdemeanor offense involving domestic violence, child abuse or any other misdemeanor offense of moral turpitude if a conviction as charged would result in a determination of unreasonable risk;
  - (2) a pending CYFD child protective services referral or any other investigation of abuse or

neglect by ECECD, CYFD, or any other state or federal agency with authority to investigate allegations of abuse or neglect;

(3) an outstanding warrant; or

(4) any other reason that creates an unreasonable risk determination pursuant to these

regulations.

B. It is the duty of the administrator of a facility or the licensee and the background check eligibility holder, upon learning of any of the above, to notify the licensing authority immediately. Failure to immediately notify the licensing authority may result in the revocation of background check eligibility.

C. A suspension of background check eligibility shall have the same effect as a determination of unreasonable risk until the matter is resolved and eligibility is affirmatively reinstated by the BCU.

D. Background check eligibility may be reinstated or revoked as follows:

(1) If the applicant can provide information relating to the disqualifying criminal charge that would show that a criminal conviction as charged would not lead to an unreasonable risk;

(2) If the matter causing the suspension is resolved within six months of the suspension, the applicant may provide documentation to the BCU showing how the matter was resolved and requesting reinstatement of background check eligibility. After review, the BCU may reinstate background check eligibility or may revoke eligibility. If the applicant's eligibility is revoked, the applicant may appeal the revocation.

(3) If the matter causing the suspension is resolved after six months of the suspension, the applicant may reapply for clearance for the same licensee by submitting an electronic fingerprint submission receipt and the required forms. After review, the BCU may reinstate background check eligibility or may revoke eligibility. If the applicant's eligibility is revoked, the applicant may appeal the revocation.

[8.9.6.16 NMAC - N, 11/01/2022]

#### **8.9.6.17 APPEAL RIGHTS:**

A. Denials: Any applicant who is found ineligible after completion of background check may request an administrative review from ECECD. The request for an administrative review shall be in writing and the applicant shall cause the BCU to receive it within 15 days of the date of the BCU's written notice of a determination of unreasonable risk. If the request is mailed, three days are added after the period would otherwise expire. The administrative review shall be completed by a review of the record by a hearing officer designated by the cabinet secretary. The hearing officer's review is limited to:

(1) whether the BCU's conclusion of unreasonable risk is supported by any section of these regulations; and

(2) whether the applicant has been erroneously identified as a person with a relevant conviction or substantiated referral. The review will be completed on the record presented to the hearing officer and includes the applicant's written request for an administrative review and other relevant evidence provided by the applicant. The hearing officer conducts the administrative review and submits a recommendation to the cabinet secretary no later than 60 days after the date the request for administrative review is received unless ECECD and the applicant agree otherwise.

B. Suspensions and revocations: A previously cleared applicant whose eligibility has been suspended or revoked may appeal that decision to ECECD and shall be entitled to a hearing pursuant to ECECD's identified administrative hearing regulations. The request for appeal shall be in writing and the applicant shall cause the BCU to receive it within 15 days of the date of the BCU's written notice of suspension. If the request is mailed, three days are added after the period would otherwise expire.

[8.9.6.17 NMAC - N, 11/01/2022]

#### **HISTORY OF 8.9.6 NMAC: [RESERVED]**