

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY SOCIAL SERVICES

PREAMBLE

1. <u>Sections Affected</u>	<u>Rulemaking Action</u>
R6-5-5201	Amend
R6-5-5202	Amend
R6-5-5203	Amend
R6-5-5204	Amend
R6-5-5205	ReNUMBER
R6-5-5205	New Section
R6-5-5206	ReNUMBER
R6-5-5206	Amend
R6-5-5207	ReNUMBER
R6-5-5207	Amend
R6-5-5208	ReNUMBER
R6-5-5208	Amend
R6-5-5209	ReNUMBER
R6-5-5209	Amend
R6-5-5210	ReNUMBER
R6-5-5210	Amend
R6-5-5211	ReNUMBER
R6-5-5211	Amend
R6-5-5212	ReNUMBER
R6-5-5212	Amend
R6-5-5213	ReNUMBER
R6-5-5213	Amend
R6-5-5214	ReNUMBER
R6-5-5214	Amend
R6-5-5215	ReNUMBER
R6-5-5215	Amend
R6-5-5216	ReNUMBER
R6-5-5216	Amend
R6-5-5217	ReNUMBER
R6-5-5217	Amend
R6-5-5218	ReNUMBER
R6-5-5218	Amend
R6-5-5219	ReNUMBER
R6-5-5219	Amend
R6-5-5220	ReNUMBER
R6-5-5220	Amend
R6-5-5221	ReNUMBER
R6-5-5221	Amend
R6-5-5222	ReNUMBER
R6-5-5222	Amend

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R6-5-5223	Re-number
R6-5-5223	Amend
R6-5-5224	Re-number
R6-5-5224	Amend
R6-5-5225	Re-number
R6-5-5225	Amend
R6-5-5226	Repeal
R6-5-5227	Re-number
R6-5-5227	New Section
R6-5-5228	Re-number
R6-5-5228	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 41-1003, 41-1954(A)(3), 41-1073, 46-134(A)(12), and 46-809

Implementing Statutes: A.R.S. §§ 46-807 and 41-1072 through 41-1077

3. The effective date of the rules:

May 20, 1999

4. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Docket Opening: 2 A.A.R. 1195, March 8, 1996.

Notice of Proposed Rulemaking: 5 A.A.R. 158, January 22, 1999.

Notice of Oral Proceeding: 5 A.A.R. 158, January 22, 1999.

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Paulina Vazquez-Morris

Address: Dept. of Economic Security
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6. An explanation of the rule, including the agency's reasons for initiating the rule:

This rulemaking package arises out of a rulemaking docket opening at 2 A.A.R. 1195 (March 8, 1996). Article 52 contains the Department's process and standards for certification of child care providers who care for 4 or fewer children in the provider's own home, and receive Department reimbursement for services provided to Department-eligible families. This Article explains the process for provider certification, including application, investigation, monitoring, and supervision of other providers and their homes. The current Article was adopted in May of 1994. The Child Care Administration is revising the Article to improve clarity, and to make certain rules more practical, and less burdensome for providers. The amendments will have the effect of increasing training requirements. These revisions are consistent with the commitments the Department made in its 5-year-review report of 6 A.A.C. 5. The Department is also amending the rules to include certification time-frames as required by A.R.S. § 41-1073.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

"Caring For Our Children National Health And Safety Performance Standards": Guidelines for Out-of-Home Child Care Programs:

Written by American Public Health Association and American Academy of Pediatrics in 1992, Page 52-55

8. A showing of good cause why the rule is necessary to promote statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact:

Family Child Care Home Providers are considered small business. The proposed changes to the Article will benefit these providers by clarifying and improving the rules. The revision to the certification standards lessen burdens for providers. The change will also benefit the providers by identifying the time-frames in which the agency will approve or deny certification. One rule change is designed to improve the skills of providers and improve the quality of child

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care, but may impose minor additional costs on some providers. The existing rules require providers to maintain current first aid and CPR cards, and allow providers to count the hours spent on CPR and first aid training as part of the required 6 hours of annual training. Under the proposed change, the time spent on recertification in first aid and CPR will not count towards annual training requirements. The Department has minimized costs for providers by making training opportunities available at little or no cost.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Technical nonsubstantive changes (Format, Style, Grammar, Consistency): changes (Format, Style, Grammar, Consistency):

Based on public comments, the Department's review of the rules, and comments from the Attorney General's Office, the Department made nonsubstantive corrections and changes to punctuation and grammar, to conform language to the Secretary of State's requirements, and to correct spelling.

NONSUBSTANTIVE CHANGES:

R6-5-5201(6): Corrected the word "providers" to read "provides".

SUBSTANTIVE CHANGES:

Changes that resulted in a change or clarification in the meaning of a rule:

Based on comments from child advocates, public comment, and review of the rules by the Department and the Attorney General's Office, the Department made the following corrections and changes to the rules.

R6-5-5202(L): The Department received a comment that the proposed rule removes the requirement that applicants must furnish proof that the applicant and the designated backup providers are immune from communicable diseases for which immunizations are readily available. After further review the Department reinstated the original requirements and shortened the text of the rule.

R6-5-5202(M): The Department received a comment that some parts of the rule do not specify time-frames in which TB tests or doctors' examinations must be performed. Based on the comments, the Department revised the rule to state that TB tests must be performed within 3 months of the date of initial certification. The Department also revised the rule to state that evidence obtained in subsequent years of freedom from tuberculosis must be based on medical procedures performed within 3 months of the anniversary date of initial certification.

R6-5-5217: Added the temperature of 45-degree Fahrenheit or less back in the rule. No change from current rule.

R6-5-5218(F): Added the requirement that parents must provide written instructions for administering medication to children. No change from current rule.

R6-5-5219(G): Added the rules to include reference that children exempted from immunizations due to religious or medical reasons shall be excluded from the facility in the event of an outbreak of an immunizable disease.

R6-5-5228(F): The Department add subsection (F) as follows: "When an adverse action based on R6-5-5226(A)(7) is appealed under this Article, allegations of child maltreatment are not at issue and shall not be adjudicated in administrative proceedings conducted pursuant to subsection (C). "The addition specifies the standard of review to be applied when reports of child maltreatment are under investigation or subject to review in other judicial or administrative proceedings.

11. A summary of the principal comments and the agency response to them:

The Department received public comments regarding the issues summarized below.

This section describes comments that were not adopted, and the Department's response to those comments. The response explains the Department's reasons for not making a requested change. In section 10 above, the Department described comments received where the response was to make the requested change.

R6-5-5201(44): The Department received a recommendation that the definition of undue hardship contained in the Americans with Disabilities Act be added to the proposed rule. The rule defines undue hardship as significant difficulty or substantial expense concerning the operation of a provider's program. This is substantially equivalent to the ADA definition, which refers to conditions that are excessively costly, extensive, substantial, or disruptive and that would fundamentally alter the nature or operation of the business.

R6-6-5217(A): A comment was received suggesting that all providers be referred to the Child and Adult Care Food Program. The Article requires providers to furnish meals in accordance with the standards applied under that food program. In addition, the food program sponsors, approved by the Department of Education, recruit and approve pro-

viders. The rule was not changed because food programs recruit and approve providers consistent with the requirements of 7 CFR 226.20 (January 1, 1998).

R6-5212(E): It was recommended that time out be used as a method of discipline for children under 3. The recommendation was not incorporated in the proposed rule because recent studies on early childhood development have found that time out is not appropriate means of disciplining small children.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

13. Incorporation's by reference and their locations in the rules:

7CFR 226.20 R-5-5217 (A)

14. Was this rule previously adopted as an emergency rule? If so, please indicate the register citation:

Not applicable.

15. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS

Section

R6-5-5201. Definitions

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R6-5-5203. Initial Certification: The Home Facility

R6-5-5204. Initial Certification: Department Responsibilities; ~~Denial~~

R6-5-5205. Certification Time-frames

~~R6-5-5206~~R6-5-5205. Certificates: Issuance; Non-Transferability

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~~R6-5-5215~~R6-5-5214. Children with Special Needs

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~~R6-5-5225~~R6-5-5224. Probation

~~R6-5-5226~~R6-5-5225. Certification, Denial, Suspension, and Revocation

~~R6-5-5226~~. ~~Revocation of certificate~~

R6-5-5227. Adverse Actions; Notice; Effective Date

~~R6-5-5228~~R6-5-5227. Appeals

ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS

R6-5-5201. Definitions

The following definitions apply in this Article. In this Article, unless the context otherwise requires;

1. "Abandonment" has the meaning ascribed to "abandoned" in A.R.S. § 8-201 (1).

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1. ~~“Abuse” means infliction of physical or mental pain or injury on a child or failing to maintain reasonable care and treatment of a child to such an extent that the child’s health or emotional well being is endangered.~~
2. ~~“Abuse” has the meaning ascribed in A.R.S. § 8-201 (2).~~
3. ~~“Age” means years of a person’s lifetime when used in reference to a number, unless the term “months” is used.~~
- 4.2 ~~“Adult” means a person age 18 years or age or older.~~
5. ~~“Applicant” means a person who submits a written application to the Department to become certified as a child care provider.~~
- 6.3 ~~“Backup provider” means an adult who, or an entity that, provides child care when a provider is not available.~~
- 7.4 ~~“CACFP” means the Child and Adult Care Food Program.~~
- 8.5 ~~“Certificate” means a document the Department issues to a provider as evidence that the provider has met the child care standards of this Article.~~
- 9.6 ~~“Child” means a person younger under the than age 18 years.~~
- 10.7 ~~“Child care” means the compensated care, supervision, recreation, socialization, guidance, and protection of a child who is unaccompanied by a parent.~~
- 11.8 ~~“Child care personnel” means all adults residing in a home facility, an in-home provider, and any ~~individual~~ backup provider.~~
- 12.9 ~~“Child care registration agreement” means a written contract between a provider and the Department; that which establishes the rights and duties of the provider and the Department for provision of child care.~~
- 13.10 ~~“Child care specialist” means a the Department child care eligibility and/or certification staff person.~~
11. ~~“Child with a disability” means a child who: has a physical or mental impairment that substantially limits one or more major life activities; has a record of having a physical or mental impairment that substantially limits one or more of the child’s major life activities; or who is regarded as having such an impairment, whether the child has the impairment or not. The terms used in this subsection shall have the same meaning as applied under the Americans with Disabilities Act (ADA) and its implementing regulation at 28 CFR 35.104 (July 1, 1993), which is incorporated herein by reference and is on file with the Secretary of State’s Office.~~
14. ~~“CHILDS” means the Children’s Information Library and Data Source, which is a comprehensive, automated system to support child welfare policies and procedures, and includes information on investigations, ongoing case management, and payments.~~
15. ~~“CHILDS Central Registry” means the Child Protective Services Central Registry, a confidential, computerized database within CHILDS, which the Department maintains according to A.R.S. § 8-804.~~
- 16.12. ~~“Child with special needs” means a child who needs increased supervision, modified equipment, modified activities, or a modified facility, due to any physical, mental, sensory, or emotional delay, or medical condition, and includes a child who has a physical or mental impairment that substantially limits 1 or more major life activities; has a record of having a physical or mental impairment that substantially limits 1 or more of the child’s major life activities; or who is regarded as having an impairment, regardless of whether the child has the impairment.~~
- 17.13. ~~“Client” means a person who applies for and meets the eligibility criteria for a child care service program administered by the Department.~~
- 18.14. ~~“Compensation” means something given or received, such as money, goods, or services, as payment ~~recompense~~ for child care services.~~
19. ~~“Corporal punishment” means any act that which is administered as a form of discipline and that which either is intended to cause bodily pain, or which may result in physical damage or injury.~~
- 20.16. ~~“CPS” means Child Protective Services, a Department administration that operates a program to investigate allegations of child maltreatment and provide protective services program of the Department.~~
17. ~~“CPSCR” means a Child Protective Services Central Registry of reports of abuse and neglect, which CPS maintains pursuant to A.R.S. § 8-546.03~~
- 21.18 ~~“Department” means the Arizona Department of Economic Security.~~
- 22.19 ~~“Developmentally appropriate” means an action that which takes into account:~~
 - a. A child’s age and family background;
 - b. The predictable changes that occur in a child’s physical, emotional, social, cultural, and cognitive development; and
 - c. The individual child’s pattern and timing of growth, personality, and learning style.
- 23.20. ~~“DHS” means the Arizona Department of Health Services.~~
- 24.21. ~~“Direct supervision” means within sight and sound.~~
25. ~~“Exploitation” means an the act of taking advantage of, or making use of a child selfishly, unethically, or unjustly for one’s own advantage or profit, in a manner contrary to the best interests of the child, such as having a child panhandle, steal, or perform other illegal activities.~~
- 26.22. ~~“Evening care” means child care provided at any time between 6:30 p.m. and midnight.~~
27. ~~“Heating device” means an instrument designed to produce heat for a room or inside area and includes a non-electric stove, fireplace, freestanding stove, or space heater.~~

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- ~~28.23~~“Home facility” means a provider’s residence dwelling that the Department has certified pursuant to as a ~~A.R.S. § 36-895(C)~~ location where child care services may be provided.
- ~~29.24~~“Household member” means a person an adult who does not provide child care services and who resides in the a home facility of ar provider for 21 20 consecutive days or longer or who resides ~~in a home facility~~ periodically throughout the year for a total of at least 21 days, and a child who resides in a home facility
- ~~30.25~~ “Infant” means:
- a. ~~A any~~ child who is younger less than 12 months old; and
 - b. ~~A a~~ child who is younger less than 18 months old and not walking.
- ~~31.26~~“In-home provider” means a provider who cares for a child in the child's home.
- ~~32.~~ “Maltreatment” means abuse, neglect, exploitation, or abandonment of a child.
- ~~33.27~~“Medication” means any prescribed or over-the-counter drug or medicine.
- ~~34.~~ “Mechanical restraint” means a device to restrict a child’s movement.
- ~~35.~~ “Neglect” has the same meaning ascribed in A.R.S. § 8-201 (21).
- ~~36.28~~“Night-time care” means child care provided at any time between midnight and 6 a.m.
- ~~37.~~ “Non-parent relative” means a caretaker relative who exercises responsibility for the day-to day physical care, guidance, and support of a child who physically resides with the relative and who is by affinity, consanguinity, or court decree, a grandparent, great grandparent, sibling of the whole or half-blood, stepbrother, stepsister, aunt, uncle, great aunt, great uncle, or 1st cousin of the child.
- ~~38.~~ “Parent” means the biological or adoptive parent of a child, a court-appointed guardian, or a non-parent relative.
- ~~39.29~~“Provider” means an adult who is not the parent or guardian of a child needing care, and to whom the Department has issued a certificate, and ~~also~~ includes a back up provider child care personnel who are performs performing the provider's duties when the provider is unavailable.
- ~~40.~~ “Physical restraint” means the use of bodily force to restrict a child’s freedom of movement.
- ~~41.30~~ “Safeguard” means to use reasonable efforts and developmentally appropriate measures to eliminate the risk of harm to a child in care and ~~ensure insure~~ that a child in care will not be harmed by a particular object, substance, or activity. Safeguarding may include:
- a. Locking up a particular substance or item;
 - b. Putting a substance or item beyond the reach of a child who is not mobile;
 - c. Erecting a barrier that prevents a child from reaching a particular place, item, or substance;
 - d. Mandating the use of a protective safety device; or
 - e. Providing direct supervision.
- ~~42.34~~ “Sanitize” means treatment by a heating or chemical process that which reduces the bacterial count, including pathogens, to a safe level.
- ~~43.32~~ “Time out” means removing a child from a situation by directing the child to remain in a specific chair or place identified as the time out place, for no more than 1 one minute for each year of a child's age, but ~~and for~~ no more than a total of 10 ten minutes.
- ~~44.33~~ “Undue hardship” means significant difficulty or substantial expense concerning relative to the operation of a provider's program. In this subsection, “significant” and “substantial” are measured relative to the level of net income the provider earns from child care services.
- ~~45.34~~“Unusual incident” means any accident, injury, behavior problem, or other extraordinary situation involving a provider or a child in care, including, ~~but not limited to,~~ suspected child maltreatment, abuse or neglect

R6-5-5202. Initial Application for Certification-Provider

- ~~A.~~ To become a certified child care provider, an applicant shall comply with all requirements of this Article Section, and any other applicable requirements of federal, state, or local law.
- ~~B.1.~~ ~~An~~ The applicant shall be at least age 18 years old.
- ~~C.2.~~ ~~An~~ The applicant shall submit a complete, signed application form to the Department.
- ~~D.3.~~ ~~An~~ The applicant shall designate 1 one or more backup providers from the following list:
- ~~1.a.~~ An individual who is at least age 18 eighteen years old or older and who satisfies the requirements for backup providers outlined in this Article;
 - ~~2.b.~~ A DHS-licensed child care center;
 - ~~3.e.~~ A DHS-certified child day care group home; or
 - ~~4.~~ A DES-certified family child care home.
 - ~~d.~~ ~~A license exempt child care center.~~
- ~~E.4.~~ ~~An~~ The applicant shall participate in any orientation and training and shall cooperate in conducting any pre-certification interviews and inspections the Department may require.
- ~~F.5.~~ ~~An~~ The applicant shall give the Department the names of 3 references ~~of persons~~ who:
- ~~1.a.~~ Have known the applicant at least 1 one year,
 - ~~2.b.~~ Are unrelated by blood or marriage to the applicant, and
 - ~~3.e.~~ Can furnish information regarding the applicant's character and ability to care for a child.

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- ~~G.6.~~ An ~~The~~ applicant and any designated individual backup provider shall furnish a self-statement of physical and mental health on a form provided by the Department.
- ~~H.7.~~ ~~An~~ ~~The~~ applicant and each designated individual backup provider shall have the physical, mental, and emotional health necessary to perform the duties and meet the responsibilities established by this Article ~~these rules for child care providers.~~ ~~If~~ ~~During the application process,~~ if the Department has questions about the applicant's health ~~that~~ ~~which~~ the applicant cannot satisfactorily answer or explain, the applicant, upon request by the Department, shall submit to a physical or psychological examination ~~exam~~ ~~by~~ ~~with~~ a licensed physician, psychologist, or psychiatrist, and shall provide the Department with a professional opinion addressing the Department's questions. The applicant shall bear the cost of any ~~special~~ professional examinations ~~that~~ ~~which~~ the Department needs to determine ~~request~~ ~~which are associated with determining~~ whether the individual is qualified.
8. ~~The applicant shall furnish proof that all child care personnel and household members:~~
- a. ~~Immune from measles, rubella, diphtheria, tetanus, pertussis, polio, or any other diseases for which routine immunizations are readily and safely available; and~~
 - b. ~~Free from communicable tuberculosis,~~
~~Any individual born before January 1, 1975, shall be considered immune to measles.~~
- I.** The Department may require an applicant to furnish at least the following information about the applicant, the applicant's spouse, members of the applicant's household, children residing outside of the applicant's home, and the individual backup provider:
- 1. Name;
 - 2. Current address;
 - 3. Telephone number;
 - 4. Date of birth;
 - 5. Social security number;
 - 6. Maiden name, aliases, and nicknames;
 - 7. Relationship to the applicant or backup provider;
 - 8. Marital status and marital history;
 - 9. Educational background;
 - 10. Ethnicity;
 - 11. Gender;
 - 12. Birthplace;
 - 13. Physical characteristics; and
 - 14. Citizenship status.
9. ~~No later than four months after the date of provider certification,~~ the applicant shall furnish the Department with proof of acceptable first aid training and certification in infant/child cardiopulmonary resuscitation (CFR). Acceptable training is a course approved by DHS, the American Red Cross, or the American Heart Association. The Department may extend the four month requirement and children in care may remain in care during such an extension, if:
- a. ~~The class was not available within the initial four month time;~~ or
 - b. ~~The provider or a dependent was ill and the provider was unable to attend a schedule class.~~
- J.10.** ~~All~~ Child care personnel shall be fingerprinted and shall pay the appropriate fee pursuant to submit the notarized criminal history certification form required by A.R.S. § 41-1964, and disclose whether they have committed any acts of child maltreatment or have been the subject of a Child Protective Service investigation.
- K.11.** ~~On a~~ ~~Upon request from the Department form,~~ ~~an~~ ~~the~~ applicant, all adult household members, and all and the designated, individual backup providers ~~provider shall comply with any additional requirements the Department may reasonably require,~~ provide employment histories for the 5-year period immediately preceding the application date, beginning with the individual's present or most recent job.
12. ~~The applicant shall complete the certification process within 90 days of submitting an application.~~
- L.** An applicant shall furnish proof that the applicant, the individual backup provider, and members of the applicant's household who are age 13 or younger are immune from measles, rubella, diphtheria, tetanus, pertusis, polio, and any other diseases for which routine immunizations are readily and safely available.
- 1. The Department may waive the requirements of this subsection for a household member if the applicant will be certified as an in-home provider only and submits an affidavit attesting that household members will not be present when child care services are provided.
 - 2. The Department shall waive the requirements of this subsection if the applicant:
 - a. Submits an affidavit stating that household members are being raised in a religion whose teachings oppose immunization; and
 - b. Affirms, in writing, that families will be notified of the religious exemption before child care services are provided.

- M.** An applicant shall submit evidence of current freedom from pulmonary tuberculosis for the applicant, all household members, and all individual backup providers. If the application is approved, this evidence shall be submitted each succeeding calendar year.
1. Evidence required under this subsection is limited to:
 - a. A report of a negative Mantoux skin test performed within (3) months of the date or anniversary date of initial certification.
 - b. A physician's written statement based on an examination performed within 3 months of the date or anniversary date of initial certification.
 2. The Department shall waive the requirements of this subsection for household members if the applicant will be certified as an in-home provider only and submits an affidavit that household members will not be present when child care services are provided.
- N.** An applicant shall provide a statement of services on a Department form. The statement shall describe:
1. The home at which services will be provided, location, and hours of operation;
 2. The applicant's daily rates and fees;
 3. The ages of children the applicant will accept;
 4. The equipment, materials, daily activities, and play areas available to children in care;
 5. Any special child care skills, knowledge, or training the applicant has; and
 6. The behavior, guidance, and discipline methods the applicant uses.
- O.** During an interview with the child care specialist, an applicant shall complete a Department questionnaire describing:
1. The applicant's child rearing philosophy;
 2. The home environment, including intra-family relationships and attitudes toward child care;
 3. The parenting and discipline methods employed by the applicant and the applicant's parents; and
 4. The applicant's child care training and experience.
- P.** Upon Department request, an applicant, all members of the applicant's household and all individual backup providers shall comply with any additional requirements and requests for interviews, inspections, or information necessary to determine the applicant's fitness to serve as a certified child care provider.
- Q.** A complete application package consists of an applicant's completed application form and evidence that the applicant, all members of the applicant's household, and all individual backup providers have met all requirements and submitted all information and documentation listed in this Section.
- R.** The Department shall send an applicant a notice of administrative completeness or deficiency, as described in A.R.S. § 41-1074, indicating the additional information, if any, that the applicant must provide for a complete application package. The Department shall send the notice after receiving the application and before expiration of the administrative review time frame described in R6-5-5204. If the applicant does not supply the missing information listed in the notice, the Department may close the file.
- S.** An applicant whose file is closed may reapply for certification.
- T.** After an applicant submits a complete application for initial certification, the Department shall inspect the applicant's home to determine whether the home meets the regulations of this Article.

R6-5-5203. Initial Certification: The Home Facility

A provider's home facility shall meet To become certified as a home facility, a dwelling shall satisfy the requirements of this Section.

1. A provider shall maintain the indoor and outdoor premises of the home facility in a safe and sanitary condition, free from hazards and vermin, and in good repair. The dwelling, including manufactured and mobile homes, shall be in good and safe repair and shall comply with all applicable building, sanitation, and fire laws and regulations. A mobile Mobile home homes shall have skirting to ensure insure that a child in care cannot go beneath the mobile home.
2. Any area to be occupied by a child in care shall have heat, light, ventilation, and screening, and The provider shall maintain be maintained the home facility between 68° and 85° F.
3. A provider shall vent and safeguard all heating devices All heating devices including, but not limited to, non electric stoves, fireplaces, freestanding stoves, and space heaters, shall be vented and safeguarded to protect each child from burns and harmful fumes.
4. A provider shall safeguard all ALL potentially dangerous objects shall be safeguarded from children, including: Such objects include, but are not limited to:
 - a. ~~Firearms and ammunition, which shall be stored separately and in locked containers;~~
 - a.b. Household and automotive tools;
 - b.e. Sharp objects, such as knives, glass objects, and pieces of metal;
 - c.d. Fireplace tools, butane lighters and ignites, and matches;
 - d.e. Machinery;
 - e.f. Electrical boxes;
 - f.g. Electrical outlets;
 - g.h. Electrical wires; and

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- h.i. Chemicals, cleaners, and toxic substances.
5. A provider shall store firearms and ammunition separately from one another, under lock and key or combination lock.
- 6.5 A The home facility dwelling shall have adequate space and equipment to accommodate each child in care, and other household members who are in the home facility dwelling at the same time as the children in care. In As used in this subsection, paragraph, “adequate” means sufficient space and equipment to:
- a. Permit all persons in the dwelling to have safe freedom of movement;
 - b. Permit children in care to be seated together for meals and snacks; and
 - c. Permit all children in care to be engaged in developmentally appropriate activities at the same time and in a room where the provider can keep all children within sight.
- 7.6 A provider shall keep outside Outside play areas shall be clean and safe and shall fence the The play area shall be fenced if there are conditions that which may pose a danger to any child playing outside. The fence shall be at least 4 four feet high and free of hazards, including but not limited to, splinters and protruding nails or wires. The fence shall have only self-closing, self-latching, lockable gates.
- 8.7 A The home facility dwelling shall have the following equipment:
- a. A One charged, readily accessible, operable, multi-purpose (ABC class) fire extinguisher that which the applicant shall knows know how to operate;
 - b. At least 1 one UL-approved, working smoke detector, properly mounted on each level of the dwelling;
 - c. At least 2 two usable outdoor exits;
 - d. A posted written plan or diagram for emergency evacuation;
 - e. A working telephone or other two-way communication device acceptable to the Department; and
 - f. An easily accessible life-saving device if the home facility dwelling has a pool or other body of water more than 12 inches deep. A “life-saving device” means a ring buoy with at least 25 feet of ½ inch rope attached or a shepherd's crook.
- 9.8 If a the home facility dwelling has a swimming pool or other body of water more than 12 inches deep, the pool or body of water shall be enclosed by a permanent fence that which separates it from all other outdoor areas and from doors and windows into the home facility dwelling. The fence shall be at least 5 five feet high and shall have only self-closing, self-latching, lockable gates. Open spaces between upright or parallel posts and poles on fences and gates shall be no more than 4 four inches apart. When Gates shall be locked when the pool or body of water is not in use, the provider shall lock the gates.
- 10.4 A provider shall enclose spas Spas and hot tubs shall be secured with fencing as described in subsection paragraph (9) (8) above, or with a hard, locked cover that which prevents access and can is capable of support supporting at least 100 pounds.

R6-5-5204. Initial Certification: Department Responsibilities; Denial

- A. Before Prior to issuing a certificate, the Department shall:
1. Conduct at least 1 one face-to-face interview with an the applicant;
 2. Contact any other person necessary to determine an the applicant's fitness to be a certified provider;
 3. Ensure Insure that an the applicant and all designated individual backup providers provider have complied with and satisfy the requirements of R6-5-5202;
 4. Inspect the home dwelling where an applicant will provide child care will be provided, unless it is the child's own home, and ensure insure that it meets the requirements of R6-5-5203;
 5. Conduct a CHILDS Central Registry CPSCR check for:
 - a. An applicant; all child care personnel and
 - b. The applicant's household members;
 - c. The applicant's emancipated children who live outside the applicant's home, if any; and
 - d. Any individual backup provider.
 6. Find that an the applicant has the intent and ability to provide child care that is safe, developmentally appropriate, and in compliance with the requirements of this Article.
- B. The Department shall objectively determine whether to certify an applicant based on the applicant's entire application package, and the information the Department has acquired during the course of the application process. The Department shall not discriminate against qualified individuals with disabilities who apply but may consider factors related to the disability in determining whether the individual is qualified.
- C. The Department shall deny an application for certification when:
1. Any child care personnel or household member has a valid CPS report described as:
 - a. A life threatening or emergency situation;
 - b. A dangerous but not life threatening situation; or
 - e. Substandard care that is not dangerous or life threatening but is damaging. For the purpose of this subparagraph, “damaging” means injuries or neglect that are not dangerous or life threatening but may be frequent or sequential.

2. The applicant intentionally gives the Department false, misleading, or incomplete information during the application process;
 3. The applicant has previously experienced revocation of a certificate to operate a child care facility; or
 4. The applicant fails to complete the application process within 90 days as provided in R6-5-5202.
- C.** The Department may deny the application for certification:
1. If any child care personnel or household member has a valid CPS report of substandard care that can become damaging, and when the balance of the certification investigation reveals that the problem which caused the CPS report has not been corrected; or
 2. When the applicant cannot provide child care which meets the requirements of this Article.

R6-5-5205. Certification Time-frames

For the purpose of A.R.S. § 41-1073, the Department established the following certification time-frames:

1. Administrative completeness review time-frame: 60 days,
2. Substantive review time-frame: 30 days, and,
3. Overall time-frame: 90 days.

~~R6-5-5206~~R6-5-5205. Certificates: Issuance; Nontransferability

- A.** A certificate is valid for 3 years ~~one year~~ from the date of issuance. The Department may revoke a certificate before ~~prior to~~ expiration as provided in this Article and by law.
- B.** A certificate is not transferable and is valid only for the provider and location identified on the certificate.
- C.** A provider shall post the certificate in a conspicuous location in the home facility.
- D.** A certificate is the property of the state of Arizona. Upon revocation or voluntary closure, a provider shall surrender the ~~that~~ certificate issued to the provider to the Department within 7 days.
- E.** The Department shall designate on the provider's certificate issued to the provider ~~determine~~ the total number of children to be allowed in child care at any one time ~~but the~~. The total shall not exceed the limits set in R6-5-5220.~~R6-5-5219~~

~~R6-5-5207~~R6-5-5206. Maintenance of Certification: General Requirements; Training

- A.** Child care personnel and all individual backup providers shall be fingerprinted and pay all required fingerprint fees within the time prescribed in A.R.S. § 41-1964.
- ~~B.~~A** The provider and all individual backup providers ~~provider~~ shall maintain the physical, mental, and emotional health necessary to fulfill all legal requirements for child care providers.
- C.** No later than 60 days after the date of provider certification, a the provider and individual backup providers shall furnish the Department with proof of acceptable first aid training and certification in infant/child cardiopulmonary resuscitation ("CPR"). As used in this Section, "acceptable training" means a course approved by the American Red Cross or the American Heart Association. The Department may extend the time for completing this requirement and children may remain in care during an extension, if:
 1. The class was not available within the 60-day time period; or
 2. The provider, individual backup provider, or a dependent was ill, and the provider or backup provider was unable to attend a scheduled class due to the illness.
- ~~D.~~M** A provider and individual backup providers shall maintain current training and certification in first aid and infant/child CPR through acceptable training courses.
- ~~E.~~B.** Each certification period, a provider shall attend at least 6 six clock hours of training each calendar year in any of the following subjects:
 1. The Department's child care program, policies, and procedures;
 2. Child health and safety, including recognition, control, and prevention of illness and disease;
 3. Child growth and development;
 4. Child abuse prevention, detection, and reporting;
 5. Positive guidance and discipline;
 6. Child nutrition;
 7. Communication with families; family involvement;
 8. Developmentally appropriate practices; and
 9. Other similar subjects designed to improve the provider's ability to provide child care.
- ~~F.~~C** A provider shall maintain a record of all training, and annually furnish the Department with proof of attendance.
- ~~D.~~** A provider shall not provide care while knowingly infected with or presenting symptoms of an infectious disease.
- ~~G.~~E** A provider shall maintain a safe and clean home facility, including furnishings, equipment, supplies, materials, utensils, toys, and grounds, that which meets the standards set forth in this Article. And any applicable state or local safety and sanitation codes.
- ~~H.~~F** At all times, a provider shall allow the Department access to all parts of the home facility. The Department shall make at least 2 two on-site visits each year to each home facility and in-home provider. One visit shall be the certification or recertification visit. At at least 1 one other visit and shall be unannounced.

- ~~I.G.~~ A provider shall allow a parent ~~parents and guardians~~ or a their ~~their~~ designated representative access to the home facility at all times when the parent's ~~their~~ child is present, and shall give parents and designated representatives ~~guardian~~ written notice explaining this right.
- ~~J.H.~~ A provider shall directly supervise a any ~~any~~ visitor to the home facility while ~~whenever~~ the visitor is in an area with a child in care.
- ~~K.I.~~ A provider shall not expose a child in care to tobacco products or smoke.
- ~~L.J.~~ A provider shall not care for a child while under the influence of alcoholic beverages, prescription or ~~prescription or~~ medication, or any other substance, that may or does impair the provider's ability to care for a child.
- ~~M.K.~~ A provider shall not consume alcoholic beverages while caring for a child.
- ~~N.L.~~ ~~Except as provided in R6-5-5-5207E),~~ A ~~a~~ provider shall not refuse to provide care to any child on the basis of color, sex, religion, disability, or national origin.
- O. If a provider is notified that a child or household member has a communicable disease, the provider shall ensure that a child who lacks written evidence of immunity to the communicable disease is not permitted to be present in the home facility until:
1. A parent provides written evidence of the child's immunity to the disease; or
 2. A local health department notifies the provider that the child may return to the home facility.

~~R6-5-5208~~R6-5-5207. Recertification Requirements

- A. Before ~~Prior to~~ recertifying a provider, the Department shall interview the provider ~~that applicant.~~ Family Child Care Provider applicants shall be interviewed at the location where child care will be provided. The Department Representative may interview an in-home ~~In-home provider applicants may be interviewed~~ at the in-home provider's applicant's residence. The interview shall include a discussion and review of the provider's experiences in the provision of child care services during the current ~~previous year~~ certification period.
- B. A provider shall demonstrate the continued physical, mental, and emotional health necessary to perform the duties and fulfill the responsibilities in ~~required by~~ this Article.
- C. Before ~~Prior to~~ recertification, a provider and designated individual backup provider shall furnish a self statement of physical and mental health and ~~of~~ freedom from communicable diseases on a form furnished by the Department.
- D. The Department shall renew a certificate only after a provider demonstrates the intent and ability to provide child care that is safe, developmentally appropriate, and in compliance with the requirements of this Article. ~~The Department shall consider a history of repeated violations of this Article as evidence that a provider lacks such intent or ability.~~
- E. Unless the ~~The~~ Department, in its sole discretion, ~~accepts a provider's written assurance of future compliance with the requirements of this subsection, the Department shall deny recertification or take other enforcement action~~ when the ~~a~~ provider does not accept Department-referred children on 3 ~~three~~ separate ~~consecutive~~ occasions unless the refusal is for one of the following reason:
1. Illness, accident, or incapacity of the provider;
 2. Illness, accident, or incapacity of any household member, if ~~when~~ the existing ~~such~~ condition will pose a risk to children in care, or limit the provider's ability to provide child care in accordance with the law;
 3. The Referral of a child for whom provider is not equipped or trained to provide care to the referred child, and the provider cannot acquire the such equipment or training without undue hardship;
 4. The ~~When~~ the provider has no available slots;
 5. The ~~When~~ a situations listed in R6-5-5222 ~~R6-5-5221(B)~~ and ~~when~~ a backup provider is unavailable;
 6. A ~~When~~ a child has not been immunized, and the parent or guardian is unwilling to obtain appropriate immunization, in accordance with R6-5-5219(F); ~~and or~~
 7. The ~~When~~ the home facility is in temporary disrepair or under construction.
- F. The Department may obtain any supplemental information needed to determine continuing fitness to serve as a certified child care provider.
- G. A provider, all household members, and an individual backup provider shall cooperate with the Department in providing all information required for recertification.
- H.F. The Department shall determine whether to recertify a provider based on the provider's original application package, all previous monitoring reports, and all additional information the Department receives ~~acquires~~ during the recertification process.

~~R6-5-5209~~R6-5-5208. Program and Equipment

- A. A provider shall offer a program that ~~which~~ is developmentally appropriate for, and meets the needs of each child in care. The daily program and activity schedule shall include a balance of the following:
1. Indoor and outdoor activities;
 2. Quiet and active Activities ~~activities~~ that encourage movement and quiet time;
 3. Structured, free choice, and adult directed Activities ~~activities~~ that encourage a child's creativity;
 4. Individual ~~small group and large~~ and group activities;
 5. Small and large muscle development activities; and

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6. ~~Activities that include social interaction, problem solving, and negotiating skills. Meals and snacks.~~
- B. A provider shall incorporate into the program each child's daily routine activities, such as diapering, toileting, eating, dressing, resting, and sleeping, in accordance with the developmental needs of each child.
- C. A provider shall develop a flexible, developmentally appropriate program ~~that which~~ the provider can adjust to accommodate unanticipated events such as the illness of a child or changes in the weather.
- D. A provider shall have play equipment and materials sufficient to meet the program requirements described in subsections (A) through (C) ~~above~~, and to ensure ~~assure~~ that all children in care can be occupied in developmentally appropriate play at the same time.
- E. A provider who cares for a child who is younger ~~less~~ than age 2 ~~two-year~~ of shall have a variety of developmentally appropriate play equipment and supplies available for the ~~such a~~ child, ~~which may include, but are not limited to such as:~~
1. Touch boards;
 2. Soft puppets;
 3. Soft ~~Wooden~~ or plastic blocks;
 4. Simple musical ~~toys-instruments~~;
 5. ~~Rattles~~
 6. Push-pull toys for beginning walkers;
 7. Picture and texture books;
 8. Developmentally appropriate ~~Appropriate~~-art materials, including crayons, paints, finger paints, watercolors, and paper;
 9. Simple, 2-3 piece puzzles and ~~Puzzles~~, peg boards; and
 10. Large beads ~~Beads~~ to string or snap.
- F. A provider who cares for a child age 2 or older ~~who is two or more years of~~ shall have a variety of developmentally appropriate play equipment and supplies available for the ~~such a~~ child, ~~which may include, but are not limited to such as:~~
1. Art supplies;
 2. Blocks and block accessories;
 3. Books and posters;
 4. Dramatic play areas with toys and dress-up clothes;
 5. Large muscle equipment;
 6. Manipulative toys;
 7. Science materials; and
 8. Musical instruments.
- G. A provider shall have a bed, cot, mat, crib, or playpen for each child in care who requires a daily nap or rest period. Each infant in care shall have ~~and~~ a safe crib, port-a crib, ~~or~~ bassinet, ~~for each infant in care~~ or playpen.

R6-5-5210~~R6-5-5209~~. Safety; Supervision

- A. When a provider is unavailable to care for a child for ~~one of the~~ a reason ~~reasons~~ described in R6-5-5222(B), ~~R6-5-5221(B)~~ the provider may ~~shall~~ use only the backup provider designated under ~~pursuant~~ to R6-5-5202 or R6-5-5222(E), ~~R6-5-5221(E)~~
- B. A provider shall give parents and guardians written notice of the provider's backup care plan.
- C. A provider shall not engage in ~~any~~ activities ~~that which~~ interfere with the ability to supervise and care for children, including, ~~but not limited to~~ other employment, ~~and~~ ~~or~~ volunteer, or recreational activities. An in-home provider shall not perform housekeeping duties unrelated to the care of the child. ~~In the home of the parent or guardian.~~
- D. A provider shall directly supervise each child who is awake.
- E. A provider shall have unobstructed access to and shall be able to hear each child who is sleeping.
- F. A provider shall not permit a child in care to use a spa or hot tub.
- G. A provider shall have written permission from a parent or guardian before allowing a child to engage in water play. In this subsection, "water play" Water play, means as used in this subsection, shall include any activity in which water is reasonably likely to get into a child's ears.
- H. A provider shall directly supervise any child who is in a pool area.
- I. A provider shall accompany a child who is using a public or semi-public ~~semipublic~~ swimming place.
- J. A provider shall have written permission from a child's parent or designated representative ~~guardian in order~~ to bathe or shower the that child, or to allow the child to bathe or shower independently.
- K. A provider shall not permit a child younger than ~~six-year~~ of age 6 to bathe or shower unsupervised.
- ~~L.~~ A provider shall not allow any child to bathe or shower without first receiving written parental permission.
- L.M A provider shall report suspected child abuse or neglect to CPS or the local law enforcement department ~~police department~~ as required by A.R.S. §13-3620.
- M.N A provider shall use developmentally appropriate ~~reasonable~~-precautions to separate a child in care from hazardous areas, including ~~but not limited to~~ locked doors and safe portable folding gates. ~~which can not pinch, mash, injure, entrap, or hurt a child.~~

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- ~~N.O~~ A provider shall release a child only to the child's parent ~~or guardian~~ or to an adult who has been designated in writing by the parent. ~~or guardian~~.
- O.** A provider shall not allow a person addicted to or under the influence of illegal drugs or alcohol in the home facility while children in care are present.
- P.** A provider shall not permit a person who is abusive to children, or who uses unacceptable disciplinary methods as described in R6-5-5212, into the home facility when children in care are present.

~~R6-5-5211~~R6-5-5210. Sanitation

- A.** A provider and each child in care shall wash their hands with soap and running water after playing with animals or using the toilet, and before and after handling, serving, or eating food. If a child cannot reach a sink with running water, due to the child's age or some limiting condition, the provider shall clean that child's hands with an individual, clean, washcloth.
- B.** A provider shall wash, in hot soapy water, and sanitize, all utensils used for eating, drinking, and food preparation.
- C.** A provider shall ~~have~~ maintain a garbage can with a close-fitting lid.
- D.** A provider shall dispose of garbage ~~generated in~~ with the home facility at least once a day.
- E.** A provider shall empty and sanitize wading pools measuring 12 inches deep or less, after each use.
- F.** A provider shall maintain, in a sanitary condition, a swimming pool or other area or container, which is more than 12 inches deep and ~~is~~ used for water play.
- G.** A provider shall frequently check the diaper of each child in care and shall immediately change a soiled diaper.
- H.** A provider shall have sanitary arrangements for diaper changing and disposal of soiled diapers, including ~~but not limited to~~, the following:
1. The diaper changing area shall not be in an area where food is prepared or consumed; ~~and shall be readily accessible to soap and running water in a sink not used for food preparation.~~
 2. The diapering surface shall be cleaned, sanitized, and dried after each diaper change;
 3. Following bulk stool disposal into a toilet, soiled cloth diapers shall not be rinsed, but shall be bagged in plastic, individually labeled with child's name, stored in a covered container out of reach of children, and returned to the child's parent each day; and
 4. Soiled disposable diapers shall be discarded in a tightly covered, lined container out of reach of children.
- I.** ~~Before and after each diaper change, a~~ A provider shall wash hands with soap and running water ~~before and after each diaper change~~ in a sink not used for food preparation.
- J.** A provider shall sanitize a bathtub before ~~prior to~~ bathing each child in care.

~~R6-5-5212~~R6-5-5211. Discipline; Guidance

- ~~A.~~C** A certified provider and all individual backup providers shall sign a written agreement to abide by the Department's policy on regarding imposition of developmentally appropriate discipline. ~~The Department shall give the provider a copy of the policy and the agreement.~~
- ~~B.~~A** Only a provider may discipline a child in care; ~~other house hold members in the home facility shall not discipline a child.~~
- ~~C.~~E** A provider may physically restrain ~~firmly hold~~ a child whose behavior is uncontrolled, only when such action the physical restraint:
1. Is necessary to prevent harm to the child or others;
 2. Occurs simultaneously with the uncontrolled behavior;
 3. Does not impair the child's breathing; and
 4. Cannot harm the child.
- A provider shall use the minimum amount of restraint necessary to bring the child's behavior under control.
- ~~D.~~G** A provider shall not use the following disciplinary measures:
1. Corporal punishment including shaking, biting, hitting, or putting anything in a child's mouth;
 2. Placing a child in isolation or in a closet, laundry room, garage, ~~or~~ shed, basement, or attic;
 3. Locking a child out of the home facility;
 4. Placing a child in any area where the a provider cannot directly supervise the ~~that~~ child;
 5. Methods detrimental to the health or emotional needs of a child;
 6. Administering medications ~~Medications;~~
 7. Mechanical restraints of any kind;
 8. Techniques intended to humiliate or frighten a child; ~~and~~
 9. Discipline associated with eating, sleeping, or toileting; or
 10. Abusive or profane language.
- ~~E.~~F** As a disciplinary measure, a provider may place a child in time out. During the time out period, the provider shall keep the child in full view. Time out shall not be used for children less than age 3.
- ~~F.~~B** A provider shall maintain consistent, reasonable rules that define acceptable behavior for a child in care. ~~and shall communicate those rules to each child in a manner that is appropriate to the child's age and development.~~
- ~~G.~~D** A provider shall use discipline only to teach acceptable behavior and to promote self-discipline, not for punishment or retribution.

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R6-5-5213~~R6-5-5212~~. Evening And Nighttime Care

- A. A provider who offers evening or nighttime care shall remain awake until each child in care is asleep.
- B. A provider who offers nighttime care shall have a safe and sturdy crib for each infant, and a safe and sturdy bed or cot with mattress for each child. ~~At a minimum, Crib~~ crib bars or slats shall be no more than 2-3/8 inches apart, and the crib mattress shall fit snugly into the crib frame so that no space remains between the mattress and frame.
- C. A provider may allow siblings to share a bed only if the provider has received written parental permission.

R6-5-5214~~R6-5-5213~~. Children Younger than Age 2 Under two years of age

A provider who cares for a child younger than ~~under~~ age 2 ~~two~~ shall comply with the following requirements:

- 1. A provider shall frequently hold a child ~~frequently~~ and give each infant and toddler physical contact and attention throughout the day.
- 2. A provider shall respond promptly to a child's distress signals and need for comfort.
- 3. A provider shall ~~get obtain~~ written permission from a parent or guardian to give supply a child a bedtime or nap-time bottle. ~~If the provider receives permission, the~~ When such permission is obtained, a provider shall use only water in ~~the bedtime or nap-time~~ bottles, unless otherwise directed by the child's physician.
- 4. A provider shall not confine a child in a crib, high chair, swing, or playpen, for more than 1 ~~one~~ consecutive waking hour.
- 5. A provider shall not feed cereal by bottle, except with the written instruction of a physician.
- 6. A provider shall hold an infant younger than age 1 ~~one year~~ for any bottle feeding, and shall not prop bottles with a child in care.

R6-5-5215~~R6-5-5214~~. Children With Special Needs

- A. When enrolling a child with special needs, a provider shall comply with the requirements of this Section:
 - 1. A provider shall consult with parents ~~or guardians~~ to establish a mutually agreed upon plan regarding services for a child with special needs;
 - 2. A provider shall have the physical ability and appropriate training to provide the care required by a child with special needs;
 - 3. ~~When ever possible, A~~ a provider shall use best efforts to integrate a child with special needs into the daily activities of the home facility in a manner that is the least restrictive, ~~and but that which~~ meets the child's individual needs; or ~~the child~~
 - 4. If a provider regularly cares for a child with special needs ~~older than~~ over age 3 ~~three~~ who requires diapering, the home facility shall have a diaper changing area ~~that which permits the that~~ child to have privacy. Proper sanitation shall be maintained as described in R6-5-5211. ~~R65-5210 shall be maintained~~
- B. A provider shall make reasonable accommodations in the ~~have a~~ home facility, equipment, and materials for to accommo- ~~date~~ a child with special needs.

R6-5-5216~~R6-5-5215~~. Transportation

- A. A provider shall obtain prior written permission from a child's parent ~~or guardian~~ before transporting a child in ~~either a~~ privately owned vehicle or on public transportation.
- B. A provider shall ensure that a child in care is transported in a private vehicle by a person who has:
 - 1. A ~~a~~-valid Arizona driver's license;
 - 2. Automobile ~~automobile~~ insurance that meets the financial responsibility requirement of Arizona law; and
 - 3. No ~~no~~ convictions for driving while intoxicated within 3 ~~three~~ years before ~~prior to~~ the date of transportation. shall transport a child in a privately owned vehicle
- C. A provider shall ~~certify in writing that the provider shall~~ transport a child only in a mechanically safe vehicle. "Mechanically safe" means shall, at a minimum, mean a vehicle with: having
 - 1. Functioning ~~functioning~~ brakes, signal lights, and headlights;
 - 2. Tires ~~tires~~ with tread; and
 - 3. Structural ~~structural~~ integrity.
- D. A provider shall not transport a child on a motorcycle or in a vehicle that is not constructed for the purpose of transporting people, such as a truck bed, camper, or any trailered attachment to a motor vehicle.
- E. A provider shall transport a child in a separate car seat, seat belt, or child -restraint device in compliance with A.R.S. § 28-907.
- F. A provider shall never leave a child unattended in a vehicle.
- G. A provider shall maintain first-aid supplies in a privately owned vehicle used to transport children in care.
- H. A provider shall carry a child's emergency-information card when transporting a child in care, away from the home facil- ~~ity or the child's home.~~
- I. A provider shall sign a form that which states that the provider will abide by R6-5-5216.

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~~R6-5-5217~~R6-5-5216. Meals And Nutrition

- A. A provider shall serve a child in care wholesome and nutritious foods and beverages. ~~In As used in~~ this Section, "wholesome and nutritious" ~~means~~ describes foods and beverages ~~which are~~ consistent with the requirements of 7 CFR 226.20 (January 1, 1998 ~~1993~~), which is incorporated ~~herein~~ by reference and ~~on file available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona 85007 and in the office of the Secretary of State at 1700 West Washington, Phoenix, Arizona. The incorporated material contains no later amendments or editions.~~
- B. A provider shall supplement meals and snacks supplied by a parent ~~or guardian~~ when the supplied food does not provide a child with a wholesome and nutritious diet.
- C. A provider shall make available to a child in care meals and snacks ~~that which~~ satisfy the child's appetite and dietary needs.
- D. A provider shall consult with a parent ~~or guardian~~ to identify, in writing, any special dietary needs or instructions for a child in care.
- E. A provider shall give a child any necessary assistance in feeding and shall teach self-feeding skills, but shall not force a child to eat.
- F. ~~A provider shall monitor all~~ All perishable foods, including infant formulas and sack lunches. The provider shall ensure that food is ~~shall be~~ individually labeled with a child's name, dated, covered, and properly stored to prevent spoilage, at temperatures of 45° F. Fahrenheit or less.
- G. ~~At the end of each day, and if reasonable given the nature of the food item, a provider shall return to the parent for guardian of a child, any foods brought to the home facility but not consumed by the child.~~

~~R6-5-5218~~R6-5-5217. Health Care; Medications

- A. ~~When~~ At the time a provider enrolls a child for care, the provider shall make written arrangements with the child's ~~a~~ parent ~~or guardian~~ for emergency medical care of the child.
- B. If a child becomes ill while in care, a provider shall ~~do the following~~:
 - 1. Make the child comfortable and keep the child in full view; and
 - 2. Notify the parent, ~~guardian~~, or other designated person that the child is ill and must be immediately removed from care. ~~immediately and~~
- ~~C.3~~ A provider shall notify the parent ~~parents~~ guardians of other children in care when a child in care contracts an infectious illness.
- ~~C.~~ Before an infectious child may return to care with a particular provider, all parents or guardians of other children in care with that provider must give consent for the infectious child to return to care.
- ~~DC.~~ A provider shall not provide care while knowingly infected with or presenting symptoms of an infectious disease.
- ~~E.D~~ If a child exhibits symptoms of an infectious disease, the child may return to care when fever free and symptom free, or with written permission from the child's medical practitioner that returning it will not endanger ~~be detrimental~~ to the child's health of the child or ~~a danger to~~ other children in care.
- ~~E.E~~ A provider shall not admit a child to the home facility who is in need of professional medical attention to the home facility and shall direct the parent ~~or guardian~~ to obtain medical attention for the child.
- ~~G.F~~ Only a provider shall administer medication ~~medication~~ to a child in care and ~~only~~ with signed written instructions for administering the medication from the child's parent ~~or guardian~~.
- ~~H.G~~ A provider shall not administer:
 - 1. Medication ~~medication~~ that is date expired or in something other than which is not in its ~~an~~ original container; or
 - 2. Prescription ~~prescription~~ medication ~~that which~~ does not bear the date of issue, the child's name, the amount and frequency of dosage, and the doctor's name.
- ~~L.H~~ A provider shall maintain a written log of all medications administered. The log shall include:
 - 1. The ~~the~~ name of the child receiving the medication;
 - 2. The ~~the~~ name of the medication;
 - 3. The ~~the~~ date and time of administration; and
 - 4. The ~~the~~ dosage administered.

A provider shall use a sanitary medication measure for accurate dosage.
- ~~J.I~~ A provider shall keep all medication in a locked storage container, and refrigerate if necessary.
- ~~K.J~~ A provider shall have first-aid supplies available at the home facility, which shall be administered only by the provider ~~an~~ adult.
- ~~L.K~~ A provider is ~~only~~ responsible for obtaining only emergency medical treatment for a child in care.

~~R6-5-5219~~R6-5-5218. Recordkeeping; Unusual incidents; Immunizations-Confidentiality

- A. A provider shall maintain a daily attendance log on a Department-approved form and shall require that each child be signed in and out on the log by the parent, ~~guardian~~, or other individual designated in writing by the parent ~~or guardian~~.
- B. On a form approved by the Department, a provider shall promptly log all accidents, injuries, behavior problems, or other unusual incidents at the home facility, including any ~~incident of~~ suspected child abuse or neglect.

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- C. A provider shall immediately report all unusual incidents to a parent or guardian of the child involved and shall report the ~~such~~ incidents to the Department within 24 hours of the time of ~~of~~ occurrence. ~~A provider shall report any incident of suspected child abuse or neglect to the local CPS office and the local police department, pursuant to A.R.S. § 13-3620.~~
- D. A provider shall maintain records in accordance with the requirements of the a provider's child care registration agreement. ~~The~~ A provider shall make the following records readily available for inspection by the Department and shall keep them separate from household and other personal records:
 - ~~1.~~ Information listed in subsection (E):
 - ~~1.~~ Children's records, to be updated at least quarterly, which shall include:
 - a. ~~Personal identifying information;~~
 - b. ~~A listing of current immunizations or a statement of medical or religious exemption;~~
 - e. ~~Any special needs or medical conditions; and~~
 - d. ~~Names, addresses, and phone numbers of all persons who have written authority to pick up the child and who shall be contacted in case of emergency;~~
 - ~~2.~~ Immunization records identified in subsection (F) and R6-5-5202 (L);
 - ~~3.~~ Documentary evidence of freedom from communicable tuberculosis as required by R6-5-5202 (M);
 - ~~4.2.~~ The A provider's certification, re-certification, and monitoring records;
 - ~~5.3.~~ Health records of child care personnel;
 - ~~6.4.~~ The A provider's training records;
 - ~~7.5.~~ Unusual incident reports; and
 - ~~8.6.~~ Daily logs of attendance, accidents, injuries, medications administered, behavior problems, or other unusual incidents.
- E. A provider shall maintain at least the following information for each child in care:
 - 1. The child's name, home address, telephone number, gender, and date of birth;
 - 2. The name, home and business addresses, and telephone numbers of the child's parent or guardian;
 - 3. The name, address and telephone number of the child's physician or health care provider and hospital;
 - 4. Authorization and instructions for emergency medical care when the parent or guardian cannot be located; and
 - 5. Written authorization to release a child to any individual other than the parent or guardian, and the name, home and work addresses, and telephone numbers of that individual.
- ~~E.~~ A provider shall observe the confidentiality provisions of A.R.S. § 41-1959.
- F. A The provider shall maintain an immunization record or exemption affidavit for each child in care enrolled at the home facility:
 - 1. Documentation required under this subsection is limited to:
 - a. An immunization record prepared by the child's health care provider stating that child has received current, age-appropriate immunizations specified in R9-6-701, including Immunizations for Diphtheria, homophiles influenza type b, Hepatitis B, Measles, Mumps, Pertusis, Poliomyelitis, Rubella, and Tetanus;
 - b. An affidavit signed by the child's health care provider stating that the child has a medical condition ~~such that~~ causes the required immunizations to ~~would~~ endanger the child's health; or
 - c. An affidavit signed by the child's parent or guardian stating that the child is being raised in a religion whose teachings are in oppose opposition to immunization.
 - 2. If a child has received all current immunizations, but requires further inoculations to be fully immunized, the provider shall require the parent to verify that the parent will have the child complete all immunizations in accordance with the DHS recommended schedule identified in R9-6-701. The provider shall:
 - a. Require the parent or guardian to produce documented records from the child's health care provider of the ~~such~~ immunizations as they are completed; and
 - b. Maintain the records as required by subsection (F)(1).
 - 3. The provider shall not permit a child in care to remain enrolled for more than 15 days if the parent does not provide proof of current, age-appropriate immunizations, a statement of timely completion of further inoculations, or exemption from immunization.
- G. Children exempted from immunizations for ~~due to~~ religious or medical reasons shall be excluded from the home facility if there is in the event of an outbreak of an immunizable disease at the home facility.

~~R6-5-5220~~R6-5-5219. Provider/Child Ratios

- A. The Department may certify a provider in a home facility to care for a maximum of ~~4 four~~ children at a time, from birth through age 12, for compensation. A provider in a home facility may care for a maximum of ~~6 six~~ children at a time, from birth through age 12, or a child age 13 or older who is a child with special needs, when all of the following conditions are met:
 - 1. ~~No more than 4~~ A maximum of four children in care are for compensation; and
 - 2. No more than ~~2 two~~ one of the children in care are younger than ~~age 1 one year of age~~, unless a sibling group.
- B. The Department may certify an in-home provider to provide the following care:
 - 1. An in-home provider may care for a sibling group of ~~no more larger than 6 children, six~~

2. An in-home provider shall care only for the children who live in that home.
 3. An in-home provider may bring the in-home provider's own children to the in-home location with the written permission of the client, and so long as the total number of children at the in-home location does not exceed ~~6~~^{six} children.
- C. The Department may further limit the ratios allowed in subsections (A) and (B) to protect the well-being of children in care. The Department may impose additional ~~Additional~~ restrictions may be imposed in the following situations when:
1. ~~There~~ When there are more than ~~2~~^{two} children residing in the home facility who are counted in the ratio;
 2. ~~The~~ When the Department determines that the home facility and the furnishings are inadequate to accommodate ~~4~~^{four} children at a time for compensation, as provided in section R6-5-5203(~~6~~)(~~5~~);
 3. ~~The~~ When the department has determined that a provider is physically unable to care for ~~4~~^{four} children at a time; for compensation or
 4. ~~A~~ When a provider requests certification for fewer than ~~4~~⁴ children at a time for compensation.
- D. For the sole purpose of establishing and monitoring ratios, the Department shall not count any child who is age 13 or older, except as ~~otherwise~~ provided in subsection (A) ~~above~~ for a child with special needs.

R6-5-5221~~R6-5-5220~~. Change Reporting Requirements

At least 15 days before ~~prior to~~ the effective date of any scheduled change, or within 24 hours after an unscheduled change, which significantly affects the provision of child care services, a provider shall furnish the Department with written notice of the change. Significant changes include, but are not limited to:

1. Home remodeling;
2. Home repair;
3. Pool installation;
4. Relocating to a new residence;
5. Change in household composition;
6. Telephone number change;
7. Change of backup provider;
8. Voluntarily relinquishing the certificate; ~~Quitting the program~~ and
9. Any other change in the home facility or the provider's personal circumstances that ~~which~~ affect the provider's ability to provide stable child care services.

R6-5-5222~~R6-5-5221~~. Use of A Backup Provider

- A. A provider shall maintain a backup provider, and shall keep clients and the Department apprised of the backup provider's identity and location.
- B. A provider may use a backup provider only in the following circumstances:
1. When the a provider is ill;
 2. When the a provider is attending to an emergency related to the provision of child care;
 3. When the a provider has an emergency involving the provider or the provider's dependent family members;
 4. When the a provider needs to attend a non-emergency appointment for the provider or the provider's dependent family members, and the provider cannot schedule the appointment outside of normal child care hours;
 5. When the a provider is attending classes to meet training requirements listed in this Article; or
 6. When the a provider is taking a vacation.
- C. At the time ~~that a parent or guardian makes arrangement with a provider for the care of a child~~ enrollment of a child in care, a the provider shall advise the parent or guardian of the a child of the possible use of a backup provider.
- D. A provider shall notify the Department within 24 hours of the onset of the use of a a the backup provider.
- E. When a provider designates a new ~~individual~~ backup provider, the provider shall ensure that the backup provider meets the requirements for backup providers in R6-5-5202.
- F. A provider shall execute a backup provider agreement form furnished by the Department, which identifies the backup provider and contains assurances that the backup provider will be used in accordance with the requirement of this Section.

R6-5-5223~~R6-5-5222~~. Claims For Payment

- A. A provider shall submit claims for payment in the manner ~~on forms~~ prescribed in the child care registration agreement ~~with~~ by the Department. Payment forms shall include the following information:
- ~~1. Provider name, mailing address, and identification number;~~
 - ~~2. Client name and identification number;~~
 - ~~3. Case manager name and identification number;~~
 - ~~4. Service dates and service code number;~~
 - ~~5. Units authorized and actually used, and unit type and rate;~~
 - ~~6. Applicable discount and copay or fee level;~~
 - ~~7. Total amount billed;~~
 - ~~8. Provider signature and date of claim; and,~~
 - ~~9. A statement that the provider verifies the accuracy of the submitted claim.~~
- B. The Department shall pay providers only so long as appropriated funds are available.

~~C.~~ The Department shall notify all providers of unavailability of funds.

~~B.D.~~ A provider shall make all financial arrangements with a the backup provider. The Department shall not make direct payments to directly pay the a backup provider.

~~R6-5-5224~~R6-5-5223. Complaints; Investigations

- A. Any person may register, with the Department, a written or verbal complaint about a provider or the operation of a home facility. Upon receipt of a complaint, or in response to the observations of Department staff, the Department shall investigate the allegations made and any matters related to certification and compliance with the child care registration agreement.
- B. A provider who is the subject of a complaint shall cooperate with the Department in conducting an investigation. The provider shall allow a Department representative to inspect the home facility and all records, and to interview any child care personnel, or household member.
- C. The Department shall maintain a file on all complaints against a provider and shall make information on valid complaints available to parents and to the general public upon request and as permitted by law ~~and Department policy.~~
- D. Following an investigation, the Department shall take appropriate administrative action as described in this Article.

~~R6-5-5225~~R6-5-5224. Probation

- A. The Department may place a provider on probation when a Department representative observes a problem or the Department receives and validates a complaint in an area of noncompliance ~~that which~~ does not endanger a child in care.
- B. The Department shall set a term of probation ~~that does which shall~~ not exceed 30 days.
- C. The Department may suspend a provider's child care certificate if the same infraction ~~that which~~ resulted in probation is repeated during a provider's current certification period and the Department determines that the provider has not demonstrated either the intent or ability to comply with the requirements of this Article. ~~Probationary status shall be established only once for a specific infraction. recurs the Department may suspend a provider's certificate.~~
- ~~D.~~ If a provider experiences more than three probationary periods a certification period, the Department may suspend the provider's certificate.
- ~~D.E~~ The Department shall not ~~refer any new child for care nor~~ authorize any new child for payment to a provider who is on probation. Children A child already in that provider's care may remain authorized.
- ~~E.F~~ Probationary status is not appealable.

~~R6-5-5226~~R6-5-5225. Certification Denial, Suspension and Revocation Suspension

- A. The Department may deny, suspend, or revoke certification a provider's certificate for a term not to exceed 90 days for any activity or circumstance which may threaten the health or safety of a child in care, including but not limited to, the following when:
 - 1. An applicant or provider violates or fails to comply with any statute or rule applicable to the provision of Child Care Services.
 - 1. When the Department receives a CPS report of abuse or neglect alleged to have been committed in a home facility;
 - 2. An applicant or provider has a certificate or license to operate a child care home or facility denied, revoked, or suspended in any state or jurisdiction.
 - 2. When a provider violates a statute or rule governing the provision of child care services;
 - 3. An applicant or provider fails to disclose requested information or provides false or misleading information to the Department.
 - 3. When a provider refuses to cooperate with Department requests for information, records, interviews or inspections, which the Department requires to determine compliance with statutes and rules governing provision of child care.
 - 4. A provider's contract with the Department to furnish child care services expires or is terminated.
 - 4. When a provider fails to report suspected child abuse as required by A.R.S. § 13-3620;
 - 5. Child care personnel fail or refuse to comply with or meet the requirements of A.R.S. § 41-1964;
 - 5. When a provider knowingly permits the following persons to be in the home facility while a child in care is present:
 - a. A person who is addicted to drugs or alcohol or whose performance is affected by the use of drugs or alcohol;
 - b. A person who is abusive to children;
 - e. A person who uses the unacceptable disciplinary methods listed in R6-5-5211(G);
 - 6. A provider fails or refuses to correct or repeats a violation that resulted in probation or suspension.
 - 6. When a provider cares for more children than are lawfully permitted under R6-5-5219;
 - 7. The Department, through it's CPS hotline, receives a report of alleged child maltreatment by an applicant, provider, or household member who is under investigation by CPS or a law enforcement agency or is being reviewed in a civil, criminal, or administrative hearing.
 - 7. When a provider does not satisfactorily resolve a problem which resulted in imposition of probation; or
 - 8. An applicant or provider fails or refuses to cooperate with the Department in providing information required by these rules or any information necessary to determine compliance with these rules.
 - 8. When a provider experiences consecutive, unrelated probationary terms or more than three probationary periods during a certification period.

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9. An applicant, provider, or household member engages in any activity or circumstance that may threaten or adversely affect the health, safety, or welfare of children, including inadequate supervision or failure to protect from actual or potential harm.
 10. An applicant or provider is unable or unwilling to meet the physical, emotional, social, educational, or psychological needs of children.
 11. The Department, through its CPS hotline, receives a report of alleged child maltreatment in a home facility that is under investigation by CPS or a law enforcement agency or is being reviewed in a civil, criminal, or administrative proceeding.
 12. An applicant, provider, or household member is the subject of a substantiated or undetermined report of child maltreatment in any state or jurisdiction. Substantiated child maltreatment includes, but is not limited to, a probable cause finding by CPS or a law enforcement agency.
 13. CPS or a law enforcement agency substantiates a report of child maltreatment in a home facility.
- B.** In determining whether to take disciplinary action against a provider, or to grant or renew a certificate, the Department may evaluate the provider's history from other certification periods, both in Arizona and in other jurisdictions, and shall consider multiple violations of statutes or rules applicable to the provision of child care services as evidence that the applicant or provider is unable or unwilling to meet the needs of children.
- B.** ~~(This paragraph did not exist in the previous rule.)~~
- C.** ~~When the Department finds a condition warranting suspension, the Department shall verbally notify the provider of the condition and that the Department is suspending the certificate. A suspension is effective 24 hours. The Department gives the provider oral notice of noncompliance. Children in care may be removed sooner if the Department determines that they are in immediate danger.~~
- D.** ~~No later than one work day after giving verbal notice, the Department shall mail the provider written notice of the suspension, the reason for it, and the provider's right to appeal the Department's decision.~~
- E.** ~~No later than the effective date and time of the suspension, the Department shall stop payment authorization for subsidized children in care and shall not refer or authorize additional children to the provider.~~
- F.** ~~When the Department suspends a provider's certificate, the Department shall notify a parent or guardian of a child in the care of that provider that the Department shall not pay for care after the date and time of the suspension; however the Department shall not reveal the fact of suspension.~~
- G.** ~~At the conclusion of an investigation, the Department shall:~~
1. ~~Classify the allegation as:
 - a. ~~Invalid or undetermined and terminate the suspension;~~
 - b. ~~Valid but non-threatening, place a provider on probation, and require a provider to correct the problem; or~~
 - c. ~~Valid and initiate revocation proceedings; and~~~~
 2. ~~Mail a provider written notice of the Department's conclusion and action.~~

R6-5-5226. Revocation of Certificate

- A.** ~~The Department may revoke a certificate in any of the following situations:~~
1. ~~When CPS validates a report of abuse or neglect against child care personnel or a household member;~~
 2. ~~When a provider fails to meet one or more of the requirements or standards identified in this Article as suspendable violations on two consecutive occasions;~~
 3. ~~When the Department determines that the provider has committed fraud or intentional misrepresentation in obtaining or renewing a certificate or securing payment of a claim;~~
 4. ~~When a provider's fingerprints fail to clear a local or FBI records check;~~
 5. ~~When fingerprints of a designated individual backup provider fail to clear a local or FBI records check and a provider does not identify, have fingerprinted, and pay the fingerprint search fee for a new backup provider within 20 calendar days of notice of such failure. The Department shall send the provider a written notice of failure which explains this requirement;~~
 6. ~~When an adult household member's fingerprints fail to clear a local or FBI records check and the provider permits the household member to continue to reside in the home facility;~~
 7. ~~When a provider continues to use child care personnel who fail to comply with the registration requirement;~~
 8. ~~When a provider fails to correct a validated condition which resulted in suspension;~~
 9. ~~When a provider fails to comply with federal and state laws and regulations applicable to the provision of child care services;~~
 10. ~~When a provider fails to maintain confidentiality as required by R6-5-5218(E);~~
 11. ~~When a provider refuses to allow a parent or guardian, or their designated representative, to observe home facility operations as provided in R6-5-5206(F); or~~
 12. ~~When a provider, any child care personnel, or a household member fails to comply with fingerprinting requirements.~~
- B.** ~~The Department shall not authorize payment for child care services to a provider whose certificate has been revoked.~~

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- ~~C. When the Department finds a condition warranting revocation, the Department shall notify the provider verbally of the condition and that the Department is revoking the certificate.~~
- ~~D. No later than one working day after giving verbal notice, the Department shall mail the provider written notice of:
 - 1. The revocation;
 - 2. The reason for the revocation;
 - 3. The termination of the child care registration agreement, and The provider's right to appeal the Department decisionA revocation is effective 15 calendar days after the Department mails the written notice to the provider.~~
- ~~E. No later than the effective date and time of the revocation, the Department shall stop payment authorization for subsidized children in care and shall not refer or authorize additional children to the provider.~~
- ~~F. A provider shall surrender the certificate to the Department within 15 days after written notification of revocation.~~

R6-5-5227. Adverse Action; Notice Effective Date

- A. When the Department denies, suspends, or revokes certification, it shall mail a written, dated notice of the adverse action to the applicant or the provider at the applicant's or provider's last known address.
- B. A notice of adverse action shall specify:
 - 1. The adverse action taken and date the action will be effective;
 - 2. The reasons supporting the adverse action and
 - 3. The procedures by which the applicant or provider may contest the action taken and the time period in which to do so.
- C. Except as provided in subsection (D), a revocation, suspension, or denial of recertification is effective 20 calendar days from the date on the notice or letter advising the provider of the adverse action.
- D. A suspension, revocation, or denial of recertification is effective on the date of the notice or letter advising the person of the adverse action if:
 - 1. The adverse action is based on the failure of child care personnel to comply with or meet the requirements of A.R.S. § 41-1964; or
 - 2. The Department bases the adverse action on a determination that the health, safety or welfare of a child in care is in jeopardy.
- E. The Department shall stop payment authorization for all subsidized children in care on the effective date of a suspension, revocation, or denial of recertification.
- F. The Department shall not authorize the referral of additional children to a provider after mailing a notice of adverse action to the provider's last known address.

R6-5-5228R6-5-5227. Appeals

- A. An ~~A~~ applicant or provider may appeal the following Department decisions:
 - 1. Denial of certification or re-certification;
 - 2. Suspension of a certificate; and
 - 3. Revocation of a certificate. ~~and~~
 - 4. ~~Denial of a payment claim~~
- B. A person who wishes to appeal an adverse action ~~To appeal, a provider shall file a written request for a hearing appeal with the Department within 15 calendar days of the post mark date on the Department's written notice of an appealable decision or letter advising the provider of the adverse action.~~
- C. The Department shall conduct a hearing ~~appeals~~ as prescribed in 6 A.A.C. 5, Article 75. Decisions based on failure to clear a fingerprint check or criminal history check are not appealable under this Article. A provider has no right to appeal with the Department when fingerprints of child care personnel or a household member fail to clear a local or FBI records check. The Department shall refer the complainant to the Department of Public Safety for further information.
- D. Matters relating to contractual agreements with the Department, including payment rates and amounts, are not appealable under this Article.
- E. When an adverse action based on R6-5-5226(A)(7) is appealed under this Article, allegations of child maltreatment are not at issue and shall not be adjudicated in an administrative proceeding conducted under subsection (C).

NOTICE OF FINAL RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

PREAMBLE

1. Sections Affected
R7-2-618

Rulemaking Action
New Section

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2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 15-203(A)

Implementing statute: A.R.S. § 41-1072 et seq.

3. Effective Date of the Rule:

May 27, 1999

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 4 A.A.R. 1017, May 1, 1998.

Notice of Proposed Rulemaking: 4 A.A.R. 1263, June 5, 1998.

5. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Corinne L. Velasquez, Executive Director

Address: State Board of Education
1535 W. Jefferson, Room 418
Phoenix, Arizona 85007

Telephone: (602) 542-5057

Fax: (602) 542-3046

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The State Board of Education has adopted a new rule, R7-2-618, pursuant to A.R.S. § 41-1072-1077, which requires an agency that issues licenses to establish time-frames for issuance of the licenses. This rule establishes maximum time-frames for the issuance of teaching and administrative certificates.

7. A reference to any study that the agency proposes to rely on in it's evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business and consumer impact:

It is anticipated that the new rule will have no economic impact on the consumer. The new rule, R7-2-618, will assist in ensuring that applications for certification are processed in a timely manner by the agency. The new language will provide information to applicants as to the process of evaluating applications and the maximum allowable time of that processing, allowing an applicant to project certification issue dates more accurately.

In the last 4 years, the following licenses or certificates have been issued:

<u>Type of License</u>	<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>
Evaluations	20,502	20,661	18,002	16,255
Renewals	9,265	9,681	8,984	8,138
Other Eval. Svcs.	5,283	4,896	3,758	3,727
Fingerprints	10,838	9,967	10,192	10,378

A. Estimated Costs and Benefits to the State Board of Education.

Approximately 1/3 of the applications for certification services are incomplete and the applicant must be notified by mail. Approximately 1 in 12 new or renewal applications requires additional review by the investigative unit because of criminal history. In 1998, the approximate cost of implementing the time-frame rules for administrative completeness would have been \$31,605 or \$.82 per file. This is calculated as follows:

Salary:

38,498 files *1/3* 8 min. avg. hourly salary \$9.60 = \$16,426
plus ERE @ 26% = \$4, 271

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Supplies:

12,833 files * \$.85 = \$10,908
(\$0.05 stationary, \$.80 postage on returned files)

Total cost of notification of incompleteness: \$31,605

The certification unit anticipates that penalties will not be incurred for noncompliance with the overall time-frames.

B. Estimated Costs and Benefits to Political Subdivisions.

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. Businesses Directly Affected by the Rulemaking.

Businesses of this state are not affected by the implementation and enforcement of this rulemaking.

D. Estimated Costs and Benefits to Private and Public Employment.

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. Estimated Cost and Benefits to Consumers and the Public.

Consumers and the public will follow current procedures and practices when applying for licenses and incur no additional cost or benefits. Consumers may also receive an intangible benefit by the identification of specific time limits for processing licenses.

F. Estimated Cost and Benefits to State Revenues.

This rulemaking will have no impact on state revenues.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

1. Change "timeframes" to "time-frames" pursuant to direction from the Secretary of State's Office throughout the rule.
2. Paragraph B, subparagraph (3): Change the entire paragraph to read, "If a hearing is to be held pursuant to A.A.C. R7-2-1301 et seq., the hearing shall be completed within the substantive review time-frame." for clarification of intent.
3. Paragraph C, subparagraph (2): Change "a protest" to "an appeal" for consistency and clarification.
4. Numerous minor changes were made to improve the clarity, conciseness and understandability of the rule.

11. A summary of the principal comments and the agency response to them:

There was no comment received, oral or written, related to the new rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

13. Incorporations by reference and their location in the rules:

None.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rule follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 6. CERTIFICATION

Section

R7-2-618. Certification Time-frames

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ARTICLE 6. CERTIFICATION

R7-2-618. Certification Time-frames

- A.** For certification by the State Board of Education (“Board”), Certification Division (“Division”), the time-frames required by A.R.S. § 41-1072 et seq are:
1. Overall time-frame: 165 days.
 2. Administrative review time-frame: 45 days.
 3. Substantive review time-frame: 120 days.
- B.** Administrative completeness review time-frame. The Division shall issue a written notice of administrative completeness or deficiency to an applicant for certification within 45 days of receipt of the application.
1. If the Division determines that an application for certification is not administratively complete, the Division shall include a comprehensive list of the specific deficiencies in the written notice.
 2. If the Division issues a written notice of deficiency, the administrative completeness review time-frame and the overall time-frame are suspended from the date the notice is issued until the date that the Division receives the missing information from the applicant.
 3. If the Division does not issue a notice of administrative completeness or deficiency within 45 days of receipt of the application, the application is deemed administratively complete.
- C.** Substantive review time-frame. Within 120 days after the administrative completeness review time-frame is complete, the Division shall determine whether an applicant for certification meets all substantive criteria required by statute or rule.
1. During the substantive review time-frame, the Division may make 1 comprehensive written request for additional information. If the Division issues a comprehensive written request for additional information, the substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date that the Division receives the additional information from the applicant.
 2. The Division and the applicant may mutually agree in writing to allow the Division to submit supplemental requests for additional information. If the Division issues a supplemental request by mutual written agreement for additional information, the substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date that the Division receives the additional information from the applicant.
- D.** Overall time-frame. The Division shall issue a written notice that the Board has granted or denied a certificate no later than 165 days after receipt of an application for certification, or no later than the time-frame extension allowed under subsection (E).
1. Written notice denying an applicant certification shall include justification for the denial with references to the statutes or rules on which the denial is based and an explanation of the applicant’s right to appeal the denial.
 2. The explanation of an applicant’s right to appeal the denial shall include the number of days the applicant has to file an appeal challenging the denial and the name and telephone number of the Executive Director of the Board as the contact person who can answer questions regarding the appeals process.
- E.** By mutual written agreement, the Division and an applicant for certification may extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 33 days.
- F.** If the Division does not issue to an applicant written notice granting or denying a certificate within the overall time-frame or any extension mutually agreed upon in writing, the Division shall refund to the applicant all fees charged, excuse payment of any fees that have not yet been paid, and pay all penalties required by A.R.S. § 41-1077.
- G.** The Division shall issue all written notices under to this Section to the last known address of the applicant by regular, first-class mail. The written notices are deemed “issued” on the postmark date.
- H.** By August 1 of each year, the Division shall report to the Executive Director of the Board the Division’s compliance with the overall time-frames for the prior fiscal year. The Division shall include the number of certificates issued or denied within the time-frames specified in this Section and the dollar amount of all fees returned or excused. The Division shall also include the amount of all penalties paid to the state general fund due to the Division’s failure to comply with the time-frames.