



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION  
P.O. BOX 2120  
RICHMOND, VA 23218-2120

The Early Childhood Advisory Committee will convene on April 27, 2023, at 10:00 AM. The meeting will be held in the Board Room, located on the 22nd floor of the James Monroe Building, which is open to the public. The meeting will be live streamed on the [VDOE YouTube Channel](#). If the live stream is unavailable, the recording will be posted within five days.

Written and oral public comments will be accepted. Please submit written public comment or sign up for oral public comment by email to [earlychildhood@doe.virginia.gov](mailto:earlychildhood@doe.virginia.gov) by 8 AM on Thursday, April 27, 2023. To sign up for oral public comment, please provide your name and affiliation; there will also be an opportunity to sign up for oral public comment during the meeting. Written public comments will be shared with Advisory Committee Members during the meeting.

## AGENDA

- |      |  |          |
|------|--|----------|
| I.   | Full advisory board convenes   | 10:00 AM |
|      | A. Approval of March minutes   |          |
| II.  | Update: VQB5 Guidelines for FY 24<br>Jenna Conway, VDOE                      | 10:15 AM |
| III. | Presentation: Standards for Licensed Child Day Centers<br>Jenna Conway, VDOE | 10:30 AM |
| IV.  | Review of public comment   | 3:45 PM  |
| V.   | Adjournment  | 4:00 PM  |

**Next meeting date:** Wednesday, June 21



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION  
P.O. BOX 2120  
RICHMOND, VA 23218-2120

The Early Childhood Advisory Committee will convene on March 16, 2022, at 1:00 PM. The meeting will be held in the Board Room, located on the 22nd floor of the James Monroe Building, which is open to the public. The meeting will be live streamed on the [VDOE YouTube Channel](#). If the live stream is unavailable, the recording will be posted within five days.

Oral public comment will be accepted; written public comment must be received by 5:00 PM on Tuesday, March 14. Please submit comments or requests to speak by email to [earlychildhood@doe.virginia.gov](mailto:earlychildhood@doe.virginia.gov). Public comments will be shared with Advisory Committee Members.

## Minutes

### Present in-person

Jennifer Parish  
Clark Andrs  
Tina Alsop  
Shikce Franklin  
Gina Wohlford  
Vivien McMahan  
Michelle Howard  
Maryam Sharifian  
Bergen Nelson  
Sandra Wilberger  
Angela Wirt

### Virtual attendance

Cecilia Suarez  
Cheryl Morman  
Bweikia Foster Steen

### Absent

Christen Johnson  
Darrell Turner  
Sara Cook  
Wendy Lipscomb  
Robertta Newman

- |      |   |         |
|------|---|---------|
| I.   | Full advisory board convenes  | 1:00 PM |
|      | A. Approval of December minutes   |         |
|      | B. ECAC Updates   |         |
| II.  | Presentation: General Policy for Remote Participation in Committee Meetings and Meetings Conducted Virtually<br>Jenna Conway, VDOE  | 1:09 PM |
|      | <ul style="list-style-type: none"> <li>• Ms. Franklin made a motion to approve the policy, with the following recommendations subject to approval by legal counsel:               <ul style="list-style-type: none"> <li>○ The clause that “the policy should be applied strictly and uniformly” appears in two places in the policy, Section II and Section IIIA4. If it is not necessary in both locations, remove the second reference in IIIA4.</li> <li>○ The ECAC is referred to as “the Committee” in some areas and “the public body” in others. Change all references to “the Committee” for consistency.</li> </ul> </li> <li>• Ms. Alsop seconded the motion.</li> <li>• The motion was approved unanimously.</li> </ul> |         |
| III. | Presentation: VQB5 Guidelines for FY24<br>Jenna Conway, VDOE  | 1:22 PM |
|      | <ul style="list-style-type: none"> <li>• Mr. Anders made a motion to approve the guidelines.</li> <li>• Ms. McMahan seconded the motion.</li> <li>• The motion was approved unanimously.</li> </ul>   |         |

- |      |  |         |
|------|--|---------|
| IV.  | Update: Preschool Development Grant Birth through<br>Five Planning Grant (PDG-P)<br>Jenna Conway, VDOE             | 4:10 PM |
| V.   | Reminder: April 27 <sup>th</sup> ECAC Meeting on<br>Standards for Licensed Child Day Centers<br>Jenna Conway, VDOE | 4:15 PM |
| VI.  | Review of public comment<br><i>No public comments</i>  | 4:18 PM |
| VII. | Adjournment  | 4:18 PM |

**Next meeting date:** Thursday, April 27

# Virginia's Early Childhood Advisory Committee (ECAC)

April 27, 2023



**VIRGINIA DEPARTMENT OF EDUCATION**

# AGENDA

- I. Full Advisory Committee Convenes
  - Approval of March Minutes
- II. Update: VQB5 Guidelines for FY24
- III. Presentation: Standards for Licensed Child Day Centers
- IV. Questions and Discussion
- V. Public Comment

# VQB5 Guidelines for FY24

# VQB5 UPDATE

**This presentation provides an update on the proposed VQB5 Guidelines for 2023-2024.**

- Virginia State Code (§ 22.1-289.03) directs the Board of Education to establish a unified quality rating and improvement system for all publicly-funded providers.
- In June 2021, the Board approved the Guidelines for Practice Year 1 of the Unified Measurement and Improvement System (known as VQB5). These guidelines were updated a second time in June 2022, with the Board approving Guidelines for Year 2 of VQB5.
- The Guidelines for 2023-2024:
  - Reflect learnings from two practice years for VQB5, in which more than 70% of publicly-funded programs have participated,
  - Were endorsed by the Early Childhood Advisory Committee (ECAC) in March and completed a first review by the Board of Education in April, and
  - Support full implementation of VQB5 in Fall 2023.

# NON-PARTICIPATION EXAMPLE

**To maximize access and minimize disruption for families, the VDOE, along with Ready Regions and other partners, will make multiple efforts to engage with providers that are not yet participating.**

**State law requires publicly-funded programs to participate. The VDOE is required to take action to stop public funding if a provider does not participate. Below is an example of how this would work for subsidy vendors AFTER registration:**

- Subsidy vendors that do not complete the registration requirements by October 1 will be notified in writing by VDOE that they are out of compliance with the law, and that they must register within 10 business days.
  - This will include informing participating families in writing and offering them the opportunity to switch to another CCSP vendor.
- If the site does not comply, VDOE will inform the site in writing, that they continue to be in noncompliance, and failure to comply in 30 days will result in termination from the Child Care Subsidy Program.
  - This will include informing participating families in writing and facilitating their transitions to other sites. This will NOT affect the family's or children's eligibility for the Child Care Subsidy Program.
- If after 30 days, the site is still out of compliance, VDOE will provide a final notice of subsidy termination date to the provider and any enrolled Child Care Subsidy Program families. Case Managers will support any remaining CCSP families to identify and enroll in other sites. This action will not affect private-paying families.
- The Department of Social Services will remove any non-complaint provider as a subsidy vendor in VaCMS, effective on the termination date.



# ADDITIONAL INFORMATION ON FEEDBACK RECEIVED FROM THE FIELD

Since releasing the 2023-2024 VQB5 Guidelines in March, the VDOE has engaged the field via webinar and stakeholder sessions with 900+ attendees/views.

| Positive Feedback About:  | Questions and Concerns About:   | More Details Requested For:                                    |
|---|---|--|
| Clarified information and details about VQB5 requirements for 2023-2024 | Ongoing workforce (turnover) issues and potential impacts related to VQB5 participation | Family engagement with the VQB5 Quality Profiles               |
| Understanding what will remain the same from the Practice Years         | VQB5 External observations and the score replacement process                            | System updates to the LinkB5 data portal                       |
| Continuation of RecognizeB5 educator recognition incentive              | Participation and consequence details from non-participants                             | How VDOE can recognize/highlight programs who are high quality |

Throughout the spring and summer, VDOE will develop additional guidance documents and resources to help prepare the field for full implementation in the fall.

# Standards for Licensed Child Day Centers

# NOTICE OF INTENDED REGULATORY ACTION

- The Department is requesting the Early Childhood Advisory Committee's approval of the Notice of Intended Regulatory Action (NOIRA) to repeal and replace 8VAC20-780, Standards for Licensed Child Day Centers, and establish a comprehensive new chapter, 8VAC20-781.
- The repeal and replace includes:
  - Allowing greater flexibility to adjust the structure, format, and language of the current regulation;
  - Removing duplicative requirements found in the Code of Virginia;
  - Incorporating best-in-class health and safety guidelines and practices; and
  - Incorporating updates to the regulation pursuant to [the Executive Order 19](#) while preserving protection of the health, safety, and welfare of children in care in licensed child day centers.

# DEVELOPMENT OF DRAFT REGULATIONS

- The VDOE established a temporary workgroup in December 2021 to help revise the regulations.
- The purposes of this workgroup were to (i) complete a comprehensive review of the child day center regulations, and (ii) produce recommendations for review by ECAC.
- The workgroup consisted of multiple stakeholders, convened in early 2022 and spent a year reviewing the standards. Members dedicated more than 20 hours of meeting time.
- The workgroup had to balance multiple, sometimes competing, priorities:
  - Ensuring alignment with state and federal law;
  - Protecting the health, safety and well-being of children;
  - Considering the cost and operational impact of regulations; and
  - Reducing any burdensome requirements.

# WORKGROUP MEMBERS

- Amy Stutt, *Director of Training and Professional Development, Child Development Resources*
- Dr. Bergen Nelson, *Associate Professor of Pediatrics, Children's Hospital of Richmond at VCU*
- Betsy Peters, *Senior Vice President of Youth Development, YMCA of Greater Richmond*
- (Substitute: Lauren Bickford, *Licensing Director, YMCA of Greater Richmond*)
- Cheryl Morman, *Licensed Family Day Home Provider*
- Christen Johnson, *Director, First Presbyterian Weekday School and Adjunct Faculty, Lord Fairfax Community College*
- Clark Andrs, *Owner, River's Bend Children's Center*
- Darrell Turner, *Virginia Preschool Initiative Teacher, Richmond Public Schools*
- Gail Johnson, *Founder, LeafSpring School*
- Jaclyn Powers, *Senior Professional Development Specialist, Child Care Aware of Virginia*
- Dr. Jennifer Parish, *Executive Director, Downtown Hampton Child Development Center*
- Jessica Conway, *VQB5 Coordinator, James Madison University*
- Dr. Karen Gallagher, *Director, Virginia Tech Child Development Center*
- Lisa Gehring, *Educational Specialist, Early Childhood Virginia Department of Education Training and Technical Assistance Center at Old Dominion University*
- Shikee Franklin, *Head Start/Early Head Start Director, Hampton Roads Community Action Program*

# GOALS OF THE REVISED REGULATIONS

These revised regulations reflect VDOE's goals of:

- Strengthening child protection;
- Reducing duplication;
- Increasing flexibility;
- Ensuring compliance with all federal and state requirements;
- Aligning standards with best-in-class national safety standards and practices;  
and
- Complying with the Governor's Executive Order 19.

# COMPARISON OF REGULATIONS

These revised regulations provide better health and safety protections, have fewer words and are more flexible than the current regulations.

## **8VAC20-780**

- Pages = 67
- Word Count = 26,920

## **8VAC20-781**

- Pages = 51
- Word Count = 21,729

Guidance was recently received defining a Regulatory Requirement from the Executive Order 19 Regulatory Reduction Guide:

*When identifying requirements, the key question should be “does this provision impose a binding obligation on another party by requiring it to act or refrain from acting?” If so, it is a requirement, even if it otherwise uses discretionary language such as “may,” “can,” or “should.” If not, it is not a requirement.”*

The number of regulatory requirements is currently being assessed according to this new guidance.

# COUNTING STANDARDS: AN EXAMPLE

One of the workgroup's priorities was to make standards easier to read and understand by adding language and reorganizing text to improve clarity.

For example, a requirement that was counted as one standard in Chapter 780 may now be counted as multiple standards for better organization (i.e., 780-570-H, currently counts as one standard but has several requirements in one paragraph. In Chapter 781, the same requirements are now broken into three separate standards: 781-630-K, 781-630-L, and 781-630-M.

## **Current 8VAC20-780-570. Special feeding needs.**

H. Prepared baby food not consumed during that feeding by an infant may be used by that same infant later in the same day, provided that the food is not served out of the baby jar and is dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day. Formula or breast milk shall not remain unrefrigerated for more than two hours and may not be reheated.

## **Draft 8VAC20-781-630. Special feeding needs.**

K. Breast milk, formula and milk shall not remain unrefrigerated at the center for more than two hours and may not be reheated.

L. Prepared bottles shall be discarded or returned to the parent at the end of the day.

M. Prepared baby food not consumed during that feeding by an infant may be used by that same infant later in the same day, provided that the food is not served out of the baby jar and is dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day.



# OVERALL HIGHLIGHTS

| <b>Ratio Flexibility</b>  | <b>Staffing Flexibility</b>   | <b>Reduced Administrative Burden</b>  |
|---|---|---|
| <ul style="list-style-type: none"><li>• Increase ratios for school-age children.</li><li>• Adds variance process for ratio and group sizes.</li></ul> | <ul style="list-style-type: none"><li>• Adds more entry-level qualifications for lead teachers and directors to help with recruitment and hiring.</li><li>• Increases flexibility for staffing at beginning and end of day.</li><li>• Allow the Virginia Preservice training and director prelicensure training (14 hours) to count toward annual training hours. All required training except for orientation now counts towards annual training requirement (16 hours).</li></ul> | <ul style="list-style-type: none"><li>• Reduces duplication of effort for documentation of immunization and physical examinations for school-age children.</li><li>• Reduces unnecessary testing by removing for repeat TB testing.</li></ul> |

# EASIER-TO-USE REGULATIONS

Prior regulatory text was confusing. The workgroup aimed to make the regulation as provider-friendly as possible, including reorganization of topics.

- The workgroup has reorganized standards to group similar content areas together and to allow for ease of use by providers.
- Examples:
  - Policies and procedures were grouped together instead of spread throughout in different sections-this helps providers understand exactly what policies are required.
  - Therapeutic and special needs program requirements were grouped together instead of spread throughout in different sections-this helps providers focus on what is relevant to their specific program types.

# UNNECESSARY OR REDUNDANT STANDARDS

The revised regulation removes general requirements that are not directly specific to the safety of children but are more related to business practice.

It specifically removes the following sections:

- 8VAC20-780-100 Enrollment procedures of therapeutic child day programs and special needs child day programs
- 8VAC20-780-170 Physical and mental health of staff and volunteers.
- 8VAC20-780-180 General qualifications.
- 8VAC20-780-220 Aides
- 8VAC20-780-230 Independent contractors

# NECESSARY NEW STANDARDS

## New requirements:

- These regulations have a minimal number of added requirements.
- They also use specific terminology to better align the standards with state and federal requirements, encourage best-in-class practices, and support the Commonwealth's efforts to unify the early childhood care and education system.

*Examples: replacing "program leader" and "program director" with "lead teacher" and "director"; adding "fall height" and replacing "fall zones" and "resilient surfacing" with "use zones" and "protective surfacing."*

## New regulations:

- New regulations have been added to better protect children, typically based on state or federal requirements or best-in-class, evidence-based practices.

*Examples: enhancing requirements around choking, handwashing, safe sleep practice, swim safety and outdoor play areas; and adding lead assessments in buildings built before 1978.*

# COST IMPACT

The VDOE will produce a high-level cost analysis of the new regulations in consultation with the fiscal experts who analyzed the cost of child care for Virginia. Due to the nature of these regulatory changes, there are both positive and negative potential cost implications.

- Increased ratios and additional flexibility should enable programs to be more cost-efficient and may potentially increase revenue and decrease expenses.
- Removing burdensome administrative requirements (e.g., emergency contact information for staff) may save staff time and cost.
- Clarifying language can either increase or decrease costs, depending on how programs were interpreting regulations.
- New regulations may require new purchases or upgrades, increase operating expenses and/or require more staff time.

# Part I: Introduction

# DEFINITIONS: 8VAC20-781-10

**Overview:** This section retains definitions in 8VAC20-780-10, removes unnecessary definitions, and adds definitions needed to clarify requirements.

**New/Revised:** Added 11 definitions for the following terms:

- Abusive head trauma
- Experience in a supervisory capacity
- Play yard
- Cooperative preschool center
- Fall height
- Sanitizing agent
- Date of employment
- Enrolled
- Field trip
- Use zone
- Incident

**Removed:** The following 19 definitions were removed:

- Adult
- Aide
- Age Groups
- Body fluids
- Camp
- Center
- Communicable disease
- Department's representative
- Good character and reputation
- High school program completion or equivalent
- Independent contractor
- Intervention strategies
- Lockdown
- Minor injury
- Physician
- Serious injury
- Shelter-in-place
- Sponsor
- Staff positions

# PURPOSE AND APPLICABILITY: 8VAC20-781-20

**Overview:** This section retains current requirements in 8VAC20-780-30 and removes unnecessary language.

## **New/Revised:**

- Specific language added to clarify that the center's activities, services, and facilities are conducive to the wellbeing of children.
- Reference to Code of Virginia added.

## **Removed:**

- Current 8VAC20-780-20
- Legal authority (because the authority is clear in the Code).



# Part II: Administration

# OPERATIONAL RESPONSIBILITIES: 8VAC20-781-30

**Overview:** This section retains current requirements in 8VAC20-780-40.

## **New/Revised:**

- Licensee must ensure compliance with federal, state or local laws and regulations.
- Provisions for the care of children of staff when present at the center added to licensee responsibilities.

## **Removed:**

- Duplicative Code language pertaining to licensee's requirement to comply with other applicable regulations, inspection requirements, posting and advertising, and general operation requirements.

# REQUIRED POLICIES AND PROCEDURES: 8VAC20-781-40

**Overview:** This is a new section. Policies and procedures are now condensed in one section with any new requirements.

## **New/Revised:**

- Adds a requirement that specifies the licensee's responsibility to develop, implement, review, and make available certain policies.
- New policies required include:
  - Food safety
  - Inclusion of children with special needs
  - Stock epinephrine (more details to come, required by the Code)
  - Parent Communication
  - Safe drinking water

**Removed:** N/A

# GENERAL RECORDKEEPING: 8VAC20-781-50

**Overview:** Retains current requirements in 8VAC20-780-50 for general recordkeeping regarding confidentiality and accessibility.

## **New/Revised:**

- Adds requirements to keep records secure and current.
- Specific language to allow electronic files added.
- Reduced record retention requirements from five years to two years.

## **Removed:**

- Records may be kept at a central location except as stated otherwise in these standards. Regulatory interpretation assumes that something can be done unless specifically prohibited.

# CHILDREN'S RECORDS: 8VAC20-781-60

**Overview:** Retains current requirements in 8VAC20-780-60. Removes unnecessary requirements for emergency contacts. Consolidates standards into easy-to-read format. Simplifies requirements for collecting and maintaining required proof of identity and health information.

## **New/Revised:**

- Dietary preferences.
- Written care plans expanded to include any health issues that are likely to result in a medical emergency plan.
- Exemption for obtaining health records on a child were expanded to include all children when a center assumes responsibility for the child directly from a school or transfers responsibility to the school.

## **Removed:**

- Information regarding parent employment; name and phone of child's physician; and addresses of emergency contacts.
- Requirement to store blanket permission slips and opt-out requests.

# STAFF RECORDS: 8VAC20-781-70

**Overview:** Retains current requirements in 8VAC20-780-70. Simplifies language by consolidating requirements where possible.

**New/Revised:** N/A

**Removed:**

- Requirement for reference checks.
- Emergency contact person for staff.

# ATTENDANCE: 8VAC20-781-80

**Overview:** Retains current requirements in 8VAC20-780-80.

**New/Revised:**

- A situation in which a child's whereabouts was unknown, including a child left unattended or unsupervised must now be reported to the Department.
- Requirement to report an outbreak of disease to the Virginia Board of Health. Current requirement requires occurrence of communicable disease to be reported to parents.
- Revised requirement for written record of daily attendance clarifies requirements necessary for child safety.

**Removed:** N/A

# HEALTH PROVISIONS: 8VAC20-781-90

**Overview:** Retains requirements from 8VAC20-780-130, 8VAC20-780-140, 8VAC20-780-150 and 8VAC20-780-160. Combines related requirements from multiple sections into one section and adds flexibility to requirements for immunizations, physical examinations and tuberculosis screening.

## **New/Revised:**

- References requirements in § 22.1-271.2 of the Code of Virginia.
- Allows greater flexibility in the timeline for obtaining physical examinations and provides 30 days to comply with documentation requirements.
- Allows greater flexibility in the timeline for obtaining TB screening and results.

## **Removed:**

- Requirements for documentation of updated immunizations and refers to the Code.
- Requirement for repeat TB screening every two years.
- Physical and mental health requirements for staff previously in section 8VAC20-780-170.



# Part III: Staff Qualifications and Training

# DIRECTOR QUALIFICATIONS: 8VAC20-781-100

**Overview:** Retains qualification requirements in 8VAC20-780-190. Adds new flexibilities for meeting required qualifications. Simplifies requirements for ease of use.

## **New/Revised:**

- Reduces required supervisory experience from 6-12 months to 3 months to add greater flexibility in recruiting directors.
- Allows a qualified lead teacher to meet director qualifications if applicable programmatic and supervisory requirements are met.
- Allows an individual who is only 19 years old to serve as a director of any short term program rather than just those for school age children.

## **Removed:**

- Lengthy and unnecessarily complicated qualification requirements.

# DIRECTOR RESPONSIBILITIES: 8VAC20-781-110

**Overview:** Retains requirements for a qualified director in 8VAC20-780-200. Changes language from "program director" to "director."

## **New/Revised:**

- Adds provisions for oversight and management of the facility.
- Requirements for qualifications and orientation for individuals who can serve as director designee.
- Requirement for directors to designate one or more staff to assume the director's responsibilities in the director's absence.

## **Removed:**

- Removes confusing language pertaining to requirements for the director to be on site more than 50% of the hours of operation.

# LEAD TEACHER QUALIFICATIONS: 8VAC20-781-120

**Overview:** Retains qualification requirements in 8VAC20-780-210. Changes language from "program leader" to "lead teacher." Adds more flexibility for lead teacher qualifications.

## **New/Revised:**

- Adds qualification options: Career Studies Certificate (CSC) to align with Virginia Community College System certifications in early childhood education, and Virginia endorsement in a child-related field approved by the department to align with offerings by agencies contracted with the department to offer such coursework.
- Added flexibilities in time allotted to complete 24 hours of training for lead teacher position.
- A lead teacher continuously employed and qualified prior to when the new requirements become effective will remain qualified.

## **Removed:**

- Outdated references to training hours required in 2005-2007.
- Qualifications for lead teachers in therapeutic and special needs programs because there is a new section specific to these programs.

# DRIVER QUALIFICATIONS AND REQUIREMENTS: 8VAC20-781-130

**Overview:** New section with added protections for children on transportation.

**New/Revised:**

- Valid driver's license and driving record (or proof of insurance) required for individuals transporting children.

**Removed:** N/A

# ORIENTATION TRAINING: 8VAC20-781-140

**Overview:** Retains requirements in 8VAC20-780-240, and expands training requirements to ensure certain individuals working with children are properly trained to ensure the safety and well-being of children in care.

## **New/Revised:**

- Requires all staff who work with children to be oriented on all of the facility's policies and procedures.
- Requires orientation on children's health issues, child development, and classroom management.
- Requires prelicensure orientation requirement for all directors. This training will count towards annual training requirements and is offered at no charge by the Department.
- Replaces orientation training in first aid and CPR with overview of first aid and CPR skills to provide clarification of requirement.
- Requires volunteers working more than 8 hours per week to be trained in emergency procedures; current training requirement is for volunteers working more than 6 hours.

## **Removed:**

- Reference to documenting orientation training because this is already covered in staff records.

# ONGOING TRAINING: 8VAC20-781-150

**Overview:** Retains requirements from 8VAC20-780-245.

## **New/Revised:**

- Clarifies that all staff are required to complete training on emergency preparedness, child abuse and neglect, and mandated reporter requirements.
- Limits annual emergency preparedness training for volunteers to those working more than 8 hours per week; current requirement is for those working more than 6 hours per week.
- Adds flexibility to allow preservice orientation completed to meet the requirement in 8VAC20-781-140 A to count towards annual training.

## **Removed:**

- List of topics from annual training requirements and requirement for the department's annual health and safety update course to meet CCDF requirements.
- References to documenting annual training, medication administration training and daily health observation training because these requirements were moved to new sections.

# FIRST AID TRAINING AND CARDIOPULMONARY RESUSCITATION (CPR): 8VAC20-781-160

**Overview:** Retains requirements from 8VAC20-780-530.

## **New/Revised:**

- Exempts medical professionals with a current license or certification from first aid certification requirements. Current standards only exempt RNs or LPNs with a license from the Board of Nursing.
- Reduces the requirement to have two staff certified in first aid and CPR present on field trips to one staff.
- Replaces the reference to first responder training for primitive camps with emergency medical responder training.

## **Removed:**

- Reference to allowing training to count toward annual hours (training counts unless specifically prohibited).



# DAILY HEALTH OBSERVATION TRAINING: 8VAC20-781-170

**Overview:** New section organized to separate daily health observation training requirements from other requirements for ease of use. Retains requirements from 8VAC20-780-245. Incorporates technical edits to clarify requirements.

**New/Revised:**

- Requirement to implement training and perform daily health checks. Current standards only require the training and ensuring trained staff is on duty.

**Removed:** N/A

# MEDICATION ADMINISTRATION TRAINING: 8VAC20-781-180

**Overview:** New section organized to separate medication administration training requirements from other requirements for ease of use. Retains current requirements from 8VAC20-780-245 and organizes requirements into a new section.

**New/Revised:**

- References the Virginia Drug Control Act in § 54.1-3408 for individuals qualified to administer medication.

**Removed:**

- Requirements for VDOE related to the training curriculum. The standards are not intended to regulate the Department; regulations are applicable to licensees.

# DRIVER TRAINING REQUIREMENTS: 8VAC20-781-190

**Overview:** This is a new section outlining specific training requirements for individuals who transport children.

**New/Revised:**

- Training required on safety restraints, tracking children, behavioral issues, first aid supplies, emergency procedures, and applicable transportation policies.

**Removed:** N/A

# Part IV: Physical Plant

# INITIAL APPROVAL FROM OTHER AGENCIES; REQUIREMENTS PRIOR TO INITIAL LICENSURE: 8VAC20-781-200

**Overview:** Retains requirements from 8VAC20-780-250.

## **New/Revised:**

- New requirement for lead assessments prior to initial licensure for buildings built prior to 1978.
- Written lead risk assessment required from licensed lead risk assessor pursuant to § 54.1-500.
  - New requirement will not apply to centers licensed prior to the effective date of the regulation.
  - Requirement will not apply to programs located in school buildings.
  - If lead is present, required posting for notification purposes.
- Changed requirement for camps to notify emergency departments of their location and hours of operation to apply only to primitive camps.

**Removed:** N/A

# ANNUAL AND RENEWAL APPROVAL FROM OTHER AGENCIES; REQUIREMENTS SUBSEQUENT TO INITIAL LICENSURE: 8VAC20-781-210

**Overview:** Retains current requirements and flexibility for programs that operate in currently approved buildings from 8VAC20-780-260.

## **New/Revised:**

- Adds requirements for a building inspection and local health department to be completed before the use of a newly constructed, renovated, remodeled, or altered buildings or sections of buildings.
- Adds requirements for follow-up when lead was detected and not removed as a result of the lead assessment.
- Adds requirement for primitive camps to notify the fire department and emergency medical services of any changes in camp location and hours.

**Removed:** N/A

# BUILDING MAINTENANCE: 8VAC20-781-220

**Overview:** Retains and reorganized current requirements from 8VAC20-780-270, 8VAC20-780-290 and 8VAC20-780-300.

## **New/Revised:**

- Adds requirements for the following:
  - The use of portable heaters;
  - Unvented fuel burning heaters;
  - Safety around electrical and extension cords; and
  - Safety around hazardous mechanical or electrical equipment.
- Adds requirement for carbon monoxide detectors pursuant to § 22.1-289.058. This requirement is currently in place. This is a technical addition to include the requirement in the regulation.
- Adds flexibility to allow tamper-resistant outlets and surge protectors.

**Removed:** N/A

# HAZARDOUS SUBSTANCES AND OTHER HARMFUL AGENTS: 8VAC20-781-230

**Overview:** Retains current safety requirements in 8VAC20-780-280. Adds requirements to expand protections from suffocation, choking, and strangulation.

## **New/Revised:**

- Suffocation prevention requiring empty plastic bags large enough for a child's head to fit inside, disposable gloves, and rubber or latex balloons are inaccessible to children under three years of age.
- Choking prevention requiring items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches are inaccessible to children under three years of age.
- Strangulation prevention requiring strings and cords long enough to encircle a child's neck, such as those found on window blinds or drapery cords, are inaccessible to children under six years of age.

## **Removed:**

- Restriction on hazardous arts and crafts materials.



# OUTDOOR AREAS: 8VAC20-781-240

**Overview:** Retains current requirements from 8VAC20-780-310.

**New/Revised:**

- Adds requirement for infants and toddlers to have a separate outdoor play area or play time from older children.

**Removed:**

- Removes requirements that have timed-out or are clarified under other requirements (i.e., square footage requirements).

# TOILETING AREAS AND FURNISHINGS: 8VAC20-781-250

**Overview:** Retains current requirements from 8VAC20-780-320.

Changed terminology from "restroom areas" to "toileting areas" in recognition of the various types of toileting spaces in centers.

**New/Revised:**

- Adds requirement for stepstools to have a non-slip surface.
- Adds requirement for a lined waste container.

**Removed:**

- Specific exceptions for restroom requirements at primitive camps; primitive camps by definition do not have the items excepted.
- Requirements related to staff restrooms.

# INDOOR AND OUTDOOR PLAY AREAS AND EQUIPMENT: 8VAC20-781-260

**Overview:** Retains and reorganized current requirements from 8VAC20-780-330 and 8VAC20-780-430.

**New/Revised:**

- Updates protective surfacing requirements and references the most recent recommendations by the U.S. Consumer Product Safety Commission.
- Maintains flexibility regarding playground equipment for centers licensed prior to the effective date of the regulation.
- Adds requirements for multi-axis swings, maximum fall heights, and inflatable equipment.
- Expands shade requirements to May through September; current requirements are for June through August.

**Removed:** N/A

# Part V: Staffing and Supervision

# SUPERVISION OF CHILDREN: 8VAC20-781-270

**Overview:** Retains current requirements from 8VAC20-780-340 and enhances supervision requirements.

## **New/Revised:**

- Adds specific requirements for staff alertness and sight and sound supervision without the aid of electronic equipment.
- Adds times when a lead teacher is not required in each grouping of children to include: short breaks, special activities, and the first and last 90 minutes of operation when a center operates more than eight hours.

## **Removed:**

- Removes requirement for staff to greet each child upon arrival at the center and oversee each child's departure from the center.

# STAFF-TO-CHILDREN RATIO AND GROUP SIZE REQUIREMENTS: 8VAC20-781-280

**Overview:** Maintains current requirements from 8VAC20-780-350. New staff-to-child ratio for school-age children. Incorporates ratio waiver information into regulations.

## **New/Revised:**

- Expands ratio for school-age children. New ratio is 1:20 for all school-age children; currently it is 1:18 for children school-age eligible to age 9.
- Establishes group size of 100 for school-age children to comply with federal requirements.
- Incorporates provisions for providers to request for ratio waivers, given certain criteria are met.

## **Removed:**

- Ability to reassign children to different age groups for administrative purposes but not casually and repeatedly. This regulation is subjective and removal of it recognizes the necessity of reassignment when staffing shortages occur.
- Rest time ratios and balanced mixed age ratios because these requirements were moved to new sections.

# RATIOS AND GROUP SIZE FOR BALANCED-MIXED AGE GROUPINGS: 8VAC20-781-290

**Overview:** Separates requirements in 8VAC20-780-350 into a new section specifically for balanced mixed-age-groupings. Retains current requirements.

**New/Revised:**

- Adds allowance of doubling ratios for balanced-mixed age groupings during rest periods to be consistent with other age group allowances.

**Removed:** N/A

# RATIOS DURING DESIGNATED REST PERIODS: 8VAC20-781-300

**Overview:** Separates requirements in 8VAC20-780-350 into a new section specifically for ratios during rest periods.

**New/Revised:** N/A

**Removed:**

- Duplicative requirement for staff to remain within sight and sound because this is always required.



# RATIOS AND SUPERVISION DURING TRANSPORTATION AND FIELD TRIPS: 8VAC20-781-310

**Overview:** Retains current requirements from 8VAC20-780-580. Creates new section for ease of use and rewrites so standards are clear. Only technical edits were made.

**New/Revised:** N/A

**Removed:** N/A

# Part VI: Program Requirements and Equipment

# DAILY ACTIVITIES: 8VAC20-781-320

**Overview:** Retains current requirements from 8VAC20-780-360.

## **New/Revised:**

- Adds requirements for media use based on age of children with flexibility incorporated for educational materials for all age groups.
- Adds that media provided by the center is limited to age appropriate programs, is developmentally appropriate and based on the needs of the children.

## **Removed:**

- Exception for specialty camps not needing to provide opportunities for self-chosen tasks, curiosity, and exploration.
- References to children who cannot move without assistance and children in therapeutic day programs, because these requirements were moved to new sections.

# DAILY CARE AND ACTIVITIES FOR INFANTS: 8VAC20-781-330

**Overview:** Retains current requirements in 8VAC20-780-370. Strengthens safe sleep requirements.

## **New/Revised:**

- Requirement to respond promptly to infants who are crying or distraught.
- Prohibits car seat use for anything other than transportation.
- Prohibits crib use for anything other than sleep or rest.
- Prohibits confinement in equipment for more than 30 minutes except when eating, and requires a period of one hour between confinements.
- Revised language for tummy time removes focus on number of minutes and instead requires three attempts daily at supervised tummy time for approximately three to four minutes per time.

## **Removed:**

- Allowances for infants to sleep in play spaces including: cribs, infant seats, play yards, exercise chairs or saucers, infant swings, high chairs, and floor space.

# RESTING AND SLEEPING INFANTS: 8VAC20-781-340

**Overview:** New section, incorporates requirements from 8VAC20-780-370.

## **New/Revised:**

- Prohibits the use of adaptive equipment unless a signed physician's statement is on file.
- Prohibits clothing that could restrict breathing or cover the infant's head or face.
- Expands the requirement of checking on sleeping infants to include checking for breathing, coloring, signs of distress, and to ensure safe sleep conditions.
- Adds requirement to move an infant who falls asleep outside of their crib to their crib as soon as possible.

## **Removed:**

- Requirements related to positioning of infants in a side-sleeping position.
- Allowance to leave an infant in a play space after falling asleep.

# DAILY CARE AND ACTIVITIES FOR TODDLERS, TWOS AND PRESCHOOLERS: 8VAC20-781-350

**Overview:** Retains current requirements from 8VAC20-780-380. Separates "preschoolers" into "twos and preschoolers" to align with definitions, ratios, and other age-related standards.

## **New/Revised:**

- Adds requirement to check sleeping toddlers every 30 minutes for breathing, coloring, signs of distress, and safe sleep conditions.
- Prohibits confinement in equipment for more than 30 minutes except when eating, and requires a period of one hour between confinements.

## **Removed:**

- Requirement for facilitation of language development (not related to health or safety; VQB5 for measurement of teacher-child interactions).

# DAILY CARE AND ACTIVITIES FOR SCHOOL AGE CHILDREN: 8VAC20-781-360

**Overview:** Retains current requirements from 8VAC20-780-390.

**New/Revised:**

- Requires a schedule to be available for school-age children.

**Removed:**

- Exception for specialty camps not needing to meet this section.

# DAILY CARE AND ACTIVITIES FOR CHILDREN WITH SPECIAL NEEDS: 8VAC20-781-370

**Overview:** New section that retains current requirements from 8VAC20-780-360 and adds provisions for children with special needs.

**New/Revised:**

- Requires the center to work with the parent and the staff assigned to the child to consider and determine needs for:
  - Care and activity opportunities appropriate to the child's individual needs.
  - Specific care and activities recommended by a professional.

**Removed:** N/A



# BEHAVIORAL GUIDANCE: 8VAC20-781-380

**Overview:** Retains current requirements from 8VAC20-780-400.

**New/Revised:**

- Requirement for the center to use positive methods of guiding behavior.
- Extended requirement to respect differences in cultural, ethnic and family backgrounds to include religious differences.

**Removed:** N/A

# PROHIBITED ACTIONS: 8VAC20-781-390

**Overview:** Retains current requirements from 8VAC20-780-410. Changed the use of "forbidden actions" to "prohibited actions".

## **New/Revised:**

- Prohibits any action taken to cause pain or discomfort.
- Prohibits psychological punishment.
- Prohibits withholding opportunities for toileting.
- Prohibits withholding outside time as punishment.

**Removed:** N/A

# PARENTAL INVOLVEMENT: 8VAC20-781-400

**Overview:** Retains current requirements from 8VAC20-780-420.

## **New/Revised:**

- Replaced requirement to provide the information in writing to parents to instead require informing parents how to access the information.
- Requirements for communicating with parents regarding the center's emergency procedures.
- Requirements to notify parents of the center's relocation site, method of communication during an emergency, and procedures for reunification.

## **Removed:**

- References to certain policies because those are now required in a new section specific to center policies.

# PARENTAL COMMUNICATION AND NOTIFICATION: 8VAC20-781-410

**Overview:** Retains and reorganizes current requirements from parts of 8VAC20-780-420, 8VAC20-780-490, 8VAC20-780-550.

## **New/Revised:**

- Requires written notification regarding persistent behavior problems; change in emergency plans; notification of whereabouts after an emergency evacuation; a situation in which the child's whereabouts were unknown, a child left in a vehicle or on the playground; or a child who wandered away unattended;
- Requires retaining daily record of infant care activities for 60 calendar days.

## **Removed:**

- Removed semiannual requirement for center to provide written information about a child's development and a scheduled opportunity to discuss feedback for school age children since this information and opportunities are offered by the child's school.
- Requirement to document future actions to prevent recurrence on incident report.

# PARENTAL AGREEMENTS: 8VAC20-718-420

**Overview:** Retains current requirements from 8VAC20-780-90.

**New/Revised:**

- Adds a required authorization for the center to transport the child in the event of an emergency including needing medical care or facility relocation.

**Removed:** N/A

# EQUIPMENT AND MATERIALS: 8VAC20-781-430

**Overview:** Retains requirements from 8VAC20-780-430.

## **New/Revised:**

- Requirements for cleaning and sanitizing washable toys and materials.
- Requirement to clean and sanitize water play tables or tubs daily if used.
- Requirement to register and receive free recall alerts from the U.S. Consumer Product Safety Commission.

## **Removed:**

- Exception related to not prohibiting children in school-aged child care from using public or private school equipment because this is covered under another section.
- Reference to drinking water being transported to camps because this is covered under another section.
- Reference to therapeutic and special needs programs because this is covered under another section.

# CRIBS, COTS, REST MATS, AND BEDS: 8VAC20-781-440

**Overview:** Retains current requirements in 8VAC20-780-440.

## **New/Revised:**

- Prohibits cribs as a play space.
- Prohibited cribs with mesh sides.
- Added prohibition of soft objects or loose bedding used with infants under 12 months when sleeping or resting.
- Requirement for one inch of cushioning for rest mats.

## **Removed:**

- Requirements for crib design and recall. These are covered in other standards requiring equipment that has not been recalled.
- Prohibiting the use of pillows and filled comforters for children between 12 months and two years of age.

# LINENS: 8VAC20-781-450

**Overview:** Retains current requirements from 8VAC20-780-450.

**New/Revised:**

- Requirement for linens to be stored separately.
- Requirement for linens and pillows to be changed when wet, soiled or dirty.

**Removed:**

- Removes requirement or crib sheets to be washed daily.
- Removes specific temperature requirements for linens when washed.



# SWIMMING AND WADING: 8VAC20-781-460

**Overview:** Retains and combines current requirements from 8VAC20-780-460 and 8VAC20-780-480, and adds additional safety measures.

**New/Revised:**

- Written parental permission for swimming or wading is now required annually.
- Written assessment from a certified lifeguard or adult who is familiar with swimming strokes is required before a child is allowed in water with a depth of more than two feet.
- Requirement for designated staff to maintain active supervision when any child is in or around water, and for separate staff to supervise children in water and non-participating children.
- Expanded the required system for accounting for all children in the water to also include accounting for children in the aquatic area.
- One lifeguard required for every 25 children in the water on duty and supervising the children.

**Removed:** N/A

# POOLS AND EQUIPMENT: 8VAC20-781-470

**Overview:** Retains current requirements from 8VAC20-780-470.

**New/Revised:**

- Allows children who are not toilet trained to use portable wading pools if there is an integrated filtration system.

**Removed:** N/A

# Part VII: Preventing the Spread of Disease and Infection Control

# PREVENTING THE SPREAD OF DISEASE: 8VAC20-781-480

**Overview:** Creates new Part VII specific to preventing the spread of disease, separating those requirements out from special care provisions. Retains requirements from 8VAC20-780-490.

**New/Revised:**

- Changes fever leading to exclusion from 101°F to 100.4°F.
- Requires contaminated clothing to be stored in leakproof storage system.

**Removed:**

- Reference to informing parents of exposure because this requirement was moved to another section related to parent notifications.

# HANDWASHING: 8VAC20-781-490

**Overview:** New section for handwashing retains requirements from 8VAC20-780-500. Separates handwashing from toileting procedures for ease of use.

## **New/Revised:**

- Added requirements for handwashing for children after coming in from outdoors; after handling or caring for animals; before and after playing with water used by more than one child; and when hands are visibly dirty.
- Added requirements for handwashing for staff before and after administering medication or topical skin products; after eating; after handling garbage or cleaning materials; after coming in from outdoors; when their hands are visibly dirty; and when entering the classroom before working with children.

**Removed:** N/A

# DIAPERING AND TOILETING: 8VAC20-781-500

**Overview:** New section for diapering and toileting retains requirements from 8VAC20-780-500. Separates handwashing from toileting procedures for ease of use.

## **New/Revised:**

- Prohibits leaving a child unattended on the diapering surface.
- Specifies the requirement for liquid soap.
- Requires staff to check diapers and disposable training pants at least once every two hours.
- Adds flexibility to change toileting-training children in the bathroom and not on a diapering surface.
- Requires storage system for soiled diapers to be cleaned and sanitized daily.

## **Removed:**

- Allowance to use changing papers on diapering surface between children without cleaning or sanitizing changing table in-between.

# TOILET TRAINING: 8VAC20-781-510

**Overview:** New section for toilet training retains requirements from 8VAC20-780-500. Separates toilet training into new section for ease of use.

**New/Revised:**

- Limits the use of toilet chairs to non-carpeted areas.

**Removed:** N/A

# Part VIII: Medication Administration and Topical Skin Products



# GENERAL REQUIREMENTS FOR MEDICATION ADMINISTRATION: 8VAC20-718-520

**Overview:** Creates new Part VIII related to medication administration, separating the requirements out from special care provisions for ease of use. Retains current requirements from 8VAC20-780-510, and parts of 8VAC20-780-245 and 8VAC20-780-520.

## **New/Revised:**

- Requires written parental authorization for medication prior to the center accepting, maintaining, or storing the medication.
- Requires medications accepted, maintained, or stored at the center to be labeled with the child's name and not kept or used beyond the date of expiration.
- Provides additional time for parents to retrieve child medication after expiration of authorization.
- Specifies that long-term medication authorizations must be renewed based on physician instructions.

## **Removed:**

- Requirements relating to the center's procedures for administering medications because they are covered in another section pertaining to policies.

# PRESCRIPTION MEDICATION: 8VAC20-781-530

**Overview:** Separates prescription medication into new section for ease of use. Retains current requirements from 8VAC20-780-510.

**New/Revised:** N/A

**Removed:** N/A

# NON-PRESCRIPTION MEDICATION: 8VAC20-781-540

**Overview:** Separates non-prescription medication into new section for ease of use. Retains current requirements from 8VAC20-780-510.

**New/Revised:** N/A

**Removed:** N/A

# STORAGE OF MEDICATION: 8VAC20-781-550

**Overview:** Separates storage of medication into new section for ease of use. Retains current requirements from 8VAC20-780-510.

**New/Revised:** N/A

**Removed:** N/A

# MEDICATION RECORDS: 8VAC20-781-560

**Overview:** Separates medication records into new section for ease of use. Retains current requirements from 8VAC20-780-510.

**New/Revised:**

- Medication administration records now require the route of administration and actions taken after a medication error.

**Removed:** N/A

# SELF-ADMINISTERED MEDICATION: 8VAC20-781-570

**Overview:** New section with standards for self-administered medication.

**New/Revised:**

- If a center allows self-administration, requires center to create policies and follow regulations for self-administration.
- Requirement to document any medication self-administered by a child, notify the parent if safety procedures are not followed, and take responsibility for administering the medication.

**Removed:** N/A

# TOPICAL SKIN PRODUCTS: 8VAC20-781-580

**Overview:** Retains current requirements from 8VAC20-780-520. Changes language from "over-the-counter" to "topical." Consolidates duplicative requirements throughout section and includes technical edits for ease of use.

## **New/Revised:**

- Allows children five years of age and older to access and apply hand sanitizers, liquid hand soaps, sunscreens, lip balms, and hand lotions under adult supervision. (Currently only children 9 and older may apply their own sunscreen.)
- Record of administration now requires any application errors and actions taken.

**Removed:** N/A

# Part IX: First Aid, Emergency Supplies, and Emergency Preparedness and Response



# FIRST AID AND EMERGENCY SUPPLIES: 8VAC20-781-590

**Overview:** Creates new Part IX for ease of use. Retains current requirements from 8VAC20-780-540. Technical edits for ease of use.

**New/Revised:**

- Allows additional options for flashlights and radios by removing the reference to battery-operated and replacing it with items that do not require electricity.

**Removed:**

- Requirement for activated charcoal to be kept at the center and on field trips.

# EMERGENCY PREPAREDNESS AND RESPONSE PLAN: 8VAC20-781-600

**Overview:** Retains current requirements from 8VAC20-780-240 and 8VAC20-780-550. Reorganizes standards and consolidates duplicative requirements throughout section.

## **New/Revised:**

- Requirement for emergency procedures to include response to a pandemic.
- Requirement for accommodations or special requirements for children with chronic physical or medical conditions per federal requirements.
- Requirement for methods to account for all children and ensure continued supervision of children in emergency.
- Replaced requirement to post emergency maps or procedures on each floor with posting diagrams in each room used by children or staff.
- Replaced requirement of posting emergency numbers at each phone with posting the numbers in each room used by children or staff.

## **Removed:**

- Requirement to establish an emergency officer and back up to include 24-hour contact numbers for each.

# EMERGENCY RESPONSE DRILLS: 8VAC20-781-610

**Overview:** Retains current requirements from 8VAC20-780-550.

## **New/Revised:**

Requirement for drills to be practiced in each building used by children and with all staff and children present at the time of the drill at varying times during the hours of operation.

- Requirement for drills to be practiced during evening and overnight hours at the same frequency of drills during daytime hours.
- Increased lockdown drill requirement to twice per year; current requirement is only one per year.

## **Removed:**

- Documenting certain aspects of the drill, such as the identity of person conducting the drill, method of notification, special conditions simulated, problems encountered, and weather conditions.

# Part X: Special Services

# NUTRITION AND FOOD SERVICES: 8VAC20-781-620

**Overview:** Retains current requirements from 8VAC20-780-560.

## **New/Revised:**

- Provided more clarification on what constitutes choking hazards.
- Revised standard to require staff to be present in the feeding area when children are eating. Current standard requires staff to sit with children.
- Increased requirement to clean tables and high chairs from daily to before and after each use.
- Expanded prohibition of children eating or drinking while walking to include while running, playing, lying down, or riding in vehicles.

## **Removed:**

- Redundant requirement for meal requirements because all centers are already required to follow USDA meal guidelines.
- Requirement for children to be encouraged to feed themselves.

# SPECIAL FEEDING NEEDS: 8VAC20-781-630

**Overview:** Retains current requirements from 8VAC20-780-570.

## **New/Revised:**

- Documentation of infant feeding schedule to include whether infant receives breast milk, formula, or milk.
- Additional safety measures for infant feeding:
  - Breast milk to be stored according to center policy.
  - Infant formula prepared by the center to be prepared according to manufacturer's instructions.
  - Bottle warmers and slow-cooking devices to be out of reach and used according to manufacturer's instructions.
  - Requirement to use spoon when staff are feeding semi-solids to a child.

## **Removed:**

- Reference to therapeutic and special needs programs because the requirement was moved to a new section specific to these programs.

# FIELD TRIPS: 8VAC20-781-640

**Overview:** Retains current requirements from 8VAC20-780-580. No additional revisions.

**New/Revised:** N/A

**Removed:** N/A

# TRANSPORTATION: 8VAC20-781-650

**Overview:** Retains current requirements from 8VAC20-780-580 and part of 8VAC20-780-550. Minor technical revisions.

## **New/Revised:**

- Requires emergency contact information for children being transported.
- Requires a method of communication for emergencies during transportation.

## **Removed:**

- Requirement for center to be responsible for children during transportation because this is covered by other standards.
- Requirement for a vehicle's seats to be attached to floor because this is covered by other standards.
- Requirements for perishable food to be kept on ice in insulated container because this is covered by other standards.



# ANIMALS AND PETS: 8VAC20-781-660

**Overview:** Retains current requirements from 8VAC20-780-600.

**New/Revised:**

- Requires monkeys, bats, ferrets, poisonous animals, reptiles, psittacine birds (birds of the parrot family), stray animals, or wild or dangerous animals to be inaccessible to children during the hours children are in care.
- Prohibits animals that have shown aggressive behavior.
- Requires all animal excrement required to be removed promptly, disposed of properly, and, if indoors, the soiled area cleaned and sanitized.
- Requires first aid, parent notification, medical attention if necessary, and documentation in the event of a child receiving an animal bite.

**Removed:** N/A

# Part XI: Evening and Overnight Care Programs

# EVENING AND OVERNIGHT CARE: 8VAC20-781-670

**Overview:** Creates new Part XI related to evening and overnight care, separating the requirements out from special services for ease of use. Retains current requirements from 8VAC20-780-610.

## **New/Revised:**

- Expanded the exceptions for camps providing evening and overnight occasionally to include all child day programs providing evening and overnight care occasionally.
- Expanded the allowance for children eight years of age and older to use bunk beds at camp to include all school age children at any center.

## **Removed:**

- Requirement for bed with mattress for certain children.
- Requirement for separate sleeping areas for opposite sex children.
- Requirement for an evening snack because it is covered under other standards about timing of offering food.

# Part XII: Therapeutic and Special Needs Programs

# OVERVIEW

- Creates new Part XII specific to therapeutic and special needs programs for ease of use.
- The Code of Virginia (§ 22.1-289.046 B) requires that the Department collaborate with the Virginia Park and Recreation Society (VPRS) and the Department of Behavioral Health and Developmental Services (DBHDS) on the development of requirements in this next section.
- Part XII is currently under review by VPRS and DBHDS. Comments will be provided by these agencies by the end of the public comment period.
- The changes reflect reorganization and grouping of requirements for therapeutic and special needs programs that were previously located throughout the standards.

# APPLICABILITY: 8VAC20-781-680

**Overview:** New section.

**New/Revised:**

- Outlines programs are considered therapeutic and special needs programs and are required to meet standards in Part XII in addition to Parks I through XI of this chapter.

**Removed:** N/A

# ASSESSMENTS: 8VAC20-781-690

**Overview:** New section for ease of use. Retains requirements in 8VAC20-780-110.

**New/Revised:** N/A

**Removed:** N/A

# INDIVIDUAL SERVICE, RECREATION, EDUCATION, OR TREATMENT PLAN: 8VAC20-781-700

**Overview:** New section for ease of use. Retains requirements from 8VAC20-780-120.

**New/Revised:**

- Added recreation plan option.

**Removed:** N/A



# QUALIFICATIONS OF STAFF: 8VACT20-781-710

**Overview:** New section for ease of use. Retains requirements from 8VAC20-780-190 and 8VAC20-780-210.

**New/Revised:** N/A

**Removed:** N/A

# STAFF TRAINING: 8VAC20-781-720

**Overview:** New section for ease of use. Retains requirements from 8VAC20-780-180, 8VAC20-780-240 and 8VAC20-780-245.

## **New/Revised:**

- Revised language to return training requirement to previous requirement of 8 hours that was in place prior to October 13, 2021 when the regulations were updated. The current requirement for additional training hours for these specialized staff was inadvertently reduced as an adjustment to a proposed increase in annual training for all program types that was not implemented.

**Removed:** N/A

# STAFF-TO-CHILDREN RATIO REQUIREMENTS: 8VAC20-781-730

**Overview:** New section for ease of use. Retains requirements from 8VAC20-780-355.

**New/Revised:** N/A

**Removed:** N/A

# EQUIPMENT AND MATERIALS: 8VAC20-781-740

**Overview:** New section for ease of use. Retains requirements from 8VAC20-780-430.

**New/Revised:** N/A

**Removed:** N/A

# SPECIAL FEEDING NEEDS: 8VAC20-781-750

**Overview:** New section for ease of use. Retains requirements from 8VAC20-780-570.

**New/Revised:** N/A

**Removed:** N/A

# TRANSPORTATION FOR NON-AMBULATORY CHILDREN: 8VAC20-781-760

**Overview:** New section for ease of use. Retains requirements from 8VAC20-780-590.

**New/Revised:** N/A

**Removed:** N/A

# Next Steps

# NEXT STEPS (1 OF 2)

- Pending ECAC endorsement, VDOE will present the draft regulation and the NOIRA to the State Board of Education at their meeting scheduled on June 14, 2023.
  - Pending the Board's approval, the NOIRA is posted to Town Hall and the Executive review process will begin.
  - Pending the Governor's approval of the NOIRA, a 30 day Public Comment Period for the NOIRA (specific to the action) will begin.
- The VDOE will produce a high-level cost analysis of the new regulations this summer. The VDOE will consult the fiscal experts who analyzed the cost of child care for Virginia.
- The NOIRA must be approved by the Governor prior to the Board's approval of the proposed regulation.



# NEXT STEPS (2 OF 2)

- The proposed regulation will go to the Board for first and second review and approval.
  - If approved, the proposed regulation will be posted to Town Hall and the Executive review process will begin again.
  - Pending the Governor's approval, a 60 day public comment period (specific to the requirements) will begin.
  - VDOE will review comments and amend regulation accordingly.
- The Final stage will include final regulation to become effective after the Board approves, Executive review is complete, and the Governor approves.

# Questions and Discussion

# Public Comment

The meeting will resume after this short break.

We are experiencing technical difficulties

The livestream will return momentarily



Beginning in August 2023, all publicly-funded programs that serve children ages birth-to-five are required by [state law](#) to participate in the Unified Virginia Quality Birth-to-Five System (VQB5).

This Frequently Asked Questions (FAQ) document is intended to supplement information shared in the [VQB5 Participation Requirements 2023-2024 summary document](#). Full details about participation requirements can be found in the [2023-2024 VQB5 Proposed Guidelines](#), as noted in the section references below.

### **What do I need to do to participate in VQB5?**

Publicly-funded sites must complete three activities annually to meet the legislative requirement.

1. Sites must register between August 15-October 1 in LinkB5, the VQB5 data portal. This includes completing site profiles, site administrator profiles, teacher profiles, and classroom profiles. (Section 3.2) It also includes entering information about optional use of VDOE-approved curriculum. (Section 5.2)
2. Every eligible classroom must complete 2 local CLASS observations, one in the fall and one in the spring. (Section 4.5)
3. All participating sites must participate in external observations for each age-level served, between August 15 and May 31. (Section 4.6)

### **What is the definition of a “publicly-funded provider”?**

"Publicly-funded provider" means any: (Section 3.1.2)

- Educational program provided by a school division or local government to children between birth and age five (or)
- Child day program serving three or more unrelated children that receives state or federal funds in support of its operations
- Is intended to include all funding sources that support direct early childhood care and educational services for young children - [View list of publicly funded program categories in Virginia](#).

### **What is the definition of “unrelated children” in VQB5?**

Unrelated children are those who are not a direct relative of a family day home provider or lead teacher. A child who is a “direct relative” means a son, daughter, grandchild, niece, or nephew whether by blood or adoption. Only subsidy vendors that serve three or more unrelated children in support of their operations will be required to participate. (Section 3.1.2a)

### **Will programs that receive funding for the Child and Adult Care Food Program (CACFP) be required to participate in VQB5?**

"Publicly-funded provider" does not include any program for which the sole source of public funding is the federal Child and Adult Care Food Program (CACFP) administered by the U.S. Department of Agriculture Food and Nutrition Service. A program that receives CACFP but does not receive any other source of public funds in support of its operations, is not required to participate in VQB5. (Section 3.1.2)

### **Will publicly-funded programs that only serve school-age children be required to participate in VQB5?**

No. The requirement only applies to publicly-funded early childhood care and education programs that serve children between the ages of birth to five. (Section 3.1.2)

### **Will programs that ONLY accept subsidy for before/after school care, evening care, or summer camps be required to participate in VQB5?**

No. Publicly-funded early care and education programs that **only** provide before/after school care, evening care, or summer camps for children ages birth-to-five are not required to participate in VQB5. (Section 3.1.2)

**Will programs that operate on a part-time basis be required to participate?**

No, only publicly-funded programs that operate full-time will be required to participate in VQB5. In VQB5, full-time refers to a program that operates at least 4 days a week, for at least 128 days per year, with children enrolled in classes that operate for a minimum of 3 hours per day. (Section 3.1.3)

**What is the participation enrollment minimum?**

Virginia law states that publicly-funded early care and education programs serving three or more unrelated children are required to participate in VQB5. Publicly-funded early care and education programs that have fewer than three unrelated children under age 5 enrolled at the time of the annual registration period (August 15-October 1) are not required to participate in VQB5. (Section 3.2.2)

**What if my site opens or has classrooms that open after the October 1<sup>st</sup> registration deadline?**

Publicly-funded sites and classrooms that open after the October 1 annual registration deadline are not required to register or complete VQB5 measurement activities until the start of the following program year. Sites that open after October 1 are not eligible for a VQB5 quality rating until the following year. (Section 3.2.1d)

**What are the consequences for not participating?**

Publicly-funded sites that do not complete the [participation requirements](#) will be out of compliance with the law and may have public funding terminated. The VDOE will take steps to inform publicly-funded programs that they must participate prior to any enactment of consequences. (Section 3.4)

**Can non-publicly-funded programs participate in VQB5?**

Yes. Sites that do not receive public funds have the option to participate if they choose to do so, with the understanding that support for publicly-funded programs will be prioritized. (Section 3.2)

**Is there a cost associated with VQB5 participation?**

There is no fee to participate in VQB5. Information about the benefits of participation can be found on the [VQB5 Participation Requirements 2023-2024 1-pager](#). Contact your [Ready Region](#) to learn more about additional training and resources available to VQB5 programs at no/low cost.

**How can I learn more about VQB5 Participation Requirements?**

The [2023-2024 VQB5 Guidelines](#) provide detailed information about observation requirements, quality curriculum options, and improvement supports. The guidelines also provide a timeline for the development of the new VQB5 quality profiles, including plans to engage families, stakeholders, and practitioners. Additional information, webinar recordings, and resources can be found on the [VQB5 webpage](#). Contact your [Ready Region](#) to learn more about how to prepare for the VQB5 2023-2024 Program Year.

Additional questions about VQB5 Participation Requirements may be directed to [VQB5@doe.virginia.gov](mailto:VQB5@doe.virginia.gov).

Stay up-to-date on VQB5 by subscribing to our weekly newsletter, [Readiness Connections](#).

**Virginia Department of Education  
STANDARDS FOR LICENSED CHILD DAY CENTERS**

**DRAFT**

**8VAC20-781**

**COMMONWEALTH OF  
VIRGINIA**

**Revised April 13, 2023**

**DRAFT**



**CHAPTER 781**  
**STANDARDS FOR LICENSED CHILD DAY CENTERS**

**PART I. INTRODUCTION**

**8VAC20-781-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Abusive head trauma" means a traumatic injury that is inflicted upon the brain of a child, including Shaken Baby Syndrome.

"Age and stage appropriate" means the curriculum, environment, equipment, and adult-child interactions are suitable for the ages and the individual needs of any children in care.

"Attendance" means the actual presence of an enrolled child.

"Balanced mixed-age grouping" means a program using a curriculum designed to meet the needs and interests of children in the group and is planned for children who enter the program at three through five years of age. The enrollment in the balanced mixed-age grouping comprises a relatively even allocation of children in each of three ages (three to six years) and is designed for children and staff to remain together with turnover planned only for the replacement of existing students with children of ages that maintain the class balance.

"Child" means any individual under 18 years of age.

"Child day center" or "center" means a child day program offered to (i) two or more children younger than 13 years of age in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child younger than 13 years of age for less than a 24-hour period.

"Child with special needs" means a child with developmental disabilities, intellectual disabilities, an emotional disability, sensory or motor impairment, or significant chronic illness who require special health surveillance or specialized programs, interventions, technologies, or facilities.

"Cleaned" means to scrub and wash with (i) soap and water or (ii) detergent solution.

"Cooperative preschool center" means a child center that is organized, administered, and maintained by parents of children in care, parent volunteers, or other persons who participate or volunteer on behalf of a child attending such center.

"Date of employment" means the date on which an employee begins to perform services for the child day program, which includes orientation training.

"Department" means the Virginia Department of Education.

"Director" means the individual responsible for supervising the day-to-day operations and staff of the center.

“Enrolled” means that a regular service arrangement has been entered into between a parent and center, where the center has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period during the absence of a parent or guardian.

“Evening care” means care provided after 7 p.m. but not through the night.

“Experience in a supervisory capacity” means experience in an administrative position that includes supervising, orienting, training, and scheduling.

“Fall height” means the vertical distance between the highest elevated play surface on play equipment designed for standing, walking, crawling, sitting, or climbing and the protective surface beneath it.

“Field trip” means any activity away from the premises of the center during which children are under the supervision of the center.

“Group” means the group of children under the supervision of one staff member or team of staff members.

“Group size” means the number of children assigned to a staff member or team of staff members occupying an individual room or area.

“Child experiencing homelessness” means a child who is homeless as defined in section 725 of Subtitle VII- B of the McKinney-Vento Act (42 U.S.C. 11434a).

“Incident” means an event in which a child is injured or in a situation where injury is likely to occur.

“Individual service, recreation, education or treatment plan” means a plan identifying the child's strengths, needs, general functioning and plan for providing services to the child to include specific goals and objectives for services, accommodations, and intervention strategies. The service, recreation, education, or treatment plan clearly shows documentation and reassessment or evaluation strategies.

“Infant” means children from birth up to 16 months.

“Lead Teacher” means the individual designated to be responsible for the direct supervision of children and for the implementation of the activities and services for a group of children. The term lead teacher is used to interpret the term “program leader” in Chapter 14.1 of Title 22.1 of the Code of Virginia.

“Licensee” means any person to whom a conditional license, a license, or a provisional license has been issued and who is legally responsible for compliance with the licensing standards related to the operation or maintenance of the center.

“Overnight care” means care provided after 7 p.m. and through the night.

“Parent” or “parents” means any parent, guardian, legal custodian, or other person having control or charge of a child.

“Physician's designee” means a licensed nurse practitioner, licensed physician assistant, licensed nurse (R.N. or L.P.N.), or health assistant acting under the supervision of a physician.

“Play yard” means a framed enclosure that includes a floor and is primarily intended to provide an area for a child to play.

“Preschool age” means a child who is at least three years of age but has not reached five years by September 30 of the school year.

"Primitive camp" means a camp where places of abode, water supply system, or permanent toilet and cooking facilities are not usually provided.

"Programmatic experience" means the supervision of children in a structured setting. Experience shall be calculated based on full-time work. Experience settings may include a child day program, family day home, child day center, boys, and girls club, continuing education, field placement, elementary school, or a religious institution.

"Protective surfacing" means impact absorbing materials for indoor and outdoor use, under and around playground equipment.

"Sanitized" means treated to remove germs, bacteria, and viruses from inanimate surfaces. Sanitizing is accomplished in two steps following cleaning; first by using a sanitizing agent or physical agent (e.g., heat), and second, by allowing the sanitizing agent to air dry on the surface for a minimum of two minutes or according to the manufacturer's instructions.

"Sanitizing agent" means a solution or wipe approved by the US Environmental Protection Agency for sanitizing or disinfecting or a bleach solution made daily.

"School-age" means a child who will have reached his fifth birthday on or before September 30 of the school year. Four or five-year-old children included in a group of school-age children may be considered school-age during the summer months if the children will be entering kindergarten that year.

"Short-term program" means a child day center that operates less than 12 weeks a year.

"Special needs child day program" means a program exclusively serving children with special needs.

"Specialty camps" means those centers that have an educational or recreational focus on one subject such as dance, drama, music, or sports.

"Staff" or "staff member" means an individual who is at least 16 years of age and (i) works with children at the facility, or (ii) is involved in the day-to-day operation of the center.

"Standard precautions" means an approach to infection control according to which all human body fluids are treated as if known to carry pathogens.

"Superintendent" means the Superintendent of Public Instruction at the Department of Education and, except when prohibited by law, includes the superintendent's representatives.

"Therapeutic child day program" means a specialized program, including therapeutic recreation programs, exclusively serving children with special needs when an individual service, recreation, education, or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.

"Toddler" means a child from 16 months of age up to 24 months of age.

**"Twos" means a child from 25 months of age up to 35 months of age.**

"Use zone" means the surface under and around a piece of equipment onto which a child falling or exiting from the equipment would be expected to land. Use zone areas are also designated for unrestricted circulation around the equipment.

"Volunteer" means an individual who is at least 13 years of age; works at a center without compensation; is not counted in the staff-to-child ratios; and is at all times within sight and sound supervision of a staff member when with a child. Any unpaid individual not meeting this definition is considered "staff" and shall meet staff requirements.

**8VAC20-781-20. Purpose and applicability.**

- A. The purpose of these standards is to protect children under the supervision of licensed child day centers by ensuring that the activities, services, and facilities of centers are conducive to the well-being of children.
- B. This chapter applies to child day centers that are required to be licensed by Chapter 14.1 of Title 22.1 of the Code of Virginia.

**PART II. ADMINISTRATION**

**8VAC20-781-30. Operational responsibilities.**

- A. The licensee shall ensure compliance with federal, state, or local laws and regulations.
- B. The licensee shall maintain public liability insurance for bodily injury for each center premises with a minimum limit of at least \$500,000 for each occurrence and with a minimum limit of \$500,000 aggregate.
  - 1. A public sponsor may have equivalent self-insurance that is in compliance with the Code of Virginia.
  - 2. Evidence of insurance coverage shall be made available to the Department's representative upon request.
- C. The center shall maintain a written list, for each group of children, of important health conditions and dietary restrictions. The center shall inform staff about the list. The list shall only be accessible to staff and shall have the most recent date of revision clearly stated. This up-to-date list shall be in each room or area where children are present and kept confidential unless written permission is received from the parent to post, display, or share.
- D. A hospital-operated center may temporarily exceed their license capacity during a natural disaster or emergency situation according to its emergency preparedness and response plan.
- E. When children 13 years or older are in care of the program and receive supervision in the licensed program, they shall be counted in the number of children receiving care and the center shall comply with this chapter in providing their care.
- F. When children of staff are present at the facility and engaged in activities or under the supervision of staff, including the parent, who are supervising other children enrolled in the program, the children shall be considered enrolled for purposes of this chapter.

**8VAC20-781-40. Required policies and procedures.**

- A. The licensee shall develop and implement the following written policies and procedures:
  - 1. Injury prevention. Such policies and procedures shall include how the center will identify, mitigate, and prevent hazards in all areas where children will be in care, including the reporting and documenting of incidents, which the licensee shall use to facilitate the annual review of the policies and procedures.
  - 2. Abusive head trauma prevention and, if serving infants or toddlers, prevention of shaken baby syndrome, coping with crying babies and distraught children.
  - 3. Safe sleeping practices and sudden infant death syndrome awareness.

4. Playground safety. Such policies and procedures shall include (i) how staff will engage in the active supervision of children and (ii) maintenance of equipment and protective surfacing.
5. The supervision of children. Such policies shall be consistent with all the requirements of Part V of this chapter and include (i) methods of active supervision of children; (ii) how the center will ensure that each group of children receives care by consistent staff or team of staff members; (iii) how the center will identify where children are at all times, including during group transitions and field trips; (iv) actions to take when a child arrives after scheduled activities have begun, including field trips or when the group is offsite or not in the assigned room when the child arrives; and (v) maintaining staff-to-child ratios.
6. Assuming and releasing care of children. Such policies and procedures shall specify (i) when the center assumes and releases responsibility for care; (ii) the method of confirming the absence of a child when the child is scheduled to arrive from another program or from an agency responsible for transporting the child to the center; (iii) the method for verifying that children are released only to individuals authorized by the parents; and (iv) child pickup after normal hours, during emergencies, and when a child's class is offsite or not in the assigned area.
7. Emergency actions. Such policies and procedures shall specify actions to take in case of a lost or missing child, ill or injured child, or when a child has a medical or other emergency.
8. Records. Such policies and procedures shall describe how records shall be kept confidential and secure; remain accessible, including during power outages or emergencies; and shall meet the requirements of 8VAC20-781-50 through 8VAC20-781-90.
9. Confidentiality. Such policies and procedures shall describe how staff will maintain the privacy of children in care, including expectations for communications, use of technology, and social media.
10. Food, formula, and breast milk. Such policies and procedures shall describe food service, storage, safety and preparation, and nutrition, and shall meet the requirements of 8VAC20-781-620 and 8VAC20-781-630.
11. Special needs. Such policies and procedures shall address the inclusion and accommodation of children with special needs.
12. Swimming. Such policies and procedures shall include emergency procedures and written safety rules and meet the requirements of 8VAC20-781-460 and 8VAC20-781-470.
13. Emergency preparedness and response. Such policies and procedures shall meet the requirements of Part IX of this chapter.
14. Transportation. Such policies and procedures shall meet the requirements of 8VAC20-781-190, 8VAC20-781-640, and 8VAC20-781-650, and shall describe how the center will ensure that all children are accounted for prior to leaving for a field trip, upon arriving at a field trip site, before leaving a field trip site, upon returning to the center, and any stops on the field trip.
15. Medication. Such policies and procedures shall meet all the requirements of Part VIII of this chapter.

16. Stock epinephrine. Such policies and procedures shall meet the requirements of § 22.1-289.059 of the Code of Virginia.
  17. Behavior guidance. Such policies and procedures shall meet the requirements of 8VAC20-781-380 and 8VAC20-781-390.
  18. Communication. Such policies and procedures shall meet the requirements of 8VAC20-781-400, 8VAC20-781-410, and 8VAC20-781-420.
  19. Preventing the spread of disease and infection control. Such policies and procedures shall meet all the requirements of Part VII of this chapter.
  20. Drinking water. Such policies and procedures shall meet the requirements of § 22.1-289.057 of the Code of Virginia.
  21. Emergencies due to food and allergies. Such policies and procedures shall include recognizing the symptoms of an allergic reaction, responding to allergic reactions, preventing exposure to the specific foods and other substances to which a child is allergic, and preventing cross contamination.
- B. The center shall annually review all policies and procedures required by this section and shall document on the policy and procedure the date of such review.
- C. Whenever the center makes a substantive change to a policy required by this section, the center shall provide training to any staff required to be oriented to such policy under 8VAC20-781-140.
- D. The center shall provide all policies required under this section to staff and shall make policies and procedures required by this section available to parents and volunteers, except that the center shall **only** be required to share **information pertaining to the center's relocation site, communications plan, and reunification plan-**

#### **8VAC20-781-50. General recordkeeping.**

- A. Staff and children's records shall be treated confidentially. A child's record required by this chapter shall be made available to the child's parent in accordance with § 20-124.6 of the Code of Virginia. Information in the child's record shall not be made public without the written consent of the parent.
- B. Records and reports on children and staff required by this chapter shall be maintained and made accessible for **two** years after termination of services or separation from employment unless specified otherwise in this chapter.
- C. The licensee shall keep all records required by 8VAC20-781-60 and 8VAC20-781-70 in locked files or a secure electronic file, except for those required to be accessible pursuant to 8VAC20-781-600; and access to such files should be restricted according to a principle of least privilege.
- D. Records required by this chapter shall be kept current and accurate.

#### **8VAC20-781-60. Children's records.**

- A. Each center shall maintain and keep on the premises a separate record for each child enrolled.

B. Each enrolled child's record shall contain the following information that is required upon enrollment unless otherwise stated:

1. Name, nickname (if any), gender, birth date of the child, and address;
2. Name, home address, and phone number of each parent who has custody;
3. Name and phone number of two designated people to call in an emergency if a parent cannot be reached;
4. Names of persons to whom the child may be released, including any agencies the parent has a contract in place with to provide a specialized service to the child. Appropriate legal paperwork shall be on file when a custodial parent requests the center not to release the child to the other parent;
5. A list of health issues, including allergies; intolerances to medication, food, or other substances; chronic physical or medical conditions; special needs; dietary preferences; and pertinent behavioral or developmental information;
6. For items in subdivision 5 that are reasonably likely to result in a medical emergency, an emergency care plan that has been developed in consultation with a physician or physician's designee;
7. Written agreements as required by 8VAC20-781-420;
8. Previous child day care and schools attended by the child, as well as any child day care or school concurrently attended by the child;
9. Documentation of viewing proof of the child's identity and age as outlined in § 22.1-289.049 of the Code of Virginia;
10. Documentation of health information as required by 8VAC20-781-90. When a center assumes responsibility for the child directly from a school or the center transfers responsibility of the child directly to the school, the center is not required to maintain documentation required by subsections A and B of 8VAC20-781-90 of the school's records for that child;
11. Documentation of the enrollment of a **child experiencing homelessness** enrolled under provision of subsection C of 8VAC20-781-90; and
12. The date of initial attendance and the last day of attendance.

C. The center shall document annually that the parent has confirmed that information in the child's record is accurate.

**8VAC20-781-70. Staff records.**

The following records shall be kept for each staff member:

1. Name, address, verification of age requirement, current job title, and dates of employment or volunteering;
2. Background check information shall be maintained in accordance with the requirements in 8VAC20-770;
3. Documentation that the individual meets the appropriate qualifications and training in Part III of this chapter. The documentation of training shall include (i) the name of the staff member; (ii) the date of the training; (iii) the training topic; (iv) evidence that the training has

- been completed; (v) the person providing the training; (vi) the number of training hours or credit hours received;
4. Health information as required by 8VAC20-781-90; and
  5. Information, to be kept on the premises, about any health problems that may interfere with fulfilling the job responsibilities.

**8VAC20-781-80. Attendance records; reporting.**

- A. The center shall maintain a record of daily attendance that documents the arrival and departure times of each child as it occurs.
- B. The licensee shall ensure that staff in each group of children maintain a list of children that accurately reflects the children in their care.
- C. The center shall inform the superintendent as soon as practicable, but not to exceed one business day of the circumstances surrounding the following incidents:
  1. Death of a child while under the center's supervision;
  2. Missing child when local authorities have been contacted for help;
  3. The suspension or termination of all child care services for more than 24 hours as a result of an emergency situation and any plans to resume child care; or
  4. A situation in which a child's whereabouts was unknown, including a child left unattended or unsupervised.
- D. The center shall inform the superintendent as soon as practicable but not to exceed two business days after learning about any incident while a child is under the supervision of the center that required medical attention.
- E. If the center or any person employed by the center has reason to suspect that a child is an abused or neglected child, such person shall report the matter immediately in accordance with § 63.2-1509 of the Code of Virginia.
- F. A center shall immediately report an outbreak of disease as defined by the Virginia Board of Health to the local health department, as required by § 32.1-37 of the Code of Virginia.

**8VAC20-781-90. Health provisions.**

- A. Immunizations. The center shall comply with the health provisions of § 22.1-271.2 of the Code of Virginia.
- B. Physical examinations.
  1. The center shall obtain documentation of a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination performed within (i) the 12 months prior to the date a child first attends the center, or (ii) 30 days after the first day of attendance.
  2. Such physical examination shall not be required of any child whose parent objects on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.



- C. If a child is **experiencing** homelessness and does not have documentation of the required immunizations and physical examination, the center shall allow the child to attend during a grace period of no more than 90 days to allow the parent time to obtain documentation of the required documents.
- D. Tuberculosis.
  - 1. Prior to a staff member's date of employment, such individual shall submit to the center the results of a screening assessment documenting the absence of tuberculosis in a communicable form. The documentation shall contain the elements of the current tuberculosis screening form published by the Virginia Department of Health and shall have been completed within 90 calendar days prior to coming in contact with children at the center.
  - 2. Any staff member or volunteer who develops symptoms compatible with active tuberculosis disease, regardless of the date of the last tuberculosis screening or assessment, shall immediately obtain and submit a new tuberculosis screening form required in subdivision 1 of this subsection.
  - 3. Any staff member or volunteer who comes into contact with a known case of infectious tuberculosis shall immediately obtain and submit to the center a new tuberculosis screening form required in subdivision 1 of this subsection. Until a new screening form is issued that documents the absence of tuberculosis in a communicable form, the staff member shall not have contact with children.

### **PART III. STAFF QUALIFICATIONS AND TRAINING**

#### **8VAC20-781-100. Director qualifications.**

- A. Directors shall be at least 21 years of age and shall have a high school diploma or the equivalent.
- B. The director shall meet one of the following education and experience qualification options, as well as three months experience in a supervisory capacity:
  - 1. A bachelor's or graduate degree in a child-related degree such as child development, early childhood education, elementary education, recreation, or nursing; and three months programmatic experience;
  - 2. Forty-eight college credits with 12 college credits in child related courses and six months of programmatic experience;
  - 3. One-year community college certificate in a child-related field with a minimum of 30 total college credits and one year of programmatic experience; or
  - 4. The requirement for a lead teacher in subsection B of 8VAC20-781-120 and two years of programmatic experience.
- C. Directors without experience in a supervisory capacity shall complete, within ten business days of employment or promotion, ten hours of management training that includes information on supervising, orienting, training, and scheduling.
- D. Notwithstanding subsection A of this section, an individual who is at least 19 years of age may serve as a director at a short-term program.

- E. A director employed prior to [effective date of regulation] who met the education and experience qualifications in effect immediately prior to [effective date of regulation], and who has been continuously employed as a child day center director, is considered to have met the requirements of this section.

**8VAC20-781-110. Director responsibilities.**

- A. A center shall ensure that the director is on premises at least 50% of the center's hours of operation each week.
- B. The director shall designate one or more staff to assume the director's responsibilities in the director's absence. The designee shall meet the requirements of 8VAC20-781-100 and shall receive orientation and training on the director's responsibilities prior to assuming such responsibilities.
- C. The licensee shall ensure that, in the director's absence, an adult designated to assume the director's responsibilities is on the premises of the center to oversee the administration of the center during the center's hours of operation.

**8VAC20-781-120. Lead teacher qualifications.**

- A. Lead teachers shall be at least 18 years of age and shall have a high school diploma or the equivalent.
- B. Lead teachers shall meet a director qualification indicated in 8VAC20-781-100 or one of the following education and experience requirements:
  - 1. Three months of programmatic experience and one of the following:
    - a. A one-year community college certificate in a child-related field with a minimum of 30 total college credits;
    - b. A career studies certificate in a child-related field with a minimum of 12 total college credits;
    - c. A teaching diploma from an internationally or nationally recognized Montessori organization; or
    - d. A credential in a child-related field by an organization listed in § 22.1-289.048 of the Code of Virginia or an equivalent credential recognized by the Department.
  - 2. Six months of programmatic experience and:
    - a. A Virginia endorsement in a child-related field approved by the department; or
    - b. 24 hours of training in the following topics: child development, behavior guidance, playground safety, and health and safety issues. This training shall be completed before being promoted or beginning work or within 60 days after being promoted or beginning work. Orientation training required by subsections B and C of 8VAC20-781-140 shall not be used to meet this qualification.
- C. Lead teachers at short-term programs shall have a minimum of 200 hours of programmatic experience of which up to 24 hours can be formal training.

- D. A lead teacher employed prior to [effective date of regulation], who met the education and experience qualifications in effect immediately prior to [effective date of regulation], and who has been continuously employed as a child day center lead teacher, is considered to have met the requirements of this section.

**8VAC20-781-130. Driver qualifications and requirements.**

- A. Any individual who drives a vehicle to transport children for a center shall (i) be at least 18 years of age; (ii) possess a valid driver's license that authorizes the driver to operate the vehicle being driven; and (iii) provide, prior to transporting children, a driving record obtained from the state department of motor vehicles that issued the current license.
- B. Centers that have obtained insurance for all individuals who transport children shall not be required to provide a driving record as required in subsection A of this section.

**8VAC20-781-140. Orientation training.**

- A. The licensee shall ensure that all staff who will work with children complete the preservice training sponsored by the department within 90 calendar days of their date of employment. A staff member who has documentation of completing the preservice training shall not be required to retake the course.
- B. The center shall provide orientation training to all staff who will work with children. The orientation training must be completed by such staff prior to working alone with a child and within seven days of the staff member's date of employment. The orientation training shall include all the following facility specific topics:
1. Job responsibilities and to whom the staff member reports;
  2. Recognizing child abuse and neglect and the legal requirements for reporting suspected child abuse as required by § 63.2-1509 of the Code of Virginia;
  3. All policies and procedures required by 8VAC20-781-40;
  4. Introduction and orientation to each child assigned to staff, including health issues documented according to 8VAC20-781-60 B 5;
  5. Child development; and
  6. Classroom management.
- C. The licensee shall ensure that all staff who work with children, within 30 days of the staff member's date of employment, complete an overview of first aid and cardiopulmonary resuscitation (CPR) skills.
- D. The licensee shall ensure that the director completes the prelicensure orientation sponsored by the department within 60 days of the director's date of employment or promotion. A director who has documentation of completing the prelicensure orientation shall not be required to retake the program.
- E. Volunteers who regularly work with children more than eight hours per week shall receive training on the center's emergency procedures within the first week of volunteering. The center shall document and maintain a record that the volunteer received such training.
- F. Parents or other persons who participate in a cooperative preschool center on behalf of a child attending such cooperative preschool center, including such parents and persons who are counted for the purpose of determining staff-to-child ratios, shall be exempt from

orientation and training requirements applicable to staff of child day programs by this section. This orientation and training exemption shall not apply to any parent or other person who participates in a cooperative preschool center that has entered into a contract to provide child care services funded by the Child Care and Development Block Grant.

**8VAC20-781-150. Ongoing training.**

- A. The licensee shall ensure that all staff complete annual training on emergency preparedness and response; child abuse and neglect; and mandated reporter requirements.
- B. The licensee shall ensure that all staff who work with children complete at least 16 hours of ongoing training each year. Of these 16 hours, three hours shall include the department's health and safety update course. The ongoing training shall not include the training required by 8VAC20-781-140 B or C. The ongoing training shall be relevant to the staff member's job responsibilities and appropriate to the age of children in care.
- C. Notwithstanding the requirements of 8VAC20-781-150 B, a center that runs a short-term program shall ensure that all staff who work with children complete at least 10 hours of ongoing training each year.
- D. Volunteers who regularly work with children more than eight hours per week shall be required to complete annual training on the center's emergency procedures. The center shall document and maintain a record that the volunteer received such training.
- E. Parents or other persons who participate in a cooperative preschool center on behalf of a child attending such cooperative preschool center, including such parents and persons who are counted for the purpose of determining staff-to-child ratios, shall only be required to complete four hours of ongoing training each year. Any parent or other person who participates in a cooperative preschool center that has entered into a contract to provide child care services funded by the Child Care and Development Block Grant must complete the training requirements applicable to all centers by this section.

**8VAC20-781-160. First aid training and cardiopulmonary resuscitation (CPR).**

- A. The licensee shall ensure that at least two staff members who have the following certifications are present on the premises whenever a child is in care:
  - 1. Current certification in cardiopulmonary resuscitation (CPR) as appropriate to the age of the children in care from an individual or organization holding instructor certification. The training shall include an in-person competency demonstration; and
  - 2. Current certification in first aid from an individual or organization holding instructor certification.
- B. The licensee shall ensure that at least one staff in each classroom, area, or in each group of children on field trips where children are present meets the qualifications in subsection A.
- C. A primitive camp shall have one staff member on the premises who has a current certification in emergency medical responder training whenever the primitive camp has assumed responsibility for supervising a child.
- D. Medical professionals with a current license or certification shall not be required to obtain

### **8VAC20-781-170. Daily health observation training.**

- A. The licensee shall ensure that there is at least one staff member on the premises who has obtained instruction within the last three years in performing daily health observations of children whenever the center has assumed responsibility for supervision of a child.
- B. Daily health observation training shall include the following:
  1. Components of daily health check for children;
  2. Inclusion and exclusion of the child from the class when the child is exhibiting physical symptoms that indicate possible illness;
  3. Descriptions of how diseases are spread and the procedures or methods for reducing the spread of disease;
  4. Information concerning the Virginia Department of Health Notification of Reportable Diseases pursuant to 12VAC5-90-80 and 12VAC5-90-90, also available from the local health department and the website of the Virginia Department of Health; and
  5. Staff occupational health and safety practices in accordance with Occupational Safety and Health Administration's bloodborne pathogens regulation (29 CFR 1910.1030).
- C. The licensee shall ensure that a trained staff member conducts a daily health observation of each child as close to arrival as possible and whenever staff responsible for the care of a child notes a change in behavior or appearance.

### **8VAC20-781-180. Medication administration training.**

- A. The licensee shall ensure that the administration of prescription medication is performed by a staff member who (i) is licensed by the Commonwealth of Virginia to administer such medications or (ii) is qualified under § 54.1-3408 O of the Code of Virginia to administer medication to a child in a child day program.
- B. To safely perform medication administration practices listed in 8VAC20-781-540, whenever the center has agreed to administer over-the-counter medications other than topical skin gel, cream, or ointment, the administration must be performed by a staff member who has satisfactorily completed a training course developed or approved by the Department of Education in consultation with the Department of Health and the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; or administration shall be performed by a staff member who is licensed by the Commonwealth of Virginia to administer medications.
- C. Staff required to have medication administration training shall be retrained at three-year intervals.

### **8VAC20-781-190. Driver training requirements.**

The licensee shall ensure that any individual who drives a vehicle to transport children has received the following training prior to transporting any children under the supervision of the center:

1. Proper use of child safety restraints in accordance with Virginia state law;
2. Proper loading, unloading, and tracking of children per center policies;
3. Issues that may arise in transporting children with behavioral issues;

4. The location of first aid supplies;
5. The emergency procedures for the vehicle, including actions to be taken in the event of accidents, vehicle malfunction and medical emergencies; and
6. The center's transportation policies required in subdivision 14 of 8VAC20-781-40 A.

#### **PART IV PHYSICAL PLANT**

##### **8VAC20-781-200. Initial approval from other agencies; requirements prior to initial licensure.**

- A. Before issuance of an initial license, the center shall submit to the superintendent written documentation of the following:
  1. Inspection by the authority having jurisdiction that each building is in compliance with applicable building and fire codes or that the authority has approved a plan of correction for any areas of noncompliance; and
  2. Inspection from the local health department that each building is in compliance with applicable health codes with regard to water supply; sewage disposal system; and food service, if applicable; or a plan of correction approved by the local health department for any areas of noncompliance.
- B. Any building which is currently approved for school occupancy, and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision A1 of this section when housing a center only serving children two and a half years of age or older.
- C. Asbestos.
  1. For buildings built before 1978, the center shall submit the following before the initial license is issued:
    - a. A written statement from a person licensed in Virginia as an asbestos inspector and management planner as required by § 22.1-289.052 of the Code of Virginia and the requirements of the Asbestos Hazard Emergency Response Act
    - b. (15 USC § 2641 et seq.); and
    - c. A written statement that the response actions to abate any risk to human health have been or will be initiated in accordance with a specific schedule and plan as recommended by the asbestos management planner in accordance with § 22.1-289.052 of the Code of Virginia.
  2. If the asbestos inspector determines that there is asbestos on the premises, the center shall post a notice that (i) identifies the presence and location of asbestos containing materials and (ii) advises that the asbestos inspection report and management plan are available for review.
- D. Lead.
  1. For buildings built before 1978, the center shall submit the following before the initial license is issued:
    - a. A written statement from a person licensed in Virginia as a lead risk assessor who meets the requirements of § 54.1-500 of the Code of Virginia; and

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- b. A written lead risk assessment shall state that either (i) no lead was detected; (ii) lead was detected and response actions to abate any risk to human health have been completed; or (iii) lead was detected and response actions to abate any risk to human health have been recommended in accordance with a specified schedule.
  - 2. A notice regarding the presence and location of lead containing materials advising that the lead inspection report and management plan are available for review shall be posted.
  - 3. The provisions of this subsection do not apply to centers licensed before [the effective date of this chapter].
- E. The provisions of subsections C and D of this section do not apply to centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.
- F. Before the first license is issued, **primitive** camps shall (i) notify the responsible fire department and emergency medical service of the **primitive** camp location and hours of operation, and (ii) maintain documentation of the notifications.

**8VAC20-781-210. Annual and renewal approval from other agencies; requirements subsequent to initial licensure.**

- A. Before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, the center shall submit to the superintendent written documentation of the following:
- 1. Inspection by the authority having jurisdiction that each building is in compliance with applicable building and fire codes or that the authority has approved a plan of correction for any areas of noncompliance; and
  - 2. Inspection from the local health department that each building is in compliance with applicable health codes with regard to water supply; sewage disposal system; and food service, if applicable; or a plan of correction approved by the local health department for any areas of noncompliance.
- B. Any building which is currently approved for school occupancy, and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision 1 of subsection A when housing a center only serving children two and a half years of age or older.
- C. The center shall provide to the superintendent an annual fire inspection report from the appropriate fire official having jurisdiction.
- D. If a center is located in a building currently housing a public or private school, the center shall provide the school's annual fire inspection report.
- E. The center shall provide to the superintendent an annual inspection from the local health department that each building is in compliance with applicable health codes with regard to water supply; sewage disposal system; and food service, if applicable; or a plan of correction approved by the local health department for any areas of noncompliance.
- F. If a center is using a building where asbestos containing materials were detected and not removed, the center shall follow the recommendations of the management plan and ensure the following:

1. A signed, written statement that the center is following the recommendations of the management plan shall be submitted to the superintendent before subsequent licenses are issued; and
2. The notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review shall continue to be posted.
3. The provisions of this subsection do not apply to child day centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.

G. **Primitive camps** shall (i) notify the responsible fire department and the responsible emergency medical service of any changes in the **primitive** camp location and hours of operation, and (ii) maintain documentation of the notifications.

H. For those buildings built before 1978 where lead is detected and not removed:

1. A signed, written statement that the center is following the recommendations of the management plan shall be submitted to the department before subsequent licenses are issued.
2. A notice regarding the presence and location of lead advising that the lead inspection report and management plan are available for review shall continue to be posted.
3. The provisions of this subsection do not apply to child day centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.
4. The provisions of this subsection do not apply to centers licensed before the effective date of this chapter.

#### **8VAC20-781-220. Building maintenance.**

A. The center shall maintain the areas and equipment of the center, inside and outside, in a clean, safe, and operable condition. Unsafe conditions include splintered, cracked, or otherwise deteriorating wood; peeling paint; visible cracks, bending, warping, rusting, or breakage of any equipment; loose or unsecured cords within reach of children; unstable heavy equipment, furniture, or other items that a child could pull down.

B. The licensee shall ensure the following:

1. Hot water accessible to children does not exceed 120°F.
2. The heating system shall (i) be installed to prevent accessibility of children to the system and (ii) have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.
3. Portable heaters may be used only to provide or supplement heat in the event of a power failure or similar emergency. The licensee shall ensure that portable heaters are inaccessible to children and have the seal of approval of a nationally recognized testing laboratory or are approved by the state or local fire official. Portable heaters shall not be used within three feet of combustible materials and shall be used in accordance with the manufacturer's instructions.
4. Portable camping equipment for heating or cooking that is not required to be approved by the building official shall bear the label of a nationally recognized inspection agency and be used in accordance with the manufacturer's specifications, except for charcoal and wood burning cooking equipment.



5. Unvented fuel burning heaters are not used when children are in care.
6. Electrical outlets and surge protectors accessible to children who are preschool age and younger are tamper resistant or have protective covers.
7. Electrical cords are not spliced, deteriorated, or damaged, and unsecured electrical cords are inaccessible to children preschool age and younger.
8. Extension cords have the seal of a nationally recognized testing laboratory; shall not be overloaded, and shall not be placed through doorways, under carpeting, or across water- source areas.
9. When in use, fans shall be out of reach of children and cords shall be secured.
10. In inside areas occupied by children, the temperature shall be maintained no lower than 68°F.
11. When the temperature of indoor areas occupied by children exceeds 80°F, fans or other cooling systems are used.
12. Safe drinking water is available to children at all times.
13. Equipment shall include (i) outside lighting provided at entrances and exits used by children before sunrise or after sundown and (ii) an in-service telephone or cell phone that is operable and accessible to staff on premises during the center's hours of operation.
14. Hazardous mechanical or electrical equipment are inaccessible to children.

C. Pursuant to § 22.1-289.058 of the Code of Virginia, each building built before 2015 used to operate a licensed child day center must be equipped with one carbon monoxide detector.

**8VAC20-781-230. Hazardous substances and other harmful agents.**

- A. The licensee shall ensure that hazardous substances and chemicals, including cleaning products, sanitizing agents, pesticides, flammable and explosive materials, and substances labeled as keep out of reach of children, toxic, danger, caution, warning, flammable, harmful if swallowed, causes burns, harmful vapor, or poison are considered hazardous to children are stored in the following manner:
1. Inaccessible to children in a location that is locked. If a key is used, the key shall be inaccessible to children;
  2. In the original container or a substitute container with the contents clearly labeled;
  3. Stored in areas physically separate from food and items used for food preparation or food service; and
  4. Cleaning supplies to clean and sanitize the diapering area or toilet chairs do not need to be kept locked during diapering or toilet training time if they are inaccessible to children.
- B. Items such as cosmetics, personal care items, and air fresheners that are used exclusively by staff or volunteers shall be inaccessible to children but are not required to be locked.
- C. The licensee shall ensure that smoking and the use of electronic smoking devices are prohibited in the interior of a center while children are in care, in vehicles when children are being transported, or outdoors in the presence of children.
- D. Hazardous items.

1. Empty plastic bags large enough for a child's head to fit inside, disposable gloves, and rubber or latex balloons shall be inaccessible to children under three years of age;
2. Items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches shall be inaccessible to children under three years of age; and
3. Strings and cords long enough to encircle a child's neck, such as those found on window blinds or drapery cords, shall be inaccessible to children under six years of age.

#### **8VAC20-781-240. Areas**

- A. Indoor space shall be measured inside wall-to-wall excluding spaces not routinely used by children. Areas not routinely used for children's activities such as offices, hallways, restrooms, kitchens, storage rooms, or closets, shall not be calculated as available space.
- B. Centers shall have 35 square feet of indoor space available for each child.
- C. Licensees that operate in buildings approved prior to June 1, 2008, and were licensed prior to [the effective date of this regulation] shall have 25 square feet of indoor space available for each child 16 months and older.
- D. The center shall designate a separate space for children who are ill or injured.
- E. The licensee shall ensure that any space utilized for an outside play area has at least 75 square feet of space per child.
- F. For centers licensed for the care of infants or toddlers, at least 25 square feet of the 75 square feet required in subsection E of this section must be an unpaved surface.
- G. **Infants, toddlers, and twos** shall have a separate outdoor play area or shall not occupy the outdoor play area at the same time as **preschool and school-age children**.

#### **8VAC20-781-250. Toileting areas and furnishings.**

- A. Centers shall have at least two toilets and two sinks.
- B. The licensee shall ensure that each toileting area provided for children:
  1. Is within a contained area, readily available and within the building used by the children. Toilets used by children at primitive camps are not required to be located within the building.
  2. Has flushable toilets.
  3. Has sinks located near the toilets that are supplied with running water.
  4. Is equipped with a lined waste container, soap, toilet paper, and disposable towels or an air dryer within reach of children.
- C. Centers shall have at least one toilet and one sink per 20 preschool children and at least one standard size toilet and one sink per 30 school age children. When sharing restroom areas with other programs, the children in those programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply. Urinals shall not count for more than 50% of the number of toilets in the toileting area.
- D. When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platforms or sets of steps shall be provided. Platform steps shall be anchored or broad based to prevent toppling and have a non-slip surface.

E. A toileting area used for school age children shall have at least one toileting area enclosed.

**8VAC20-781-260. Indoor and outdoor play areas and equipment.**

- A. Outdoor play areas shall be located and designed to protect children from hazards including bodies of water and vehicular traffic.
- B. Indoor and outdoor playground and climbing equipment shall be age appropriate for the children using it.
- C. For child day centers licensed prior to [the effective date of this regulation], where playground equipment is provided, protective surfacing shall comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials standard F1292-99 as shown in Table 1 (Compressed Loose Fill Synthetic Materials Depth Chart) and Table 2 (Use Zones for Equipment) below and shall be under equipment with moving parts or climbing apparatus to create a use zone free of hazardous obstacles. A use zone shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. Where steps are used for accessibility, protective surfacing is not required.

| <b>Table 1: Compressed Loose Fill Synthetic Materials Depth Chart</b> |                       |                                      |
|---|-----------------------|--------------------------------------|
| <b>Loose-fill Material Type</b>                                       | <b>Required Depth</b> | <b>Maximum Equipment Fall Height</b> |
| Engineered wood fiber   | 6 inches              | 7 feet                               |
|   | 9 inches              | 8 feet                               |
| Pea gravel  | 6 inches              | 4 feet                               |
|   | 9 inches              | 5 feet                               |
| Recycled shredded rubber  | 6 inches              | 8 feet                               |
| Sand  | 6 inches              | 8 feet                               |
| Wood chips  | 6 inches              | 7 feet                               |
|   | 9 inches              | 8 feet                               |
| Wood mulch  | 6 inches              | 7 feet                               |
|   | 9 inches              | 10 feet                              |
| Wood mulch-double shredded  | 6 inches              | 6 feet                               |
|   | 9 inches              | 10 feet                              |

D. Depth requirements in this section are required unless the facility has received documentation of third-party laboratory testing verifying that the type, depth of protective surfacing, or installation process used at the facility complies with the most recent recommendations by the U.S. Consumer Product Safety Commission's (CPSC) Public Playground Safety Handbook.

| <b>Table 2: Use Zones for Equipment</b> |  |
|---|--|
| <b>Equipment</b>                        | <b>Use Zone</b>                        |
| Stationary Equipment                    | Six feet on all sides of the equipment |

|        |  |
|--------|--|
| Slides | Six feet on all sides. The use zone in front of the exit shall be a minimum of 6 feet and at least as long as the slide is high up to a maximum of 8 feet. |
| Swings | Six feet on each side. Twice the height of the swing beam in the front and back of the swing.  |

- E. For child day centers licensed after [the effective date of this regulation] where playground equipment is provided, protective surfacing and use zones shall comply with protective surfacing requirements in the most current U.S. Consumer Product Safety Commission’s (CPSC) Public Playground Safety Handbook.
- F. Use zones shall be free of obstacles, including any containment barriers for protective surfacing, and shall extend a minimum of six feet in all directions from the perimeter of the equipment.
- G. Climbing equipment and swings shall not be installed over asphalt or concrete unless the asphalt or concrete is:
1. Covered with a properly installed unitary surfacing material; or
  2. Covered with a loose-fill surfacing system (see Table 3). A loose-fill surfacing system shall include the following layers of protection:
    - a. Immediately over the hard surface there shall be a three- to six-inch base layer of loose-fill gravel for drainage;
    - b. The next layer shall be a geo-textile cloth;
    - c. On top of the geo-textile cloth there shall be a loose-fill layer meeting the requirements of section I of this subsection; and
    - d. Impact attenuating mats shall be embedded in the top loose-fill layer in high traffic areas. High traffic areas include underneath swings, at slide exits, and other places where displacement is likely.

|   |
|---|
| <b>TABLE 3: Loose-Fill Surfacing System Requirements for Use Over Asphalt or Concrete</b> |
| Layer 5: Impact mats-under swings and slide exits   |
| Layer 4: Loose-fill surface material – as required by 8VAC20-781-260 C                    |
| Layer 3: Cloth barrier – geo-textile cloth  |
| Layer 2: Drainage layer – three to six inches of gravel                                   |
| Layer 1: Hard surface of existing asphalt or concrete                                     |

- H. Ground supports shall be covered with materials that protect children from injury.
- I. Swing seats shall be constructed with flexible material such as rubber, canvas, or nylon.
1. Nonflexible molded swing seats may be used only in a separate infant or toddler play area.
  2. Swings made specifically for a child with a special need shall be permitted in any area as long as a staff member is positioned to see and protect other children who might walk into the path of the swing.
  3. Multi-axis swings including tire swings (i) shall not use steel belted tires, and (ii) the

minimum clearance between the seating surface of the swing and the uprights of the supporting structure shall be 30 inches when the seat is in a position closest to the support structure.

- J. Sandboxes shall be covered when not in use.
- K. A shady area shall be provided in outdoor play areas during the months of May through September.
- L. Play equipment used by children shall meet the following requirements:
  - 1. Openings above the ground or floor which allow a 3 ½ inch by 6 ¼ inch rectangle to fit through shall also allow a nine-inch circle to fit through to prevent entrapment of a child's body or body part.
  - 2. All hooks, such as S-hooks and C-hooks, shall be properly closed and shall not be open more than 0.04 inches and less than the thickness of a dime; and
  - 3. Have no protrusions, sharp points, shearing points, or pinch points.
- M. The unenclosed climbing portion of slides and climbing equipment used by toddlers and preschool children shall not be more than seven feet high and must be located over protective surfacing where outdoors and shall not be more than five feet high where indoors.
- N. The maximum fall height of slides and climbing equipment installed prior to June 1, 2005, and used by toddlers, twos, and preschool children, shall be seven feet high when outdoors, and five feet high when indoors.
- O. Centers may not install any slide or climbing equipment to be used by preschoolers or toddlers when the climbing portion of the equipment is more than six feet in height.
- P. The maximum fall height of slides and climbing equipment installed and used by toddlers, twos, and preschoolers shall be six feet high when outdoors, and five feet high when indoors.
- Q. The climbing portions of indoor slides and climbing equipment over 18 inches shall not be over bare flooring.
- R. The climbing portions of indoor slides and climbing equipment 36 inches or more shall be located over protective surfacing.
- S. Slides shall not have any spaces or gaps that could trap strings, clothing, body parts, etc. between the platform and the start of the slide chute.
- T. Trampolines shall not be used.
- U. When inflatable equipment is used, the equipment shall be assembled, maintained, and used in accordance with the manufacturer's instructions.
- V. The requirements of this section shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting preschool or school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.

## PART V STAFFING AND SUPERVISION

### 8VAC20-781-270. Supervision of children.

- A. The licensee shall ensure that staff provide for the safety of children under the supervision of the center.
- B. The licensee shall ensure that staff remain alert to the needs of the children in the care of the center.
- C. Whenever a child is in the care of the center, there shall be on the premises at least (i) a lead teacher and (ii) a staff member or volunteer who has received training on how to contact appropriate authorities in the event of an emergency.
- D. There shall be at least **one staff member who meets the qualifications of a lead teacher in each group of children.**
- E. A lead teacher is not required in each grouping of children during short breaks, special activities, and during the first and last 90 minutes of operation when a center operates more than eight hours per day and during the designated rest period if the following are met:
  - 1. There is a staff member in the group who is over 18 years of age and has at least three months of programmatic experience;
  - 2. There is an additional staff member on premises who meets lead teacher qualifications, is not counted in the staff-to-children ratios and is immediately available to help if needed; and
  - 3. There is a direct means for communicating between these two staff members.
- F. For children under 10 years of age, the licensee shall ensure sight and sound supervision by staff who are always physically present without separation by a physical barrier, except that staff need only be able to hear a child who is using the restroom provided that:
  - 1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care are not present in the restroom area while in use by children;
  - 2. Staff check on a child who has not returned from the restroom after five minutes. Depending on the location and layout of the restroom, staff may need to provide intermittent sight supervision of the children in the restroom area during this five-minute period to assure the safety of children and to provide assistance to children as needed; and
  - 3. Staff can hear or see the children (video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children).
- G. Children 10 years of age and older shall be within sight and sound supervision of staff except when the following requirements are met:

1. Staff can hear or see the children (video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);
2. Staff are nearby so they can provide immediate intervention if needed;
3. There is a system to ensure that staff know where the children are and what they are doing;
4. There is a system to ensure that individuals who are not staff members or persons allowed to pick up children in care are not present in the areas where children are not under sight supervision; and
5. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

H. When the outdoor activity area is not adjacent to the center, there shall be at least two staff members on the outdoor activity area whenever one or more children are present.

**8VAC20-781-280. Staff-to-children ratio and group size requirements.**

A. The maximum group size limitations specified in Table 1 shall be followed whenever children are in care.

| <b>Table 1. Maximum Group Size Requirements</b> |  |                           |
|---|--|---------------------------|
|   | <b>Age</b>                               | <b>Maximum Group Size</b> |
| 1.  | Birth up to 16 months                    | 12                        |
| 2.  | 16 months up to 24 months                | 15                        |
| 3.  | 2 year olds                              | 24                        |
| 4.  | 3 year olds up to school age eligibility | 30                        |
| 5.  | School age eligible through 12 years     | 100                       |

B. The staff-to-children ratios specified in Table 2 are required whenever children are in care.

| <b>Table 2. Ratio Requirements</b> |  |                                |
|------------------------------------|--|--------------------------------|
|                                    | <b>Age</b>                               | <b>Ratio (staff: children)</b> |
| 1.                                 | Birth up to 16 months                    | 1:4                            |
| 2.                                 | 16 months up to 24 months                | 1:5                            |
| 3.                                 | 2 year olds                              | 1:8                            |
| 4.                                 | 3 year olds up to school age eligibility | 1:10                           |
| 5.                                 | School age eligible through 12 years     | 1:20                           |

C. In accordance with Part V of 8VAC20-820 and with approval by the Superintendent, a center may temporarily alter the staff-to-child ratios (i) by one child for groups of children from birth up to school age eligibility, and (ii) by two children for groups of children school age eligible through age 12. Under this provision, group sizes three times the approved ratios may be implemented for children ages birth up to school age eligibility. Group size for school-age children must meet the requirements in subsection A of this section.

- D. When a group includes children from different age groups, the age of the youngest child in the group shall be used to determine the staff-to-children ratio and group size that applies to that group.
- E. Group size limitations shall not apply during the following:
  1. Designated rest periods as described in this section;
  2. Outdoor activity as described in 8VAC20-781-330, 8VAC20-781-350, and 8VAC20-781-360;
  3. Transportation and field trips as described in 8VAC20-781-640 and 8VAC20-781-650;
  4. Meals and snacks served as described in 8VAC20-781-620; or
  5. Special group activities, or during the first and last hour of operation when the center operates more than six hours per day.
- F. Group size requirements in subsection A of this section do not apply to children school age eligible through 12 years of age.
- G. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.
- H. A child volunteer 13 years of age or older not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.
- I. With a parent's written permission and a written assessment by the director and lead teacher, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level and the staff-to-children ratio and group size shall be for the established age group.
- J. If a child with a special need is assigned to a more appropriate age group for the child's developmental level, a written assessment by a recognized agency or professional shall be required at least annually. These assignments are intended to be a permanent new group and staff members for the child.

**8VAC20-781-290. Ratios and group size for balanced-mixed-age groupings.**

- A. The ratio for balanced-mixed-age groupings of children shall be one staff member for every 14 children provided:
  1. The center has additional staff who are readily accessible in the event of an emergency to maintain a ratio of one staff member for every 10 children when three-year-olds are included in the balanced-mixed-age group; and
  2. The lead teacher has received at least eight hours of training in classroom management of balanced-mixed-age groupings.



- B. The staff-to-child ratio for balanced-mixed-age groupings during rest time shall be one staff member for every 28 children and the requirements subsection B through D of 8VAC20-781-300 shall be met.
- C. A maximum group size of 28 shall be followed whenever children in care are in balanced-mixed-age groupings.

**8VAC20-781-300. Ratios during designated rest periods.**

- A. For children ages 16 months through preschool age, during the designated rest period, when children are resting or in an inactive state, the following rest period ratios are permitted if the requirements of subsections B through D of this section are met:
  - 1. Children 16 up to 24 months of age: one staff per 10 children.
  - 2. Children two years of age: one staff per 16 children.
  - 3. Children of preschool age: one staff per 20 children.
- B. In addition to the staff required by rest period ratios, an additional staff member shall always be available on-site to offer immediate assistance. The staff required by rest period ratios shall be able to summon the additional staff member without leaving the room or area of the sleeping or resting children.
- C. Once at least half of the children in the resting room or area are awake and off their mats or cots, the staff-to-children ratio shall meet the ratios as required in 8VAC20-781-280 and 8VAC20-781-290.
- D. The licensee shall ensure that one staff member shall not supervise more than one room or area during rest time.
- E. Centers providing evening and overnight care shall meet the requirements of subsections A through D of this section during sleep periods.

**8VAC20-781-310. Ratios and supervision during transportation and field trips.**

- A. The staff-to-children ratios of 8VAC20-781-280 and 8VAC20-781-290 A shall be followed on all field trips.
- B. The staff-to-children ratio need not apply during transportation of school age children to and from the center.
- C. One staff member or adult is necessary in addition to the driver when 16 or more preschool or younger children are being transported in the vehicle.

**PART VI. PROGRAM REQUIREMENTS AND EQUIPMENT**

**8VAC20-781-320. Daily activities.**

- A. The center shall provide a variety of daily activities for all age groups that are age and stage appropriate and based on the physical, social, emotional, and intellectual needs of the children.
- B. The center shall provide opportunities for staff-directed and self-directed activities; a balance of active and quiet activities; active outdoor play; and individual and group activities.
- C. If the center uses media such as television, videos, video games, software, and computers, the following shall apply:

1. For children under two years of age, media use up to two hours per day is permitted if the center operates more than six hours per day.
  2. For children two and older, not more than a total of two hours per day, when content is not based on curriculum or educational content.
  3. All media provided by the center shall be limited to age appropriate programs and meet all the requirements in subsection A of this section.
- D. Requirements in subdivision 2 of subsection C of this section do not apply to school-age children who attend educational programming that incorporates technology into curriculum learning activities.
- E. Children shall be allowed to sleep or rest as individually needed.

**8VAC20-781-330. Daily care and activities for infants.**

- A. The center shall post a flexible daily schedule for infants based on their individual needs and the requirements of 8VAC20-781-320-B.
- B. During the day, the licensee shall ensure that infants are provided with the following:
1. Food as specified in 8VAC20-781-620 and 8VAC20-781-630.
  2. Outdoor time, unless weather and air quality allow based upon the Air Quality Color Code Chart as provided by the Department of Environmental Quality indicates that outdoor conditions are hazardous.
  3. Comfort as needed.
  4. Stimulation and language development activities, including but not limited to staff reading, talking to, showing pictures to, naming objects for, playing with and engaging in positive interactions (such as smiling, cuddling, and making eye contact) with infants.
  5. A variety of play spaces that offer:
    - a. Room for extensive movement (rolling, crawling, or walking) and exploration;
    - b. A diversity of sensory and perceptual experiences; and
    - c. Equipment and toys that support large and small motor development.
  6. Frequent opportunities for infants to creep, crawl, toddle and walk.
  7. Protection from older children.
- C. The licensee shall ensure that staff respond promptly to infants who are crying or distraught.
- D. The licensee shall ensure that, for an infant playing on the floor or ground who cannot move without help, staff ensure that the infant's position and the selection of toys accessible to the infant changes every 30 minutes or more based on the infant's needs.
- E. The licensee shall ensure that staff shall not confine infants who are awake and not actively eating in one piece of equipment including: swings, highchairs, cribs, play pens, or other similar pieces of equipment for more than 30 consecutive minutes. Except when eating, the intervening time between confinements shall be at least one hour.

- F. The licensee shall ensure that for infants who are awake and unable to turn over alone, staff shall make three attempts at supervised tummy time for approximately three to four minutes at a time.
- G. The licensee shall ensure that infant car seats are only used for child transportation.
- H. The licensee shall ensure that cribs are only used for rest and sleep.

**8VAC20-781-340. Resting and sleeping infants.**

- A. The licensee shall ensure that staff allow infants to follow individual patterns of sleeping and eating.
- B. The licensee shall ensure that staff place infants in cribs on their backs (supine) rather than on their bellies (prone) unless otherwise ordered by a written, signed statement signed by the child's physician or physician's designee.
- C. The licensee shall ensure that when an infant is able to turn supine to the prone, staff shall place the infant supine but allow the infant to adopt the infant's preferred position unless otherwise directed in a written, signed statement by the child's physician or physician's designee.
- D. The licensee shall ensure that staff shall not use sleep adaptive equipment unless otherwise directed in a written, signed statement by the child's physician or physician's designee.
- E. The licensee shall ensure that each resting or sleeping infant is individually checked for breathing, the color of the infant's skin, signs of distress, and to ensure safe sleep conditions are still met every 15-20 minutes.
- F. The licensee shall ensure that staff shall move an infant who falls asleep outside of their crib to the infant's assigned crib as soon as possible.
- G. The licensee shall ensure that staff ensure sleeping infants do not wear items that could restrict their breathing or have items cover their head or face.

**8VAC20-781-350. Daily care and activities for toddlers, twos and preschoolers.**

- A. The center shall develop, follow, and post a daily schedule that allows for flexibility as children's needs require and that meets the requirements of 8VAC20-781-320-B. The daily schedule need not apply on days occupied a majority of the time by a field trip or other special event. The daily schedule shall include opportunities for:
  - 1. Outdoor activity, weather and air quality allowing, for at least:
    - a. Fifteen minutes per day or session if the center operates up to three hours per day or session;
    - b. Thirty minutes per day or session if the center operates between three and five hours per day or session; or
    - c. One hour per day or session if the center operates more than five hours per day or session.
  - 2. Sleep or rest. Centers operating five or more hours per day shall have a designated rest period for at least one hour but no more than two hours.
  - 3. Meals and snacks as specified in 8VAC20-781-620.
  - 4. Small and large motor activities, language and communication experiences, sensory experiences, art or music activities, and play acting or social living.
- B. After the first 30 minutes, children not sleeping shall be permitted to engage in quiet activities.

- C. A child who falls asleep in a place other than his designated sleeping location may remain in that space if comfortable and safe.
- D. The licensee shall ensure that each sleeping toddler is individually checked for breathing, the color of the toddler's skin, signs of distress, and to ensure safe sleep conditions are still met every 30 minutes.
- E. The licensee shall ensure that staff shall not confine children who are awake and not actively eating in one piece of equipment including: swings, highchairs, cribs, play pens, or other similar pieces of equipment for more than 30 consecutive minutes. Except when eating, the intervening time between confinements shall be at least one hour.

**8VAC20-781-360. Daily care and activities for school age children.**

- A. The center shall develop, follow, and have available for review, a daily schedule for school-age children that allows for flexibility based on their individual needs and the requirements of 8VAC20-781-320-B. This schedule need not apply on field trip days or special events.
- B. Before or after school, the center shall provide an opportunity for children to do homework, projects, hobbies, small motor activities, art activities, or music activities in a suitable area. In the afternoon, there shall be an opportunity for large motor activities at least 25% of the time.
- C. On non-school days, the center shall provide opportunities for large motor activities at least 25% of the time; small motor activities; projects, hobbies, or homework in a suitable place; art or music activities; outdoor activity except in hazardous conditions for at least one hour per day; and food as specified in 8VAC20-781-620.

**8VAC20-781-370. Daily care and activities for children with special needs.**

- A. The center shall work with the parent and the staff assigned to the child to ensure that children with special needs receive care and activity opportunities appropriate to their individual needs, including specific care and activities recommended by a professional. The care and activities recommended by the professional shall be documented and maintained in the child's record, and updated annually, or more frequently, as necessary.
- B. For a child who cannot move without assistance, staff shall change the place and position of the child at least every 30 minutes or according to the child's needs.

**8VAC20-781-380 Behavioral guidance.**

- A. The center shall use positive methods of guiding behavior.
- B. When a child is in the care of the center, The licensee shall ensure that staff interact with children and one another to provide needed help, comfort, support and:
  - 1. Respect personal privacy;
  - 2. Respect differences in cultural, ethnic, religious, and family backgrounds;
  - 3. Encourage decision-making abilities;
  - 4. Promote ways of getting along;
  - 5. Encourage independence and self-direction; and

6. Use consistency in applying expectations.
- C. The licensee shall ensure that behavioral guidance is constructive in nature, age, and stage appropriate, and shall be intended to redirect children to appropriate behavior and resolve conflicts.
- D. When time out is used as a behavior guidance technique:
1. It shall be used sparingly and shall not exceed one minute for each year of the child's age;
  2. It shall be appropriate to the child's developmental level and individual needs;
  3. It shall not be used with infants or toddlers;
  4. The child shall be in a safe, lighted, well-ventilated place, and within sight and sound of a staff member; and
  5. The child shall not be left alone inside or outside the center.

**8VAC20-781-390. Prohibited actions.**

The following actions or threats thereof are prohibited:

1. Physical punishment;
2. Striking a child, roughly handling, or shaking a child, biting, pinching, restricting movement through binding or tying, forcing a child to assume an uncomfortable position, forced exercise, or any action taken to cause pain or discomfort;
3. Enclosure in a small, confined space or any space that the child cannot freely exit himself; however, this does not apply to the use of equipment such as cribs, play yards, highchairs, and safety gates when used with children preschool age or younger for their intended purpose;
4. Permitting a child to discipline or punish other children;
5. Punitive separation from the group so that the child is away from the hearing and vision of a staff member.
6. Withholding or forcing of food, water, or rest;
7. Verbal remarks which are demeaning to the child or psychological punishment of any kind, including ridicule or humiliation;
8. Punishment for toileting accidents or withholding opportunities for toileting;
9. Punishment by applying unpleasant or harmful substances; and
10. Withholding outside activity time as punishment.

**8VAC20-781-400. Parental involvement.**

Before the child's first day of attending parents shall be notified about how to access the following:

- A. The center's philosophy and any religious affiliation;
- B. Operating information, including the hours and days of operation and holidays or other times closed, and the contact information to communicate with staff;
- C. Description of established lines of authority for staff;

- D. A custodial parent's right to be admitted to the center as required by § 22.1-289.054 of the Code of Virginia;
- E. The appropriate general daily schedule for the age of the enrolling child;
- F. How the center will send parent communication and notifications as required by 8VAC20-781-410; and
- G. The following information from the center's emergency procedures:
  - 1. The relocation site.
  - 2. Method of communication with parents and emergency responders;
  - 3. Procedure to reunite children with a parent or authorized person designated by the parent.

**8VAC20-781-410. Parent communication and notification.**

- A. The center shall inform parents in writing when a pattern of behavioral problems emerges or persists. Such notification shall include any actions taken in response.
- B. The center shall maintain a written record and provide parents with a written report of each incident involving their child on the day of occurrence. The written report shall protect the confidentiality of other children involved, and shall include:
  - 1. Date and time of incident or injury;
  - 2. Child's name;
  - 3. Type and circumstance of incident or injury;
  - 4. Staff present, and actions taken, or treatment offered;
  - 5. Date, time, and method used to notify parents; and
  - 6. Staff and parent signatures or two staff signatures.
- C. The center shall notify the parent immediately when:
  - 1. The child sustains any injury that may reasonably require medical or dental treatment.
  - 2. The child has an adverse reaction to an administered medication or topical skin product, a medication error has occurred, or the center has administered an emergency medication.
  - 3. The child has a confirmed or suspected allergic reaction; or has ingested any food identified in the written care plan required in subdivision 6 of 8VAC20-781-60 B even if a reaction did not occur.
  - 4. A situation in which the child's whereabouts is or was unknown, including a lost or missing child; a child left unattended in a vehicle or on the playground; or a child who wandered away unattended from the facility or assigned group.
- D. When a child has been exposed to a communicable disease listed in the Department of Health's current communicable disease chart, the parents shall be notified within 24 hours or the next business day of the center's having been informed unless forbidden by law, except for life threatening diseases, which must be reported to parents immediately.
- E. Parents shall be informed in writing of any change to the center's relocation site, the communication plan, and the reunification plan.

- F. If an emergency evacuation or relocation is necessary, the parent shall be informed of the child's whereabouts as soon as possible as stated in the center's emergency preparedness and response plan.
- G. For each infant, the center shall maintain a daily record which can be easily accessed by both the parent and the staff working with the child. The record shall contain the following information:
  - 1. The amount of time the infant slept;
  - 2. The amount of food consumed and the time;
  - 3. Record of diaper changes and any application of diaper ointment;
  - 4. A description and time of bowel movements;
  - 5. Developmental milestones; and
  - 6. For infants, who are awake and cannot turn over by themselves, (i) the number of attempts at tummy time, and (ii) the amount of time spent on their stomachs.
- H. The licensee shall ensure staff maintain daily records required by subsection G of this section for 60 calendar days from the date of report.
- I. Parents shall be informed of reasons for termination of services.
- J. The center shall provide to parents of children, at least semiannually or more frequently if needed:
  - 1. Written information about their child's development, behavior, adjustment, and needs; and
  - 2. Scheduled opportunities for parents to provide feedback on their children. This opportunity to provide feedback shall be documented.
- K. Information on a child required by subsection J of this section shared between the child's parents and the center shall be documented in the child's record.
- L. Requirements in subsection J of this section shall not apply to school age children and children participating in short-term programs as defined in 8VAC20-781-10.

**8VAC20-781-420. Parental agreements.**

A written agreement between the parent and the center shall be in each child's record by the first day of the child's attendance. The agreement shall be signed by the parent and include:

- 1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately unless the parent states in writing an objection to the provision of such care on religious or other grounds;
- 2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible if requested by the center;
- 3. A statement that the parent will inform the center within 24 hours or the next business day after his child or any member of the immediate household has developed any reportable communicable disease, as defined by the State Board of Health, except for life threatening diseases which must be reported immediately; and
- 4. Authorization for the center to transport the child in the event of an emergency including needing medical care or facility relocation.

**8VAC20-781-430. Equipment and materials**

- A. Furnishings, equipment, and materials shall be (i) of an appropriate size for the child using it and (ii) used in accordance with the manufacturer's instructions.
- B. Materials and equipment shall be available and shall be age and stage appropriate for the children and shall include an adequate supply, as appropriate for each age group, of arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment, and manipulative equipment.
- C. Washable toys and materials used by infants shall be cleaned and sanitized daily, or more often if necessary.
- D. The following cloth items shall be washable: stuffed animals, cloth dolls, and dress-up clothes; floor pillows shall be washable or have removable covers that are machine washable. The center shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or removable covers at least once a week or when soiled.
- E. If water play tables or tubs are used, they shall be cleaned and sanitized daily.
- F. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.
- G. Disposable products shall be used once and discarded.
- H. Provision shall be made for an individual place for each child's personal belongings.
- I. Infant walkers shall not be used.
- J. Play yards where used shall:
  - 1. Meet the current Juvenile Products Manufacturers Association (JPMA) and the American Society for Testing and Materials (ASTM) requirements and shall retain the manufacturer's label documenting product compliance with current safety standards at the time they were manufactured;
  - 2. Not use any pillows or filled comforters;
  - 3. Not be used for the designated sleeping areas;
  - 4. Not be occupied by more than one child; and
  - 5. Be sanitized each day of use or more often as needed.
- K. The licensee shall register to receive free recall alerts from the U.S. Consumer Product Safety Commission and shall remove all recalled items from the center.
- L. Portable water coolers shall be cleaned daily when in use, kept securely closed and so designed that water may be withdrawn from the container only by tap.

**8VAC20-781-440. Cribs, cots, rest mats, and beds.**

- A. Cribs, cots, rest mats or beds shall be provided for children during the designated rest period and not be occupied by more than one child at a time.
- B. Cribs shall not be used as a play space.
- C. Cribs, cots, rest mats, and beds shall be identified for use by a specific child.
- D. Double decker cribs, cots, or beds, or other sleeping equipment when stacked shall not be permitted to be used for children.
- E. Occupied cribs, cots, rest mats, and beds shall be at least 2-1/2 feet from any heat producing appliance.
- F. There shall be at least 12 inches of space between occupied cots, beds, and rest mats.
- G. Twelve inches of space are not required where cots, beds, or rest mats are located adjacent to a wall or a divider if one side is open at all times to allow for passage.



- H. Mattresses, cots, or rest mats shall be (i) nonabsorbent or covered with a waterproof material, and (ii) sanitized on all sides weekly or before use by another child. I. Rest mats shall have at least one inch of cushioning.
- I. Cribs shall be used for children under 12 months of age.
- J. Cribs shall meet the following requirements:
1. They shall meet the current Consumer Product Safety Commission Standards at the time they were manufactured;
  2. There shall be no more than one inch between the mattress and the crib; and
  3. Not have mesh sides.
- K. Cribs shall be placed where objects outside the crib such as cords from blinds or curtains are not within reach of children in cribs. M. There shall be at least:
1. Twelve inches of space between the sides and ends of occupied cribs except where they touch the wall or solid barrier; and
  2. Thirty inches of space between service sides of occupied cribs and other furniture where that space is the walkway for staff to gain access to any occupied crib.
- L. If cribs with a swing down safety gate on one side for easy access to a child are used, the hinged safety gates shall be up and the fastenings secured when a child is in the crib, except when a staff member is giving the child immediate attention.
- M. No soft objects or loose bedding shall be used with infants under 12 months when sleeping or resting including pillows, blankets, quilts, comforters, sheepskins, bumper pads, or stuffed toys.
- N. Toys or objects hung over an infant in a crib and crib gyms that are strung across the crib shall be out of reach of the infant and may not be used for infants over five months of age or infants who are able to push up on their hands and knees.

**8VAC20-781-450. Linens.**

- A. Cribs when being used by infants shall only have a tight fitted bottom cover that does not make the mattress buckle or bend.
- B. Cribs, cots, mats, and beds used by children other than infants during the designated rest period or during evening and overnight care shall have linens consisting of a top cover and a bottom cover or a one-piece covering which is open on three edges.
- C. Linens and pillows used by children shall be (i) assigned for individual use, and (ii) stored separately from those of other children.
- D. Linens and pillows shall be (i) changed when wet, soiled, or dirty, and (ii) linens shall be washed at least weekly.
- E. Pillows when used shall be covered with pillow cases.

**8VAC20-781-460. Swimming and wading.**

- A. The center shall post written safety rules for swimming or wading in the swimming area when the pool is located on the premises of the center.
- B. The center shall follow posted rules of public swimming areas when swimming activities are located off site.

- C. Safety rules for swimming or wading shall be explained to children participating in swimming or wading activities.
- D. Prior to a child being able to participate in swimming or wading activities, and annually thereafter, the center shall obtain (i) written permission from the parent of each child who participates in swimming or wading including a statement advising of the child's swimming skills, and (ii) a written assessment from a certified lifeguard or an adult who is familiar with basic swimming strokes to determine if the child is a swimmer or nonswimmer before the child is allowed in water with a depth of more than two feet.
- E. The licensee shall ensure that staff maintain active supervision when any child is in or around water by staff designated to supervise children in the water. Notwithstanding ratio requirements in 8VAC20-781-280 and 8VAC20-781-290 A, these staff shall only be responsible for the supervision of children participating in the water activity and additional staff shall be available to supervise children not participating.
- F. The licensee shall ensure that staff have a system for accounting at all times for all children in the water and in the aquatic area.
- G. The staff-to-children ratios required by 8VAC20-781-280 and 8VAC20-781-290 A shall be maintained while children are participating in swimming or wading activities. Notwithstanding the staff-to-children ratios already indicated, at no time shall there be fewer than two staff members supervising the activity.
- H. If a pool, lake, or other swimming area has a water depth of more than two feet, a certified lifeguard holding a current certification shall be on duty supervising whenever a child is participating in swimming or wading activities.
  - 1. One lifeguard for every 25 children in the water shall be on duty and supervising the children.
  - 2. The designated certified lifeguard shall not be counted in the staff-to-children ratios.
  - 3. The lifeguard certification shall (i) include an in-person competency demonstration, and (ii) be obtained from an individual or organization holding instructor certification from an organization such as the American Red Cross.
- I. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

**8VAC20-781-470. Pools and Equipment.**

- A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:
  - 1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinances and any Department of Health requirements for swimming pools;
  - 2. Pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such approval is required;
  - 3. Outdoor swimming pools shall be enclosed by safety fences and gates which are in compliance with the applicable edition of the Virginia USBC (13VAC5-62) and shall be kept locked when the pool is not in use;
  - 4. Entrances to indoor swimming pools shall be locked when the pool is not in use; and

5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.
- B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked and there shall be appropriate water safety equipment.
- C. Piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be stated on the deck or planking.
- D. After use by a group of children, or more frequently as necessary, portable wading pools without an integrated filtration system shall be emptied, rinsed, and filled with fresh water.
- E. After each day's use, portable wading pools shall be emptied, sanitized, and stored in a position to keep them clean and dry.
- F. Children who are not toilet trained may not use portable wading pools without an integrated filtration system.

## **PART VII PREVENTING THE SPREAD OF DISEASE AND INFECTION CONTROL**

### **8VAC20-781-480. Preventing the spread of disease.**

- A. Unless otherwise approved by a child's health care professional, a child shall be excluded from the center if the child has:
  1. A fever, which means an oral or axillary temperature at or above 100.4°F;
  2. Recurring vomiting or diarrhea not associated with diet change or medication; or
  3. Symptoms of a communicable disease listed in the Virginia Department of Health's current communicable disease chart.
- B. If a child needs to be excluded according to subsection A of this section, the following shall apply:
  1. The center shall contact the parents or designated emergency contact immediately so that arrangements can be made to remove the child from the center as soon as possible; and
  2. The child shall remain in a designated area as required by 8VAC-781-240-D. The licensee shall ensure that the child is within sight and sound of a staff member at all times and shall ensure that staff respond to the needs of the child.
- C. When any surface has been contaminated with body fluids, it shall be cleaned and sanitized immediately or restricted from use until cleaned and sanitized.
- D. When any child's clothing has been contaminated with body fluids, it shall be separated and stored in leakproof storage system until returned to the child's parent.

### **8VAC20-781-490. Hand washing.**

- A. The licensee shall ensure that staff ensure children's hands are washed with liquid soap and running water:
  1. After diapering or toileting;
  2. After contact with any body fluids;
  3. After coming in from outdoors;
  4. After handling or caring for animals;
  5. Before and after playing with water used by more than one child; and

6. When their hands are visibly dirty.
- B. The licensee shall ensure that children's hands are washed with liquid soap and running water or disposable wipes before and after eating.
  - C. Until an infant is old enough to be safely raised to the sink and reach for the water, the infant's hands may be washed using disposable wipes.
  - D. The licensee shall ensure that staff wash their hands with liquid soap and running water:
    1. Before and after:
      - a. Helping a child use the toilet;
      - b. A diaper change;
      - c. Feeding or helping children with feeding;
      - d. Preparing or serving food or beverages; and
      - e. Administering medication or over-the-counter skin products.
    2. After:
      - a. Using the toilet;
      - b. Contact with any body fluids;
      - c. Eating;
      - d. Handling garbage or cleaning materials;
      - e. Coming in from outdoors; and
      - f. Handling or caring for animals.
  - E. The licensee shall ensure that staff wash their hands with liquid soap and running water when their hands are visibly dirty and when entering the classroom before working with children.
  - F. If running water is not available, a germicidal cleansing agent administered per manufacturer's instruction may be used.

**8VAC20-781-500. Diapering and toileting.**

- A. The diapering area shall be accessible and within the building used by children.
- B. There shall be sight and sound supervision for all children when a child is being diapered.
- C. The licensee shall ensure that staff do not leave a child unattended on the diapering surface.
- D. The diapering area shall have the following:
  1. A sink with running water not to exceed 120°F;
  2. Liquid Soap, disposable towels, and single use gloves such as surgical or examination gloves;
  3. A nonabsorbent surface for diapering or changing shall be used. For children younger than three years, this surface shall be a changing table or countertop designated for changing unless otherwise specified in this subsection; and
  4. The appropriate disposal containers as required by this section.
- E. When a child's clothing, diaper, or disposable training pants becomes wet or soiled, the child shall be wiped clean and changed immediately.

- F. Staff shall check diapers and disposable training pants at least once every two hours.
- G. Disposable diapers and disposable training pants shall be disposed in a covered leakproof or plastic-lined storage system that is either foot-operated or used in such a way that neither the staff member's hand nor the soiled diaper touches an exterior surface of the storage system during disposal.
- H. When cloth diapers are used, a separate covered leakproof storage system as specified in subsection G of this section shall be used for each individual child.
- I. Diapers or disposable training pants of children who are toilet training may be changed in the bathroom, and not on the diapering surface required in subdivision 3 of subsection D of this section, but the required procedures for handwashing in 8VAC20-781-490 and disposal of diapers or disposable training pants in subsections G and H of this section shall be followed.
- J. The storage system required in subsections G and H of this section shall be cleaned and sanitized daily.
- K. The diapering surface shall (i) not be used for storage, (ii) be used only for diapering or wiping children clean, and (iii) be cleaned and sanitized after each use. Tables used for children's activities or meals shall not be used for changing diapers.
- L. Staff shall ensure the immediate safety of a child during diapering.

**8VAC20-781-510. Toilet training.**

Toilet training. For every 10 children in the process of being toilet trained, there shall be at least one toilet chair or one child-sized toilet, or at least one adult sized toilet with a platform or steps and adapter seat.

1. The location of these items shall allow for sight and sound supervision of children in the classroom if necessary for the required staff-to-children ratios to be maintained.
2. Toilet chairs shall be emptied promptly and cleaned and sanitized after each use and located on non-carpeted areas when used.

**PART VIII MEDICATION ADMINISTRATION AND TOPICAL SKIN PRODUCTS**

**8VAC20-781-520. General requirements for medication administration.**

- A. The decision to administer medicines at a facility may be limited by center policy to administer: (i) prescribed medications, (ii) nonprescription medications, or (iii) only those medications required for emergencies or by law.
- B. Written parental authorization for medication shall be obtained prior to a medication being accepted, maintained, or stored at the center.
- C. Medications accepted, maintained, or stored at the center shall (i) be labeled with the child's name, and (ii) not be kept or used beyond the date of expiration.
- D. For any child for whom emergency medication (such as albuterol, glucagon, or epinephrine auto-injector) has been provided to the center by the parent, there shall always be a staff member who is immediately accessible and available and meets the requirements listed in 8VAC20-781-180.
- E. Prescription and nonprescription medication shall be given to a child:
  1. According to the center's written medication policies; and

2. Only with written authorization from the parent that has not expired.
- F. Medication shall be administered by a staff member who is 18 years of age or older.
- G. The licensee shall ensure that written authorization from the child's parent for medication is only valid for 10 business days unless written authorization from the child's physician is on file.
- H. Long-term prescription and nonprescription drug administration may be allowed with written authorization from the child's physician and parent and shall be renewed based on the child's physician instructions.
- I. Medication authorization shall be available to staff during the entire time it is effective.
- J. When an authorization for medication expires, the center shall notify the parent with the intent to safely return the medication to the parent or receive an updated authorization form. If a parent has been non-responsive and has not retrieved the medication, the center shall safely dispose of the medication according to the center's policy for medication disposal, but no later than 30 calendar days after the expiration date of the authorization. **The expired medication authorization form shall be kept with the medication until the center can safely return the medication to the parent or dispose of the medication.**

#### **8VAC20-781-530. Prescription medication.**

The center may administer prescription medication provided that:

1. The medication is administered by a staff member who meets the requirements in 8VAC20-781-180;
2. The center administers only those drugs that are dispensed from a pharmacy or health care provider and maintained in the original, labeled container; and
3. The center administers medications only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and route of administration.

#### **8VAC20-781-540. Non-prescription medication.**

The center may administer nonprescription medication provided the medication is:

1. Administered by a staff member who meets the requirements in 8VAC20-781-180;
2. Labeled with the child's name; the name of the medication, the dosage amount, and the time or times to be given;
3. In the original container with the manufacturer's direction label attached; and
4. Given only as specified on the manufacturer's label unless otherwise designated by written physician's order.

#### **8VAC20-781-550. Storage of medication.**

- A. Unless designated otherwise by a written physician's order, medications, including refrigerated and staff's personal medications, shall be kept in a locked place, using a safe locking method, that prevents access by children.
- B. If a key is used, the key shall be inaccessible to the children.
- C. When needed, medication shall be refrigerated.

D. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

**8VAC20-781-560. Medication records.**

The center shall keep a record of prescription and nonprescription medication given to children, which shall include the following:

1. Name of the child to whom medication was administered;
2. The dose, the route, and the name of the medication administered to the child;
3. The date and time the medication was administered to the child;
4. Name of the staff member administering the medication;
5. Any adverse reactions; and
6. Any medication administration error and action taken.

**8VAC20-781-570. Self-administered medication.**

A. When a school-age child self-administers medication while in care, the center shall:

1. Establish written safety procedures for self-administration of medication for school-age children that include direct supervision of during the administration of the medication; and
2. Obtain: (i) documentation of written authorization from the child's physician; (ii) a written request from the child's parent for the child's self-administration of medication; and (iii) written authorization from the parent to administer the medication in the event that the child is unable to self-administer.

B. The center shall document any medication self-administered by a child to include:

1. The child's name;
2. The dose, the route, and name of the medication self-administered;
3. The date and time the medication was self-administered;
4. Any adverse reactions or side effects; and
5. Any medication administration error and action taken.

C. If the written safety procedures required in this section are not followed, the center shall:

1. Notify the child's parent;
2. Assume responsibility for administration of the medication while the child is in care; and
3. Document in the child's record, the discontinuation of the authorization to self-administer and the notification to the child's parent.

**8VAC20-781-580. Topical skin products.**

A. When topical skin products such as lip balm, hand lotion, sunscreen, diaper ointment and lotion, and insect repellent are administered by the center, the following requirements shall be met:

1. Written parent authorization noting any known adverse reactions shall be obtained at least annually;
  2. The product shall be in the original container and, if provided by the parent, labeled with the child's name;
  3. Manufacturer's instructions for application shall be followed; and
  4. A record shall be kept that includes the child's name, the name of the product, date and time of use, any adverse reactions, and any application errors and action taken.
- B. Caregivers without medication administration training may apply topical skin products unless the product is a prescription medication, in which case the requirements in 8VAC20-781-530 shall be met.
- C. Children five years of age and older may have access to and may apply their own hand sanitizers, liquid hand soaps, sunscreens, lip balms and hand lotions labeled "Keep out of reach of children" provided that the label does not contain any other warnings listed in 8VAC20-781- 230 A and is used under adult supervision.
- D. Sunscreen provided by the center shall have a minimum sunburn protection factor (SPF) of 15.
- E. The product shall not be kept or used beyond the expiration date.
- F. Topical skin products except those referenced in subsection B of this section, do not need to be kept locked, but shall be inaccessible to children under five years of age.

## **PART IX FIRST AID, EMERGENCY SUPPLIES, AND EMERGENCY PREPAREDNESS AND RESPONSE**

### **8VAC20-781-590. First aid and emergency supplies.**

- A. The center shall have a minimum of one working flashlight that does not require electricity on each floor of each building that is used by children.
- B. The center shall have a minimum of one working radio that does not require electricity in each building used by children and any **primitive** camp location without a building.
- C. The center shall have first aid supplies on each floor of the building, accessible from outdoor play areas, while on field trips, in vehicles when transporting children, and wherever children are in care. The first aid supplies shall be readily accessible to staff, inaccessible to children, and include the following:
  1. An ice pack or instant cold pack;
  2. Scissors;
  3. Tweezers;
  4. Gauze pads;
  5. Adhesive tape;
  6. Adhesive bandages, assorted sizes;
  7. An antiseptic cleansing solution or pads;
  8. Operable digital thermometer;
  9. A minimum of two triangular bandages;
  10. Single use gloves such as surgical or examination gloves; and



11. A first aid instructional manual.

**8VAC20-781-600. Emergency preparedness and response plan.**

- A. The center shall have a written emergency preparedness and response plan developed in consultation with the local emergency manager, or the state or local fire official. The plan shall include:
1. Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event such as violence at or near the child care facility; and
  2. Emergency evacuation, relocation, shelter-in-place, and lockdown procedures to include:
    - a. Scenario applicability: the most likely emergency scenarios including fire, severe storms, flooding, tornadoes, earthquakes, pandemic, loss of utilities, and other situations including facility damage that requires evacuation, lockdown, or shelter in place;
    - b. Emergency communication to alert staff and emergency responders;
    - c. Methods to account for all children and to ensure continued supervision of children;
    - d. Method of communication with staff, parents, and emergency responders;
    - e. Accommodations or special requirements for infants, toddlers, children with special needs and children with chronic physical or medical conditions to ensure their safety during evacuation or relocation;
    - f. Procedure to reunite children with a parent or authorized person designated by the parent; and
    - g. Staff and volunteer training requirements and drill frequency.
- B. The center's emergency preparedness and response plan shall also include the following additional requirements:
1. Evacuation and relocation procedures shall include:
    - a. Designated primary and secondary routes out of the building;
    - b. Designated assembly point away from the building;
    - c. Designated relocation site;
    - d. Methods to ensure essential documents, including attendance records; parent contact information; emergency contact information; information on allergies, and intolerance to food or medication are taken to the assembly point or relocation site; and
    - e. Methods to ensure any special healthcare needs to include medications and care plans; and supplies are taken to the assembly point or relocation site.
  2. Shelter-in-place procedures shall include:
    - a. Designated shelter-in-place areas within the center;
    - b. Designated primary and secondary routes to the shelter-in-place areas;
    - c. Methods to ensure essential documents, including attendance records; parent contact information; emergency contact information; information on allergies, and intolerance to food or medication are taken to the assembly point or relocation site; and

- d. Methods to ensure any special healthcare needs to include medications and care plans; and supplies are taken to the assembly point or relocation site.
3. Lockdown procedures shall include designated safe areas that the facility can contain using procedures such as closing or locking of doors or other barriers.
- C. The center shall review the emergency preparedness and response plan at least annually and update as needed. Center shall document each review and update made to the emergency preparedness and response plan.
  - D. Emergency evacuation and shelter-in-place diagrams, and a 911 or local dial number for police, fire, and emergency medical services, and the number of the national poison control center hotline shall be posted in conspicuous locations in each room used by children or staff.
  - E. Continuity of operations shall be established to ensure that essential functions are maintained during an emergency;

**8VAC20-781-610. Emergency response drills.**

- A. All emergency response drills shall be practiced:
  1. In each building used by children;
  2. With all staff and children present at the time of the drill;
  3. At varying times during the center's hours of operation; and
  4. For centers offering evening and overnight care, a separate drill must be completed during the evening and overnight hours according to the same schedules specified in subsections B through D of this section.
- B. Emergency evacuation procedures shall be practiced monthly.
- C. Shelter-in-place procedures shall be practiced a minimum of twice per year.
- D. Lockdown procedures shall be practiced a minimum of twice per year.
- E. Documentation shall be maintained for one year of emergency evacuation, shelter-in-place and lockdown drills that include:
  1. The date and time of the drill;
  2. The number of staff and children participating; and
  3. The time it took to complete the drill.

**PART X SPECIAL SERVICES**

**8VAC20-781-620. Nutrition and food services.**

- A. Centers shall schedule appropriate times for snacks or meals, or both, based on the hours of operation and time of the day (e.g., a center open only for after school care shall schedule an afternoon snack; a center open from 7 a.m. to 1 p.m. shall schedule a morning snack and midday meal).
- B. The licensee shall ensure that children arriving from a half-day, morning program who have not yet eaten lunch receive a lunch.

- C. The center shall schedule snacks or meals so that there is a period of at least 1-1/2 hours but no more than three hours between each meal or snack unless there is a scheduled rest or sleep period for children between the meals and snacks.
- D. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to children.
- E. In environments of 80°F or above, attention shall be given to the fluid needs of children at regular intervals. Children in such environments shall be encouraged to drink fluids as outlined in subsection D of this section.
- F. When centers choose to provide meals or snacks, the following shall apply:
1. Centers shall follow the most recent, age-appropriate nutritional requirements of the Child and Adult Care Food Program administered by the United States Department of Agriculture (USDA).
  2. Children shall be allowed second helpings of food listed in the Child and Adult Care Food Program.
  3. Centers shall not serve small (marble-sized), round, sticky, or hard foods that are difficult to chew and easy to swallow whole to children under four years of age.
  4. A menu listing foods to be served for meals and snacks during the current one-week period shall:
    - a. Be dated;
    - b. Be posted in a location conspicuous to parents or given to parents;
    - c. Be kept on file for one week at the center; and
    - d. List any substituted food by the end of the business day.
  5. Powdered milk shall not be used except for cooking.
- G. When food or beverage is brought from home, the following shall apply:
1. The food and beverage container shall be sealed and labeled in a way that identifies the owner by first and last name.
  2. The center shall have extra food or shall have provisions to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food.
  3. Unused portions of opened food shall be discarded by the end of the day or returned to the parent.
- H. If a catering service is used, it shall be approved by the local health department.
- I. Contaminated or spoiled food shall not be served to children.
- J. Tables and high chair trays shall be cleaned and sanitized before and after each use for feeding;
- K. Staff shall be present in the feeding area with children anytime children are eating.
- L. Children shall not be allowed to eat or drink while walking, running, playing, lying down, or riding in vehicles.
- M. Food and beverages shall be prepared, served, stored, and transported in a sanitary manner.

- N. When food is prepared to which a child in care is allergic, staff shall take steps to avoid cross contamination to prevent an allergic reaction.
- O. A child with a diagnosed food allergy shall not be served any food identified in the emergency care plan required in 8VAC20-781-60 B 6.

**8VAC20-781-630. Special feeding needs.**

- A. High chairs, infant seats, or feeding tables shall be used for children under 12 months who are not held while being fed.
  - 1. Children shall be supervised during snacks and meals.
  - 2. When a child is placed in a feeding table with protective belts, a high chair, or an infant seat, the protective belt shall be fastened securely.
- B. Bottle fed infants who cannot hold their own bottles shall be held when fed. Bottles shall not be propped or used while the child is in his designated sleeping location.
- C. Each bottle fed infant shall have a written feeding schedule on file that is updated as needed and contains:
  - 1. Whether the child receives breast milk, formula, or milk; and
  - 2. The brand name of formula, if applicable.
- D. Infants shall be fed on demand or in accordance with parental instructions.
- E. All prepared bottles or breast milk stored in other containers provided by parents shall be labeled with the child's name and date of receipt.
- F. Breast milk shall be stored according to center's policy for the storage of breast milk.
- G. Infant formula prepared by the center shall be prepared according to manufacturer's instructions and prepared infant formula or milk shall be (i) refrigerated; and (ii) dated and labeled with the child's name.
- H. Heated breast milk, formula, milk, and baby food shall be stirred or shaken and tested for temperature before serving to children.
- I. Milk, formula or breast milk, and bottles of infant foods shall be warmed under running warm tap water or by placing them in a container of water that is no warmer than 120° F. Bottles and infant foods shall not be heated or warmed in a microwave.
- J. When a bottle warmer or slow-cooking device, such as a crock-pot, is used for warming breast milk, formula, milk or bottles of infant food, the device (and cord) shall be out of children's reach and used according to manufacturer's instructions.
- K. Breast milk, formula and milk shall not remain unrefrigerated at the center for more than two hours and may not be reheated.
- L. Prepared bottles shall be discarded or returned to the parent at the end of the day.
- M. Prepared baby food not consumed during that feeding by an infant may be used by that same infant later in the same day, provided that the food is not served out of the baby jar and is dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day.
- N. A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained on premises. The center shall consult

parents on any special feeding needs such as specific formula, breast milk, or other special accommodations.

- O. The center shall not prohibit breastfeeding.
- P. When bottles with breast milk, formula or milk are prepared by the center, they shall not be mixed with cereal unless a physician or physician's designee provides written documentation stating otherwise.
- Q. When feeding semisolid food to a child, staff shall use a spoon unless written instructions from a physician or physician's designee state differently.

**8VAC20-781-640. Field trips.**

- A. Written parental permission for field trips shall be secured before the scheduled activity.
- B. If a blanket permission is used instead of a separate written permission, the following shall apply:
  - 1. Parents shall be notified in advance of the field trip; and
  - 2. Parents shall be given the opportunity to withdraw their child from the field trip.
- C. Children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.
- D. Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible on the premises.
- E. The licensee shall ensure a method of communication for emergencies during field trips.
- F. The center shall make provisions for providing children on field trips with adequate food and water.

**8VAC20-781-650. Transportation.**

- A. Written parental permission for transportation shall be secured before transportation is provided.
- B. Any vehicle used by the center for the transportation of children shall meet the following requirements:
  - 1. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children.
  - 2. The vehicle shall be manufactured for the purpose of transporting people.
  - 3. The vehicle shall be insured with at least the minimum limits established by Virginia state statutes.
  - 4. If staff or volunteers supply personal vehicles, the center is responsible for ensuring that the requirements of this subsection are met.
- C. The licensee shall ensure that during transportation of children:
  - 1. Virginia state statutes about safety belts and child restraints are followed as required by §§ 46.2-1095 through 46.2-1100 of the Code of Virginia, and stated maximum number of passengers in a given vehicle is not exceeded;
  - 2. The children remain seated, and each child's arms, legs, and head remain inside the vehicle;

3. Doors are closed and locked;
  4. At least one staff member or the driver always remains in the vehicle when one or more children are present; and
  5. The following information is in transportation vehicles:
    - a. Emergency numbers as specified in 8VAC20-781-600 D;
    - b. The center's name, address, and phone number;
    - c. A list of the names of the children being transported and each child's emergency contact information as required in subdivisions 2 and 3 of 8VAC20-781-60 B;
    - d. Emergency care plan and information as specified in 8VAC20-781-60 B 5 and B 6; and
    - e. A document containing local emergency contact information, potential shelters, hospitals, evacuation routes, etc., that pertain to each site frequently visited or of routes frequently driven by center staff for center business, such as field trips, pick-up, and drop-off of children to or from home and local schools.
- D. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway and cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.
- E. The licensee shall ensure a method of communication for emergencies during transportation.
- F. The licensee shall ensure that any driver verifies that all children have been removed from the vehicle at the conclusion of any trip by checking every seat.

**8VAC20-781-660. Animals and pets.**

- A. Animals that are kept on the premises of the center or that interact with children at the center shall be vaccinated if applicable.
- B. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.
- C. Monkeys, bats, ferrets, poisonous animals, reptiles, psittacine birds (birds of the parrot family), stray animals, or wild or dangerous animals shall not be in areas accessible to children during the hours children are in care.
- D. Animals that have shown aggressive behavior shall not be kept in the center or on the grounds.
- E. All animal excrement shall be removed promptly, disposed of properly, and, if indoors, the soiled area cleaned and sanitized.
- F. If a child is bitten by an animal while in care, the following procedures shall be followed:
  1. The site of the bite shall be washed with soap and water immediately;
  2. Appropriate first aid shall be administered immediately including appropriate medical attention if necessary;
  3. The child's parent and the local health department shall be notified immediately to report the animal bite incident; and
  4. The incident shall be documented in the child's record as required by 8VAC20-781-60 and a written report shall be given to the parent as required by 8VAC20-781-410.

- G. Manure shall be removed from barns, stables, and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.

## **PART XI EVENING AND OVERNIGHT CARE PROGRAMS**

### **8VAC20-781-670. Evening and overnight care.**

- A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.
- B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.
- C. In addition to 8VAC20-781-450 about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.
- D. **Centers** providing evening care or overnight care on an occasional basis are not required to meet the requirements subsection A and B of this section if sleeping bags or cots are used.
- E. If sleeping bags are used, 8VAC20-781-440 A through H about cribs, cots, rest mats and beds shall also apply to the use of sleeping bags.
- F. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.
- G. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in 8VAC20-781-320 through 8VAC20-781-360.
- H. Quiet activities shall be available immediately before bedtime.
- I. **School age children** may use bunk beds for **sleeping**.
- J. Primitive camps are not required to have a tub or shower.

## **PART XII THERAPEUTIC AND SPECIAL NEEDS PROGRAMS**

### **8VAC20-781-680. Applicability.**

A child day center that meets the definition of a therapeutic child day program or special needs child day program shall also comply with all requirements of Parts I through XI of this chapter.

### **8VAC20-781-690. Assessments.**

Therapeutic child day programs shall ensure that an individual assessment is:

1. Completed within six months before the child's attendance or 30 days after the first day of attendance and shall be maintained for each child.
2. Reviewed and updated for each child no less than once every 12 months.

### **8VAC20-781-700. Individual service, recreation, education, or treatment plan.**

Therapeutic child day programs shall ensure that an individual service, recreation, education, or treatment plan is:

1. Developed for each child by the director or his designee in consultation with primary staff responsible for plan implementation.
2. Implemented within 60 days after the first day of the child's attendance.

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3. Reviewed every three months and revised if needed by the director or his designee in consultation with primary staff responsible for plan implementation. The review and revisions shall be done in partnership with the child's parent.
  4. Maintained in the child's record and a copy given to the child's parent.

**8VAC20-781-710. Qualifications of staff.**

Notwithstanding 8VAC20-781-100 and 8VAC20-781-120, therapeutic child day programs and special needs programs shall ensure that:

1. Directors have education and programmatic experience in the group care of children with special needs.
2. Lead teachers have at least three months of programmatic experience in the group care of children with special needs.

**8VAC20-781-720. Staff training.**

Therapeutic child day programs and special needs child day programs shall ensure that staff who work with children:

1. Receive training before assuming job responsibilities in:
  - a. Staff occupational health and safety practices in accordance with Occupational Safety and Health Administration's bloodborne pathogens regulation (29 CFR 1910.1030);
  - b. Activity adaptations;
  - c. Medication administration;
  - d. The special needs of the children in care including functional abilities and accommodations;
  - e. Disabilities and health issues; and
  - f. Appropriate precautions and intervention strategies.
2. Annually complete eight additional hours of training on topics related to the care of children with special needs.

**8VAC20-781-730. Staff-to-children ratio requirements.**

- A. For therapeutic child day programs and special needs child day programs, in each grouping of children of preschool age or younger, the following ratios of staff to children are required according to the special needs of the children in care:
  1. For children with severe and profound disabilities, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to three children.
  2. For children diagnosed as having an intellectual disability with significant sub-average intellectual functioning and deficits in adaptive behavior, or with physical and sensory disabilities, or with autism: one staff member to four children.
  3. For children diagnosed as having an intellectual disability in the mild range of development, children with a developmental delay, or children diagnosed with attention deficit/hyperactivity disorder (ADHD): one staff member to five children.
  4. For children diagnosed with specific learning disabilities: one staff member to six children.



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5. When children with varied special needs are included in a group, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.
  6. Whenever 8VAC20-781-280 B requires more staff than 8VAC20-781-730 A because of the children's ages, 8VAC20-781-280 B shall take precedence over 8VAC20-781-730 A.
- B. For therapeutic child day programs and special needs child day programs, in each grouping of school age children, the following ratios of staff to children are required according to the special needs of the children in care:
1. For children with severe and profound disabilities, autism, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to four children.
  2. For children diagnosed as having an intellectual disability with significant sub-average intellectual functioning and deficits in adaptive behavior, or with physical and sensory disabilities, ADHD, or other health impairments: one staff member to five children.
  3. For children diagnosed as having an intellectual disability in the mild range of development, or developmentally delayed: one staff member to six children.
  4. For children diagnosed with specific learning disabilities or speech or language impairments: one staff member to eight children.
  5. When children with varied special needs are included in a group, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.
- C. Group size requirements in 8VAC20-781-280 A do not apply to therapeutic child day programs and special needs child day programs.

#### **8VAC20-781-740. Equipment and materials.**

Therapeutic child day programs and special needs child day programs serving children who use wheelchairs, shall provide appropriate positioning equipment and cushioned vinyl-covered floor mats for use when activities require children to be out of their wheelchairs.

#### **8VAC20-781-750. Special feeding needs.**

- A. For therapeutic child day programs and special needs child day programs, the consistency of food shall be appropriate to a child's special feeding needs.
- B. Necessary and adaptive feeding equipment and feeding techniques shall be used for children with special feeding needs according to the information on file pursuant to 8VAC-781-60-B-5.

#### **8VAC20-781-760. Transportation for non-ambulatory children.**

- A. Therapeutic child day programs and special needs child day programs providing transportation to non-ambulatory children shall ensure children are transported in a vehicle which is equipped with a ramp or hydraulic lift to allow entry and exit.

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- B. Wheelchairs shall be equipped with restraining devices and shall be securely fastened to the floor when used to seat children in a vehicle.
  - C. Arrangements of wheelchairs in a vehicle shall not impede access to exits.
  - D. For therapeutic child day programs and special needs child day programs, when the center is responsible for providing transportation, the center shall develop a plan based on the needs of the children in care to assure their safe supervision during on-loading, off-loading, and transporting.
  - E. When 16 or more children are being transported, there shall be at least one staff member or adult besides the driver, for each group of 16.
  - F. For therapeutic child day programs and special needs child day programs, if a child has a known seizure disorder or neurological, genetic, or physiological disability causing increased medical risk and that child is being transported, one staff member or adult who is not the driver and who is trained in first aid and CPR shall be present in the vehicle.



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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

|   |   |
|---|---|
| <b>Agency name</b>  | Virginia Board of Education   |
| <b>Virginia Administrative Code (VAC) Chapter citation(s)</b> | 8VAC20-781 [new chapter]<br>8VAC20-780 [repeal]   |
| <b>VAC Chapter title(s)</b>                                   | Standards for Licensed Child Day Centers [new chapter]<br>Standards for Licensed Child Day Centers [repeal] |
| <b>Action title</b>   | Action to adopt new Standards for Licensed Child Day Centers  |
| <b>Date this document prepared</b>                            | Insert date of Board meeting  |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

*Standards for Licensed Child Day Centers* provide criteria for the public and the Department of Education (DOE) to evaluate the safety of care that children receive in licensed child day centers. It is the intent of this revision to address the regulation's structure and format and provide clarification where burdensome and confusing language makes it difficult for the public to interpret the regulation in the way intended. Repeal of the existing regulation and adoption of a new regulation will allow greater flexibility to adjust the structure, format, and language of the current regulation; remove duplicative requirements found in the Code of Virginia; incorporate updates to address everchanging national health and safety guidelines and practices; and incorporate updates to the regulation pursuant to [the Executive Order 19](#) while preserving protection of the health, safety, and welfare of children in care in programs regulated by the Virginia Department of Education.

This regulatory action will repeal 8VAC20-780, Standards for Licensed Child Day Centers, and establish a comprehensive new chapter, 8VAC20-781.

## Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

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Board = Virginia Board of Education

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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The Board has determined that significant changes to the chapter are necessary to clarify and update the regulatory requirements. The Board will repeal the current chapter and promulgate a new chapter in its place.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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The Board's overall regulatory authority is found in § [22.1-16](#) of the *Code of Virginia*, which states that "[t]he Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title."

The Board's regulatory authority over child day programs is found in § [22.1-289.046](#) of the *Code of Virginia*, which states in part that "[t]he Board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this chapter, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the control of such persons or agencies."

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The Board must repeal the *Standards for Licensed Child Day Centers (8VAC20-780)* and promulgate a new chapter in its place to clarify and update the regulatory requirements.

The action is essential to enhancing the health, safety, and welfare of children in care. The purpose of the adoption of a new regulation is to support the agency’s effort to streamline regulatory requirements; to improve understanding and interpretation leading to enhanced compliance and enforcement by adjusted structure, format, and simplified language; and to incorporate updates to address ever-changing national health and safety guidelines and practices. In addition, it is the goal of the agency to ensure that parents have sufficient information to make informed decisions about placing their children in licensed child day centers while ensuring the safety of children receiving care in licensed child day centers.

Repeal of the existing regulation and adoption of a new regulation was determined by the agency as the most efficient and effective way to make the necessary changes to achieve clarity, consistency, and to protect children.

**Substance**

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*



Since the proposed regulatory action involves a comprehensive review of the chapter, revisions to all areas of the chapter will be considered.

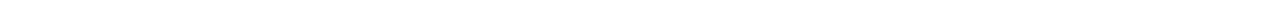
Areas to be addressed in the new regulation include but are not limited to:

- Restructuring and reformatting of content by subject matter;
- Reducing and simplifying definitions;
- Removing duplicative requirements;
- Condensing sections to incorporate more clear and concise language;
- Alignment with national health and safety standards and the Federal Child Care and Development Fund;
- Incorporating requirements based on consultation with and recommendations provided by state partners and agencies;
- Addressing current and relevant child care challenges by increasing options for program director and lead teacher qualifications;
- Clarifying and streamlining staff training requirements;
- Aligning requirements and incorporating technical amendments to ensure consistency with the Code of Virginia; and
- Updating requirements to address ever-changing national health and safety guidelines and practices.

This proposal for regulatory action is accompanied by a draft regulation endorsed by the Early Childhood Advisory Committee.

**Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*



There are no alternatives to regulatory action. The Board considered amending the *Standards for Licensed Child Day Centers (8VAC20-780)* in its current structure and format.

The Board has determined that it would be in the best interest of the health, safety, and welfare of children in care to repeal the existing regulation and conduct a comprehensive review of all child care licensing regulations in partnership with the Early Childhood Advisory Committee to identify and recommend substantive policy changes to the Board.

### **Periodic Review and Small Business Impact Review Announcement**

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”*

This NOIRA is not being used to announce a periodic review or a small business impact review.

### **Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by email to Tatanishia Armstrong, Legislative Consultant, Virginia Department of Education, 101 N. 14<sup>th</sup> St., Richmond, VA 23219, 804-382-5047, [tatanishia.armstrong@doe.virginia.gov](mailto:tatanishia.armstrong@doe.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

The Early Childhood Advisory Committee will advise the Board as regulations are developed.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

**DRAFT Standards for Licensed Child Day Centers (8VAC20-781)**  
**Reference Document and Overview of Changes**  
**April 27, 2023**

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- 8VAC20-781-20: Purpose and applicability.

**Part II: Administration (pp. 5-10)**

- 8VAC20-781-30: Operational responsibilities.
- 8VAC20-781-40: Required policies and procedures.
- 8VAC20-781-50: General recordkeeping
- 8VAC20-781-60: Children's records.
- 8VAC20-781-70: Staff records.
- 8VAC20-781-80: Attendance records; reporting.
- 8VAC20-781-90: Health provisions.

**Part III. Staff qualifications and training (pp.10-14)**

- 8VAC20-781-100: Director qualifications.
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- 8VAC20-781-160: First aid training and cardiopulmonary resuscitation (CPR).
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- 8VAC20-781-190: Driver training requirements.

**Part IV: Physical plant (pp.14-22)**

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- 8VAC20-781-240: Areas.
- 8VAC20-781-250: Toileting areas and furnishings.
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**Part V: Staffing and supervision (pp.22-26)**

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- 8VAC20-781-340: Resting and sleeping infants.
- 8VAC20-781-350: Daily care and activities for toddlers, twos and preschoolers.
- 8VAC20-781-360: Daily care and activities for school age children.
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- 8VAC20-781-410: Parent communication and notification.
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8VAC20-781-730: Staff-to-children ratio requirements.

8VAC20-781-740: Equipment and materials.

8VAC20-781-750: Special feeding needs.

8VAC20-781-760: Transportation for non-ambulatory children.

## Overall Highlights

### Ratio Flexibility:

- Increases ratios for school-age children. Revised ratio is 1:20. Currently the ratio is 1:18 for children school-age eligible to 9 years.
- Adds a variance process for ratio and group sizes.

### Staffing Flexibility:

- Adds more entry-level qualifications for lead teachers and directors to help with recruitment and hiring.
- Increases flexibility for staffing to allow the absence of a lead teacher during first and last 90 minutes of operation; current standards only allow 60 minutes.
- Adds flexibility to allow the Virginia Preservice training and director prelicensure training (14 hours) to count toward annual training hours. All required training except for orientation now counts towards annual training requirement (16 hours).

### Reduced Administrative Burden:

- Reduces duplication of effort for providers and families related to documentation of immunization and physical examinations for school-age children who attend schools and child care settings.
- Reduces unnecessary testing by removing for repeat TB testing after VDH consultation.

## Overview of Requirements Removed

### These revised regulations have removed:

1. Requirements that are already included in the Code of Virginia. They now include references to the Code citation instead.
2. Standards unrelated to child health and safety.
3. Duplicative language.

### Removed requirements include:

- Standards that were duplication of Code were removed (e.g., operational responsibilities, background checks, references to General Procedures regulation).
- Standards that required unnecessarily burdensome administrative practices were removed (e.g., reference checks, staff information, elements of parent and emergency contact information that were irrelevant).
- Requirements unrelated to child health and safety such as activity requirements more related to quality.
- Certain qualifications such as 'good character and reputation', communication, ability to carry out responsibilities and other requirements related to business practice, along with building and facilities requirements not related to child safety (e.g., adult sized toilets).

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**Overview of Requirements Added**

These regulations have a minimal number of added requirements. They also use specific terminology to better align the standards with state and federal requirements, encourage best-in-class practices, and support the Commonwealth’s efforts to unify the early childhood care and education system. This includes:

- Replacing program leader and program director with lead teacher and director; adding fall height and replacing fall zones and resilient surfacing with use zones and protective surfacing; replacing department-approved orientation with preservice training; and replacing first responder training with emergency medical responder training.
- Enhancing requirements around choking, handwashing, safe sleep practice, swim safety and outdoor play areas; and adding lead assessments in buildings built before 1978.
- Adding the following for consistency with the Code:
  - Requirements to follow federal, state, or local laws and regulations.
  - Requirements for all potable water to be tested for lead (Code).
  - Requirement for carbon monoxide detectors (Code).
  - Code of Virginia reference, § 32.1-37 requiring the outbreak of a disease to be reported to the local health department.

**Key New Requirements**

| Requirement  | Brief Description   | Page #              |
|--|---|---------------------|
| Aligned policies and procedures                        | Policies for food service, safety, and storage; inclusion for children with special needs; stock epinephrine; behavior guidance; safe drinking water; group size for school age to comply with federal law; and emergency preparedness and response during a pandemic.  | p. 5-7              |
| Enhanced training requirements                         | <ul style="list-style-type: none"> <li>▪ All staff now required to receive training on emergency preparedness and response and child abuse and neglect, not just direct care staff.</li> <li>▪ Driver training requirements added</li> <li>▪ Additional orientation requirement for directors.</li> </ul>       | p. 12-15            |
| Building and premises safety                           | <ul style="list-style-type: none"> <li>▪ Lead risk assessments required for buildings built before 1978.</li> <li>▪ Additional requirements for playground safety to include equipment and protective surfacing.</li> </ul>   | p.15-16;<br>p.19-22 |
| Enhanced safe sleep practices                          | <ul style="list-style-type: none"> <li>▪ Specific requirements to prohibit infants from sleeping in car seats, or play equipment, restrictive clothing, and adaptive equipment without a signed statement from a physician.</li> <li>▪ Revised requirements align with updated AAP sleep guidelines.</li> </ul> | p. 27-28            |
| Inclusion requirements for children with special needs | Policy now required to address children with special needs and requirements for ensuring that children with special needs receive care and activity opportunities appropriate to needs.   | p.6; p. 29          |
| Parent notification                                    | Strengthens parent involvement and requires communication and notification regarding emergencies, behavior concerns, daily care of children and transportation.   | p.30-32             |

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|                               |  |          |
|-------------------------------|--|----------|
| and communication             |  |          |
| Swimming                      | <ul style="list-style-type: none"> <li>▪ Safeguards added for children during swimming and wading activities to include requirements for active supervision and accountability.</li> <li>▪ Requirement added for one lifeguard to be on duty during swimming and wading activities for every 25 children.</li> </ul> | p. 34-35 |
| Infection control             | <ul style="list-style-type: none"> <li>▪ Requirements added for safe handling of body fluids and handwashing.</li> <li>▪ Exclusion criteria revised.</li> </ul>  | p. 36-37 |
| Food allergies and medication | <ul style="list-style-type: none"> <li>▪ Requirements added for the safe storage of medication.</li> <li>▪ Adds flexibility for self-administered medication.</li> </ul>   | p. 38-40 |

**Cost Impact for Providers**

The VDOE will produce a high-level cost analysis of the new regulations this summer. The VDOE will consult the fiscal experts who analyzed the cost of child care for Virginia. Due to the nature of these regulatory changes, there are both positive and negative potential cost implications.

- Increased ratios and additional flexibility should enable programs to be more cost-efficient and may potentially increase revenue and decrease expenses.
- Removing burdensome administrative requirements (e.g., emergency contact information for staff) may save staff time and cost.
- Clarifying language can either increase or decrease costs, depending on how programs were interpreting regulations.
- New regulations may require new purchases or upgrades, increase operating expenses and/or require more staff time.